LEGISLATIVE COUNCIL

Tuesday 20 May 2003

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The President (The Hon. Dr Meredith Burgmann) took the chair at 2.30 p.m.

The President offered the Prayers.

The PRESIDENT: I acknowledge that we are meeting on Eora land.

RURAL LANDS PROTECTION AMENDMENT BILL

Bill received and read a first time.

Motion by the Hon. Ian Macdonald agreed to:

That standing and sessional orders be suspended to allow the passing of the bill through all its remaining stages during the present or any one sitting of the House.

Second reading to stand as an order of the day.

INDEPENDENT COMMISSION AGAINST CORRUPTION

Report

The President announced the receipt, pursuant to the Independent Commission Against Corruption Act 1988, of the report entitled "Investigation into handling of applications for public housing by an officer of the Department of Housing", dated May 2003.

The President announced that, pursuant to the Act, she had authorised that the report be made public.

TABLING OF PAPERS

The Hon. John Hatzistergos tabled the following papers:

Snowy Hydro Corporatisation Act 1997—Consolidated financial report of Snowy Hydro Limited for the period 27 June 2001 to 28 June 2002

State Owned Corporations Act 1989—Report of Superannuation Administration Corporation (trading as Pillar Administration) for the six months ended 31 December 2002

Youth Advisory Council Act 1989—Report of New South Wales Youth Advisory Council for 2002

Ordered to be printed.

AUDIT OFFICE

Report

The Clerk announced the receipt, pursuant to the Public Finance and Audit Act 1983, of a performance audit report entitled "Department of Education and Training—Managing Teacher Performance", dated May 2003.

The Clerk announced that, pursuant to the Act, he had authorised that the report be printed.

PETITIONS

Family Rights and Responsibilities

Petition praying that the House respect the rights and responsibilities of parents by taking stronger action against child abuse and rejecting increased control of use by parents of corporal discipline in the home, received from **Reverend the Hon. Fred Nile**.

PARLIAMENTARY SECRETARIES

The Hon. MICHAEL EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [2.40 p.m.]: I inform the House that on 8 May 2003 the following persons were appointed as Parliamentary Secretaries:

Miss Cherie Burton, MP, Parliamentary Secretary to the Premier and the Minister for Health

Mr Bryce Gaudry, MP, Parliamentary Secretary to the Deputy Premier, Minister for Education and Training, and Minister for Aboriginal Affairs

Ms Alison Megarrity, MP, Parliamentary Secretary to the Minister for Infrastructure and Planning, and Minister for Natural Resources

Mr Neville Newell, MP, Parliamentary Secretary to the Minister for Rural Affairs, Minister for Local Government, Minister for Emergency Services, and Minister Assisting the Minister for Natural Resources (Lands)

Mr Anthony Stewart, MP, Parliamentary Secretary to the Minister for Roads, and Minister for Housing

Mr Joseph Tripodi, MP, Parliamentary Secretary to the Minister for Transport Services

The Hon. Henry Tsang, MLC, Parliamentary Secretary to the Premier on Trade and Investment, and Assisting the Minister for State Development

Mr Graham West, MP, Parliamentary Secretary to the Treasurer, and Minister for State Development.

JOINT PARLIAMENTARY COMMITTEES

Membership

The PRESIDENT: Order! I inform the House that the Clerk has received the following nominations for membership of committees according to resolutions adopted by the House on Wednesday 7 May 2003:

Joint Committee on Children and Young People

Opposition member: Ms Pavey
Crossbench member: Ms Hale

Joint Committee on the Health Care Complaints Commission

Opposition member: Mr Clarke
Crossbench member: Dr Wong

Joint Committee on the Office of the Ombudsman and the Police Integrity Commission

Opposition member: Mr Clarke
Crossbench member: Mr Breen

Joint Legislation Review Committee

Opposition member: Mr Harwin

Crossbench member: Mr Breen

Joint Committee on the Independent Commission Against Corruption

Opposition member: Miss Gardiner

Message forwarded to the Legislative Assembly advising it of the resolutions and the membership of the committees.

JOINT COMMITTEE ON THE INDEPENDENT COMMISSION AGAINST CORRUPTION

Membership

The PRESIDENT: According to paragraph 3 of the resolution of 7 May 2003 establishing the Committee on the Independent Commission Against Corruption, I advise that the crossbench members have not reached agreement about representation on this committee.

The Hon. Malcolm Jones: I wish to withdraw my nomination to the Committee on the Independent Commission Against Corruption.

The PRESIDENT: In view of the fact that the Hon. Malcolm Jones has withdrawn his nomination, I announce that Reverend the Hon. Fred Nile will be the crossbench member of that committee.

Message forwarded to the Legislative Assembly advising it of the resolutions and the membership of the committees.

SESSIONAL ORDERS

Passage of Government Bills

The Hon. MALCOLM JONES [2.45 p.m.]: I move:

That, during the present session and notwithstanding anything contained in the standing or sessional orders, and unless otherwise ordered, the following procedures apply to the passage of Government bills:

1. Where a bill is introduced by a Minister, or is received from the Legislative Assembly:

   (a) after 24 June 2003 (Budget Session), debate on the motion for the second reading is to be adjourned at the conclusion of the speech of the Minister moving the motion, and the resumption of the debate is to be made an order of the day for the first sitting day after the winter recess.

   (b) after 18 November 2003 (Spring Session) debate on the motion for the second reading is to be adjourned at the conclusion of the speech of the Minister moving the motion, and the resumption of the debate is to be made an order of the day for the first sitting day in 2004.

2. However, if after the first reading a Minister declares a bill to be an urgent bill and copies have been circulated to members, the question "That the bill be considered an urgent bill" is to be decided without amendment or debate, except a statement not exceeding 10 minutes each by a Minister and the Leader of the Opposition, or a member nominated by the Leader of the Opposition, and one crossbench member. If that question is agreed to, the second reading debate and subsequent stages may proceed forthwith or at any time during any sitting of the House.

This motion is identical to one I moved in this place during 2002, except for the dates by which the bills have to be submitted. For the benefit of new honourable members, who were not present then, the reason for the motion is to enable honourable members to have adequate time to read bills and to have due consideration of them prior to the end of a session. Prior to 2002 a logjam inevitably occurred at the end of each session. A logjam may still develop at the end of each session, but my motion enables a degree of time for honourable members to consider bills.

My motion has received some rather harsh criticism. One critic was the former member for Strathfield in the other place, who blamed our late-night sitting at the end of the last session on the existence of a similar motion. However, he omitted to say that the sitting actually finished a day early; and that rather negates his point. This is a straightforward motion that has been before the House previously. I commend it to the House.

Reverend the Hon. FRED NILE [2.48 p.m.]: The motion moved during the last session of last year seemed to work in a positive way. I gather that the Government's main opposition to this motion is that it is not necessary and that the Government will introduce bills early enough for the House to consider them. The motion guarantees that that will happen and encourages Ministers to make sure that bureaucrats meet the deadlines so the House has adequate time to consider all bills. The Christian Democratic Party supports the motion.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [2.48 p.m.]: The Government opposes the motion for reasons similar to those given in March last year by my colleague the Minister for Agriculture and Fisheries. The Government believes that the motion is unnecessary.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [2.49 p.m.]: For the reasons that the Opposition gave in a similar debate during the last parliamentary session, we are prepared to support the motion moved by the Hon. Malcolm Jones. The rationale for this motion might not be perfect and some honourable members might have concerns about certain aspects of it. However, all honourable members would be aware of the annual logjam of legislation at the end of our parliamentary sessions when the Government forces bills through this House, thus denying us our ability to perform as a House of review. It was for that reason that the Hon. Malcolm Jones moved a similar motion during the last session of the previous Parliament. As I said earlier,

I am sure that some honourable members might be concerned about various aspects of this motion. Aspects that relate to the operation of the Legislative Council can be redetermined, finetuned and modified at a later date, just as we finetune and modify sessional orders if they are ineffectual or are being abused. Nothing in this motion will be enshrined in stone. The Opposition is pleased to support the motion moved earlier by the Hon. Malcolm Jones. The concept of the motion is good; it is just a shame that we have to force the Government into agreeing to such a principle.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [2.51 p.m.]: I support the motion moved by the Hon. Malcolm Jones. This Government reduces the number of sitting days of this Parliament, thus reducing the time that we have available to debate legislation. It then criticises us for not sitting, as the public perception is that, if the Legislative Council is not sitting, members are just sitting around sipping port. The Government then criticises us for wasting the time of the House and for delaying the passage of legislation through this House, although we have fewer sitting days, and we are still faced with a logjam at the end of session. On the last occasion we had a logjam at least our staff had some time to read the legislation, even though it was all rammed through in the last few days of the parliamentary session. The Government should support this motion because, according to it, we will have plenty of time to debate legislation that is to be introduced in this House. The Government, which has said that this motion is unnecessary, is now intent on opposing it.

The Hon. PATRICIA FORSYTHE [2.52 p.m.]: The Leader of the Opposition said earlier that, although some finetuning might be needed, the Opposition supports this motion. I have some difficulty with paragraph 2 of the honourable member's motion, which states:

> However, if after the first reading, a Minister declares a bill to be an urgent bill and copies have been circulated to members, the question "That the bill be considered an urgent bill" is to be decided without amendment or debate, except a statement not exceeding 10 minutes each by a Minister and the Leader of the Opposition, or a member nominated by the Leader of the Opposition, and one crossbench member.

We have in this House Government members, Opposition members and a number of other honourable members who represent different parties. Those honourable members represent a collective group of people who are referred to in this place as crossbench members. I find offensive the notion that any one of those honourable members is able to speak in this House on behalf of all the other crossbench members. During the election campaign I was equally offended when I witnessed a group of Independents turning up to support another Independent in a different electorate. I said to them, "If you want to hunt in a pack why not create a party and call yourselves the Independent Party?" Every honourable member has a right to speak or to present his or her point of view. If we were not able to do so we would have to reconsider the way in which this place operates. We are undermining the whole Westminster process by having Government members, Opposition members and as well a collective group of Independents acting as one in this Chamber.

The Hon. AMANDA FAZIO [2.54 p.m.]: I do not support the motion moved by the Hon. Malcolm Jones. It is inappropriate for this sort of motion to be moved because it seeks to place what I consider to be unnatural limitations on the way in which business is conducted in this Chamber. The Government often has a raft of legislation that it needs to get through this House and must determine appropriate time frames for the passage of that legislation. Some honourable members must take responsibility, either individually or collectively, for spending what often appear to be inordinate amounts of time debating issues that do not have general support and will not receive the support of the majority of members in this House.

We spend an inordinate amount of time in this Chamber debating such issues. Often when a division is called on an issue we find that three members support it and every other member opposes it. Honourable members should not move motions that seek to impose strict regulations on the business of this House. The motion is inappropriate because it implies that the Government is the only group in this Chamber that is responsible for the timing of legislation and debates. Clearly, that is not the case. I do not want it said that this is an attempt to stifle debate. If members want free and fair debate in this Chamber they should not move motions that seek to impose unworkable timetables on the Government. Whatever people like to think, this Government was elected to govern in New South Wales. We have timetables with which we must comply to get legislation through this Chamber. This motion would prevent that from occurring. I urge all honourable members to vote with commonsense and to oppose this motion.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 23

Mr Breen	Mr Gay	Mr Pearce
Dr Chesterfield-Evans	Ms Hale	Ms Rhiannon
Mr Clarke	Mr Jones	Mr Ryan
Mr Cohen	Mr Lynn	Mr Tingle
Ms Cusack	Reverend Dr Moyes	Dr Wong
Mrs Forsythe	Reverend Nile	*Tellers,*
Mr Gallacher	Mr Oldfield	Mr Colless
Miss Gardiner	Mrs Pavey	Mr Harwin

Noes, 16

Mr Burke	Ms Fazio	Ms Tebbutt
Ms Burnswoods	Ms Griffin	Mr Tsang
Mr Catanzariti	Mr Hatzistergos	
Mr Costa	Mr Kelly	*Tellers,*
Mr Della Bosca	Mr Macdonald	Mr Primrose
Mr Egan	Ms Robertson	Mr West

Pair

Ms Parker	Mr Obeid

Question resolved in the affirmative.

Motion agreed to.

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Orders of the Day Nos 1 to 3 postponed on motion by the Hon. Tony Kelly.

APPROPRIATION (BUDGET VARIATIONS) BILL

Second Reading

The Hon. MICHAEL EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [3.04 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

The practice of seeking approval for supplementary appropriations to cover payments not provided for in the Annual Appropriation Act has now become entrenched.

This Government, in presenting further Appropriation Bills, has sought, as far as possible to ensure the Parliament has the opportunity to scrutinise anticipated additional funding requirements prior to expenditures being incurred.

However, it is not always possible to seek Parliament's authority in advance for pressing expenditure needs and the Parliament has previously established procedures to provide for this eventuality.

Each year Parliament makes an advance available to the Treasurer to meet unforeseen expenditures. In addition, Section 22 of the Public Finance and Audit Act 1983 enables the Governor to approve of payments to cater for the exigencies of the Government, in anticipation of appropriations by Parliament.

The introduction of the Appropriation (Budget Variations) Bill 2003 in this session enables the Government to:

- Account to the Parliament on how the Advance to the Treasurer has been applied for recurrent and capital expenditure;
- Seek an adjustment of the Advance prior to the end of the financial year;
- Seek appropriation to cover expenditure approved under Section 22 before year end; and
- Seek additional appropriations for payments which are intended to be made in the current financial year, and in respect of which, no provision was made in the annual Appropriation Bill.

The Appropriation (Budget Variations) Bill 2003, in respect of the 2002-2003 financial year seeks:

- appropriations of $286.267 million in adjustment of the Advance to the Treasurer;
- $845.273 million for services approved by the Governor under Section 22 of the Public Finance and Audit Act 1983; and
- additional appropriations of $425 million.

The appropriation required for the Treasurer's Advance is detailed in Schedule 1 annexed to this Bill, along with a full account of how the Advance has been applied this year.

The Treasurer's Advance payment in 2002-03 includes:

- $50 million for metropolitan rail track maintenance;
- $27.699 million for per capita grants to Non-Government schools and school cleaning contracts;
- $12.768 million for drought assistance measures to assist farmers;
- $11.763 million for an additional 100 caseworkers at the Department of Community Services;
- $7.25 million for eradicating fire ants; and
- $4.4 million for Operation Streetsafe aimed at reducing street crime.

The additional appropriation required under Section 22 of the Public Finance and Audit Act 1983 relates to the provision of funds to meet certain expenditures required by the exigencies of Government. This amount includes:

- An appropriation required to fund an additional liability for the Treasury Managed Fund of $519 million. Due to a change of Accounting Policy, the Treasury Managed Fund is required to account for public liability claims on a "claims incurred" basis as opposed to a "claims made" basis. Therefore, the funding is required to provide for the additional liabilities so the Government can continue with its objective of fully funding the Treasury Managed Fund.
- Appropriations for natural disasters, including $101.5 million for widespread bushfires, which have swept significant areas of the State. This sum is in addition to the $16 million allocated for natural disasters in the 2002-2003 Budget, and makes the total cost of fighting bushfires this year $117.5 million; and
- An appropriation for the across-the-board increase of 6 per cent for nurses under the Public Hospital Nurses Award of $57.5 million.

An additional appropriation of $425 million is required:

- To maintain continued full funding of the Treasury Managed Fund Insurance Scheme of $305 million due to recent negative investment returns resulting from weaker equity markets; and

- To retire debt amounting to $120 million.

The additional funding of $305 million provided to the Treasury Managed Fund will have no budget impact as the proposed grant is from the Crown Finance Entity to the Insurance Ministerial Corporation, both of these organisations being General Government agencies.

The Bill also seeks appropriations to adjust certain payments made during the 2001-2002 financial year either from that year's Advance to the Treasurer, or approved in that financial year by the Governor under Section 22 of the Public Finance and Audit Act.

Additional funding in 2001-2002 was provided for the retirement of debt, the First Home Owners Grant Scheme and a contribution to the Treasury Managed Fund. However, the State still achieved a Budget surplus for the year ended 30 June 2002 of $495 million. This was $127 million higher than the 2001-02 Budget estimate of $368 million. Also the State's Net Debt as a per cent of Gross State Product was reduced from 7.7 to 6.2 compared to the previous year.

Each of the payments made in 2001-02 have been included in the audited financial statements of the relevant agencies for that year.

Section 11 of the Bill is new this year. It is the result of the recent government restructure following the State election. The Section validates interim payments by newly restructured government agencies pending the Treasurer making a determination to transfer 2002-03 Budget Appropriations from abolished agencies to the new agencies.

Given that administrative arrangements within restructured agencies will not be completely in place until early August, some financial information for these agencies cannot be provided in the Budget, to be delivered on Tuesday 24 June.

Overall budgets for the agencies will be available on Budget day, but the detailed program statements usually found in Budget paper three will not be published until 26 August.

This will affect twelve of the 75 budget dependent agencies. They are the departments of Urban and Transport Planning, Sustainable Natural Resources, Lands, Commerce, Sport and Recreation, State and Regional Development; the Treasury; the Environment Protection Authority; the National Parks Service; the Transport Co-ordination Authority; the Transport Safety and Reliability Regulator; and the Ministry for Energy and Utilities.

As a result, Budget estimates committees will commence on 28 August. This arrangement will give Members an opportunity to read and analyse this further information before questioning Ministers and departmental staff.

The practice of introducing further Appropriation Bills has enhanced accountability for the expenditure of public moneys from the Consolidated Fund.

It is further evidence of the Government's commitment to transparent and full financial reporting to the Parliament and the community.

I commend the Bill to the House.

The Hon. PATRICIA FORSYTHE [3.04 p.m.]: The Opposition will not oppose the Appropriation (Budget Variations) Bill 2003 but it has some comments to make about it. This is an important money bill of the type that is traditionally not opposed by the Opposition of the day. However, several aspects of this bill require comment. First, the bill offers further evidence of the Government's lax approach to fiscal management. We have heard from the Treasurer in each Budget Speech in recent years what a good job he has done managing the State's finances and, on each occasion, he has produced as evidence the fact that each budget has returned record revenues. However, such revenues are the result of the significant property boom that has underpinned the economy of New South Wales as a whole, and particularly that of Sydney.

The Hon. Dr Arthur Chesterfield-Evans: He has been lucky.

The Hon. PATRICIA FORSYTHE: Yes, the Treasurer has been very lucky. Far from those record revenues being a sign of good fiscal management, they are proof of the Treasurer's good luck. This is a high-spending Government that cannot live even within its own yearly budgets. This appropriation bill is evidence of that fact. It provides an additional $1 billion on top of the $1.6 billion overspending last year and the $1.75 billion in 2000-01. In other words, the Government has appropriated an additional $4.35 billion in 30 months. To put it in terms that we think the community can understand—references to billions of dollars do not mean much to the average person—that means the expenditure of $4.7 million a day every day of the week over

and above the revenue provided in annual budgets. The Government has lived beyond the means offered by its budgets to the tune of $4.7 million every day for the past 30 months.

This bill seeks approval for a total of $1.27 billion in expenditure over and above the amount for which the Government budgeted at the start of the year. That is significant because, as all honourable members know, we have an opportunity each year in estimates committees to analyse the budget delivered by the Treasurer—usually in May each year—and to ask questions about the budget's details. However, we do not get an opportunity to question Ministers about subsequent government spending. That is an important point, as I shall explain in my analysis of the details of the Appropriation (Budget Variations) Bill. It proposes to do five things: it seeks to account for the way in which the Treasurer's Advance of $286 million has been spent; it seeks parliamentary approval for the expenditure of a further $845 million, which the Government has already spent under section 22 of the Public Finance and Audit Act 1983; it seeks parliamentary approval for additional expenditure of $425 million; it seeks parliamentary approval for budget variations, including variations to the Treasurer's Advance and for expenditure under section 22 of the Public Finance and Audit Act for the 2001-02 financial year; and, finally, it seeks to validate interim payments to new agencies pending transfer of the 2002-03 budget allocations to those new agencies.

I turn, in particular, to the Treasurer's Advance. The Treasurer will claim that this appropriation bill is about providing a detailed explanation of how the advance to the Treasurer, which is provided for in each budget, has been spent. We know that the Treasurer's Advance is generally used for unforeseen events, for example, natural disasters or the cost of unforeseen policy responses. In this bill that use has been stretched to its limit. The Treasurer's Advance is nothing more than a slush fund for the Treasurer to use in any way that he considers to be politically expedient. In this election year he saw a need for a number of things which were clearly politically expedient but which he may have considered unforeseen. Under this Treasurer the Treasurer's Advance has ballooned from $75 million in 1995-96 to $290 million this financial year.

The Hon. Melinda Pavey: Disgraceful!

The Hon. PATRICIA FORSYTHE: It is disgraceful, because we do not have an opportunity to finely analyse this expenditure the way we analyse the budget in estimate committees. Being provided with a list of expenditures is not the same as being able to obtain comments from the Treasurer. We certainly agree that in this advance—which I have referred to as being politically expedient—the expenditure of $50 million for metropolitan rail maintenance is important to overcome significant problems, but it is more important to get the Government out of a political crisis. Why did it not foresee the need for $4 million to provide more fixed speed cameras—more revenue raising tools? What has changed since the last budget? I am particularly interested in the allocation of $6 million under "Ministry for the Arts" for regional cultural infrastructure and Opera House security.

Without dwelling too much on the recent significant breaches of Opera House security, we could accept it if the allocation of $6 million was solely for Opera House security, but it is grouped with a line item relating to regional cultural infrastructure. Those two items are entirely different. We do not know how much of the $6 million relates to Opera House security and how much relates to regional cultural infrastructure; we are simply told that the total expenditure is $6 million. I want to know which regions and which cultural institutions benefited. Is this something that was done on a government whiteboard or is it as a result of particular needs? Perhaps it was as a result of unforeseen problems with buildings. I find it peculiar that those two line items are grouped together with an expenditure of $6 million.

The Government has spent another $6.4 million on office refurbishments and relocations. I suggest that that is only the tip of the iceberg compared to what we will see in the next budget as a result of considerable realignment of a number of government departments. An amount of $517,000 has been allocated to upgrade the electoral systems of the State Electoral Office. That begs the question: Did the Government realise that there was going to be an election, and did it carry out a proper analysis of the resources of the State Electoral Office?

The Hon. Melinda Pavey: Bad management.

The Hon. PATRICIA FORSYTHE: It is bad management. We all know that the State Electoral Office was underresourced. Almost every electorate would have a story to tell about problems associated with being underresourced—whether at the time of the count or otherwise. We welcome the upgrade of the electoral system, but it should have been foreseen. I am most interested in the allocation of $1.2 million for the extension of the freight subsidy for Bombala softwood logs. Late last year and from January to March this year I spent a considerable time in the Bega and South Coast regions. Daily I noticed the number of logging trucks leaving the regions—

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! The Hon. Melinda Pavey is reminded that interjections are disorderly at all times.

The Hon. PATRICIA FORSYTHE: Where were they going? If the logs had been going to Wollongong to be transported elsewhere I might have understood it, but I frequently saw them in other areas. In fact, I conclude that this freight subsidy will support the fact that logs from the Bombala region are being supplied to the North Coast because the Government was completely wrong in regard to ensuring adequate timber supplies for the North Coast. This subsidy is a cost to the people of New South Wales because the Government got it wrong with its regional forestry agreements for the North Coast. There was not an adequate supply of logs on the North Coast—and it will get worse. The honourable member for Coffs Harbour noted last week in debate on the National Park Estate (Reservations) Bill that the Government got this issue wrong, and it has not solved the problem. We want the Government to expend $1.2 million in the next budget. Because of government policy in relation to this matter, it is costing us.

What is of more concern is that the Treasurer's Advance has been used to top up funding for agencies that have been underfunded. These figures include: $10.4 million shortfall in funding for the Department of Ageing, Disability and Home Care; $3.56 million shortfall in funding for the Office of the Protective Commissioner; $2 million shortfall in funding for the Director of Public Prosecutions; $1.47 million shortfall in funding for the Royal Botanic Gardens and Domain Trust; and $1.5 million shortfall in funding for the Sydney Aquatic and Athletics Centre. That means either that those agencies cannot live within their budgets or that the Government has not provided them with adequate resources. The $10.4 million to the Department of Ageing, Disability and Home Care is an almost annual increase because in the past its funds have been inadequate. But the Government has not admitted that, and has topped up the funding every year for the past few years.

In regard to section 22 of the Public Finance and Audit Act, I draw the attention of the House to the underestimation of school student enrolments and the $25 million that had to be provided to the Department of Education and Training. Was that as a result of the class size audit that the Government was forced to undertake last year because it admitted that it had no idea how many students it had class by class? How could the Government have underestimated school student enrolments to the extent of a $25 million enhancement? I do not know the answer to that question but I would certainly like a better explanation from the Government. Other key expenditures include: a $519 million grant to the Treasury Managed Fund to cover the fund's recognition of "incurred but not reported" public liability claims; and $100 million for bushfire relief. Nobody could have foreseen the bushfires, but that is only the tip of the iceberg as far as what it will cost New South Wales as a result of this Government not adequately looking after our forests.

The key expenditure of $57.5 million for the 6 per cent pay increase for nurses is welcomed. The Opposition said that this payment should have been advanced earlier. The Government was dragged, kicking and screaming, to accept the Industrial Relations Commission's recommendations on this issue. This increase should have been introduced much earlier. It is a matter on which the Government should have been proactive in its support. Another of the key expenditures is $20 million to reduce waiting times for emergency services and elective surgery. While much of that expenditure clearly was desperately needed, it should not be forgotten that many of those expenditures should, and could, have been included in the original budget. They should have been budgeted for.

As to additional expenditure, the Government is also asking Parliament to approve $425 million in additional expenditure this financial year, for two purposes. The first is $305 million as an additional contribution to the Treasury Managed Fund, due to recent negative investment returns. I would like further explanation from the Treasurer on that additional expenditure. The second purpose is $120 million to retire debt. The poor management of the Government's investments is of serious concern. The Treasurer cannot dress this up any other way. He should explain to the Parliament the detail of the losses and whether the fund has been

underperforming or overperforming its benchmarks. Last year we saw the State Superannuation Fund lose more than $2 billion on its investments. Now the Treasury Managed Fund's investments are underperforming their benchmarks, and New South Wales taxpayers have to top up the fund.

There are, in addition, interim payments to new agencies. The final part of the bill approves interim payments to new government agencies, pending the transfer of 2002-03 budget allocations from the agencies that they have replaced. Clearly, this is necessary to ensure the continued running of government, but the Opposition must express serious concerns about the Treasurer's decision to exclude the details of expenditure for 12 major agencies from the 2003-04 budget worth a total of $4 billion. Those agencies are: the Department of Urban and Transport Planning, the Department of Sustainable Natural Resources, the Department of Lands, the Department of Commerce, the Department of Sport and Recreation, the Department of State and Regional Development, Treasury, the Environment Protection Authority, the National Parks and Wildlife Service, the Ministry for Transport, the Transport Safety and Reliability Regulator and the Ministry for Energy and Utilities.

The people of New South Wales deserve the opportunity to scrutinise how their taxes are spent, but the decision of the Treasurer to exclude those matters from the original budget denies New South Wales people the right to scrutinise this spending in a timely fashion. Having said that, I repeat that the Opposition does not oppose this legislation. However, we think the bill benchmarks the way in which this Labor Government is managing the economy and its budget. It could do much better.

Reverend the Hon. FRED NILE [3.22 p.m.]: The Christian Democratic Party supports the Appropriation (Budget Variations) Bill. As honourable members know, it is now the normal practice to have this House pass similar bills to provide for budget variations, particularly variations to the Treasurer's Advance. I note that a number of urgent matters are included in the Treasurer's Advance for 2002-03. I am sure all honourable members would agree that those matters are important and should be funded as proposed by this bill. They include $50 million for metropolitan rail track maintenance. We are all aware that rail safety has become a major issue in the mind of the public, particularly following recent rail accidents. More than $27 million is sought for per capita grants to non-government schools and school cleaning contracts, along with an additional $12 million for drought assistance measures to assist farmers and $11 million for an additional 100 caseworkers at the Department of Community Services, and various other approvals are sought for funding.

I note also that the Treasurer will be retiring debt amounting to $120 million. I am sure all honourable members would commend that initiative. One matter that concerns me relates to the budget estimates committees, which are referred to in the bill and in the Treasurer's second reading speech. The Treasurer said the restructuring of agencies would cause delay in the provision of some financial information relating to a number of agencies. The budget will be delivered on Tuesday 24 June, with the overall budgets for those agencies being available on budget day, but the detailed program statements usually found in Budget Paper No. 3 will not be published until 26 August. As a result, the Treasurer has advised that the budget estimates committees will not commence until 28 August.

That seems a rather lengthy delay. On the surface, the delay would appear likely to reduce the effectiveness of budget estimates committees. The commencement date of 28 August is so long after delivery of the budget that the attention of the public, which otherwise would be focused on the budget, will have long faded. Notwithstanding that, this House will be discussing the detail of the budget two months after its delivery. I ask the Treasurer to re-examine the timetable and the excuse that he gave of restructuring agencies. Perhaps that restructure could take place more rapidly, so that within a few weeks this House could move to its budget estimates committees process.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [3.26 p.m.]: This money bill seeks to account for the advance of $286.267 million to the Treasurer for the remainder of the 2002-03 financial year, $845.273 million having already been approved by the Governor and an additional appropriation of $425 million. Some of the points of the money bill include $11.8 million for the hiring of 100 caseworkers for the Department of Community Services [DOCS]. It seems this welcome increase in the number of DOCS workers results from pressure that I and some other members have placed on the Government by identifying problems in that department. I was horrified to learn today that in some areas of DOCS more than half of the staff are on stress leave, which is putting an additional and immense load on remaining staff. The result is that work that should be done for newborn babies simply is not being done.

The Government is also honouring its commitment and will be allocating money for the Social and Community Services Award, which is absolutely necessary if it is to increase the number of workers in the non-

government welfare sector. That increase is desperately needed in both DOCS and care for the disabled. The mental health inquiry found that Victoria was making much better use of its non-government organisations than is New South Wales. I think the figure was 11 times much better use. So the Social and Community Services Award is very important in order to maintain parity and enable that sector to use its increased flexibility for social good. Some $12 million will go to our State's farmers for drought relief. While east of the sandstone curtain has received a lot of rain recently, many parts of the south-eastern corner of the State, and especially the western half of the State, are still in drought. Obviously, we need to help our farmers, and the Democrats support that.

I was interested that $1 million was provided for the security upgrade of Governor Macquarie Tower and $6 million for the Opera House, along with approximately $4 million to purchase a new anti-terrorism helicopter. Far be it from me to suggest that a more sensible foreign policy would have been a better way of going about the latter. In regard to the $1.2 million freight subsidy for Bombala softwood logs, it is a worry that the Government is still subsidising the logging of State forests. An allocation of $20 million is made for reduction in surgery waiting times and emergency services. It is not clear exactly what that means, and I would like more details about that allocation. I presume the Minister can actually follow the money for emergency services and elective surgery.

Certainly it was clear from the mental health inquiry that accountability measures in area health services are poor; the department was unable to say where the mental health money went. There was plenty of evidence that it was not going to mental health workers at the bottom of the tree. I met with the Minister for Health a couple of weeks ago, when we discussed this issue, and I hope appropriate action will be taken soon. I will be writing to the Auditor-General and asking him to look at the transcripts of questions that the Mental Health Committee asked the Department of Health. It was pointed out, when a Federal research group tried to look at comparative spending in the mental health area across jurisdictions, that the data in many jurisdictions was very poor indeed.

The Treasurer wants the House to approve an extra $305 million for the Treasury Managed Fund because of negative investment returns. He also wants $120 billion to retire debt. Last year the State Super Fund lost $2 billion—a performance common among many super funds, including mine unfortunately. We totally oppose the proposal to earmark $500,000 for the establishment of the Game Council. Some $4 million has been authorised to purchase additional fixed speed cameras, which have proven to be great little revenue raisers. I intend to move that people who give evidence to committees of this Parliament also be filmed. The cost will be trivial, and accountability will be improved. No doubt the Government, which is keen on fixed cameras, will be happy to approve this expenditure in the next budget.

The Hon. Michael Egan: What revenue would that raise?

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: It will provide accountability, which I know is close to the Minister's heart. I was interested to note that $682,000 has been spent to assist with the refurbishment of the heritage-listed King's School site. Pillars on the outside of the 1960s building—they do not provide support for anything—were thought not to be aesthetically correct and they have been replaced by thicker pillars. Since I attended the school an immense amount of high-quality building has been undertaken. I am not certain if the funds were used for the old or the new King's School. The old King's School site was Marsden Hospital, which has been under the control of the Department of Ageing Disability and Home Care for some time. Certainly a lot of work is needed at the old site. It would be unusual to refer to a site that the Kings School vacated about 20 years ago as the Kings School site, and it is hard to believe that, apart from the preparatory school, the new site would be heritage listed.

I note that $67,400 million has been spent on metropolitan rail maintenance and the Parramatta rail link, which is much overdue. That amount includes an extra $50 million for metropolitan track maintenance. I note that a lot of overhead wires have been replaced. Members of this House may be interested to know that larger direct current voltages are outdated. More modern railways in other parts of the world use lighter overhead wires with higher voltages in alternating currents. I wonder whether the money required to replace overhead direct current [DC] wires would be better spent on more modern engines and lighter technology. Will the Government commit to a more modern electrical system for trains? If so, when and why is it spending money on old DC overhead systems? Following the Menangle Bridge fiasco one newspaper reported that present railway accounting and inventory systems were poor.

I am concerned that the railway system is like the mental health system: it cannot account for what is going on. One can only wonder whether debate in this House is totally arcane if what we ask for and what the

Treasurer accounts for does not happen in practice or the money is not well spent. However, I am pleased that $5 million has been allocated for Linwood Hall at Granville. I led the charge for the community to obtain the property, which was falling into disrepair and was about to be sold off. The property, which is on historic land, required a lot of restoration work. I seek an assurance from the Treasurer that the building will be restored intelligently, not simply purchased and allowed to decay further. I hope it will be put to good community use.

Ballast Point was purchased for $40 million. I do not know its valuation. I understood that, as an industrial site, it was less than that amount. When property developers buy an industrial site in the hope of turning it into high-rise residential land, they risk some capital. Obviously, they will try to push up prices when the site becomes available for purchase by the public. Ballast Point, opposite the famous and quite delightful Balls Head site, is the gateway to the Parramatta River. The Government has to make it a tough deal, but that is difficult given that it takes such large monetary donations from property developers and enjoys their expensive dinners. I note also that the Government is retiring debt. That is laudable but it is not necessarily an end in itself. As an analogy, households are not debt averse if they have asset backing for the debt. Accordingly, if debt is backed by tangible assets, then the State can carry debt.

If the State wishes to build beneficial structures for the people of New South Wales such as the north-west railway, the State is better off raising the capital and building them rather than retiring debt and not undertaking public works because it cannot afford them in the short term. The worst outcome is that the Government will guarantee loans to the private sector, thus producing a liability rather than an asset. The builders of the Mascot railway system kept asking for more money. If the Government needs infrastructure, it should prudently finance and retain that infrastructure as a positive asset against the debt that produced it. The Treasurer's bringing back to this House changes in the Budget gives us the opportunity to discuss them and to guarantee that accounting systems ensure that money is being well spent for the right purpose.

The Hon. MICHAEL EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [3.36 p.m.], in reply: I thank members for their contribution to the debate and for their support for the bill. I got the impression from the remarks of the Hon. Patricia Forsythe that she was suggesting that we had been hiding some of the expenses from the Treasurer's Advance. The honourable member is not listening; she is deep in conversation with her leader. Perhaps she does not want to hear the response to her point. Schedule 1 to the bill has a very detailed description of each of the items of expenditure from the Treasurer's Advance: it is laid out line by line, item by item. Let us not have the silly suggestion that the Government has not revealed the extent of spending in the Treasurer's Advance.

The Hon. Patricia Forsythe: Are you talking to the House?

The Hon. MICHAEL EGAN: I was talking to the honourable member. I was responding to a point she made in debate, but then I realised that she was not listening to the response. Obviously, she was having a conversation with her leader—or was it with three-votes Pearce? The Hon. Patricia Forsythe also referred to superannuation fund returns. It is true that in the past two years—up to 30 June 2001 and 30 June 2002—the pooled superannuation fund has had negative returns. As the Hon. Dr Arthur Chesterfield-Evans pointed out, that is in common with virtually every other superannuation fund throughout the world.

The Hon. Patricia Forsythe: You keep telling us that you are the best Treasurer.

The Hon. MICHAEL EGAN: No, I have never said that. The *Sydney Morning Herald* once attributed that statement to me. Honourable members might recall that I took the journalist to the Press Council and won. Not only did I win in the first instance, but when the *Sydney Morning Herald* appealed against the Press Council's adjudication I won again on appeal.

The Hon. Dr Arthur Chesterfield-Evans: You were arguing that you were the world's best Treasurer?

The Hon. MICHAEL EGAN: No. I was simply pointing out that the report was a concoction. I never uttered the claim that the *Sydney Morning Herald* attributed to me, but the point I often make is that ours is the first government in the recorded financial history of this State to have not just one surplus budget, but two, and then seven! No other government in this State's recorded financial history has managed more than one surplus budget, and no other government has managed to reduce the State's debt.

The Hon. Dr Arthur Chesterfield-Evans: There's nothing like a good property boom to boost funds.

The Hon. MICHAEL EGAN: There have been property booms before and there have been good economic times before, but no other government in this State's recorded financial history has managed to marshal the benefits of those good times to make sure that the State can withstand the inevitable bad times. We do not know when bad times will come, and hopefully they will not come for a long time, but there are always threats on the horizon. Hopefully, bad times will not come for a long time, but whenever they do—and inevitably, they will come—the State has to be in a position to withstand them. We are in that position—unlike, I might say, governments in most other jurisdictions around the world.

In the United States of America, virtually every city and state is in dire financial trouble with huge budget deficits, and their managers have no idea how to repair them. For example, one State in America is releasing prisoners, not out of any humanitarian consideration or for any rehabilitative purpose but simply because that State has run out of money and cannot keep them. Another state—I think it is Michigan—has discussed cutting funds for services across the board by 20 per cent. Are honourable members able to imagine a 20 per cent cut to this State's education budget, the police budget or the hospital budget? Obviously, that would create a calamity, but that is the position in which a number of states in the United States of America find themselves.

Still others are selling off long-term revenues up front. In other words, they are exchanging a one-off payment up front for a long revenue stream over 10 or 20 years, simply to repair the current budget position that they face. That is why it is important to use the good times to repair balance sheets so that we can withstand the bad times. That is what this Government has been doing over the past eight years. And we will continue to do that for as long as we have favorable or reasonable economic conditions.

However, I digress: I was discussing the returns of superannuation funds. It sometimes comes as a surprise to people to realise that such funds are invested in bond markets, property markets and equity markets. While it is fair to expect a reasonable and positive return over time, the fact of the matter is that from year to year we cannot always expect that positive return. Many of the assets held by the State's pooled superannuation fund are invested in Australian and overseas equities. A table that is published in one of the back pages of the *Economist* each week shows that the ASX is approximately 12 per cent down on its record highs. That is a big drop but not as big as those suffered by the FTSE, the Dow Jones or NASDAQ and equity exchanges around the world, which are not down by 12 per cent or 13 per cent but by 25 per cent, 50 per cent and in the case of the NASDAQ by 70 per cent. It is important to realise also that stock markets do not only go down; they may also go up: Usually it is important to point out the reverse to people who expect them to go up all the time.

I draw the attention of honourable members to the performance of the ASX since 1980. According to an article in the *Bulletin* of 21 January, the ASX increased by 37 per cent, but in 1981 it went down by 16 per cent. In the following year, 1982, it went down by 18 per cent. The falls over the past couple of years of approximately 12 per cent are really quite modest when compared to some earlier declines. Likewise, the path of the ASX has not been all one way. Over time it has increased—and that is an expectation that we are entitled to have—but from year to year there will be quite significant variations in performance. Nevertheless, even though the State superannuation pooled fund has lost money, along with all superannuation schemes during the past couple of years, it is important to view its performance in context. For example, in the year to 30 June 2000, it had positive earnings of almost $1,500 million. In the year before, it had positive earnings of $3.7 billion, and in the year before that, it had positive returns of $1.9 billion. In the year before that it had positive returns of $2.2 billion, and in the year before that it had positive returns of $3.4 billion.

The end result of all that is that today, notwithstanding payouts from the pooled funds of some $17 billion or thereabouts over the past eight years, we still have a level of assets that is considerably higher than any level that had been reached in the past couple of years. For example, in 1995 the pooled fund had assets of approximately $15 billion. Currently the assets are worth well over $20 billion, so there has been a very considerable increase over a period, notwithstanding payments from the scheme amounting to some $17 billion.

I wish to refer to a matter raised by Reverend the Hon. Fred Nile. He made a request for the Government to provide detailed financial and program statements as soon as we can for a number of agencies that have been affected by recent administrative changes. I am able to assure the honourable member that we will do that, but I emphasise the words "as soon as we can". The budget that I will bring down on 24 June will be without some detailed financial information that would normally accompany the budget papers for approximately 12 agencies.

The Hon. Rick Colless: What are you trying to hide?

The Hon. MICHAEL EGAN: No. We are not trying to hide anything. We will be producing that information.

Reverend the Hon. Fred Nile: Will you advise us of the 12 agencies?

The Hon. MICHAEL EGAN: They are the ones affected by the recent administrative changes. For example, the new Department of Sustainable Natural Resources is composed of sections of the abolished Department of Planning, Department of Land and Water Conservation and the Department of Information Technology and Management as well as the Environment Protection Authority. I will not go into the budgets of those organisations, but not all of those departments are coming into the Department of Sustainable Natural Resources. For example, the abolished Department of Land and Water Conservation, which has approximately 2,500 staff, has been split three ways among the new Department of Sustainable Natural Resources, the Department of Lands, and transference of a part to the existing Ministry of Energy and Utilities. Issues to be considered in the restructuring include not only the determination of new functions for each of those bodies but also the determination of activities to be carried out by staff and the numbers of staff required. We also need to split up the balance sheets of those bodies to decide where the assets and liabilities are going, and we also have to calculate revised budgets and financial statements including operating statements, the balance sheets and the cash flow statements.

The Hon. Greg Pearce: Why can't you do it for Treasury then?

The Hon. MICHAEL EGAN: Because Treasury has not been affected by the rearrangement.

The Hon. Greg Pearce: Why don't you produce their figures?

The Hon. MICHAEL EGAN: We are.

The Hon. Greg Pearce: Why did you announce that you would not?

The Hon. MICHAEL EGAN: We did not announce that. Good heavens, the Hon. Greg Pearce is a silly man. He should keep his mouth shut, because every time he opens it he scores an own goal. The Government will provide all the information for the unaffected agencies that it normally provides at budget time. We will not provide detailed information for the agencies that are restructured, because we will not be able to until a later time. It is important that that information be available to the Parliament so that it can be provided to the estimates committees when they undertake their inquiries. That is the undertaking that the Government has given. Otherwise we would hold up the budget and would not deliver it until after the beginning of the financial year. Reverend the Hon. Fred Nile understands that. The interjections of the Hon. Greg Pearce remind me of a sign I saw on the wall of a school's science laboratory. From memory the sign read, "Didn't look. Didn't ask. Didn't think. And now you are dead." The honourable three-votes Pearce should take that advice.

The identification of new programs, the split of expenses and revenue estimates by line item, staff numbers and asset acquisition programs are procedures that also must be undertaken. The Government needs to conclude the identification adjustment to new agency consolidated financial estimates to reflect any savings from synergies. The Government also needs to complete the identification of outputs and outcomes relevant to each program. In some cases the Government needs to determine the identification premises for new agencies. As the restructure has occurred during a financial year there is a requirement for all data to be revised for 2002-03 and for forecast budgets for 2003-04 to be adjusted. Agency level data and program level data have to be revised. In addition, forward estimates for 2004-05, 2005-06 and 2006-07 have to be revised. Following the announcement of the restructures on 2 April 2003 all that revision is necessary. I have given an outline of the work that needs to be undertaken by just one agency, and, of course, 12 agencies are affected. I assure Reverend the Hon. Fred Nile that that information will be available.

The Hon. Greg Pearce: List all the agencies.

The Hon. MICHAEL EGAN: I am happy to provide a list for the Hon. Greg Pearce.

The Hon. Greg Pearce: Tell us now.

The Hon. MICHAEL EGAN: The Hon. Greg Pearce should not be so silly. He has asked for a list and I will give him one.

The Hon. Duncan Gay: Are you going to keep talking until 4 o'clock?

The Hon. MICHAEL EGAN: No, I am not going to keep talking until 4 o'clock. We can adjourn until the ringing of a long bell. There are more ways to skin a cat than to give the Hon. Greg Pearce the opportunity to sit here and make inane interjections. That poor man came here from what we were told was a distinguished legal career—at least he came from a distinguished legal firm. We thought he was going to be an intelligent highflier, but we have had second thoughts and decided that perhaps that legal firm just got rid of him; dumped him on the Liberal Party and the Parliament. Notwithstanding his obvious ambition to be the Leader of the Opposition in this place, he received only three votes. That means he got his own vote and two others. I would like to know who the two others were. Someone told me that one of them was a fellow by the name of Kingle or Pringle or Dingle—someone I have not heard of.

The Hon. Greg Pearce: Point of order: I do not think that the Treasurer was attempting to impugn my reputation as a lawyer by making the comments he made earlier. However, I draw his attention to the prestigious legal profiles for 2000-01—

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! The Hon. Greg Pearce will resume his seat. There is no point of order. The Hon. Greg Pearce will resume his seat. I call the Hon. Greg Pearce to order for the first time.

The Hon. MICHAEL EGAN: His so-called great expertise has not been seen in this House. I suggest that the Hon. Greg Pearce should think again about whether this House is a suitable place for him, because he is not going anywhere.

The Hon. Michael Gallacher: What about his point of order?

The Hon. MICHAEL EGAN: I do not think that was a point of order. He got his own vote, and that of Tingle or Pringle or Dingle from the other place, but no-one can work out who the third person could possibly be. Obviously it is not someone of any great intelligence.

[*Interruption*]

Did Malcolm Kerr vote for three-vote Pearce? I know Malcolm; we are great friends. I cannot believe that a man of Malcolm Kerr's intelligence and experience, after 18 years in this Parliament, has not made it to the Opposition front bench. The best he got—and we thought it was a launching pad for bigger and brighter things—was Opposition Whip. But then there was a change of leader in the other place and he even lost that job.

The Hon. Greg Pearce: At least he didn't lose his seat.

The Hon. MICHAEL EGAN: But I was lucky to lose mine. I was a bit dirty on those 169 voters for a few months, and then I realised that they had done me a very great favour. If I could find those 169 voters today, I would give them all a special tax concession. Unfortunately I cannot identify them.

[*Interruption*]

No, my dog did not get a vote. I will not regale the House again with stories of my dog, even though the Leader of the Opposition is insistent that I keep repeating them. If I keep speaking until 4 o'clock my nicotine levels during question time will be dangerously low. The House will have to excuse me for the first minute or two of question time so that I can go to my office and collect my question time folders.

The Hon. Melinda Pavey: You wouldn't need the folders.

The Hon. MICHAEL EGAN: I bring the folders down with me, but I seldom use them. Indeed, these days I seldom get a question from the Opposition. In this session thus far there have been four question times and I have not received a question from a member of Her Majesty's Opposition.

The Hon. Michael Gallacher: What about those press conferences; let us hear about them.

The Hon. MICHAEL EGAN: I will tell you about the 1,615,559 votes recorded for me at the election on 22 March.

The Hon. Ian Macdonald: How many?

The Hon. MICHAEL EGAN: There were 1,615,559 votes, all for me, from people to whom I said, "Follow the Labor Party." That was the highest personal vote in Australia's history.

The Hon. Greg Pearce: Point of order: My point of order relates to relevance. The Minister is no longer discussing the bill. However, I draw his attention to his own press release in which he said that the Government could not provide details of the following departments and agencies—

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! The Hon. Greg Pearce will resume his seat. He has raised a point of order relating to relevance and I will rule on that. The other matter he raised is out of order. I call the Hon. Greg Pearce to order for the second time and direct him to resume his seat. I remind the Minister that his contribution should be relevant to the bill.

The Hon. MICHAEL EGAN: I thank honourable members for their contributions to the debate and commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

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KENMORE HOSPITAL SITE SALE

The Hon. DUNCAN GAY: My question without notice is directed to the Minister for Commerce. Is the Minister aware that the land value of the Kenmore Hospital site at Goulburn, if subdivided into 1,200 square metre blocks, would be in the range of $10 million to $12 million? Considering that estimate, why was the site sold to a private developer for $3 million, considerably less than the price offered by other tenderers? What are the names of the nine members of the assessment panel who made the final decision? When will the Minister be in a position to provide the House will full details on the sale process, as was requested almost two weeks ago?

The Hon. JOHN DELLA BOSCA: In respect of the part of the honourable member's question that relates to the nomination of individuals, I will seek advice as to whether it is appropriate to make that information available. There is no reason why I should not make that information available to the honourable member, but I will seek advice on the appropriateness of releasing the names of individuals. As to the second aspect of the honourable member's question, I am not qualified to make a guesstimate or to confirm or not confirm what the land value at the Kenmore Hospital site might be if it were to be divided up. I am not sure whether the honourable member is suggesting that that is the course of action that the Government or the department should have pursued.

Is the honourable member suggesting that the heritage site should be carved up for some sort of alternative development? Would that mean that the buildings would have to be disposed of or knocked down? I do not know whether the honourable member is testing my skill as an amateur valuer or whether he is suggesting an alternative course of action for dealing with one of the State's great pieces of heritage value—something that he would know as he has lived in that district for a long time. As I stated in my recent response to questions on this matter, there are certain details relating to this project, particularly details of a financial nature that will not be available until the contract is settled. The Government's tendering process is quite specific in this regard, as laid down in the Government's code of tendering. The successful developer is rightly entitled to commercial confidentiality at this time.

The Government's objective has been—and it remains—to get the best outcome for the broader Goulburn community from this sale in relation to heritage protection, jobs and economic prosperity. This project is expected to create 500 long-term jobs, 200 more in the construction phase, and general investment of at least $150 million. I am advised that the developer will shortly discuss this proposal with Goulburn City Council and, thereafter, the developer will consult with the community as he works out his master plan. At that time the local

community will have an opportunity to contribute to the process as well as being able to add its comments at a later stage when the master plan goes on public display. While some details are still commercial in confidence, I am able to confirm some elements of the proposed development. I am advised that the site will be developed over 10 zones in four precincts in a staged program over five to seven years.

First, an accommodation precinct will include a much-needed hotel that is able to cater for conferences—a facility that the city of Goulburn lacks at this time. There are also plans for apartment-style accommodation to house students and visitors, adaptively reusing the heritage buildings on the site. Second, a health precinct will include a combination of new and existing health services such as day procedures, aged care and retirement facilities. Third, an education precinct will include a combination of TAFE and university-related training programs with work experience opportunities in a purpose-built campus and a sports and recreation precinct building on the existing oval and sports grounds for the new multiuse sports centre that would include facilities such as a gymnasium, pool and games court. I hope that these details go some way towards satisfying the honourable member's concerns and curiosity about this matter. When the Premier announced the plans for the 500 jobs and the $150 million investment for Goulburn the local member, the honourable member for Burrinjuck, told the *Goulburn Post* on 10 February 2003, "Fantastic news for Goulburn."

The Hon. DUNCAN GAY: I ask a supplementary question. Given the limited but important information that the Minister has given us today, why was that information not given to the people of Goulburn prior to the final awarding of this contract?

The Hon. JOHN DELLA BOSCA: As I indicated in my substantive answer to the honourable member's question, the developer will shortly be meeting with Goulburn council. The master plan process will commence after that time.

The Hon. Duncan Gay: Shouldn't the people of Goulburn have an input?

The Hon. JOHN DELLA BOSCA: The people of Goulburn will have an opportunity to have an input into this process. That is the whole basis on which we are proceeding.

The Hon. Duncan Gay: But after it is all settled.

The Hon. JOHN DELLA BOSCA: I think I made it clear that the developer will be meeting with Goulburn council in the near future. The master plan process—in which the community will be involved—will commence after that meeting and consultation.

STATE EMERGENCY SERVICES STORM DAMAGE RESPONSE

The Hon. AMANDA FAZIO: Will the Minister for Emergency Services report on the activities for the State Emergency Service [SES] and the New South Wales Fire Brigades during the storms of last week?

The Hon. TONY KELLY: Last week saw the east coast of New South Wales deluged with rain. A cloud burst over the South Coast, the North Coast and everywhere in between. From a drought perspective, the rain was much needed. In fact, we could have done with much more rain on the other side of the Blue Mountains. So much rain in a short period inevitably results in flash flooding, which can cause serious damage to homes and property. In 24 hours some areas received over 205 millimetres of rain, which equates to 8 inches on the old scale. Some places in the west of the State might wait three or four years before receiving that amount of rain. I am proud to say that the dedicated men and women from the SES were on hand to save the day and to assist wherever possible. As soon as the first drops of rain started to fall, a sea of orange uniforms was on the scene to repair the damage and to help families in need.

State Emergency Service units from Oxley to Illawarra received 2,000 calls. Approximately 1,957 jobs have already been completed—from putting tarpaulins on leaky roofs, sandbagging, removing fallen and dangerous trees, and pumping water from inundated buildings and car parks. Working side by side with the New South Wales Fire Brigades firefighters, our skilled SES volunteers were also on hand to rescue people trapped in cars due to flash flooding. One firefighter deserves particular mention for his bravery. He swam through flooded waters in an attempt to save people caught in their cars by rapidly rising water. They were ultimately plucked from the roofs of their cars by a rescue helicopter. However, that particular firefighter deserves commendation for his bravery. The shire that was worst affected by the downpour was Sutherland shire, with the SES attending to 434 jobs. As a result, the shire was declared a natural disaster area, entitling local council, businesses and families to a range of assistance measures.

I went to the shire to announce the declaration, and I was joined by the honourable member for Miranda and the honourable member for Heathcote, both from another place, in congratulating local SES volunteers and firefighters on the great work they had done. The events of last week show how important it is for our emergency service teams to work together at a time of crisis. I am sure that all honourable members will join me in conveying their thanks and congratulations on a job well done. As I have said on other occasions, our emergency service personnel put their lives on the line to protect our homes and families. They are a well-trained and highly skilled team of men and women. I thank them again and convey the thanks of this House for their efforts. Their community work is invaluable.

The SES and the Rural Fire Service joined the Volunteer Rescue Association, the Lions club, Rotary and a number of other community groups to run 96 driver reviver stops across our State. Driver reviver stops provide 1.3 million serves of Arnott's biscuits, including more than 400,000 packets of Tiny Teddy biscuits, 800,000 cups of Bushells tea, and about 200,000 drinks of Cottee's cordial nationally. Some 40 per cent of these products are provided in our State. I put on record my acknowledgement of, and thanks to, these great sponsors, without whom this important community service would not be possible.

STATE TRANSIT AUTHORITY DIRECTOR MR TONY SHEPHERD

The Hon. MICHAEL GALLACHER: My question is directed to the Minister for Transport Services. Can the Minister outline to the House why it took Mr Tony Shepherd until 13 May to resign from his position as Director of the State Transit Authority, given that he had been elected chair of the smartcard technology company ERG on 2 May, some 11 days earlier? Did Mr Shepherd's earlier letter of 5 May 2003 outline his intention to resign and, if so, why was the Minister not aware of his resignation when Coalition members asked four questions about this matter in the House on 7 and 8 May?

The Hon. MICHAEL COSTA: I have already made a statement about this matter in Parliament, when I advised honourable members that I would seek legal advice about the issue. I obtained that legal advice, Mr Shepherd indicated that he was prepared to resign, and he did resign.

The Hon. MICHAEL GALLACHER: I ask a supplementary question. Will the Minister give an undertaking to the House to table by the rising of the House tonight a copy of Mr Shepherd's letter dated 5 May 2003?

The Hon. MICHAEL COSTA: I do not know which letter the Leader of the Opposition is referring to.

The Hon. Michael Gallacher: Yes, you do.

The Hon. MICHAEL COSTA: I do not, because I do not have in front of me a letter of that date. I am happy to release any letters from Mr Shepherd to me—in fact, I think I have released all letters I have received from Mr Shepherd. However, I am happy to examine whether there are any other letters to me from Mr Shepherd and to release them.

CHILD PROTECTION

The Hon. DAVID OLDFIELD: My question is directed to the Minister for Community Services, representing the Minister for Education and Training. Is the Minister concerned by the effect that poorly implemented child protection policies are having on the teaching profession? Is she concerned by the related decline in the number of male teachers? Is the Minister aware that malicious allegations can be used as a weapon not only by students but also by vindictive staff, whereby, whether or not proven innocent, an investigated teacher is left with a permanent negative record? Is the Minister concerned by the selectivity with which principals report child abuse? Is she aware that some principals are being demoted or forced into retirement while others are never held to account for failing to report abuse of students? Is the Minister concerned about the lack of formal legal training of child protection investigators? Those who administer child protection policies rarely see the inside of a classroom. What measures will the Minister put in place to better protect our children and our upright teaching staff?

The Hon. CARMEL TEBBUTT: The Hon. David Oldfield asks this question of me in my capacity as the representative in this place of the Minister for Education and Training. However, it touches on issues for which I have direct responsibility, particularly the working with children checks—which are undertaken by the

Commission for Children and Young People—and the guidelines associated with those checks. I can provide some information to the honourable member now as this is an important issue that has received quite a bit of attention in recent times. I also undertake to refer the honourable member's question to the relevant Minister in another place, who will follow up on those issues to which I cannot respond directly.

The working with children checks is an essential tool for protecting children. It provides for routine checks of relevant criminal, employment records and relevant apprehended violence orders of those who are to be employed to work with children. We would all agree that it is very important. The checks resulted from the recommendations of the Wood royal commission. Like everyone else, I am aware of concerns expressed by teachers that the current provisions and guidelines may expose them to vexatious or malicious complaints of child abuse in the normal course of their work. I advise the House that the Commissioner for Children and Young People has been convening a working party, which includes representatives of the teaching unions, to review the guidelines and procedures in this area. Honourable members will also be aware that the Premier has requested the Director-General of the Cabinet Office to conduct a review of the guidelines as they relate to schools.

I think everyone would agree that people working with children must be subject to careful screening and review, and that we must do everything possible to protect children and prevent abuse. We must also ensure that teachers have the capacity to maintain discipline and to perform their work without being subject to false or vexatious allegations of abuse. It is critical that we get these guidelines right. I am confident that the reviews under way will ensure that both of these goals are met. However, as I have said, I will refer the Hon. David Oldfield's question to the Minister for Education and Training for a response to the other aspects of his question.

PRESCHOOL FUNDING

The Hon. TONY BURKE: My question is directed to the Minister for Community Services. What action is the Government taking to support preschools in New South Wales?

The Hon. CARMEL TEBBUTT: That is an important question. There is no doubt that families throughout New South Wales rely on the availability of high-quality, affordable early childhood services. Indeed, for many families the availability of preschooling and other child care can be the difference between making ends meet and suffering hardship. More and more international and Australian research demonstrates the value of early childhood services and the importance of providing quality early childhood services for children.

The Government has a strong commitment to child care. This is recognised in our early childhood services policy, which we launched in October 2000. I am pleased to advise the House that yesterday I announced a $3 million boost to preschools across the State. This funding will see improvements to safety, security and facilities at more than 241 preschools across New South Wales. What is more, at a time when rural and regional areas are doing it tough, I am pleased to advise that almost three-quarters of those preschools receiving funding—a total of 178—are located in rural and regional areas. This funding comes on top of our announcements in February and March of more than $750,000 in funding for 193 preschools to reduce the burden of fees on low-income families.

I must point out that these announcements give the lie to the allegations that this Government has in some way placed a freeze on preschool funding. For example, in the past 18 months we have allocated more than $2.8 million in additional funding for preschools in rural areas in order to reduce fees and to support toy libraries and mobile child care. We have also provided $3.6 million to help services move to new facilities and to expand and improve centres. I am aware that there are concerns about the funding of preschools, and particular concerns about the way in which fee relief works with regard to preschools. That is why I announced in March a review of fee relief in preschools, which I expect to be completed by the end of the year. The review will consult closely with peak children's service organisations with significant preschool membership and will examine all factors that have an impact on families accessing preschool services, particularly equity issues.

The funding announced yesterday will be used to improve facilities such as toilets, security fencing, shade areas, play equipment, washing facilities and hot water services. Some of the significant projects funded under this latest initiative include: $20,000 for plumbing and bathroom repairs at Canowindra Preschool; $30,000 to install shade cloth at Trundle Children's Centre; $15,000 for a new laundry and craft room at Dareton Preschool; and almost $60,000 for roof repairs and new fencing at Kalang Preschool near Bellingen. The Department of Community Services identified each of those projects as a priority during regular licensing

inspections of preschools. The funding targets preschools with limited access to other revenue, thus reducing the likelihood of families facing fee rises in order to ensure that their children's facilities are of a good standard.

[*Interruption*]

The Opposition members are interjecting. I suggest that if they have a real interest in this area they might like to make representations to their Federal colleague the Hon. Larry Anthony about why the child care benefit does not apply to parents who use preschools in the same way as it applies to parents who use long day care centres. Any parents whose children attend preschool will confirm that they believe the situation is inequitable. If the Opposition members have real concern about this matter, I suggest they take it up with the Hon. Larry Anthony because I have tried and have not got very far at all. Any support they can provide will be welcome not just by me but also by families who use preschools across New South Wales. The funding will significantly improve the quality of early childhood care provided in New South Wales, especially in rural and remote areas.

JUNEE CORRECTIONAL CENTRE STAFFING

Ms LEE RHIANNON: My question without notice is directed to the Minister for Justice. In light of revelations about the Australasian Correctional Management [ACM] and the Woomera Detention Centre, will the Minister assure the House that ACM is providing adequate and contractually defined staff levels at the privately managed New South Wales prison, the Junee Correctional Centre, and that all 207 staff positions, especially the 125 custodial officers positions, are filled at every roster?

The Hon. JOHN HATZISTERGOS: At the moment I have no reason to be concerned about the conduct at the Junee private correctional complex. I am not particularly on top of the question of the details of the staff rosters but I will look into that matter and advise the House in due course.

Ms LEE RHIANNON: I ask a supplementary question. Will the Minister table evidence that all ACM staffing responsibilities for security, supervision, custody and welfare are being discharged according to contract?

The Hon. Michael Egan: Point of order: That is certainly a valid question for a member to ask of a Minister but not as a supplementary question. The honourable member obviously asked two completely different questions. I would therefore suggest that you rule the so-called supplementary question out of order.

The PRESIDENT: Order! I remind members of the wording of the sessional order relating to supplementary questions because a number of members have taken to interpreting it to suit their own purposes. The sessional order states:

> At the discretion of the President 1 supplementary question may be immediately put by the Member who asked a question to elucidate an answer.

A supplementary question must be directly related to the answer given by the Minister and it must seek to elucidate—that is, make clearer—a supplementary answer. A member may not seek to ask a further question under the guise of asking a supplementary question. I rule the question out of order.

EMU PLAINS CORRECTIONAL CENTRE COUNSELLING SERVICES

The Hon. JOHN RYAN: My question is directed to the Minister for Justice. Will the Minister inform the House if any prisoner at Emu Plains Correctional Centre has sought psychiatric help or counselling within the past six months? If so, did any prisoner seeking such help not receive that assistance?

The Hon. JOHN HATZISTERGOS: I do not know how I can possibly answer a question about inmates who are requesting psychiatric help. There are inmates at Emu Plains and, indeed, many other prisons, who receive psychiatric help all the time. If the honourable member wants to raise a specific case of alleged non-treatment, I am happy to look at it and advise him in due course.

EXCEPTIONAL CIRCUMSTANCES DROUGHT ASSISTANCE

The Hon. PETER PRIMROSE: My question is to directed the Minister for Agriculture and Fisheries. Will the Minister inform the House of the progress of applications for drought assistance from New South Wales farmers?

The Hon. IAN MACDONALD: I am pleased to announce to the House that since the last time I raised this issue on 9 May the Commonwealth announced that drought exceptional circumstances [EC] assistance would be available to livestock producers in the Moss Vale and South Coast rural lands protection boards. This is a most welcome development for the 1,175 farmers in this mainly coastal region south of Sydney. Sadly, on this date, Federal Minister for Agriculture, Fisheries and Forestry, Warren Truss, also announced that he had failed to approve the applications for EC assistance for the central and southern tablelands and the application for the central west slopes and plains region, which will not be reviewed until July 2003. This decision will affect 9,925 farmers.

The Hon. Rick Colless: He did make recommendations.

The Hon. IAN MACDONALD: Just be careful, I will get to what the honourable member is thinking in due course. This announcement followed a release the previous day in which Minister Truss stated that New South Wales was taking too long to prepare EC applications. Those two applications were submitted within three weeks of 21 March, which is the earliest possible date that they could be lodged under the Commonwealth's own EC rainfall eligibility criteria. They had waited fully seven weeks for a decision. Federal agriculture Minister Warren Truss also indicated that he had refused to grant EC assistance to farmers in the case of the central and southern tablelands because "there was insufficient evidence to demonstrate the key criteria of a severe downturn in income." In the middle of what is arguably the worst drought on record, this is outrageous. The real reason these applications did not get up is because the Commonwealth EC eligibility criteria are just too tight. It is not just the New South Wales Government which is saying this. Mal Peters, President, NSW Farmers Association, in response to the Federal Budget, which revealed that the Federal Government had underspent its drought budget by almost 20 per cent, said:

> In the midst of the worst drought in 200 years the Federal Government is now expecting to spend $150 million less on drought support, confirming the eligibility criteria are so stringent that farmers are being shut out from badly needed assistance.

The New South Wales Government agrees with the farmers: the eligibility criteria are just too tough. Apart from proving a 1 in 20 to 25 year dry period, and a significant financial impact over the past year, an application must also contain a detailed economic forecast for the next 12 months or more. This is despite the fact that we cannot forecast what the weather will be during that time. The application was also criticised by Minister Truss for not providing enough detail on farm business incomes—the nub of my answer today. The applications relied predominantly on the farm income data generated by the Australian Bureau of Agricultural and Resource Economics [ABARE]—Minister Truss's own agency. To ensure that each application included the most up-to-date information on farm incomes, the New South Wales Government actually commissioned ABARE to update its data. ABARE has indicated that it sampled 36 farms in the central and southern tablelands region.

ABARE itself judges the number required to generate a representative sample for the region. The applications therefore presented the Commonwealth with the best available farm income survey data provided by the Commonwealth's own agricultural farm income survey. The ABARE data was bolstered by NSW Agriculture's own farm case studies and also by farm survey data supplied by rural lands protection boards. In all, 56 case studies for individual farms were prepared by ABARE for the two areas denied access to EC on 9 May. The Federal Minister used similar information to approve previous applications. We were not given any warning by the Commonwealth before the rejection that this time the information would not be sufficient. [*Time expired.*]

The Hon. PETER PRIMROSE: I ask a supplementary question. Can the Minister elucidate his answer?

The Hon. IAN MACDONALD: Nonetheless, I have directed NSW Agriculture to provide any assistance necessary to the Commonwealth to get these applications processed. NSW Agriculture has begun the work to resubmit applications to cover these areas. Even if we are successful with these new applications it is likely that many of the nearly 10,000 farmers in these two areas may not have a result until late August, unless the Commonwealth pulls out all stops to process the additional data.

The Hon. Rick Colless: You didn't have the ticker to let Duncan have a reply to the ministerial statement, did you?

The Hon. IAN MACDONALD: He is a nice fellow. For that reason recently I wrote to Minister Truss asking him to extend interim EC for New South Wales beyond the current cut-off date.

The Hon. John Ryan: This is not elucidating, this is just more information.

The Hon. IAN MACDONALD: I would listen to this guy any day, being an agrarian socialist as he said. We would all listen to him. Dryland and irrigated croppers and other farmers excluded from access to full EC across New South Wales as result of other decisions by Minister Truss will also lose access to interim EC after 9 June.

The Hon. Duncan Gay: Where are you going this Friday?

The Hon. IAN MACDONALD: I am going to Cowra, come and see me. I have a few comments for the former shadow Minister. Given that so many New South Wales farmers will be without the two major forms of Commonwealth drought support after 9 June, I have again written to Minister Truss. I have asked that interim EC assistance be extended across New South Wales after the current cut-off date—to which I am sure even the Deputy Leader of the Opposition would agree—and that each EC application which has been referred to the National Rural Advisory Council [NRAC] be formally designated as having prima facie EC status until it is determined. Doing so will allay farmer's concerns about losing much needed income support. As the Premier stated today in another place, the New South Wales Government will continue to provide assistance to farmers as long as it is needed, and let us hope that the Commonwealth will do the same.

WINDSOR ROAD UPGRADE

The Hon. Dr PETER WONG: My question without notice is addressed to the Minister for Transport Services, representing the Minister for Roads. Windsor Road is a major arterial road connecting numerous centres in Sydney's central west, north-west and outer west. These include Parramatta, Baulkham Hills shire, Rouse Hill and Windsor. Is completion of the Windsor Road upgrade still anticipated as per the original projection of 2006? As at present many motorists take hours to get to work, can the Minister supply examples of contingent provisions that ensure the proper servicing of expanding businesses and residential areas in the event of delays?

The Hon. MICHAEL COSTA: I will take advice from the Minister for Roads and provide a detailed answer to the honourable member.

EMU PLAINS CORRECTIONAL CENTRE PRISONER DEATH

The Hon. DON HARWIN: My question without notice is directed to the Minister for Justice. Can the Minister inform the House what review processes have been undertaken following the murder of a prisoner at Emu Plains Correctional Centre? If so, have there been any early findings of key failings of the department in relation to the matter?

The Hon. JOHN HATZISTERGOS: There is a departmental inquiry in relation to that matter. In addition, a coronial inquest is already in the course of being conducted by the Coroner and police assisting. The matter is subject to those two inquiries, and I am not able to elaborate further.

HAND BRAKE TURN PROGRAM

The Hon. HENRY TSANG: My question without notice is directed to the Special Minister of State, and Minister for the Central Coast. How is the Government helping young people on the Central Coast break the unemployment cycle?

The Hon. JOHN DELLA BOSCA: Last Friday I had the pleasure of launching Hand Brake Turn in Gosford. Hand Brake Turn is an innovative new program that aims to break the unemployment cycle and prevent young people on the Central Coast from entering the juvenile justice system. The program was developed to take advantage of young people's interest in cars, using it to help them gain confidence and employment skills and to break the links between young people and criminal behaviour. In our community, cars are not only an expression of youth culture but also a means of independence for young people, in particular young men.

The road safety figures tell us that young men aged 17 to 25 years are twice as likely as any other group to be killed or injured on our roads. Young people also take greater risks on the road. These risks can lead to offences resulting in young people entering the legal system with convictions for drink-driving, speeding,

driving while unlicensed and of course stealing motor vehicles. As a community we also know too well the enormous personal costs that serious injuries can have to the families of victims of motor accidents. That is why Care and Communication Concern Welfare Services devised Hand Brake Turn to take advantage of young people's interest in cars.

The program has already proven to be a success. In Sydney's west, where Hand Brake Turn was piloted, 70 per cent of graduates obtained jobs, apprenticeships or traineeships or went on to further study. On the Central Coast, Hand Brake Turn courses will run for eight weeks and offer young people training in motor mechanics, spray painting, panel beating, detailing and safety in a car repair workshop at West Gosford. An integral part of the program is a road safety and driver education session involving local road safety experts and police. Qualified supervising drivers will be enlisted to help course participants who are L-plate permit holders get the on-road driving experience they need to obtain their provisional licence.

All of these activities, as well as improved job and study prospects, mean Hand Brake Turn is a boon for the Central Coast's at-risk young people. That is why the New South Wales Motor Accidents Authority, the Department of Juvenile Justice and the Premier's Department have invested $300,000 on the program. I have every reason to believe the Central Coast's first graduating class in early June also will regard the program as a success. I met several of the participants last week, and they were enthusiastic about their course and their experiences. Hand Brake Turn is a program that will be of enormous benefit to young people on the coast. I commend the participants and look forward to their positive contributions to the Central Coast community.

CHILDREN AND YOUNG PERSONS (CARE AND PROTECTION) ACT 1998 PROCLAMATION

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: My question is directed to the Minister for Community Services. Given that the Treasurer's Advance payments include approximately $11 million for the employment of 100 extra caseworkers for the Department of Community Services, will the Minister inform the House when sections of the Children and Young Persons (Care and Protection) Act 1998 relating to maintaining records of reports and subsequent actions to the Director-General on child welfare, compulsory assistance and designated agency assistance to children in out-of-home care will eventually be proclaimed?

The Hon. CARMEL TEBBUTT: I assume the Hon. Dr Arthur Chesterfield-Evans is talking about chapters 8 and 10 of the Children and Young Persons (Care and Protection) Act, substantial aspects of which are not proclaimed. The Government is progressively proclaiming the Children and Young Persons (Care and Protection) Act 1998. The staged proclamation is aimed at assisting the smooth implementation of the Act, permitting targeted training and allowing the development of appropriate policies, procedures and support tools for the Department of Community Services and community partner agencies. It will also enable sufficient time to be put aside to train staff prior to proclamation.

I refer the honourable member to my announcement on 28 February 2003 that it was my intention to proclaim further sections of chapters 8 and 10 as soon as possible should the Government be re-elected. We are now in that fortunate position. I have received advice from the Ministerial Advisory Council—which I established when I first became Minister for Community Services—and it is my intention in July that further sections of the Act will be proclaimed. This will enable the Children's Guardian to undertake a key role in promoting the best interests of children and young people in out-of-home care, safeguarding their rights and accrediting designated agencies. The commencement of these provisions will pave the way for a significant enhancement in the care and protection of children unable to live with their parents.

There are still some sections of chapters 8 and 10 on which the Ministerial Advisory Council is continuing to provide me with advice. The council is in fact meeting next week. Those sections require further discussion and consultation. They include the provision of information to natural parents—which is section 148, from memory. That has raised considerable concern with foster parents, from whom I have had many representations. I have asked the Ministerial Advisory Council to look specifically at that issue and provide me with more advice on it, and also on how providers of disability services and supported accommodation services will be affected. I expect to receive that advice from the Ministerial Advisory Council in due course.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I ask a supplementary question. In a response to questioning on the budget estimates at the hearings of the general purpose standing committee on 25 July last year the former Minister for Community Services, Mrs Faye Lo' Po, said that the provisions relating to compulsory assistance and agency assistance to children in out-of-home care under the Children and Young Persons (Care and Protection) Act were expected to be introduced over 12 months and "will be gradually proclaimed from July 2002." Will the Minister now give the House a specific timetable for the rolling out of those provisions, and will that be done by July this year?

The Hon. CARMEL TEBBUTT: I believe I have answered that question. I have advised the honourable member that I made an announcement on 28 February. I am happy to give him a copy of the press release, which clearly sets out which sections will be proclaimed. Some sections will be proclaimed in July 2003, and further sections will be proclaimed progressively throughout the rest of the year. This is not a straightforward issue. I established the Ministerial Advisory Council because I believed it important to have people with experience in this area providing me with detailed advice. They have been taking the advice of the Children's Guardian, who, whilst not a member of the Ministerial Advisory Council, has been involved in that committee's deliberations on this particular issue. I think that is the appropriate way to go.

Some significant issues with chapters 8 and 10—for example, the one I raised about the provision of information to natural parents and how that impacts on foster carers—need to be resolved, but resolved after careful deliberation. We need to ensure that proclamation proceeds in a way that achieves the original intent of the legislation. But I can assure the honourable member that it is my intention to move forward as quickly as possible. Some sections will be proclaimed in July, with further sections being proclaimed throughout the rest of the year.

STATE TRANSIT AUTHORITY DIRECTOR MR TONY SHEPHERD

The Hon. RICK COLLESS: My question without notice is directed to the Minister for Transport Services. Will the Minister advise the House whether he spoke with Mr Tony Shepherd at any time during a Labor Party fundraiser held on 9 May at a major city hotel? If so, did he discuss the future of Mr Shepherd's position on the board of the State Transit Authority?

The Hon. MICHAEL COSTA: The Opposition is really struggling. The Opposition was humiliated in the last election, but they do not want to hear that.

The Hon. Rick Colless: Point of order: I asked the Minister whether he had met with this individual, not whether we were annihilated at the election.

The PRESIDENT: Order! The Minister is reminded that sessional orders require an answer to be relevant to the question asked.

The Hon. MICHAEL COSTA: As I was saying, the Opposition is struggling to come up with a sensible question that is of public import. They seek to play at the margin on issues that have been speculated on in the press instead they should raise more serious issues in question time. Whether I attend and what I do at a Labor Party function is none of the Opposition's business.

AUSTRALIAN INNOVATION FESTIVAL

The Hon. CHRISTINE ROBERTSON: My question without notice is addressed to the Minister for State Development. Will the Minister inform the House what the Government is doing to foster innovation in this State?

The Hon. MICHAEL EGAN: I congratulate the honourable member on her inaugural speech. As honourable members would know, the Government plays an active role in encouraging innovation through initiatives such as the Australian Technology Showcase, the Bio*First* biotechnology strategy and the New South Wales Innovation Council. Last week the Australian Innovation Festival featured more than 300 separate events throughout Australia. A large number of companies and organisations in New South Wales participated in the festival by holding exhibitions, seminars workshops and networking events throughout the State. To coincide with the Australian Innovation Festival, Wollongong hosted its 2003 Innovation Week, which was strongly supported by the Department of State and Regional Development.

Last year I had the pleasure of launching the inaugural Wollongong Innovation Week, which was most successful in promoting scientific endeavour, research and creativity in the Illawarra region. This year Wollongong Innovation Week was launched by the Hon. David Campbell, the Minister for Regional Development, Minister for the Illawarra, and Minister for Small Business. The event presented a wider range of activities, including forums on biotechnology, agribusiness and the environment, ensuring that the Illawarra region remains at the leading edge of innovation in these sectors. The Illawarra was the first region outside Sydney to host the Australian Technology Showcase. Its innovative strength can be seen in more than 30 local companies that belong to the Australian Technology Showcase. Innovation in regional New South Wales is going from strength to strength. I wish all participants in the Australian Innovation Festival a very successful future. I congratulate all those involved in this year's Wollongong Innovation Week.

BRIGALOW BELT SOUTH BIOREGION

Mr IAN COHEN: My question without notice is directed to the Treasurer, representing the Premier. Did the recently released National Terrestrial Biodiversity Audit Report outline that Brigalow Belt South Bioregion is on the highest priority list for consolidating Australia's protected area system; one of 14 bioregions in Australia identified as having between 30 per cent and 50 per cent of the total ecosystems threatened; and identified as having a declining threatened species trend for vascular plants, mammals, birds, reptiles and amphibians? When will the Government deliver on its commitment to protect the significant woodland areas assessed during the first western regional assessment conducted between 1999 and 2002?

The Hon. MICHAEL EGAN: The honourable member asked me the question in my capacity as Minister representing the Premier. Therefore I will refer it to the Premier and other Ministers who have an interest in those areas.

RAIL INFRASTRUCTURE CORPORATION RAIL SAFETY AUDIT REPORT

The Hon. CHARLIE LYNN: My question without notice is directed to the Minister for Transport Services. Will the Minister inform the House why he has still not released the 2002 annual audit report into rail safety conducted by the Rail Infrastructure Corporation?

The Hon. MICHAEL COSTA: As honourable members know, there are rules and timeframes for doing all of these things. I know that they are inexperienced in rail, but I thought they had some experience in parliamentary procedures. There is a time frame, and we will get his answer within the time frame. As I said previously when exactly the same question was asked, I do not know whether such a report exists. Just because the Opposition claims that the report exists does not mean that it exists. They have a terrible record at distorting the truth and making up questions without any substance. As honourable members know, their prime source is the daily media. Any attempt by the Opposition to imply that there is such a report does not mean that there is a report. We will report on this matter within the appropriate time frame.

PUBLIC TRANSPORT RESTRUCTURE

The Hon. IAN WEST: My question without notice is addressed to the Minister for Transport Services. Will the Minister advise the House of the latest information on the restructure of State Rail?

The Hon. Melinda Pavey: When are the prices going up?

The Hon. MICHAEL COSTA: I heard prices mentioned. Again, the Opposition has shown its absolute inability and irresponsibility on public policy.

The Hon. John Ryan: Point of order: My honourable colleague on the opposite side asked a question about the restructure of rail. The answer the Minister was giving was not relevant to that question. He said he was responding to an interjection. I suspect he would remember that, as you have said many times, Madam President, interjections are disorderly and should not be responded to.

The Hon. Greg Pearce: To the point of order: You have already drawn the Minister into line on a number of occasions in relation to relevance, but he is also breaching the sessional orders in that he is clearly debating the question. I would ask you to remind him that he is breaching the sessional orders.

The Hon. Michael Egan: To the point of order: Clearly, the point of order taken by the Hon. Greg Pearce is a nonsense because the Minister had uttered only a few words, which were in response to a disorderly interjection. Although the Minister is well advised to refrain from even noticing disorderly interjections, it is also appropriate that the member who made the disorderly interjection should be thrown out of the House.

The PRESIDENT: Order! I continue to remind members that interjections are disorderly and I will ask the Minister to answer in a relevant fashion. I also rule on the point raised about a member not debating the question. I interpret that as meaning that a Minister must not debate the question asked, not the issue that the question is related to.

The Hon. MICHAEL COSTA: With that guidance I will continue my response to the question. On 12 May I announced a ministerial inquiry into current funding, community transport fares, and investment

options for trains, buses and ferry services. That inquiry will be conducted by Dr Tom Parry and will be part of stage three of the transport restructuring that is currently being undertaken. For the information of the House, I advise that New South Wales taxpayers subsidise this State's public transport system to the tune of $1.7 billion a year—and the Treasurer constantly reminds me of this. The purpose of the inquiry is to make sure that that investment—and it is indeed an investment—provides value for money. There needs to be clear transparency between fares and levels of service.

The Hon. Duncan Gay: Dangerous words to use.

The Hon. MICHAEL COSTA: Commuters need to know what they are paying for and that is why there has to be a link between what commuters want—clean, reliable and safe public transport—and fares and funding options.

The Hon. Duncan Gay: Why not tell us about Tony Shepherd, if you are keen on transparency?

The Hon. MICHAEL COSTA: Quality public transport in the future depends on a better understanding of the relationship between fares, government contribution and other investment sources. We need to begin making plans to address increasing concerns about community transport, especially in country New South Wales. I would have thought that the Deputy Leader of the Opposition, who purports to represent country people, would listen to the point I am making about country transport. In the light of the Government's commitment to cleaner, safer and more reliable public transport, the inquiry will consider and report on the likely future revenue needs of CityRail and the State Transit Authority's bus and ferry operations, with regard to efficient operating and capital costs to the network, funding options to meet revenue needs as well as funding options for any future expansion of public transport services, options for enhancing the optimum use of public transport relative to other transport modes, and possible arrangements for incentive mechanisms which better link fares. [*Time expired.*]

The PRESIDENT: Order! I call the Hon. Ian West.

[*Interruption*]

The PRESIDENT: If other members did not interject, members seeking the call could be heard.

The Hon. Greg Pearce: Point of order: Madam President, as you have ruled already today, a supplementary question may only be asked in the exercise of your discretion to elucidate an answer. On the most recent sitting day you exercised your discretion to refuse the Hon. Rick Colless the opportunity to ask a supplementary question when there was no difficulty in his doing so. I now ask you to exercise your discretion and not grant this supplementary question because the Minister was not able to complete his answer. He is out of order in the terms of your ruling. I ask you to exercise your discretion. I ask you to make your ruling for the House so that honourable members may understand in what circumstances you will exercise your discretion to allow a supplementary question, and in what circumstances you will not allow a supplementary question.

The Hon. Michael Egan: To the so-called point of order, which again is a nonsense: The Hon. Greg Pearce has completely misrepresented the situation as I recall it occurring on the most recent occasion when the House met. Questions had commenced at 12 o'clock and we were well past 1 o'clock when a member of the Opposition sought to ask a supplementary question. Madam President, you did not have the option or opportunity of exercising a discretion because, on behalf of the Government, I had terminated question time.

The Hon. Duncan Gay: Further to the point of order: The Leader of the Government is misleading the House because any examination of *Hansard* will show that the supplementary question was asked before the Minister took the call to conclude question time. The Treasurer's contribution is completely out of order on this occasion.

The PRESIDENT: Order! Since the current sessional orders have applied, I have taken many hundreds of requests from members to ask supplementary questions. I had never denied such a request until last week when the time for questions had elapsed and the Minister had risen to his feet. so therefore—

The Hon. Duncan Gay: No. The question was asked—

The PRESIDENT: Order!

The Hon. Duncan Gay: Check *Hansard*.

The PRESIDENT: Order! I call the Deputy Leader of the Opposition to order for the first time.

The Hon. IAN WEST: Madam President—

The Hon. Greg Pearce: Point of order: The honourable member's time to ask the question has clearly expired.

The Hon. Duncan Gay: Point of order: Last week *Hansard* quite clearly shows that the question was asked before you made that ruling, before the Leader of the House asked you, and this situation is completely the opposite.

The PRESIDENT: The time for asking questions had elapsed. The sessional orders clearly provide that the President has such a discretion at any time. I had never before used that discretion but because the time for questions had elapsed, I exercised that discretion on that occasion.

The Hon. IAN WEST: Madam President, I would ask that the honourable—

The PRESIDENT: Order! The Hon. Ian West's time to ask a question has expired.

SYDNEY CITY COUNCIL BOUNDARY CHANGES

Ms SYLVIA HALE: I address my question to the Minister for Local Government. With respect to the council boundary changes that came into effect on 8 May, what sense of obligation would the current City of Sydney councillors feel toward the residents who have been added to the City of Sydney by the council boundary changes, given that those councillors have not been subject to an election in which those residents voted? Will the Minister describe what steps have been taken to ensure that residents in the amalgamated precincts have access to elected councillors who can accurately represent their interests? Will a constitutional referendum be held to change the structure of the City of Sydney to create wards or to increase the number of councillors?

The Hon. TONY KELLY: As there is an enormous amount of detail in that question, I will provide a detailed answer for the honourable member.

RAIL TRACK MAINTENANCE

The Hon. MELINDA PAVEY: My question without notice is directed to the Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests). Is the State Rail Authority experiencing any difficulty in sourcing quality sleepers from State Forests for vital track maintenance? Have any maintenance programs been postponed because of the shortage of sleepers?

The Hon. MICHAEL COSTA: It is clear that it is not only the shadow Minister for Transport Services who does not understand the rail system; some Opposition members who ask questions also do not understand it.

The Hon. Melinda Pavey: You do not understand.

The Hon. MICHAEL COSTA: If the honourable member understood anything about rail she would realise that there are three types of sleepers that can be used—timber sleepers, concrete sleepers and steel sleepers. Clearly the honourable member is unable to distinguish between timber, steel and concrete.

The Hon. Melinda Pavey: When are we going to get a briefing?

The Hon. MICHAEL COSTA: I am able to tell the honourable member that last year more than 450,000 concrete sleepers were laid—enough sleepers to stretch from Sydney to Broken Hill. Last week I also described in detail the advice provided by railway engineers. Because one sleeper does not meet the Opposition's standard, that does not mean the whole track is unsafe. The prime purpose of sleepers is to maintain the gauge. I suggest that the Opposition quickly attend classes on basic rail infrastructure.

RUGBY UNION WORLD CUP BUSINESS OPPORTUNITIES

The Hon. TONY BURKE: My question without notice is directed to the Treasurer, Minister for State Development, and Vice-President of the Executive Council. Will the Minister inform the House what the New South Wales Government is doing to maximise opportunities presented by the Rugby World Cup being held in Australia in October-November 2003?

The Hon. MICHAEL EGAN: I thank the Hon. Tony Burke for his question. As the honourable member probably already realises, the Rugby World Cup is one of the five largest sporting events in the world. Certainly it will be the biggest event in New South Wales since the 2000 Olympics. At this year's world cup some 20 nations will be participating and 48 matches will be played across Australia during a period of almost six weeks from 10 October to 22 November. I am pleased to inform the House that 17 of those matches will be played in New South Wales. Sydney will be hosting the prestigious finals series, with lead-up matches taking place in Sydney, Gosford and Wollongong. The Department of State and Regional Development is implementing a targeted business program to maximise business, investment and export opportunities from the international attention that the Rugby World Cup will attract and also from the expected 55,000 visitors to New South Wales, many of whom will be business people who will be coming to see the 2003 Rugby World Cup.

Business program activities include a series of Rugby World Cup international investment forums to market Sydney and New South Wales, with an initial forum planned for 6 June in Tokyo; a hosted business program in Sydney during October; promotion of the Trade and Investment Centre facilities at Grosvenor Place for meetings and corporate events during the Rugby World Cup; business networking and Government-hosted functions in Sydney, the Central Coast and Illawarra regions planned around Rugby World Cup matches; and industry-specific events ranging from information and communication technology to biotechnology and sports infrastructure, to be held during the cup. I assure the Hon. Tony Burke and the House that the Government will work to ensure that the Rugby World Cup is not just a great event for the many sports fans but also a great opportunity to promote New South Wales business to the world.

In view of the time, if honourable members have further questions, I suggest they put them on notice or ask them tomorrow.

PRISONERS PROTECTIVE CUSTODY

The Hon. JOHN HATZISTERGOS: On 6 May the Hon. Peter Breen asked me a question without notice on prisoners protective custody. At that time I undertook to provide him with a detailed answer. I now provide the following information:

> The Department of Corrective Services has advised me that the number of inmates in the Silverwater Correctional Centre and the Goulburn Correctional Centre fluctuates daily.
>
> The most recent figures, being for yesterday, 19 May 2003, indicate that there were 63 inmates in protective custody in pod 16 at Silverwater Correctional Complex and 112 inmates in protective custody in block B at Goulburn Correctional Centre.
>
> At Silverwater Correctional Complex 63 inmates were allowed out of their cells for 30 minutes. To ensure their safety, inmates are allowed out either with limited association with other inmates or with no association with other inmates. Inmates have elected this category of protection.
>
> At Goulburn Correctional Centre there were no inmates allowed out of their cells for 30 minutes. Inmates in protective custody in block B are allowed out of their cells for between three and five hours per day.

Questions without notice concluded.

DISTINGUISHED VISITORS

The PRESIDENT: I acknowledge the presence in the public gallery of Senator John Tierney. I acknowledge also in the President's gallery the presence of Senator Marise Payne and a former member of this House, the Hon. Margaret Davis.

LOCAL GOVERNMENT AMENDMENT (NATIONAL COMPETITION POLICY REVIEW) BILL

Second Reading

Debate resumed from 6 May.

The Hon. ROBYN PARKER [5.02 p.m.] (Inaugural speech): I support the Local Government Amendment (National Competition Policy Review) Bill. I have long wanted to sit in this place on these red

benches, but to sit here in silence has been agonising. Those who know me know that sitting still and in silence is not something I do well! I thank you for allowing me this opportunity to speak for the first time. No doubt there will be many occasions when you will wish that you had not. I am not the first person from Duckenfield to be a member of this Legislative Council. The Hon. John Eales Jnr lived on the very same property as my home. Although he was a member from 1880-94 we cannot find comments attributed to him in the Parliamentary records. I can assure honourable members that that will not be the case for me.

It has been suggested, even by some members of this House, that the Legislative Council is outdated and should be shut down. From the outset I totally reject that notion. To be fair, there certainly is a perception in the community that the Legislative Council does not do much. Only last week someone asked me "So what exactly is it that you do?" To those who are wondering, to me, the Legislative Council plays a vital role in the way our democracy works in New South Wales. It provides a checks and balances process for the people of New South Wales by considering bills, investigating serious public policy issues and amending ill-advised legislation. The Liberal Party did not choose me to represent the people of New South Wales or, indeed, the Liberal Party because they thought I would sit here just keeping the seat warm. Neither did they select me in the hope I might retreat to an ivory tower and make decisions, all the while being detached from the people of New South Wales.

I was asked recently also where I intended to set up my office, apart from my office in Sydney. As I said to this person, whilst there may well come a time when I do establish a second office, for now my main office will be where it has been for many years—in my car, on the road, out in the community. I have a simple life motto: If it's to be, it's up to me. But I will not fulfill that motto by sitting silently on the sidelines. More than 25 years after starting to make my way as an adult, I arrive here in this place having worked with children, families, the disabled, women suffering violence and some of the many in our community who have fallen by the wayside, often through no fault of their own. My party selected me because it had the confidence that I have broad life experiences: that I understand real people and real problems, and that I am capable of delivering real solutions.

When I was 10 years old my mother inherited a small amount of money. We all thought of great ways we could spend the money—a trip to Disneyland seemed like an especially good idea to my brother Murray and me. But, always the practical one, my mother announced that she had decided to use the money to buy a piece of furniture for our lounge room. Returning home from school one afternoon I was ushered into the lounge room to see what I thought would be a new lounge suite. My complete disinterest switched to excitement when instead there in the corner was our very first television set. At last I could see the programs my friends talked about. At last my television viewing was not restricted to watching through shop windows or at a neighbour's house. That television set certainly did entertain us and bring my family together as we shared some laughs over *I Love Lucy*, but it also gave me my first real view into the outside world: and it shattered my belief that everyone else was as fortunate as I was.

When I was 15 I had my first holiday job, working in the china section of White's department store. Although exhausted after a 40-hour week, standing in very uncomfortable but very fashionable shoes, I climbed the stairs two at a time to the paymaster's office to be handed my very first pay packet of $35.00. My delight quickly turned to disappointment when I realised that the boy from my class who was the same age as me and who was working in the men's shoe department was given $70.00 simply because he was a male. That was a stark demonstration to me that even in those supposedly progressive, no-war, hippy days discrimination was alive and well in our society.

When I was 23 the police awakened me from a deep sleep. I was on 24-hour call as part of a family crisis team. They needed my help. A mother was standing on the median strip on the highway with her two children, drug-crazed, yelling at the top of her voice, occasionally stepping out into the traffic and totally oblivious to the danger in which she was placing herself and her children. As I bundled the 18-month-old baby and the 5 year old in my car to take them to a safe house, the older child pleaded with me to go onto the highway and fetch the dummy that his little sister had dropped. Although only five, he had already been forced to assume the role of parent—his eyes dull and his innocence lost. Of course, I could not go back. I purchased a new dummy from the petrol station nearby, leaving that original pink dummy lying on the median strip. It was still there for weeks and months afterwards, a bit more squashed every time I passed by and a harsh reminder of the importance of children, of families and of the need to care for and nurture the most vulnerable in our society.

My childhood was quite different from the childhood of those two children, but it was similar to that of many my age. We lived simply, but well. We knew everyone in our neighbourhood and life revolved around our

home and our family. My parents, Adeline and Campbell McEwen—and it is with sadness that I note they are not with us tonight in what would have been their eightieth year—both left school at a young age to supplement their family's income. Through sheer hard work and determination they established a small, successful business. My father was a gentle man with strong Christian beliefs—the kindest man I have ever met. Passive by nature, it is amazing to think he sought permission from his father to sign up as an Anzac before his eighteenth birthday. He did that because it was important to him to stand up for our values, our way of life—a belief that he passed on to me from a very young age. My parents also encouraged us to appreciate diversity, to challenge and to think for ourselves.

In practical terms, my family life represented the vision that Menzies had articulated for society when first establishing the Liberal Party—the desire for a society built on deep respect for the dignity and freedom of the individual, where effort is rewarded and enterprise encouraged; a society of equality; a society of opportunity and choice. When it came time for me to make a decision about my career there were not a lot of options. It was not just an aversion to the sight of blood that saw me choose teaching over nursing. I have always thought that there is nothing as satisfying as watching the face of a person—either a child or an adult—when he or she grasps a concept or a skill for the very first time. I wanted to be a part of that. In those days both the teaching and nursing professions were highly valued. Society genuinely appreciated the role we played. As decision makers we need to do everything we can to ensure that the conditions and opportunities we provide in our schools and in our hospitals are the very best they can be, and that we value the role of those who provide those services.

Community services and social issues are just one passion that I am eager to address in this place. There is an argument to be made about going back to the future regarding the development of community services. The services that I established in the predominantly housing commission areas in the western suburbs of Melbourne were some of our first child care centres. They were neighbourhood centres, linking families with their communities. I later developed one of the first mobile community outreach programs in the city of Maitland in New South Wales. I called it the Community Activities Team—the CAT mobile for short. Many years later I still get a great deal of satisfaction when I see that van on the road making contact with isolated families and communities. Times have changed and the barriers and boundaries of neighbourhoods and families are less rigid than they may have been in the past. Technology now offers us more opportunities for connectivity than ever before, but there can be no substitute for providing that connectivity in more practical terms at a grassroots level.

The benefits of early intervention are so important. Example and experience show that if you become involved in supporting families and children early in life you can prevent so many problems later on. The Coalition's commitment to smaller class sizes during the recent State election was just one practical example of this theme and it is a commitment that we continue to stand by. The scary truth is that over 70 per cent of those who are in gaol are illiterate. As Mark Twain said, "Every time you close a classroom you may as well open a gaol." Those are very frightening words. Frightening—very frightening. Life in rural and regional New South Wales is different from life in Sydney. I can vividly remember my first trip to Newcastle some 20 years ago now. I drove over the Hexham Bridge to see the billowing smoke stacks looming on the horizon and I immediately thought, "This place really lives up to its reputation—an industrial city, a working town, but not the ideal place in which to live."

Fortunately, fate and an inability to read maps intervened. I travelled into Newcastle itself and I could not believe the contrast. I was transfixed by the view. I was home—hooked immediately. A great career opportunity and a certain handsome young doctor ensured that I stayed. My concentration on the physical attributes of that area on that first day failed to recognise the real beauty of Newcastle and the Hunter—the glue that holds us together, its people. In the Hunter we are parochial and proud of it. Anyone who has ever been to a Knights game will understand what I mean. We are proud of our origins; we are proud of our diversity, no matter what challenges are thrown in front of us, we are strong, united and resolute in our desire to succeed. The people of the Hunter are the salt of the earth, people who care about each other, people who rally around in times of crisis, people who support each other through both the good times and the bad times, people who ask for no more than their fair share, and people who expect no more than a fair go.

Throughout my career and during my role in the Liberal Party, travelling across New South Wales and back again, my view has been reinforced has reinforced my view that these attributes and expectations could be used to describe any community in New South Wales. In short, these attributes describe the Australian way. I have now come full circle from my origins in the dairy farming district in Taranaki, New Zealand, to the dairying area of Duckenfield, New South Wales. There is a marked difference between my experience and that

of someone from Sydney. There is a strong—and some would say justified—feeling in rural and regional areas that this Government strongly focuses on the Sydney metropolitan basin and only sometimes glances fleetingly past its boundaries. I say tonight that this attitude must change and I intend to be a catalyst for this change and to drive it from this place.

Look at the population of the capital. Look at the issues faced here in Sydney—the planning nightmares, the destruction of residential suburbs and the failure to provide adequate transport. Look at the incidence of people moving further away from Sydney both to live and to work. Abraham Lincoln once said:

> The legitimate object of Government is to do for a community of people whatever they need to have done but cannot do for themselves in their separate and individual capacities. In all that the people can do for themselves Government ought not to interfere.

What happened in Newcastle after the closure of BHP was a practical application of this philosophy. The strategic assistance provided by governments through public-private partnerships and seed funding has allowed the Hunter to thrive and expand. I am proud that I played a role in that process. We could apply this model further by assisting communities to develop to their full potential.

Encouraging people to move to the outer suburbs or to regional communities requires comprehensive planning and the provision of services. Whilst I support the notion of decentralising government departments and of providing incentives for businesses to relocate, this only puts more pressure on a community if its transport, health, communication and education services are already lagging behind those of other areas. Governments have a responsibility to provide a constructive hand up rather than simply a handout. This is also a basic tenet of Liberal philosophy. We want equality of opportunity, freedom of choice, a commitment to care for the disadvantaged and a balance between economic growth and environmental protection. Those goals are the very reason I stand here, humbled and privileged to accept the role of serving all the people of New South Wales.

Solutions to problems are never found in an ad hoc way. Throwing money at a problem only ever meets a short-term goal. I joined the Liberal Party because it is a party of long-term vision, progressive rather than reactionary. This is the approach I will take to my role in this place. The Liberal Party is a great party and I am honoured to have so many of our members in this place today. I thank you for your hard work over many years because without your contribution I would not be standing here. I have learnt a great deal from Liberal Party members—skills that will stand me in great stead in this place. My colleague the Hon. Patricia Forsythe encouraged my involvement in the Women's Council of the Liberal Party, and it is an honour to be joining her in this place, along with our other Coalition colleagues. It is significant to note that all of our Coalition women members of the Legislative Council come from rural and regional backgrounds. We understand the needs of country residents; we understand the difficulties of balancing work and family.

I follow a number of other Liberal women into Parliament, most notably the first female President of the Legislative Council, the Hon. Virginia Chadwick—another Hunter woman and a great role model. I have great admiration for all of their achievements and I thank them for blazing the trail and for setting the path for me to follow. Increasing the number of women in the parliaments of Australia is a goal that the Liberal Party has been working towards for a number of years. Whilst supporting the notion of selection based on merit rather than adopting a quota system, the mentoring, training and support provided by the New South Wales Women's Council and the Liberal Women's Forum have been instrumental in our success. As we celebrated 100 years of women's suffrage in 2002 we also celebrated the contribution that Liberal women have made to the parliaments of Australia. We have come a long way over the past 100 years, but there is still more to be achieved. I look forward to continuing to mentor more women to take up the challenge of political representation.

I have been mentored and encouraged by so many in the Women's Council on my journey through the Liberal Party. I have been inspired by the integrity of Marise Payne and by the strong community-based representation of our class of '96: Danna Vale, Jackie Kelly and Johanna Gash. I acknowledge the significant role played by our party president and former Women's Council president, Chris McDiven. It is a great delight to me that I am joining our immediate past president and my friend Judy Hopwood, the member for Hornsby, in this Parliament. To Betty Grant, Betty Coombe and Betty Davy—who are affectionately known as "the Bettys"—Marie Wood, Linde Jobling, Mary Ingal and many others, thank you for your guidance and wisdom. I am honoured to be your representative. To John Brogden and Don Harwin, thank you for your guidance and support. I have been fortunate also to have the support and assistance of Mike Gallacher, Chris Hartcher, Bob Baldwin and John Tierney over many years. I will join with them as we combine all of our energies to keep the focus firmly applied to the Central Coast and Hunter regions.

I wish to acknowledge my family and friends, not only those present tonight but also those unable to be here, who have faith in me and my ability and who have helped shape me to become the person standing before you today. I thank them for their love, their guidance and their support. They have been aware of my desire of many years now to be a participant in the law-making process for the people of this State. They know why I wanted to be here; they know the sincerity of my motivation, my level of commitment and the energy and enthusiasm that I apply to everything I do.

I have mentioned my role in the Liberal Party and my career before coming to this place, but it is my role as a wife and mother that is the most significant one. I thank my stepchildren, Ben and Tim, for teaching me the importance of good parenting. My children, Dylan, Chelsea and Heath, are my greatest inspiration. They quickly learnt that the Liberal Party did not involve lots of party food and balloons. They have been victimised for their parent's political beliefs but, in spite of this, they are always there lending support and involving themselves as part of team Parker—one of the most formidable campaign teams in the party. They do that because they know it is important.

The upside at least for them is that, although still in school, they already have an impressive curriculum vitae that includes an understanding of all facets of mail distribution, successful marketing techniques, an ability to talk to a broad cross-section of the community, an appreciation of a strong work ethic, and an ability to deal with aggressive dogs and to answer the phone in an intelligent manner. Above all, they can add to their already significant attributes an appreciation of the diversity of opportunity provided in this great State. My husband and soul mate in life, David, continues to be my greatest role model, mentor and supporter. I would most certainly not be standing here today without the benefit of his love and motivation.

I am incredibly honoured to be standing in this House, filled with anticipation at the opportunity I have to work towards a better quality of life for all the people of New South Wales. I am a woman, a mother, a wife, an advocate and a daughter. I have concerns, aspirations and ideas. And now, as a member of Parliament, I make a commitment to you and to myself that I will not take this opportunity for granted. I will not squander this chance to work for the betterment of us all. I will stay strong, I will maintain my integrity and I will represent the State of New South Wales to the very best of my ability.

I have talked today of communities, of people, of life philosophies and of journeys. I have talked about some of the things that I believe are important in life. When I asked my children for some advice today they gave me one of their current sayings: "Keep it real, Mum." I will keep it real; I will not forget the real people of New South Wales whom I am here to serve. At the end of my days when people discuss me I hope they will say, "She was enthusiastic about life, about people; she cared. She worked tenaciously to make a difference whilst at the same time she was a wonderful wife and mother."

The Hon. CATHERINE CUSACK [5.31 p.m.] (Inaugural speech): I support the bill. A famous woman once remarked that she was born somebody's daughter, became somebody's wife and would probably end up being somebody's mother. A great measure of my own identity is captured in those words, and I am very proud of it. I acknowledge today the presence of my parents, Dorothy and Greg Cusack, who have given and made me everything; my sisters Jane and Sara; my brother Greg; and my husband, Christopher Crawford, and his mother Anne. While my sons, Joshua and Lachlan, are physically absent from this place, I also acknowledge their presence—wherever we are, our family is always together.

I am not the first Cusack to be elected to the New South Wales Parliament. Nearly a century ago my great-grandfather, John Joseph [Jack] Cusack, was elected as member for Queanbeyan and later as member for Albury in another place. He served as a Labor member from 1910 to 1917 and later in the Federal Parliament as a Labor member for Eden Monaro. Our family is extremely proud of his service. Many members like to boast of their achievements in attracting new government services or, best of all, relocating entire government offices to their electorates. I feel certain nobody ever has or ever will top the achievements of my great-grandfather who succeeded in his passionate advocacy for the national capital to be located in his electorate.

In addition to being a daughter, sister, wife and mother, I am one of the rarest of creatures in New South Wales politics—a Liberal from the New South Wales country north. By country north I refer to a province established by the Liberal Party to cover a band of 11 State electorates north of the Hunter Valley. This vast and stunningly beautiful area from outback to coast covers some 200,000 square kilometres and has a population exceeding that of Tasmania and the Northern Territory combined, 75 per cent of which live on the coast. This proportion continues to rise and brings special challenges and opportunities for future economic and planning development. The greatest challenge of all is to find ways to permit the accumulation of wealth in

these regional and rural areas. The single most valuable thing government can do is to develop viable transport and communications infrastructure in the country. The other key to success in non-metropolitan areas will be finding the means for government to stop spending time and money on programs that do not work and instead invest resources in programs that will work. It sounds so simple and yet it seems so complicated.

The proverbial hard heads and soft hearts approach is needed. It will be hard work and requires strong and committed leadership, but sustainable economic growth is, in my view, the only way forward for our regional communities. There has never been a lower House Liberal member represent any of these 11 State—and 6 Federal—electorates, and I fear it shows. Indeed, I am only the second upper House Liberal, and I follow the pioneering efforts of Dr Brian Pezzutti, to whom I pay tribute tonight. Brian, like myself, owes his career to the support of Liberals who are Liberals in seats where there is little or no history of liberalism and who are physically isolated from the support and camaraderie of party membership. These members are the truest of believers and I am in awe of their persistence and the courage of their philosophic commitment in the face of the greatest setbacks imaginable. Through their idealism and loyalty they set for me the highest obligations possible. My solemn duty in all that I do as a member of this Chamber is to keep faith with their example.

Politics is for all of us a journey of self-discovery. I do not mean that in the sense that it can be self-fulfilling or self-rewarding, although of course it can be both of those things. By self-discovery I mean the constant, sometimes onerous process whereby you genuinely challenge yourself: What do I think of that? Why do I think that? In 1994 I served as a member of a committee consulting the community about priorities for International Year of the Family. A member of our committee suggested we should examine the notion of "boys' policy". This was in 1994, and I instantly rejected the idea. Later I asked myself why. The answer was that I had become blinkered in my thinking. It was something of a shock to realise this and I began to research the issue in order to test my assumptions against reality. I started with the New South Wales mortality rates and was stunned by what I found. The death rate amongst boys in all age groups massively exceeded that relating to females, and yet there is no physiological reason why this should be the case. In accidents, pedestrian deaths, suicide, and disease—even as babies—boys are twice as likely to lose their lives. I calculated that if in New South Wales we could reduce male mortality to equal that of female mortality—again there is no physiological reason why we cannot—thousands of boys and young men under the age of 45 would survive each year.

The same is true in education. The McGaw report showed that boys in south-western Sydney had Higher School Certificate English marks 20 per cent below those of girls on the North Shore. Crime rates showed boys as not only the major perpetrators of crime, but also overwhelmingly likely to be the victims of crime. I could not avoid the conclusion that addressing the problems of boys would make New South Wales a safer and happier place for all members of our community—male and female. In other words, contrary to my initial thinking—which I now accept as blinkered—boys policy has a legitimate role to play. I believe we have a duty to our fellow citizens not only to be open in our thinking but to seek out and test new ideas. The search for knowledge is, after all, what makes us a civilised people. Our willingness to adapt to new thinking is what preserves our democracy. Edmund Burke said, "A state without the means of change is without the means of its conservation."

The agents of change are all around us—in the media, in our universities, in our communities and even in our home life. But it can all get blocked up here in this Chamber if we are backward or blinkered in our thinking. The purpose here is to do justice to our future. All that has gone before is merely an investment and a down payment on what I hope and believe can be achieved in the future. Liberalism is a forward-thinking philosophy and the Liberal Party pledged at its formation to provide forward-thinking leadership to the people of Australia. In the immortal words of Sir Robert Menzies—words first quoted to me when I joined the Young Liberals:

> We took the name "Liberal" because we were determined to be a progressive party, willing to make experiments, in no sense reactionary but believing in the individual, his rights, his enterprise, and rejecting the socialist panacea.

Believing in the worth and dignity of the individual is the essence of liberalism. It is for me a black and white test. You either believe we are all equal and deserving of equal consideration or you do not. It is not something you can believe a little bit; it is not some little thing to be quoted in the morning but dispensed with in the afternoon. And from this belief everything flows. For example, in his famous dissertation "On Liberty" John Stuart Mills warned against the tyranny of the majority:

> Like other tyrannies, the tyranny of the majority was at first, and is still vulgarly, held in dread, chiefly as operating through the acts of the public authorities. But reflecting persons perceived that when society is itself the tyrant—society collectively over the separate individuals who compose it—its means of tyrannizing are not restricted to the acts which it may do by the hands of its political functionaries. Society can and does execute its own mandates; and if it issues wrong mandates instead of right, or any

> mandates at all in things with which it ought not to meddle, it practices a social tyranny more formidable than many kinds of political oppression, since, though not usually upheld by such extreme penalties, it leaves fewer means of escape, penetrating much more deeply into the details of life, and enslaving the soul itself.

As a Liberal I believe I have a duty to defend the dignity and worth of the individual. But as Mills makes clear, this goes beyond working for good legislation—it also means providing social and political leadership to resist a culture of bullying and oppression of individuals by other institutions. There are many pressures—the media is increasingly proactive in public policy debate; a new era of what is being termed "grass roots politics" refers to the increasing influence of pressure groups. They are new challenges, but it is an old problem—to listen and be relevant to our communities, ever mindful of our responsibility to merge these views into our leadership. Our role is to determine and represent the public interest and to resist and condemn the lazy, rudderless course which would simply parrot the views of vested interest.

Like all Liberals, I cherish our system of democracy. Two weeks ago I attended Government House with other members of the Chamber to present the President and office-holders to the Governor. There was a short ceremony in which Madam President, on behalf of this House, laid claim to the rights and privileges that are exercised by members on behalf of the citizens of New South Wales. It was a dazzling moment. I confess a profound sense of awe at the perfection of the democratic principles that underpin the work we do. The day I am not dazzled by these footprints of democracy—the sight of ordinary Australians casting their votes, the swearing in of new members, even the scoop on the front page of a daily paper—the day I am unmoved by these things will be the day my usefulness to this place has reached an end.

If I had a seminal moment in my political education, it was the day the unions set up a picket at the front gates of our family property at Yass. It happened to us during the 1970s union recruitment drive targeting farmhands—the so-called glory days of the Whitlam Government, remembered so fondly by people who did not have a firsthand taste of what it really meant. When you picket someone's farm you are of course also picketing that someone's home. The victims have no ability to conceal the event from their children, and we had three large families living on our farm. The men at Walgrove had met with the union representatives, but decided not to join. So the unions in turn decided to make an example, and nothing was to get through the picket. At the time my father was in the middle of building a large new shed for his bulls. It was his own revolutionary design, providing for vast amounts of space, air and light, with a large concrete aisle, wide enough for a tractor to travel down the middle. The trucks, which werefilled with wet concrete, arrived at our gates and were stopped by the picket. All pleas for commonsense were rejected and the trucks had to discharge their loads up and down the sides of Gundaroo Road. To this day, the waste and the sheer stupidity still boggle my mind.

A second seminal stage in my political education occurred soon after I joined the Young Liberals. Remember: I was on a promise from Sir Robert Menzies that the party was "progressive" and willing to experiment with new ideas. I took him at his word! It was 1983, and at age 19 I had read a book which alerted me to the plight of Islamic women in religious Islamic States. On the strength of this I made an authorative—albeit naïve—address to the Young Liberal Council supporting the Soviet invasion of Afghanistan. I think I was the only person in mainstream Australian politics to take this position. I received no votes, but some earnest applause. Only later did I realise it was not for the speech but because people admired what they thought was my bravery in having a go.

They were really stimulating years for a young person in politics. At a State level a Corrective Services Minister was put in jail; there was the Neville and Marmaduke saga; the Roger Rogerson inquiries; the Baldwin bashing; and the loveboat story. It was the era of Mike Stekatee, Denis Shanahan, the *National Times* and David Dale's wonderful "Stay in Touch" column. Overseas there was a crisis in the Vatican with the death of the new Pope; the Cold War intensified. In our generation polling showed over 90 per cent of us believed we would die in a nuclear war. Then suddenly it ended. Solidarity prevailed in Poland; the Berlin Wall was dismantled; the Russian Parliament faced down the Kremlin; and, incredibly, Nelson Mandela was set free.

Throughout this period and in keeping with its spirit, the Young Liberals enjoyed a freedom of political expression unique in Australian politics. The Liberal Party forgave us the inexperience of youth. It was I think prepared to tolerate our outspokenness, believing that by fostering a robust level of debate it was building substance and confidence for the future. I contrast the joy of intellectual freedom with the mentality of the picketline at our front gate. I cannot deny I loved those days of endless discussion. It was here that I became a "policy junkie" and a notorious reader of footnotes in the appendices of annual reports. You had to be sharp! To those who fear the so-called recklessness of youth, I say that to tame our young lions, to crush that spirit before it can roar is not only a crime against those we seek to suffocate; it is also contrary to self-interest, for it means dumbing down our own future.

There have been only three women Presidents of the Young Liberals, and with this election we are all three in Parliament. The others are Marise Payne, who was Policy Vice-President on my executive, and Gladys Berejiklian, who has now won a famous victory in Willoughby. I count myself lucky to have these two outstanding women as friends. There are now nine New South Wales Young Liberal Presidents in Parliament, including the Hon. Don Harwin, the leader of our party, John Brogden, and the leader of the Federal Party, Prime Minister John Howard. I also note the past two Presidents of the Women's Council—Judy Hopwood and Robyn Parker—are now in Parliament. The previous president, Chris McDiven, is serving her third term as party president and has made a major contribution to supporting the large number of Liberal women elected to Parliament. Counting the Hon. Melinda Pavey, the Hon Robyn Parker and me, three of the four newest faces for the Coalition are women. All three of us are from the country, and we have young families to support. The fact that the Liberal Party's numbers in this Parliament have not changed as a result of the election belies the extent to which we have modernised and renewed our party room. Nine of our 29 members are new faces—four of whom are women. This renewal is timely and will have a profound effect on our performance over the next four years.

I congratulate the Government on its re-election and look forward to closely monitoring its progress in office. On this side of the House we rightly describe the election outcome as a status quo result. Regrettably, those who would gloat have mocked the status quo interpretation. An examination of recent New South Wales political history demonstrates why the election was very much a status quo result. I begin by noting that in terms of election records, four terms is the post-war record set by the Askin Government and later shared by Neville Wran. The apt comparison for Bob Carr's third victory in 2003 is Neville Wran's third victory in 1981. At the 1981 election, the Wran Government won or held Liberal seats such as Cronulla, Gosford, Wakehurst, Albury and what we know today as Southern Highlands. The Liberals today retain all of these seats. In 1981 the Wran Government achieved a six-seat increase, from 63 to 69 seats. It thus began its third term with an increased majority—from 27 to 39 seats. That is a non status quo result.

In contrast, the 2003 result has seen the Government win 55 seats—exactly the same number it held in the previous Parliament. No change. The Liberal Party holds 20 seats—exactly the number it held in the previous Parliament. No change. The outstanding feature of the election was the extent to which sitting members increased their primary votes. It was clearly an election for incumbents, where only two full-term sitting members lost their seats. All other changes were in electorates in which members elected in 1999 had retired. The Government today has the same unchanged majority of 17 that it had in the previous Parliament. This majority is more akin to the 15-seat majority that the fourth Wran Government held after the 1984 election. That majority was swept away at the very next election, with the ascendancy of the Greiner-Murray Government in 1988.

These figures clearly show that the 2003 election result was status quo. After only one year as Opposition Leader, John Brogden has halted the 15-year trend against the Liberals, and achieved it one election sooner in the political cycle. My entry to this place is not so much an arrival at a destination as it is a beginning. My shoulder is now set firmly against the wheel that will carry the Liberal Party into office. Again, this is not a destination, rather our search for a new beginning in a government where the journey will see our ideas finally put into action. Along the way I will work hard to remind myself and my colleagues of our ownership of the greatest intellectual legacy of them all, liberalism. I will be a stubborn thorn in the sides of those who oppose or seek to block us.

I ask to be judged on the honesty of my work, the calibre of my research and the integrity and creativity of my ideas. To see our policies implemented is the whole point of this grand endeavour. There can be no rest or relaxation along the way. That is my only true focus, my simple aim. It will give meaning to all that I have done, to all that has been done for me and to all that lies ahead. I close by drawing on the great example and words of the Hon. Virginia Chadwick on the occasion of her maiden speech some 25 years ago: It is my hope that I may give account of myself in this Parliament so that at the end I can say, in the words of St Paul, "I have fought the good fight, I have finished my course, I have kept the faith."

[*Debate interrupted.*]

DISTINGUISHED VISITORS

The DEPUTY-PRESIDENT (The Hon. Tony Burke): Order! I draw the attention of members to the presence in the gallery of the Hon. Max Willis, a former President of the Legislative Council.

LOCAL GOVERNMENT AMENDMENT (NATIONAL COMPETITION POLICY REVIEW) BILL

Second Reading

[*Debate resumed.*]

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [5.53 p.m.]: Any comments that I make on the bill following those two great inaugural speeches will seem almost mundane. I congratulate both the Hon. Robyn Parker and the Hon. Catherine Cusack on their outstanding contributions. During my 15 years in this House I have heard many inaugural speeches; theirs certainly rate among the best. I pay tribute also to the content and delivery of the inaugural speeches of members from other parties. They indicated a great wealth of potential among the new members of all parties in the House. The calibre of those who become members of this place will decide its fate and progress as a proper House of review. I pay tribute to the members of the Cusack family who live in my area. I have known them for some time. They are well-respected and outstanding contributors to the community.

The Opposition supports the bill, which seeks to amend the Local Government Act 1993 in accordance with its review under the national competition policy. The Local Government Act 1993 is the principal Act that regulates local and county councils. It provides local councils with certain powers to regulate the activities of businesses and individuals, in addition to providing councils with wide powers to undertake services in their local communities. The bill adjusts the way in which national competition policy requirements apply to local government. These adjustments will be required from time to time as practical issues about the implementation of national competition policy emerge. The legislation must ensure an appropriate balance between public expectations of accountability and commercial expectations of a level playing field.

It is worth noting that, although they have had to adjust their affairs to operate in a more competitive environment, councils do not receive any direct share of competition payments. Consequently, local councils have suffered all the pain associated with becoming more competitive but have enjoyed none of the associated gains. This is contrary to the position in other States, such as Queensland, where councils receive a guaranteed share of competition policy payments by virtue of an agreement with the State Government. The New South Wales Treasurer, the Hon. Michael Egan, refuses to release the purse strings and pass on a share of national competition policy payments to local government. It is ironic that we are debating a bill relating to national competition policy reviews.

I draw the attention of the Minister for Local Government to the fact that the majority of other States give back payments, a policy of the Coalition leading up to the last election. I am disappointed that the Government did not take up that policy and that the Minister, with his background in local government, did not publicly push for such payments. He is now using this opportunity to take up the cry and give back the money to local government, because it has paid enough. National competition policy is a package of measures that aims generally to encourage competition. The underlying premise is that greater competition usually will create incentives for improved economic performance. The concept of competitive new trade is central to national competition policy.

The Hon. Jan Burnswoods: The National Party doesn't believe in that.

The Hon. DUNCAN GAY: How would the honourable member know what the National Party believes in when she does not have a clue what the Labor Party believes in? She cannot possibly lecture us on what we believe. She is unbelievable! The honourable member would be better off relaxing and concentrating on what she was reading. If she is going to contribute to this debate, she should listen to what I have been saying. The objective of competition neutrality is to remove any net competitive advantages or disadvantages that may be available to significant business activities conducted by government agencies.

The Hon. Jan Burnswoods: What are you going to do?

The Hon. DUNCAN GAY: I did not say I agreed with it, I am simply outlining what it is meant to do. The policy aims to achieve competitive neutrality between public and private sector businesses, and is part of the continuum of measures to foster greater efficiency in the operation of the public sector. The bill will amend the Local Government Act 1993 in accordance with the national competition review conducted into the Act.

The first amendment relates to bulk tendering. The objective of the amendment is to allow greater market entry by allowing councils access to the bulk purchasing arrangements of certain organisations, subject

to probity requirements applying to those organisations. That is a pretty sensible measure and the Opposition does not have a problem with it. Section 55 of the Act currently allows councils to avoid the normal tendering requirements if buying goods and services through a bulk contract which is arranged by the State Contracts Control Board or an equivalent Commonwealth agency. This measure has the potential to be anticompetitive because it prevents competitors from entering into the market for individual council contracts.

The amendment proposed by the bill is consistent with the review committee's recommendation that the Local Government Act be amended to insert a regulation-making power to extend the list of organisations in the Act to include additional organisations, subject to conditions that will ensure accountability with respect to the expenditure of public money. The organisations will also have to deliver the service and comply with probity standards that are commensurate with those already provided in the Act and regulation. The second amendment proposed in the bill removes the requirement that a person operating an undertaker business or mortuary must hold council approval to operate such a business. At present, section 68 of the Local Government Act requires that council approval be gained to operate an undertaker business and/or to operate a mortuary. The two approvals are connected, as access to an approved mortuary is a requirement for an approval to carry on an undertaker business.

In order to obtain council approval to operate an undertaker business or a mortuary, applicants must comply with certain standards relating to adequate public health conditions outlined in schedule 4 to the Local Government (Orders) Regulations 1999. Standards also apply to undertakers and mortuary operators under the Public Health Regulation 1991 regarding the handling of bodies and the use of physical facilities in which bodies may be held, transported or protected. I am surprised that my speech is not attracting any comment from members opposite.

The Hon. Jan Burnswoods: You are putting us to sleep.

The Hon. DUNCAN GAY: I suspect that members of the Labor Party are used to handling bodies. The Opposition believes that the proposed amendment will remove the duplicating and restrictive effect of the existing regulatory framework. The review committee has identified access to an approved mortuary as a requirement for an approval to carry on an undertaker's business as a problem in border areas of the State. There is no similar regime of regulation in adjoining States. This issue cannot be solved through mutual recognition schemes. However, activities in other States appear to operate satisfactorily without local government licensing, so the practice is clearly a restraint upon competition. It is also apparent that applicants may have already avoided the practice of requiring a separate business approval since the amendments to the Environmental Planning and Assessment Act commenced on 1 July 1998.

The third set of amendments proposed in the legislation relates to restrictions on the use of council revenue. Schedule 1 [5] to the bill provides for money that has been received by a council as rents or profits or other proceeds from community land to be used not only in community land acquisition and management, as is currently the case, but for any purpose. The rationale behind the amendment is that the cost of providing community land far outweighs the relatively small amounts of income that are received from rents. I have a number of concerns regarding this set of amendments. Although I am aware that councils legitimately cross-subsidise between revenue-producing assets and the maintenance of lesser revenue-producing assets, there is a need for this legislation to ensure the achievement of an appropriate balance between commercial expectations of a level playing field and public expectations of accountability. Community-minded individuals often donate very significant assets or lands to local communities. It is important that councils respect the purpose for which those assets are donated and maintain them in a way that will provide continual benefit to the community.

It is important that this bill not be used as a gateway for the sale of community land—originally donated to the community through councils—for capital or recurrent purposes. That is a matter of real concern because it has occurred in a number of places in this State and there are rumours that the practice is increasing. Schedule 1 [7] to the bill provides for a dividend payment to be deducted from money that is currently required to be used for the specific purpose of water supply or sewerage services. The bill provides for that money to be transferred to a council's general fund and used for any purpose under the Act, or any other Act. That is another part of the legislation that causes concern for the Opposition. On many occasions when I was the shadow Minister for Local Government I attempted to assist a constituent to resolve a matter regarding the legitimacy of certain revenue and expenditure models that had been implemented by the Wingecarribee Shire Council. In common with many other councils, Wingecarribee council is struggling to meet infrastructure requirements on its current rate base in circumstances of extraordinary population growth, particularly in the Southern Highlands region.

In 2000 the Wingecarribee Shire Council established a 6 per cent annual infrastructure rental charge on the total revenue from water and sewerage revenue. This was to be taken back into general revenue for infrastructure maintenance amounting to approximately $5 million over a period of five years. It has been perceived by some ratepayers that the revenue is the only way in which the council will be able to match its set section 94 plan obligations or else forfeit the developer-contributed section 94 funds. My constituent challenged the legitimacy of that expenditure, pointing out that the Wingecarribee council is the only council in New South Wales imposing such a charge. A letter from the Director General of the Department of Local Government gave the following indication in respect to section 611 of the Local Government Act 1993:

> By making a charge on its water supply business, a council is placing itself at a disadvantage when compared to other water supply authorities, contrary to competition principles. Accordingly, it is the Department's policy that it is inappropriate to use this provision as a basis for a revised costings structure.

However, a letter from the office of the previous Minister for Local Government to the Wingecarribee Shire Council dated 12 March 2001 indicated that there is no ministerial power to prevent the council from doing so.

The provision in the bill appears to be an attempt to delay the confirmation of the situation that my constituent is seeking to resolve on behalf of ratepayers in the Wingecarribee council area. It is imperative that this legislation not be interpreted to mean that councils can set any level of dividend payment and have the money stripped away from water and sewerage revenue to fund expenditure, including recurrent costs such as wages and probably some infrastructure. It is also important that this bill does not allow the standard of water and sewerage operations and revenue to be downgraded or compromised. The fourth set of amendments in the legislation relates to establishing a more competitive fee-setting structure. The aim of these amendments is to introduce greater flexibility in setting fees for business and contestable activities, while maintaining accountability and transparency in decision making.

The Act allows councils to set fees for certain services, such as receiving applications for approval or issuing certificates. However, the current structure for setting fees does not allow councils to respond to market forces and allows competitors access to a council's fees information. The proposed amendments enable councils to set fees in a more competitive manner. The final amendments in the bill change the definition in the Act of "domestic waste" to clarify that domestic waste applies to household garbage, including recyclables, but does not include household effluent waste.

The anti-competitive nature of the domestic waste management charge can be justified on the basis of the need of the community to provide an effective low-cost service. However, the same justification does not apply to effluent waste, which may be the subject of commercial sewerage works. While the Opposition does not oppose the bill, I have outlined in detail the reservations it holds in relation to it. I ask the Minister to address the concerns I have raised in his reply to this debate either later tonight or on another day.

The Hon. Dr PETER WONG [6.10 p.m.]: There is no fundamental issue with amending the Local Government Act 1993 so that it is in line with national competition policy. In fact, two highly beneficial goals are being presented: first, improving competition levels at the local level, and, second, making local government more commercially competitive. The removal of barriers and competitive advantages such as bulk contracts arranged through the State Contracts Control Board will enable greater general access to council contracts. Again, this could produce further flow-on advantages based on parties winning contracts on merit and ability rather than a systematic competitive advantage.

The second set of amendments pertaining to undertaker and/or mortuary businesses is intended to limit the duplication of duties where the requirement for public health and safety can be adequately met through the normal routes of business approval. The third set of amendments relates to the elimination of current restrictions on the uses of council revenue. With the agreement of the Minister for Local Government and guidelines of other relevant Ministers this amendment could see the diversion of funds to where they are needed most. In the face of changing local needs the potentially positive impact for the financial management of local councils is enormous as long as the interests of competition can be balanced by the high expectations for public accountability. Finally, I add my support for the potentially positive impact this bill has for regional and rural centres. Improved access to business opportunities previously retained by local councils could stimulate the investment so sorely needed in those areas.

Reverend the Hon. FRED NILE [6.12 p.m.]: The Christian Democratic Party supports the Local Government Amendment (National Competition Policy Review) Bill. This measure is similar to many bills that have been introduced in this House for the purpose of applying the national competition policy to government

activity in New South Wales. The review that led to the introduction of the bill was conducted by a committee comprising senior officers of the Department of Local Government, Cabinet Office and Treasury. The Christian Democratic Party has studied the bill and has found that it contains no controversial matters but is more of an administrative process to provide greater market entry by allowing councils to access bulk purchasing arrangements of certain organisations, that is, bulk tendering. The bill removes the requirement that a person must hold a council approval to operate an undertaker's business.

I assume that a council would ensure that an undertaker's business meets the health and safety requirements that are applicable to that very sensitive activity. A business would not be permitted to operate until it met the health and safety requirements. However, I question whether we should not do more to give local councillors the powers to approve a business rather than removing those powers. Local government is the level of government that is closest to the people. In certain situations a local council that has the right to approve a business should also have the right not to approve a business. I refer specifically to the controversy over the so-called adult sex shops. The shops begin business but later the council receives complaints from residents requesting that the council close them. But the council had no role in approving their opening in the first place.

The Minister for Local Government might review councils' powers to permit them to approve or not approve the setting up of certain businesses. That would avoid the controversy that sometimes occurs after a business such as an abortion clinic has been set up in the suburbs. When residents find out about a business that they do not want in their area, the local council could be placed in a difficult position. In principle, I support giving those powers to local councils. If a council did not approve a business it would have to give reasons for that decision. The bill deals also with income from leasing community land—an insignificant amount compared to the money spent by councils on acquiring community land. The bill allows greater flexibility in setting fees for business and contestable activities. The bill amends the definition of domestic waste to not include household effluent waste.

Ms SYLVIA HALE [6.16 p.m.]: I congratulate the Hon. Robyn Parker and the Hon. Catherine Cusack on their inaugural speeches. I certainly welcome the presence of more women in this House, even if I have some reservations about their political philosophies.

The Greens are opposed to the fundamental issues underlying the Local Government Amendment (National Competition Policy Review) Bill. The national competition policy is based on the false notion that competition is a replacement for good public policy; it is not! The failures of social policy based purely on competition are writ large in rural unemployment, large-scale corporate collapses and the problems that have emerged from the private certification of buildings. That having been said, the bill, with the exception of the restrictions on the use of council revenue, contains amendments that are generally sensible and are supported by the Greens. However, we have some concerns about removing the hypothecation of revenue gained from leasing community lands, which we will address in the Committee stage of the bill.

The Hon. TONY KELLY (Minister for Rural Affairs, Minister for Local Government, Minister for Emergency Services, and Minister Assisting the Minister for Natural Resources (Lands)) [6.17 p.m.], in reply: I thank honourable members for their contribution to this debate. I thank particularly the Hon. Robyn Parker and the Hon. Catherine Cusack—whose inaugural speeches did their parties credit, as have the other inaugural speeches that we have heard thus far. As the Deputy Leader of the Opposition said, it appears that we will have a very interesting time in the next four years. The calibre of incoming members is high; they will be excellent replacements for those who have left. I was disappointed that the Hon. Dr Brian Pezzutti was not here today.

I thank also the Deputy Leader of the Opposition, the Hon. Dr Peter Wong, Reverend the Hon. Fred Nile and the Hon. Sylvia Hale for their contributions and I welcome the Opposition's support for these important amendments. The amendments contained in the bill are the end result of a great deal of hard work by the Department of Local Government, Treasury and the Cabinet Office, which conducted the review into the Local Government Act to identify provisions of that Act inconsistent with the principles of the national competition policy. The departments were ably assisted in that review by representatives from Lgov NSW, the Institute of Municipal Management, the Municipal Employees Union and the Environmental Health and Surveyors Association.

This bill identifies and addresses those parts of the Local Government Act that may potentially have anticompetitive effects. By doing so, it continues to provide greater accountability by councils to their communities and a clearer distinction between the functions of providing services and regulating activities. As I stated earlier, when an activity is not contestable or when it is in the community's interest, competition policies

have not been applied. This is important because it means that the community will not be worse off under these changes. The reforms in this bill will strike the right balance between increased competitiveness in the local government sector and the protection of community interests. I commend the bill to the House.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 3 agreed to.

Schedule 1

Ms SYLVIA HALE [6.22 p.m.]: I move Greens amendment No. 1:

No. 1 Page 4, schedule 1 [5] and [6], lines 4–7. Omit all words on those lines.

Insert instead:

[5] Section 409 (3A)

Insert after section 409 (3):

(3A) Despite any restrictions in subsection (3) (d), a council may expend any money of the kind referred to in that paragraph on any purpose if:

(a) the council has, before expending the money, given at least 28 days public notice that identifies the community land in respect of which the money was received, the amount of the proposed expenditure and the purpose for which the money is to be expended, and

(b) the council has considered any public submissions received during that period regarding that proposed expenditure.

This amendment will ensure that revenue from the lease or licensing of an item of community land will be spent on the maintenance of community lands or the purchase of new community lands, unless council has given 28 days notice of how it wishes to expend that income and it has allowed for public comment. The provision of community land is a core responsibility of local government to its residents. In metropolitan councils, as urban consolidation increases density, generous amounts of public open space are essential to maintain liveability in a city where backyards are disappearing and where the built form increasingly dominates the natural environment.

The Greens are concerned that the bill, in its present form, would deny revenue for the purchase or maintenance of community land, and thus lead to a rundown in the quality and quantity of community land in a council area. Councils in New South Wales are currently under strong financial pressure, which could attract funds away from these important social and environmental functions. The Greens amendment would still allow councils to spend the money on other purposes, but it will ensure that the community has an opportunity to comment on the proposed purposes. This will enable concerned community members to raise issues relating to the level and quality of the maintenance of the community land in question and the desirability of the proposed alternative expenditure.

The Hon. TONY KELLY (Minister for Rural Affairs, Minister for Local Government, Minister for Emergency Services, and Minister Assisting the Minister for Natural Resources (Lands)) [6.23 p.m.]: The Government does not support this amendment. The committee that conducted the national competition policy review into the Local Government Act expressed the view that rental income from community land will always outweigh the cost of community land management, as mentioned earlier by the Deputy Leader of the Opposition. The committee also considered that the requirement in section 409 of the Act for separate accounting procedures for relatively small amounts of income raised is administratively inefficient. The amendment of section 409 also brings that section more within the spirit of the Local Government Act in allowing councils, as democratically elected bodies, greater autonomy in the exercise of their functions. The Greens amendment, while allowing councils to spend money raised from the lease or licensing of community land for other purposes, replaces one set of administratively inefficient procedures with another and affords councils less autonomy in the exercise of their functions, which is contrary to the intent of the national competition policy review of the Act.

The national competition policy review into the Local Government Act started from a premise that competition policy is not about the pursuit of competition as an end in itself. The bill addresses only those areas appropriate for reform. The anti-competitive provisions are justified if the benefits to the community as a whole outweigh the costs, or if the objects of the Act cannot be achieved without them. The proposed amendments carefully balance the competing interests of competitiveness and accountability of government and the community will benefit from the enhancement of competition in relation to the Local Government Act. I am confident that allowing for a more equitable distribution of a council's income across its local government activities will not lead to a failure by it to maintain or improve facilities on community land.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [6.25 p.m.]: The Democrats support the bill and the Greens amendment. Sometimes national competition policy makes things difficult for local councils and affects the function of government. If councils manage community land and the revenue from that goes into consolidated revenue, the danger exists that the money will not be used to maintain community land. If the amount of money being spent on community land exceeds the revenue that is being received, we should rethink our use of community land. Also, the danger exists that councils may not fulfill their obligations in relation to community lands.

When it was suggested that Hunters Hill council should purchase harbour foreshore land from Defence, a bright-eyed councillor and former mayor said, "People do not realise that it costs $240,000 to mow that land. We do not have the money, so we will not purchase harbour foreshore land." Those are the sorts of comments that are made by people who cannot see the wood for the trees. The Greens seek community consultation and accountability in relation to the expenditure of revenue that is raised from community land. I am concerned that because of the prevalence of privatisation, community land is seen as a bit of a cash cow. The Australian Democrats support the Greens amendment, which relates to the expenditure of money derived from community assets.

The Hon. RICK COLLESS [6.27 p.m.]: The Opposition opposes the Greens amendment for reasons similar to those outlined earlier by the Government We must respect the autonomy of local government. It should be free to spend its money where it sees fit. For those reasons, the Coalition opposes the amendment.

Ms SYLVIA HALE [6.28 p.m.]: The only substantial reason that seems to have been advanced for opposing this amendment is that it is often inefficient to administer an essential community asset—community land. We all recognise that councils are suffering enormous financial restrictions for one reason or another and the temptation always exists for councils not to preserve those public assets. Councils, which are in place for four years, have a relatively short-term interest in balancing their accounts. But the long-term community interest lies in the preservation and maintenance of community land.

In these days of advanced information technology and computerised accounting procedures it is risible for Government members to talk about administratively inefficient procedures. At this stage it is easy to allocate funds from community lands to the maintenance and purchase of more community lands. It is extraordinarily short-sighted for Government members to devalue community land and it is extraordinarily antidemocratic not to allow the community, on whose behalf that land is held, to have a say in the disposal of income from that land. This does not tie the hands of councils. It merely says that for a period of 28 days a council is compelled to inform the community so that people have the opportunity to make submissions. A whole host of local government regulations and procedures include such a provision and it would certainly not be difficult to extend that type of provision to community land.

Reverend the Hon. FRED NILE [6.30 p.m.]: I wish to clarify the impact of the Greens amendment. We gather from the briefing that the amount of money received in rent is very small—I do not suppose there is any way of averaging it out to see whether it amounts to hundreds or thousands of dollars. I am concerned that if the process were tightly controlled, as this amendment seeks to provide, it might lead councils to assume that rent money should be the only money they spend on community land. That would defeat the Greens objective, which is to see more money spent on community land. We do not want to give councils the impression that they have a right to spend only rental money on community land. They should spend on such land whatever amounts are necessary.

Amendment negatived.

Schedule 1 agreed to.

Title agreed to.

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

[*The Deputy-President (The Hon. Tony Burke) left the chair at 6.34 p.m. The House resumed at 8.15 p.m.*]

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Order of the Day No. 5 postponed on motion by the Hon. John Della Bosca.

CONVEYANCERS LICENSING BILL

Second Reading

The Hon. JOHN DELLA BOSCA (Special Minister of State, Minister for Commerce, Minister for Industrial Relations, Assistant Treasurer, and Minister for the Central Coast) [8.15 p.m.]: I move:

That this bill be now read a second time.

As the speech is lengthy, and given that it has already been delivered in the other House, I seek leave to incorporate it in *Hansard*.

Leave granted.

The Conveyancers Licensing Bill 2003 repeals the Conveyancers Licensing Act 1995 and replaces it with a new Act which improves consumer protection, allows conveyancers to incorporate, introduces rules for conveyancers, clarifies and updates existing legislation and reforms the disciplinary scheme.

In New South Wales, the provision of conveyancing services has developed as a highly competitive area of business over the past 10 years. In part this can be attributed to property market conditions and the volume of residential transactions that take place. But it is also the result of breaking the monopoly solicitors held on providing conveyancing services and freeing up the conveyancing market to allow open competition.

Licensing for conveyancers was first introduced in 1992. It was intended to increase competition in the provision of conveyancing services by allowing other qualified professionals apart from solicitors to undertake conveyancing work. It was considered that, as competition benefits consumers and the community generally by encouraging providers to deliver their services in the most effective and cost efficient way, a separate licensing scheme for conveyancers would have this effect.

However, it was found that the Conveyancers Licensing Act 1992 was only partially able to expand consumer choice and break down the monopoly that solicitors held on conveyancing. Reforms were proposed that would permit licensed conveyancers to undertake a broader scope of work covering commercial, rural and residential transactions as well as personal property. The 1995 Act expanded the work of licensed conveyancers and transferred regulation of conveyancers to a body independent of both the legal profession and the conveyancing industry.

The pro-competitive changes to conveyancing regulation have brought a number of benefits to consumers. The benefits have accrued through improved market information, a wider choice of service providers and lower prices, without any drop in quality.

Before the reforms the Australian Consumers Association had estimated the conveyancing monopoly cost New South Wales consumers $290 million a year. It was estimated that in 1990, the legal fees associated with a $125,000 house purchase and mortgage ranged from $1,100 to $1,550. A recent survey of licensed conveyancers undertaken by the Office of Fair Trading indicates that, although the value of residential property in New South Wales has risen, the average cost of a residential conveyance has dropped considerably, now ranging between $400 and $1,000.

The survey also indicated that the conveyancing costs associated with the sale or purchase of a small business have been reduced as a result of the pro-competitive reforms. Broadening the scope of work undertaken by licensed conveyancers has had a positive impact on this sector of the market. It is estimated that as time goes by licensed conveyancers will take up a greater market share and there will be further cost savings to consumers.

There are currently 404 licensed conveyancers in New South Wales. Of the 404 licensees, 17 hold restricted licences that allow them to undertake residential work only and 387 are licensed to undertake the full scope of work including commercial and rural conveyancing. The industry has increased by more than 800 per cent since the introduction of the Conveyancers Licensing Act in 1995 when there were only 43 licensees holding residential licences.

The proposed reforms contained in the bill are based on the recommendations of a National Competition Policy review of the Conveyancers Licensing Act 1995. The review found that consumers experience risks in their dealings with conveyancers, and that these risks justify continued regulation of the conveyancer industry. The main risks faced by consumers of conveyancers' services are: the level of competence of the conveyancers and the safety of monies held in trust.

Given these risks, the review concluded that the objectives of the Conveyancers Licensing Act 1995 remain valid. These objectives are:

- increased competition in the provision of conveyancing services by allowing other qualified professionals apart from solicitors to undertake conveyancing work;

- to protect consumers of conveyancing services by providing that conveyancers must be licensed, accountable and meet certain standards of competence.

The basis for the current regulatory framework is the premise that consumers are, as a group, relatively ill-informed compared to conveyancers, partly because of infrequent transacting, and are vulnerable for that reason.

The sale or purchase of property, whether for domestic or investment purposes, is a significant transaction for most people. It often involves a substantial financial and personal commitment, and usually occurs only infrequently in a person's lifetime. Therefore appropriate regulation can assist efficient transacting in the property marketplace.

The review recommended retaining the current occupational licensing model as the regulatory option which best achieves the objectives of the Act. As part of the review process some aspects of the regulation of conveyancers were identified as requiring legislative reform.

I will now take the opportunity to outline some of the main changes proposed in the bill.

Before I outline the proposals, I should mention that the bill retains the current boundaries for the legal work a conveyancer may undertake. Licensed conveyancers with an unrestricted licence may carry out a range of work including residential conveyancing, commercial property transfers, preparing and advising on mortgages, property transactions for small businesses and the sale of rural property. The existing provisions relating to the keeping of trust accounts and records and management and receivership have also been retained.

The proposals in this bill fall into three broad categories:

- licensing requirements, general conduct of licensees,
- discipline and enforcement.

Licensing

The bill retains the current requirements that, to be granted a licence, a person must be at least 18 years of age, fulfil certain qualification requirements, not be a disqualified person and contribute to the compensation fund established under the Property, Stock and Business Agents Act. Licensees are still required to be covered by professional indemnity insurance.

Because of the nature of conveyancing work, demonstrating competence plays a fundamental role in the licensing requirements. Previously this has been achieved by setting educational and practical experience requirements. To keep abreast of changes to the national approach to training, competency standards will be introduced as part of the qualification criteria.

Including competency standards as part of the qualification criteria provides the opportunity for a general review of current guidelines for educational and practical experience. The Office of Fair Trading will soon commence consultation to revise these guidelines.

The current Act limits the involvement of other professionals in conveyancing businesses in a number of ways. There are restrictions on engaging in multi-disciplinary partnerships, the sharing of receipts and employing certain persons in a conveyancing business.

The provisions disqualifying certain persons from becoming a licensee have been amended to include persons barred from holding a licence in another jurisdiction and persons who are not "fit and proper". The restriction on the category of persons who hold a solicitor's or barrister's practising certificate has been removed.

The provisions restricting business relationships are intended to support the requirements in the Act for professional and ethical standards by ensuring a properly qualified person maintains control of the business.

To provide conveyancers with freedom to choose the most appropriate business structure, the restriction on conveyancers incorporating has been removed. This may be particularly beneficial to small suburban firms and those located in country towns.

For a corporation to become licensed, at least one director must be a licensed conveyancer. Non-conveyancer directors will be subject to "fit and proper" checks and incorporation with a director who is licensed under the Property, Stock and Business Agents Act will be prohibited. This will ensure that professional and ethical standards are adhered to and any possible conflict of interest between real estate agents and conveyancers will be avoided.

The bill expands the current requirements relating to continuing professional development. The bill provides for the renewal of a licence on condition that licence-holders undertake continuing professional development each year. Licensees, like many others in business, need a wide range of skills to competently perform their functions. Equally, they need to keep abreast of changes and developments in their fields of competence. Continuing professional development recognises the changing nature of the marketplace and provides flexibility to educate conveyancers in identified areas of concern. Continuing professional development requirements will be based on identified emerging issues and persistent problem areas and cover topics such as trust accounting, ethical issues, communication skills, electronic conveyancing and office management.

Consultation will be carried out with industry and other interested parties to develop the requirements for continuing professional development. It is envisaged that guidelines will provide for a variety of ways for a person to be able to satisfy the requirements, for example, by attendance at courses and seminars or through multimedia channels such as video or the Internet. The Government is conscious that a flexible approach should be adopted so that people, especially those in remote areas, can participate in continuing professional development without disrupting their business activities.

Before moving on to the topic of conveyancer conduct, I should point out that decisions of the commissioner with respect to the issue, renewal or restoration of licences or the imposition of conditions will continue to be reviewable by way of appeal to the Administrative Decisions Tribunal.

Conveyancer conduct

As I indicated earlier, the reforms up-date and streamline requirements relating to the way conveyancers conduct their business.

For most people the sale or purchase of their home represents the largest investment and financial transaction they will engage in. Similarly, there may be far-reaching and weighty implications in the sale or purchase of a small business. An error in a conveyancing transaction can result in significant harm to the consumer. In most cases the error becomes apparent after the transaction has been completed. The purchaser is in possession of a property with a defect and there is no way of reversing the sale process, although the purchaser may have a remedy through the common law.

To reduce the risk of error, the bill tightens the supervision and control of employees and clarifies the responsibilities of licensees-in-charge. Licensees-in-charge will be responsible for the actions of their employees and they will be prohibited from employing people who are disqualified from holding a licence or are otherwise considered not "fit and proper". The bill also requires the reasonable attendance of the licensee at the place of business.

To provide the industry with a clear guide to the standards expected by the public in respect of business dealings and ethical behaviour, the bill allows for Rules of Conduct to be prescribed. The Rules of Conduct will underpin the core elements of the legislation—levels of competency, professional indemnity insurance and continuing professional development. Rules could address matters such as disclosure of costs, ownership of documents, providing information to clients about the conveyancing process, ownership of documents, conflict of interest and arrangements for settlement. Contravention of the rules can result in disciplinary action.

Consultation will be undertaken with the industry and consumers to ensure the development of Rules of Conduct that provide an appropriate level of consumer protection.

Under current arrangements, the obligation for conveyancers to disclose costs and the effect of non-disclosure are regulated under provisions of the Legal Profession Act 1987. These requirements have been brought across to the bill.

The bill also provides for the resolution of costs disputes through the Consumer, Trader and Tenancy Tribunal. The Tribunal replaces the Supreme Court as the forum for resolving costs disputes. Under the new procedure:

- consumers or conveyancers may notify the tribunal about a costs dispute;
- the dispute will be assessed by the Consumer, Trader and Tenancy Tribunal for the purpose of determining whether the matter is appropriate for resolution by an independent expert;
- an independent expert will be selected from a panel of experts approved by the chairperson of the tribunal. The intention is that the expert will quickly make contact with the parties with a view to prompt resolution of the dispute; the independent expert will be required to prepare a written report on the dispute and provide it to the parties within a time limit specified by the tribunal;
- if the parties reach an agreement during an assessment by the independent expert, that agreement must be put in writing by the expert, signed by the parties and filed with the tribunal;
- if the dispute cannot be resolved through this early intervention dispute resolution system, a costs claim can be lodged with the tribunal in order to have the matter heard and determined.

Now I would like to move on to the provisions dealing with discipline and enforcement.

Discipline and enforcement

The Review of the Conveyancers Licensing Act 1995 found that complaint and disciplinary arrangements applying to conveyancers are unnecessarily complex. This is because provisions of both the Legal Profession Act and the Conveyancers Licensing Act come into play with regards to a particular dispute.

The linking of the Conveyancers Licensing Act to Part 10 of the Legal Profession Act and the distinct yet sometimes overlapping responsibilities of different agencies has resulted in an inefficient administrative structure with gaps in the regulatory framework. In addition, the links which exist between the licensing function and the investigation of unlicensed activity and the separation of responsibilities to different agencies creates conflicting priorities, significant coordination issues, issues around jurisdiction and powers to investigate and gather evidence.

It was also found that the current disciplinary scheme is anti-competitive and does not provide competitive neutrality for all persons providing conveyancing services. Solicitors are subject to one disciplinary system administered under the Legal Profession Act 1987 while licensed conveyancers must comply with requirements of both the Legal Profession Act and the Conveyancers Licensing Act.

The Government has responded to these inefficiencies and inequities by including a new disciplinary framework in the bill to provide a more balanced and fairer disciplinary scheme for licensed conveyancers.

The disciplinary provisions of the bill allow the Commissioner for Fair Trading to investigate complaints, initiate show cause proceedings, suspend licences and issue penalty notices for some minor breaches of the Act.

The Commissioner will be able to initiate disciplinary action through the issue of a notice to a licensed conveyancer to show cause as to why he or she should not be subject to disciplinary action. A person to whom a show cause notice has been issued will have at least 14 days to provide evidence or make a submission.

Grounds for commencing disciplinary proceedings will include a breach of the legislation or Rules of Conduct, for example, a failure to account for money held on trust, or failure to comply with a condition of a licence or to properly supervise employees.

The bill provides the Commissioner for Fair Trading with a range of options for disciplinary action, depending on the circumstances. They include:

- issue of a caution or reprimand;
- requirement to comply with an enforceable undertaking;
- cancellation or suspension of a licence;
- imposition of conditions on a person's practice;
- imposition of a monetary penalty of up to $11,000 for an individual or $22,000 for a partnership or corporation.

Where urgent action is needed to protect consumers from significant loss or harm, the bill enables the Commissioner to:

- issue, where public risk is immediate, a public warning alerting consumers to the risks of dealing with a particular person;
- in situations of serious risk, immediately suspend a licence.

The bill enables the commissioner to appoint a manager to carry on the business of a conveyancer whose licence has been suspended or cancelled, so as to ensure that existing clients are not disadvantaged.

The bill also provides for the Commissioner for Fair Trading to deal with those who sidestep licensing requirements and advertise or otherwise hold out to be a conveyancer without a licence. Consumers dealing with an unlicensed conveyancer may be exposed to considerable risk and action needs to be taken quickly to stop this type of activity once it is identified. The bill provides the commissioner with the capacity to investigate and take action against unlicensed conveyancer trading.

The model for the disciplinary scheme is based on administrative law principles which preserve consistency and certainty in decision making. There will be access to the Administrative Decisions Tribunal for review of all disciplinary decisions.

The current Act requires the Office of Fair Trading to maintain a register containing licence details. The bill expands on this requirement by allowing for the making of regulations to prescribe details of disciplinary action to be included in the register. The regulations will enable the register to include details of:

- outcomes of show cause proceedings, including licence suspension, the appointment of a manager, or receiver;
- the results of any prosecutions.

The aim of the register is to provide as much information as possible to consumers to ensure that they use the services of appropriately licensed and competent persons.

Another important aspect of consumer protection is the Compensation Fund established under the current Act. The bill continues to provide for the fund, which protects consumers who suffer loss because of a conveyancer's failure to account for money received on a consumer's behalf. All licensees will continue to be required to contribute to the Compensation Fund.

To support the new disciplinary regime, the bill sets maximum monetary penalties for all offences. For example, the maximum penalty for unlicensed trading has been set at $11,000. Trust account fraud will be an indictable offence with a maximum prison term of 10 years.

These reforms to the disciplinary and enforcement regime will provide greater protection to the public by enabling a quicker, more flexible and cost effective response to misconduct on the part of licensees. Under the proposed model, levels of professionalism and standards of honesty, competence and ethics would be upheld through a combination of entry requirements, continuing professional development, prescribed rules and a more efficient and effective complaint handling and disciplinary scheme.

To assist in the smooth implementation of the reforms, I will ensure that the Office of Fair Trading liaises with the Australian Institute of Conveyancers on the relevant aspects of the reforms.

I believe that consumers of conveyancers' services have a right to expect professional, honest and ethical behaviour from conveyancers and that is what is intended by this bill.

I commend the bill to the House.

The Hon. MELINDA PAVEY [8.16 p.m.]: The Conveyancers Licensing Bill seeks to repeal the Conveyancers Licensing Act 1995 and re-enact it with a number of modifications which have largely arisen as a result of the national competition policy review of the Conveyancers Licensing Act. The review found that consumers do, from time to time, experience risks in their dealings with conveyancers and that regulation is required to protect the interests of consumers in New South Wales. The bill is designed to improve consumer protection and contains provisions for a code of conduct for conveyancers, which include a demonstrated

competence and a fit and proper test as part of the licensing requirements and mandatory continuing professional development for all licence holders. The bill also contains provisions to clarify and update the existing legislation and allows for the introduction of a disciplinary scheme.

I note that this bill aims to assist consumers by setting stricter standards for those offering conveyancing work but that there is no change to the scope of conveyancing work able to be carried out. This is important if we bear in mind the property boom that has been experienced in New South Wales over past years—a property boom that has in large part contributed to the budget surplus of which the Treasurer is so proud. I take this opportunity to congratulate my colleague in the other place, Ms Katrina Hodgkinson, on her appointment to the shadow ministry, and for her work in developing the Opposition's position on the bill. Stakeholders contacted by the Opposition included the Australian Consumers Association, the Law Society of New South Wales, the Property Council of Australia, the Real Estate Institute of New South Wales and the Housing Industry Association. As a result of these discussions the Opposition does not intend to oppose the bill. However, we do note that there are some concerns about how the bill will affect professional indemnity. The bill provides that licensees may be required to be covered by professional indemnity insurance. I seek leave to incorporate in *Hansard* comments provided to us by the Law Society which explain some issues it has with the bill.

Leave granted.

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Conveyancers Licensing Bill 2003:

Costs Disclosure Requirements and Review of Costs

Exceptions to disclosure

Clause 39 of the bill provides for exceptions to disclosure and clause 40 provides that regulations may be made, *inter alia*, when it would not be reasonable to require disclosure. The disclosure provisions appear to follow the disclosure requirements under Part 11 of the *Legal Profession Act*.

Anecdotal evidence suggests that a greater part of conveyancing costs are below $1000. Therefore, if the LPA regulation is followed under this legislation and written disclosure is not required for an individual if the sum is $750 or less excluding disbursements, the rationale for the disclosure requirements will to a great extent be defeated. There is also the danger that many applications for review of costs will eventuate on the basis of conflicting versions of what was agreed with the licensed conveyancer. The situation is different with the *Legal Profession Act* as conveyancing is only a small part of a solicitor's practice. The question must be asked whether it is necessary to have an exception to disclosure requirement in conveyancing matters. If an exception is required, it should not cover lump sum costs and only be limited to urgent, transactions where a written disclosure is not reasonably possible to be made.

Costs Review Procedures

A two-tier review system has been introduced with two sets of filing fees. Clause 44 provides for an independent expert to review the dispute and provide a written report to the parties. This will happen in the majority of cases unless a dispute is such that the Tribunal decides to deal with the matter. If the parties do not settle the matter on the basis of the written report, then the Tribunal will proceed to hear the matter on the payment of a further filing fee.

If it accepted that the majority of conveyancing disputes would deal with matters under about $1000, this two-tier system with two sets of fees is unwieldy and unnecessary. It is also unjust to the individual. The licensed conveyancer, being generally a business, is in a better position to absorb these costs. The application of mediation and early neutral evaluation procedures (clause 44(5)) are also totally unsuitable for such disputes, as costs must be kept to a minimum. Perhaps, some form of conciliation is the better alternative.

A simple system of costs review by an independent party on the payment of a small filing fee is the best option, with a right for a full rehearing before the Tribunal if a party is dissatisfied with the decision of the independent expert. The costs provisions under Clause 45 (2) may act as a disincentive to spurious appeals.

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The Hon. MELINDA PAVEY: The Minister in the other House has also advised that professional indemnity insurance for conveyancers has been secured for the next financial year by the Australian Institute of Conveyancers. I am interested to know how the bill will affect professional indemnity beyond the next financial year. As I have already stated, the Opposition does not intend to oppose the bill or to move any amendments. However, we do ask that the Government note the concerns we have raised.

The Hon. JOHN DELLA BOSCA (Special Minister of State, Minister for Commerce, Minister for Industrial Relations, Assistant Treasurer, and Minister for the Central Coast) [8.19 p.m.], in reply: I appreciate

and acknowledge the support of the Opposition for this bill. The Government and the Minister are cognizant of the concerns expressed on behalf of various organisations. However, we are confident this bill is appropriate. I thank the House for its indulgence and support for the bill. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

VALUERS BILL

Second Reading

The Hon. JOHN DELLA BOSCA (Special Minister of State, Minister for Commerce, Minister for Industrial Relations, Assistant Treasurer, and Minister for the Central Coast) [8.21 p.m.]: I move:

That this bill be now read a second time.

As the speech is lengthy, and given that it has already been delivered in the other House, I seek leave to incorporate it in *Hansard*.

Leave granted.

The bill I introduce today will improve the efficiency and flexibility of the system for regulating valuers in New South Wales.

The work of valuers involves assessing the value of property, especially in real property transactions, where a purchase is being made with a loan from a financial institution. A valuer's work may include consideration of the location of a property, any planned developments in the area, and the condition of the property. A valuer may act as consultant to, and liaise with, solicitors, surveyors, town planners, architects, accountants, property developers and financiers.

Valuers are currently regulated under the *Valuers Registration Act 1975*. This Act establishes an occupational licensing regime for valuers, and provides for the Office of Fair Trading to register valuers who have completed an approved course of study and met prescribed practical experience requirements.

The Act also contains disciplinary provisions which may be exercised against valuers who do not comply with appropriate standards of conduct.

This bill retains the registration system for valuers, but streamlines the existing system so as to improve its efficiency and flexibility.

The proposals in the bill are based in part on the recommendations of a National Competition Policy review of the *Valuers Registration Act 1975*, and in part on issues which were raised following completion of the review.

In retaining the existing registration system for valuers, the Bill recognises the changes which have occurred in financial markets since the early 1980s. In particular, as more consumers seek to acquire investments to provide financial security and retirement income, and homes are increasingly used to secure credit for other purposes, the Australian Property Institute (API) has reported an increase in the number of individual consumers engaging valuers directly. This contrasts with past practice, when valuers were almost always engaged by third parties such as financial institutions and solicitors.

The API has reported that the proportion of direct consumer work is growing rapidly and valuation practices are increasingly seeking work from consumers.

The API has indicated that individual consumers seek valuations in relation to a range of matters, such as:

- property settlements after divorce;
- pre-nuptial agreements;
- entry into, and renewal of, leases;
- acquisition and resumption of property by governments;
- capital gains tax assessments;
- asset valuation for business entities;
- payment of stamp duty;
- purchase of real property;
- pre-purchase inspection of off-the-plan properties; and

- purchases where debt funding is not required.

In light of the increasing use of valuers by individual consumers, retention of a registration system is considered necessary. Such a system provides consumers with the protection of knowing that a valuer possesses the necessary qualifications to practice and has not been disqualified.

The bill's provisions fall into three broad categories:

- Definitions;
- Registration; and
- Complaints, disciplinary action and enforcement.

I will now take the opportunity to outline some of the main provisions in the bill.

Definitions

The bill provides that a valuer is a person who values property for a fee or reward. Property is defined as:

- land, including any estate or interest in land;
- an exclusive right to the separate occupation of land, a building or part of a building;
- an access licence under the Water Management Act 2000; or
- any other property that is prescribed by the regulations as property for the purposes of the Bill.

This definition of valuation moves beyond that in the existing Valuers Registration Act by acknowledging that valuers may value property other than real property. The change reflects changes in the industry which have seen valuers move into new practice areas.

For example, as honourable members would be aware, legislative changes have been made to make water access rights tradeable. Accordingly, in response to a request during consultation, the bill explicitly recognises access rights as a property right.

Registration

The bill prohibits a person from practising or advertising as a valuer unless the person is registered as a valuer. A person carrying out duties as a student valuer under the supervision of a registered valuer is not required to be registered.

The bill also provides that a corporation must not practice or advertise as a valuer unless at least one director or employee is a registered valuer. Furthermore, a corporation must not provide a valuation of any property unless the valuation is signed by a registered valuer.

The requirements for registration as a valuer are that a person must:

- be at least 18 years of age;
- be a fit and proper person to be registered;
- have the qualifications approved by the Commissioner of the Office of Fair Trading; and
- not be a disqualified person.

The bill differs from the current *Valuers Registration Act* in providing for the qualifications for practice as a valuer to be approved by the Commissioner for Fair Trading rather than prescribed by the Minister for Fair Trading. This will enable the required qualifications to be more readily amended in response to changing market circumstances.

The bill also provides that the Commissioner for Fair Trading may approve qualifications by reference to any one or more of the following:

- completion of a course of study;
- completion of a period of training in valuing property;
- attainment of a standard of competency in valuing property; or
- registration under the existing *Valuers Registration Act* or under a law of another Australian jurisdiction that is approved by the Minister for Fair Trading.

This provision differs from the existing qualification requirements in allowing for registration on the basis of achievement of a standard of competency, as an alternative to completion of a course of study or a period of training. The introduction of competency standards will bring flexibility to the qualification system by acknowledging that competency in valuation can be achieved through different pathways.

The existing registration system provides for five categories of valuer:

- an associate real estate valuer;
- a practising real estate valuer;
- a non-practising real estate valuer;
- an associate valuer of licensed premises; and
- a valuer of licensed premises.

The bill removes these categories and instead provides for only one category of registered valuer, whilst giving the Commissioner for Fair Trading power to impose conditions on registration which are appropriate to the particular circumstances of individual valuers.

The bill also provides that mandatory rules of conduct for valuers may be prescribed in the Regulations.

The bill provides an expanded list of grounds for disqualification from registration. The current Act provides that, in order to take action, the Commissioner for Fair Trading must be satisfied after inquiry that a registered real estate valuer has been convicted of a crime or offence or has been guilty of misconduct in a professional respect.

By contrast, this bill states explicitly that a person is disqualified from registration as a valuer if the person does or does not do certain things. These grounds include, but are not limited to:

- having certain convictions;
- being an undischarged bankrupt;
- being a director or manager of a corporation that is subject to winding-up or for which a controller or administrator has been appointed;
- being mentally incapacitated;
- being disqualified from registration or licensing in another jurisdiction;
- failure to pay a monetary penalty payable under the Act; or
- failure to comply with a direction given under the Act.

Another important consumer protection measure in the bill is the requirement that a valuer whose registration has been suspended, cancelled or made subject to condition notify his or her clients of this fact within three days.

The bill also changes the current one year registration system to a three year system. This will lower costs and inconvenience for valuers and the Government.

In keeping with existing practice, a Register is to be kept detailing the particulars of registered valuers. This Register will be available for public inspection.

In order to provide for registration procedures which are consistent with other Government licensing regimes, the bill states that the registration procedures set out in the *Licensing and Registration (Uniform Procedures) Act 2002* are to apply to valuer registrations.

Complaints, disciplinary action and enforcement

The bill streamlines the existing disciplinary process for valuers, allowing disciplinary matters to be dealt with by administrative means. This will be substantially more efficient and less costly than the existing judicial-style hearing. Appeals on disciplinary matters will be heard by the Administrative Decisions Tribunal rather than the Land and Environment Court.

The grounds for disciplinary action in the bill and the processes for discipline and enforcement mirror those in the *Property, Stock and Business Agents Act 2002*. It is intended that this will reduce costs by establishing consistent processes for property industry professionals licensed by the Office of Fair Trading.

The bill includes expanded grounds for disciplinary action, greater options for disciplinary action and introduces show cause notice provisions. Such provisions require a person to show cause why disciplinary action should not be taken against them. Notices to show cause have been used effectively in other fair trading areas, such as home building, motor dealers and travel agents.

In addition to the show cause provision, notices may be published by the Commissioner for Fair Trading warning persons of particular risks involved in dealing with a specified registered valuer or another person in connection with the activities of valuers.

In conclusion, I would like to emphasise that this bill represents a balanced approach to the regulation of valuers in New South Wales, and will be to the benefit of both consumers and the valuation industry. The bill will retain the consumer protection advantages of a registration system, whilst ensuring that the system does not involve unnecessary expense or restriction of valuers' business practices.

I commend the bill to the House.

The Hon. MELINDA PAVEY [8.21 p.m.]: The integrity of the valuation system is a basic fundamental to economic stability of the marketplace. I have engaged the use of valuers on a number of occasions across the State and found them to be of the upmost integrity. However, I have been told of situations where valuations through a particular lending institution favoured a developer to the eventual detriment of investors. In fact, people who put their trust in their financial institution and their builder have lost their life savings through corruption of the process. I have heard of families being broken up through the financial burden placed on them when they have been dudded and under pressure to make monthly mortgage payments. Selling simply was not an option because they paid more for the house than it was worth. I know a local valuer who blew the whistle on the scam but it took some time for the financial institution and its valuer to be brought to the attention of the law. So it gives me great pleasure to support this bill, which aims to improve the efficiency and flexibility of the system of regulation of valuers in New South Wales and, most importantly, strengthen consumer protection.

This bill will further strengthen public confidence in the valuation industry and assist the industry to maintain high standards of professionalism. The current Act requires registrations to be renewed each year and provides for several categories of valuers: an associate valuer, a practising real estate valuer, a non-practising real estate valuer, an associate valuer of licensed premises and a valuer of licensed premises.

The bill will retain the registration requirement for valuers but aims to make it easier for the profession by improving efficiency and flexibility of the registration system by replacing the one-year registration with a three-year registration; removing the different categories of registration and instead allowing the Commissioner of the Office of Fair Trading to impose conditions on licenses which are appropriate to the particular circumstances of individual valuers. The bill will also allow the Commissioner of the Office of Fair Trading to specify the qualifications for practising as a valuer in terms of attainment of a standard of competency as an alternative to completion of a course of study or period of training. Commonsense seems to be the order of the day here, and the Opposition commends that.

The introduction of the competency standards will introduce flexibility into the qualification system by acknowledging that competency in valuation can be achieved by different pathways: a more efficient disciplinary system for valuers and consumers allowing disciplinary matters to be dealt with administratively, with an appeal to the Administrative Decisions Tribunal. The Valuers Registration Act has been in existence for more than 25 years and a number of studies, key policy statements and changing attitudes and needs of the community and industry signalled the need for change to take the industry into the future. Many of the changes in the bill are due in part to recommendations of the national competition policy review of the Act.

At the outset I said that valuers play a vital role in the security and integrity of the marketplace, and valuers in New South Wales have a good reputation, with an extremely low incidence of complaints against valuers, and formal disciplinary action is rarely taken against a valuer. Industry groups such as the Australian Property Institute, the Real Estate Institute of New South Wales and the Australian Society of Real Estate Agents and Valuers have played an important role in upholding these high industry standards. In conclusion I will raise one concern, which was brought to my attention by Nigel Boyce of Gunnedah. It is that there may not be enough time to adequately advise valuers of these legislative changes before they are introduced. I ask the Government to consider this important point and maybe work with industry to ensure that all valuers are made aware of the progress of this bill. I commend the bill to the House.

The Hon. JOHN DELLA BOSCA (Special Minister of State, Minister for Commerce, Minister for Industrial Relations, Assistant Treasurer, and Minister for the Central Coast) [8.26 p.m.], in reply: I thank the House for its indulgence, and I thank the Opposition for its remarks in support of the bill. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

CONSUMER CREDIT ADMINISTRATION AMENDMENT (FINANCE BROKERS) BILL

Second Reading

The Hon. JOHN DELLA BOSCA (Special Minister of State, Minister for Commerce, Minister for Industrial Relations, Assistant Treasurer, and Minister for the Central Coast) [8.27 p.m.]: I move:

That this bill be now read a second time.

The second reading speech is lengthy and has already been delivered by my colleague the Minister in the other House. I seek leave to have it incorporated in *Hansard*.

Leave granted.

The Bill I introduce today will significantly improve the protection offered to consumers who use the services of finance brokers, increase competition in the finance broking industry, and bring legislation governing finance brokers into line with new industry practices.

Finance brokers, or mortgage brokers as they are sometimes called, provide intermediary services between persons seeking finance and credit providers, usually in return for a commission paid either by the client or the credit provider. A finance broker finds suitable potential lenders offering credit products which match their client's needs, assists the client in applying for the loan and obtains approval for the loan. The loan contract is then taken out between the credit provider and the client.

Finance brokers are becoming increasingly important in the Australian credit market. Since the deregulation of the Australian finance sector in the 1980s there has been a proliferation of different types of consumer credit products, particularly in the area of home loans. Increased competition between lenders has resulted in a high level of consumer awareness of the range of finance products available, accompanied by an increased motivation to find the best possible credit arrangement. In this environment, finance brokers are increasingly being used to help consumers compare and assess credit products.

The nature of finance broking has also changed. Rather than charging a client commission, many finance brokers now receive their commission from the lender. While this style of broking is often marketed as a free service, many consumers are not aware that the broker's recommendations may be influenced by the amount of commission paid by different lenders.

Given the important role played by finance brokers and the trust placed in them by consumers, providing consumers with protection from unfair practices and with sufficient information to enable informed decision-making is essential.

The proposals in the Bill are based on the recommendations of a National Competition Policy review of the Credit (Finance Brokers) Act 1984. The review found that consumers continue to experience some risks in their dealings with finance brokers, and that these risks justify continued regulation of the finance broking industry. The main risks faced by consumers of finance broking services are:

- lack of broker independence where commission is paid by lenders, which may result in consumers entering into overpriced credit arrangements;
- consumer loss where the broker's commission is paid in advance and the credit is not subsequently obtained;
- the charging by brokers of excessive, undisclosed commissions or other fees;
- unethical conduct whereby consumers are persuaded to borrow larger amounts than needed or to include fraudulent information in credit applications; and
- difficulty in obtaining redress where the consumer has not been provided with a copy of their agreement with the broker.

Given these risks, the review concluded that the objectives of the Credit (Finance Brokers) Act remain valid. These objectives are:

- ensuring that consumers have sufficient information when dealing with finance brokers,
- reducing the costs of obtaining information from finance brokers and enforcing contracts against finance brokers, and
- protecting consumers from financial loss.

The review recommended retention of the existing provisions of the Act, with some amendments to improve their effectiveness, and the enactment of a number of new provisions which will improve consumer protection.

The review also recommended that, as finance brokers are now subject to the prohibitions on false, misleading and deceptive conduct contained in general fair trading and criminal legislation, it is not necessary to duplicate these prohibitions and their associated remedies in legislation aimed specifically at finance brokers.

In order to streamline legislation relating to finance brokers, the review recommended repeal of the Credit (Finance Brokers) Act and transfer of its provisions and the proposed new provisions to the Consumer Credit Administration Act, which already contains provisions governing discipline of finance brokers.

The review supported continuation of the current disciplinary regime applying to finance brokers. This regime aims to prevent and deal with conduct which is unfair, dishonest or fraudulent or which breaches a contract or consumer credit legislation. If it is found that a finance broker has engaged in such conduct, the Commissioner for Fair Trading may make a range of orders, including requiring undertakings as to future conduct, requiring action to rectify the consequences of the conduct, and prohibiting a person from conducting business as a finance broker. Contravention of a prohibition order can lead to a fine of up to $22,000, and consumers who contract with a person subject to a prohibition order are not liable to pay any amounts under the contract and may recover any amounts paid.

The review concluded that replacement of this disciplinary system with a licensing or registration scheme could not provide sufficient benefits to outweigh the costs of creating a barrier to entry to the finance broking industry and the significant costs which a licensing scheme would impose on government and brokers, and which would subsequently be passed on to consumers.

The Bill's provisions fall into six broad categories: repeal of the Credit (Finance Brokers) Act 1984; definitions; disclosure requirements; commissions; records and third party fees; and consumer remedies.

I will now take the opportunity to outline some of the main provisions in the Bill.

Definitions

The Bill applies to finance broking where the credit to be obtained is covered by the Uniform Consumer Credit Code, that is, where the credit is predominantly for personal, domestic or household purposes. The review noted that the recent Post Implementation Review of the Uniform Consumer Credit Code did not support extension of the Code to small business consumers, and the review was not in favour of extending the coverage of finance broking legislation beyond that of the national credit regime. Small business consumers are, however, protected by the provisions of the Fair Trading Act which prohibits misleading or deceptive conduct and false representations, and the unconscionable conduct provisions of the Trade Practices Act.

The National Competition Policy review found that under the existing legislative provisions, there is some confusion over whether the finance broker's client is the consumer or the lender. The Bill therefore provides that the broker's client is the consumer for whom credit is to be obtained, whether or not that person pays any commission.

The review also found that, as the current Act does not clearly define commission, finance brokers may seek to obtain fees from consumers under other names, such as termination fees. The Bill therefore defines commission to include any fees payable by the consumer to the finance broker in respect of finance broking, no matter what those fees are called.

Disclosure requirements

The current Credit (Finance Brokers) Act provides that a finance broker must not accept commission from a consumer unless the appointment to act as a finance broker is in writing signed by the person to be charged the commission, and contains particulars of the amount of credit to be obtained, the term of the credit and the maximum amount of interest or other charges to be paid.

The Bill deals with new industry practices by providing that a finance broker must always provide a client with a written contract, whether or not the client is to be charged commission. The Bill also provides that the written and signed contract must be given to the client before finance broking commences, and that it must contain particulars of:

- the maximum amount of credit to be obtained;
- the term of the credit, if the credit is to be for a particular term;
- the periodic repayment amounts or repayment arrangements that the client is prepared to agree to;
- the maximum interest rate the client is prepared to pay;
- the date by which the finance broker is to have secured the consumer credit;
- the name and address of the finance broker, the ACN if the finance broker is a company, and the name and address of the principals if the finance broker trades under a business name;
- the amount of commission payable by the client (if any is payable) or, if the amount of commission is not known, the method of calculating the commission, and an estimate of the amount of commission that will be payable if credit is provided on the terms specified; and
- when and how commission will be payable.

Further, the Bill requires the finance broking contract to contain:

- a statement, in a form to be prescribed by the regulations, that the finance broker's recommendations will be drawn from a limited range of potential lenders;
- a disclosure, if relevant and in terms to be prescribed by regulation, of the fact that a finance broker will obtain a financial or other benefit if credit is ultimately provided to the client; and
- any other matter that is prescribed.

Requiring the contract be completed and given to the consumer prior to the commencement of finance broking will ensure that the rights and obligations of each party are clear from the beginning. It will also address those situations where a consumer experiences difficulty in taking action against a finance broker because they do not have a copy of their agreement.

The requirement that the contract set out the details of the credit to be obtained, including the maximum amount of credit, the term of the credit, the repayment amounts and the maximum interest rate the client is prepared to agree to, will help to ensure that the credit secured matches the consumer's requirements, assist the consumer in taking action against the broker and clarify when the broker is entitled to payment of commission.

Up-front disclosure of any commission to be paid by the consumer is essential to enable the consumer to make an informed choice about using the broker. The proposal will increase competition in the finance broking industry by helping consumers to decide which broker is offering the most competitive arrangement.

Disclosure of the way commission is to be charged will also assist informed consumer decisions, and help to stamp out unfair practices such as the broker's commission being added to the amount borrowed without the consumer's prior consent. This practice results in increased costs for the consumer due to the additional interest payable on the higher loan amount.

Disclosure of the broker's financial relationship with lenders and the fact that the broker's recommendations will be drawn from a limited range of lenders are two of the most important requirements in the Bill. The disclosures will alert consumers to the fact that brokers are not independent and their recommendations may be influenced by financial or other benefits. Many consumers unfamiliar with the credit marketplace assume that finding the best deal is part of the service offered by a finance broker, whereas, in fact, as some submissions to the review pointed out, brokers rarely recommend lenders who do not pay commissions, even if they offer a product superior to that recommended by the broker.

Alerting consumers to the financial relationships between lenders and brokers will help to ensure that consumers question brokers about the reasons for their recommendations, and scrutinise more closely the conditions of the credit product being recommended.

The broad power to require the finance broking contract to disclose any other matter that may be prescribed will allow future changes to the matters which must be included in the contract. In particular, the power will enable a broker to be required to disclose whether the broker has paid a fee to any other person as payment for referring business to the broker.

Referral fees paid by brokers are an increasing feature of the finance broking industry. These fees may be paid to real estate agents or other persons as payment for referring business to a finance broker.

The major consumer problem in relation to such fees is that consumers who are unaware of the fees may use a broker because of their trust in the person who refers them and on the assumption that a broker has been recommended on the basis of merit or integrity. The consumer may therefore be less vigilant in their dealings with the broker than if they were aware that the broker had paid a fee to secure the referral.

Commissions

The existing Credit (Finance Brokers) Act prohibits a finance broker from demanding, receiving or accepting any commission from a consumer before securing the credit, and from demanding, receiving or accepting any commission in respect of credit which is:

- for an amount less than the amount specified in the contract of appointment;
- at a rate of interest, or for a charge, greater than the rate or charge specified in the terms of the contract; or
- for a term less than the term specified in the contract.

The Bill retains the prohibition on accepting commission prior to securing credit, and expands the existing obligations on the broker by prohibiting the claiming or accepting of commission unless the credit matches the amount, term, repayment arrangements, and interest rate set out in the contract, and is secured within the timeframe specified in the contract.

While providing this protection to consumers, the Bill also operates fairly towards finance brokers. Although it requires the credit to be exactly on the terms requested in order for commission to be claimed, the Bill allows for the broking contract to be varied if the variation is in writing and signed by both parties. Therefore if a broker finds that credit can only be obtained on slightly different terms to those requested, a contract variation can preserve the broker's ability to claim commission. The requirement that the variation be in writing and signed by both parties ensures that the client has clearly consented to the variation and the new terms are clear to both parties.

The Bill also allows a broker who has secured the credit on the terms and within the timeframe requested to claim commission even if the client does not proceed with the credit secured, provided the contract was not validly terminated before the credit was secured, and the contract expressly allows for commission to be claimed in these circumstances.

Records and third party fees

The Bill retains the current requirement that finance brokers make and keep records of transactions, but increases the time for which these records must be kept from 3 to 7 years. This amendment acknowledges consumer advocates' concerns that consumers may require finance broker records to defend later debt recovery action by credit providers, and brings finance broker records into line with the records of other advisors such as solicitors.

In relation to the payment of fees due to third parties, the existing Act provides that valuation fees paid to a finance broker must be held in trust and any amount left over after payment of the fee be repaid to the consumer. The review found that a more effective method of preventing brokers from misusing valuation fees would be to require these fees to be paid in the form of a cheque or similar instrument made payable to the valuer.

The Bill implements this recommendation, and applies the same principle to credit application and establishment fees, which may also be accepted by finance brokers. During consultation on the Bill, it was pointed out that finance brokers may sometimes be authorised by a credit provider to instruct the valuer, assess the credit application or establish the credit contract on the credit provider's behalf. Therefore the Bill allows a finance broker to accept a valuation, application or establishment fee made payable to the broker if the broker is authorised to undertake these functions on the lender's behalf.

Consumer remedies

The Credit (Finance Brokers) Act currently provides that a consumer can apply to the Consumer, Trader and Tenancy Tribunal for a remedy against excessive commission. A court can also provide such a remedy if a finance broker takes legal action to recover commission which the court considers to be excessive.

The Bill retains these provisions, and goes further to provide for consumer remedies in the case of breach of contract, breach of any consumer credit legislation, and unfair, dishonest or fraudulent conduct by a finance broker.

On 28 March 2003 the Australian Securities and Investment Commission released a report on the finance broking industry prepared by the New South Wales Consumer Credit Legal Centre. The report recommended uniform national regulation of finance brokers and made a number of recommendations regarding the content of such regulation.

While the Commonwealth Government is responsible for the regulation of financial planners and financial advisers under the Corporations Law, the Parliamentary Secretary to the Treasurer, Senator the Honourable Ian Campbell, has indicated that, as the regulation of credit has traditionally been a State responsibility, the Commonwealth does not wish to take on responsibility for finance brokers.

While this Bill will significantly improve the position of New South Wales consumers who use the services of finance brokers, the Government acknowledges that finance broking is a national issue. In view of the Commonwealth Government's lack of interest in this area, the New South Wales Government will be taking a leading role in discussions with the other States and Territories regarding the possibility of a coordinated approach to the regulation of finance broking.

As any agreement on a uniform approach is likely to take some time, the Government considers it important that the current Bill proceed. This will mean that New South Wales consumers will not need to wait for inter-jurisdictional agreement before they receive appropriate protection in their dealings with finance brokers.

In closing, I would like to thank the finance broking industry and the consumer groups who have contributed to the development of this Bill. The proposals in the Bill represent a balanced regulatory approach, which will protect consumers without imposing significant costs on finance brokers or interfering unreasonably in the conduct of their business.

I commend the Bill to the House.

The Hon. MELINDA PAVEY [8.27 p.m.]: The Opposition will not oppose the bill. Finance brokers, also known as mortgage brokers, have increased significantly in number since the Credit (Finance Brokers) Act of 1984 was passed to legislate for their conduct. Much of the reason for our not opposing the bill is that we know that officers of the Office of Fair Trading have done all of the work on this bill, working with a new Minister whom they have had to bring up to date very quickly. I know from my previous experience with the Department of Fair Trading that these are consummately professional people. I trust implicitly what they have put before us tonight. I know they have done the hard yards and the hard work, and I thank them for their effort.

The Executive-Director of Consumer Protection of the Australian Securities and Investments Commissioner, Mr Peter Kell, has said that up to one in two home loans are now sourced through brokers, who can provide a valuable service to consumers faced with an ever-increasing choice of credit options. Mr Kell also said that people should be able to approach brokers with full knowledge of the costs involved and with appropriate avenues of redress if something goes wrong. Unfortunately, this is not the case under the existing legislation. The Minister in the other place referred to the report on the finance broking industry prepared by the Consumer Credit Legal Centre of New South Wales. The report identifies the finance broking industry as lightly and unevenly unregulated and containing some high-risk players and unfair practices.

The bill will address some of these concerns and arises out of recommendations of the national competition policy review of the Credit (Finance Brokers) Act 1984. It is not necessary to go further into the detail of the content of the bill. Although the Coalition does not take exception to any part of the bill, proposed new section 4C (3) specifies the matters to be included in the contract between a broker and a client. In her second reading speech the Minister referred to concerns about the payment of referral fees—spotters' fees—by brokers to estate agents or others who refer clients to them. If clients are unaware of the fee payment, they could assume that a referral by an estate agent or other person is based on the broker's high level of integrity or good performance in obtaining the best deals.

The legislation does not address specifically this concern. Therefore, I suggest that it will be specified under proposed new section 4C (3) (n) as "any other matter that may be prescribed by the regulations". The purchase of a house is probably the largest single transaction most people will undertake during their lives. The total cost of repayments and interest over the life of a loan may easily top $250,000 or even $500,000, especially if one has to buy in Sydney. If people were to move to regional areas and obtain good jobs, their cost of living would be much lower and their mortgages would be much less. I encourage everyone in Sydney to move out of the city. Concerns raised by referrals based on spotters' fees should be addressed in the proposed legislation, and not left to regulation by the catch-all phrase "any other matter".

The Opposition is concerned that the Government has missed an excellent opportunity to display leadership to other States by introducing legislation that would act as a template for other States to use. Consumers need the protection of legislation to ensure that they are not the victims of dishonest or incompetent brokers before such people are banned from working as finance brokers. We support the intent of the bill to provide greater protection to consumers. We support the specifics of the proposed legislation to increase competition and consumer protection, and to bring legislation in line with new industry practice. We encourage the State Government to adopt a more proactive stance to bring about a uniform approach to regulation of the finance broking industry based on the excellent template of the Federal Financial Services Reform Act. The Opposition commends the bill.

Ms SYLVIA HALE [8.32 p.m.]: Although the Consumer Credit Administration Amendment (Finance Brokers) Bill amends the Consumer Credit Administration Act 1995 to provide for the regulation of finance broking, the Greens and the Consumer Credit Legal Centre are concerned that it fails to clarify the relationship between finance brokers and credit providers, and to ensure that consumers have adequate access to appropriate redress in most circumstances. Any regulation of the finance broking industry must ensure that, in certain circumstances, lenders are responsible for the actions of brokers who market their products. The Consumer Credit Legal Centre New South Wales Incorporated is a community-based legal centre specialising in financial services, particularly matters and policy issues related to consumer credit, banking and debt recovery. It is the only such centre in New South Wales, and it has been operating for 14 years.

The centre provides free legal advice and assistance to consumers about credit, debt and related matters. The centre also educates consumers about the rights and obligations in the field, and seeks to identify and change areas of law that it regards as needing improvement. At present it is arguable whether finance brokers are the agent of the borrower or lender, and this has led to uncertainty under the law and enabled lenders to deter consumer complaints and litigation. Consumers already are confused by the range of different types of lenders in the market—banks, non-bank lenders, mortgage originators and mortgage services, et cetera. Often they believe that finance brokers are lenders, and vice versa. Therefore, they are not clear about to whom to go for redress when inappropriate loans are arranged.

The most appropriate and effective way to rectify the problem is to make finance brokers the agent of the lender, because lenders benefit from the referred business and reduced in-house costs that finance brokers provide, finance brokers often receive a fee or commission from lenders for referrals, and the payment of such fees and commissions makes consumers vulnerable to inappropriate loans. Finance brokers who receive fees or commissions from lenders are therefore more aptly categorised as agents of lenders than of borrowers. Lenders should be made responsible for their conduct. Brokers in the insurance industry are categorised as the agent of the insurer, not the insured. Linked credit provisions in both the Trade Practices Act and a uniform consumer credit code recognise that loan contracts can be tied to other services. Small finance brokers can be difficult to track down after transactions have been completed. They may not have sufficient resources or adequate insurance to meet legitimate claims for redress.

Consumer credit organisations have received many complaints from consumers about the activities of finance brokers—excessive commissions, failure to disclose fee arrangements and the status of the broker, misrepresentations and other misleading conduct, unfair and aggressive marketing techniques, brokers inciting consumers to give false information in their applications for credit, and brokers knowingly arranging inappropriate or unaffordable loans. Mr and Mrs J had a normal variable rate loan with a mortgage originator, the balance of which was $94,000. Mr and Mrs J were called by someone who wanted to talk about their "special mortgage deal". As Mr and Mrs J wanted to increase their loan to buy a car, they agreed to the visit. At all times Mr and Mrs J thought that the person who called was a mobile lender and not a finance broker.

Mr and Mrs J were given some papers to sign to apply for a loan of $100,000. As they believed that the papers were an application form only, they signed. However, by signing the form Mr and Mrs J had applied for a line of credit with a major bank. This type of loan was completely inappropriate in their circumstances, and more expensive. When they settled they found that no money was available to buy a car. What was thought to be a mobile lender was a finance broker, and a fee of $2,950 had been taken at settlement to pay the finance broker. Mr and Mrs J paid a total of $4,000 in fees, including the bank's application fees and solicitors' costs, to move to a more expensive loan. As low-income earners, they found that the temptation to use the line of credit for basic living expenses was too great, and their financial position began to deteriorate further.

Mr and Mrs F wanted to purchase a new, larger home. They mentioned this to their accountant, who referred them to an acquaintance who could arrange finance for this purpose. The man in question, Mr H, made

several visits to their home over six months and arranged two loans to pay out their existing mortgage, buy a block of land and build a new house. Many times they asked Mr H how he would be paid for his services. They were informed that he would be paid by the lenders at no cost to them. He talked them into keeping their first home for investment purposes, when they really wanted to sell one house and move to a bigger one. He assured them that he had a number of loans that were suitable for this purpose. Two years after entering the relevant loans Mr and Mrs F were forced to sell their old house, which they had never been able to rent. They paid out one of the loans, but were experiencing difficulties meeting their obligations under the other loan.

At this point Mr and Mrs F discovered that $500 had been paid upon settlement to a mortgage originator, the company they believed had employed Mr H because that is where he received his messages. They also discovered that they continued to pay an additional margin above the lender's standard variable interest rate because of the involvement of the originator. They complained that Mr H had not disclosed any of this. They complained also that he had held himself out to "shop around" for the best deal for them when he had done no such thing. Mr and Mrs F did not know how to contact Mr H, having always contacted him through the mortgage originator. Both the lender and the mortgage originator said that Mr H was an independent mortgage broker acting for the borrowers and, as such, they were not responsible for any of his representations. The matter was eventually settled for a small sum by the bank, with no liability admitted.

Other examples include clients who have been sold interest-only loans that they cannot repay at the end of the loan term, which is usually one or two years, or those who have been given a loan which is inadequate for their needs and a couple of credit cards to make up the difference. In one case clients sought to borrow $8,000 to pay the arrears on their standard mortgage to avoid losing their home and were sold a loan for $20,000, including $5,000 in brokerage fees and associated charges.

Although other services report stories of people losing their homes, the most common result observed by the Consumer Credit Legal Centre is that the clients are left with either an unsatisfactory loan and a deteriorating financial position and/or they refinance—and, again, at their own expense—to minimise their loss. The cost of refinancing can be considerable when one takes into account application fees, valuation fees, stamp duty and sometimes break costs that are payable to the outgoing mortgagee. The investment of time and energy and the anguish associated with these difficulties also cannot be underestimated.

In the experience of the Consumer Credit Legal Centre, matters such as these most commonly settle for some type of release from all or part of the brokerage fee—that is if the clients complain at all—and there is unlikely to be any compensation for any of the losses that I have just outlined. Meanwhile the credit provider is able to completely wash its hands of the broker's behaviour and escape responsibility for any of the misrepresentations and poor advice that have been given to clients. This not only limits the possible remedies for clients—impugning the credit provider, for example, might enable the loan to be restructured or settled for a lesser amount upon refinancing—but also ensures that there is no incentive for credit providers to be selective in the brokers they allow to market their products and services. While there is a possibility that some of these contracts could be challenged and reopened under section 70 of the Uniform Consumer Credit Code, which relates to unjust contracts, it is unclear in what circumstances the Consumer, Trader and Tenancy Tribunal would be willing to reopen a contract when the so-called wrongdoing had been committed by a finance broker without the knowledge or consent of the credit provider.

Credit providers also exploit to good effect uncertainty about whether the Uniform Consumer Credit Code specifically requires the establishment of an agency relationship before granting relief, which convinces consumers not to proceed or to settle disputes for a fraction of their losses. While the Greens believe that the amendments proposed in this bill could improve disclosure about fees and reduce instances in which clients are sued for brokerage fees because they have terminated the contract, the Greens believe also that the amendments will not eradicate these disputes.

Many consumers do not, and some cannot, read contracts carefully. Oral misrepresentations that are at odds with written documents are common occurrences. The bill also depends entirely on consumers to commence proceedings or use the legislation in a defence to a claim for fees. The provisions of the bill that address unjust provisions in the Act may also provide some opportunity for the other losses outlined to be recouped from the broker in appropriate circumstances—although it is not clear what conduct will amount to unjust conduct—but they will not address the following issues: the difficulty of locating the broker after the event, as opposed to the credit provider; the fact that some brokers may not be able to meet claims; and the difficulties of assessing damages, particularly when a client's losses are ongoing at the time of the dispute and refinancing is not a realistic option.

On the other hand, clarifying that the broker is the agent of the credit provider for the purposes of the credit code will ensure that the credit provider can be joined in circumstances in which the broker cannot be located or has insufficient resources to meet claims, and will clarify that clients will be able to access the contract reopening provisions of the credit code regarding unjust contracts when they have been induced to enter an inappropriate loan by misrepresentations or the unjust conduct of a finance broker. However, the most profound potential effect of clarifying the agency relationship between brokers and credit providers is that credit providers will not be able to avoid responsibility for the actions of brokers who are marketing their products and they will therefore be motivated to be more active in monitoring the role of brokers and in being more selective in their marketing relationships. This is more likely to improve standards in the industry than is a regime that is entirely dependent upon complaints being made by disaffected consumers.

The Greens will therefore move an amendment in Committee to make it clear that finance brokers who receive fees or commissions from lenders for referrals are the agents of the lender, not the borrower. We urge all honourable members of this House to support that amendment.

The Hon. MALCOLM JONES [8.45 p.m.]: Although I will deal with the bill at length in Committee, I will contribute to debate at this point to state briefly that the bill in its original form is quite flawed. The major products that the bill seeks to regulate are mortgages. The bill adequately covers fixed interest car leases and hire purchase, but does not provide in its terms for variable interest rate mortgages to be sold. Given the comments that have been made by the Ms Sylvia Hale, it is important to outline briefly the history of mortgage securitisation and mortgage origination over the past 12 years. Quite a revolution in the mortgage industry has taken place. In the late 1980s the mortgage market was controlled by four major banks and they virtually had a monopoly. In those days banks would generally take a base mortgage rate and charge an additional margin of perhaps 2 per cent. When those mortgages became available in the market in Australia people took them up. In the United States of America in the late 1980s mortgage securitisation and mortgage origination became a boom industry and that trend was copied by a number of securitisationers in Australia, the most famous being Aussie Home Loans.

The changes led to the large margin charged by banks being cut to a nominal amount by mortgage securitisationers and mortgage originators, and that made mortgages less expensive for the community. Competition became rife. Approximately 12 years ago there were four mortgage sources—apart from insurance companies, who were very small players—but there are probably 36 mortgage sources currently. With the expansion of the market, benefits have flowed to consumers in the form of affordable mortgages. It is important to remember that point. Greater competition, however, has led to an increase in house prices—but that is another issue. Because homes in a city such as Sydney are very expensive, indebtedness is increased and the services of a broker are often essential. It is unlikely that a mortgage broker will be able to acquire a loan from the first source and, therefore, may have to make calls to some of the 36 available sources.

Given that that is the role of the broker in normal circumstances—and I am not arguing with Ms Sylvia Hale, who cited specific instances dealing with remortgaging rather than the acquisition of a conventional mortgage—the broker has to be able to broker in a market of about 36 providers. If we try to control such brokers by making them agents of the mortgage provider, the mortgage provider will allow an agency of only five or six, because it would go to the trouble of having formal agency agreements with people who may give it one deal every five years—and that would be unacceptable. Compliance with this bill and the Federal brokers and agents Act would make that proposition unworkable.

The benefits that would flow would be overtaken by a formal agency agreement. It would be akin to one going to the ANZ bank and dealing directly with a major finance house that is not able to offer the broking services that are offered by the whole of the market. It is important that honourable members understand the difference between an agent and a broker. An agent is deemed to be the representative of the lender, and the broker is deemed to be the representative of the consumer. That creates a responsibility at law. If it can be demonstrated that the broker is not acting in the best interests of the consumer, the broker is in breach of his obligations. I will stick my neck out here and say that I think that any mortgage provider would insist on professional indemnity insurance, or a certificate of currency for it to be provided, for anyone deemed to be its broker. So there are safeguards in that regard.

Ms Sylvia Hale cited examples of shonky people acting illegally. The acts and advice she outlined are currently illegal and have nothing to do with this bill. Such behaviour is already outlawed. Tighter compliance laws on top of existing compliance laws will not affect those who are already acting illegally. While the matters referred to are real and the poor consumers who are stuck deserve a degree of sympathy, they are not addressed

by the provisions of this bill. The bill forces brokers into stronger compliance. When any industry is faced with stronger compliance, usually people become upset about the amount of paperwork that they are compelled to complete, they become agitated and say that they feel that they are being held in a straightjacket. Invariably strong compliance strengthens an industry, makes it a better industry for the public to deal with, and generates greater trust and greater business.

Compliance should not be scoffed at by the industry: it should be welcomed. However, to go overboard on compliance can be counterproductive. If compliance is so strong that the market shrinks, brokers who remain in the industry will be able to charge inordinately high fees for services they perform simply because of a lack of competition. I will support the bill with some amendments, which I will address in Committee.

The Hon. Dr PETER WONG [8.53 p.m.]: This is a good bill. Together with the Hon. Malcolm Jones I will support the Government's amendments. The bill will improve consumer protection for those who use finance brokers and will increase competition in the financial broking industry. The bill is consistent with national competition policy. I learnt a lot from the contribution of the Hon. Malcolm Jones. The Greens have a very good philosophical background and have good intentions, but their proposal will not work at the end of the day. I intend to support the Government's bill and amendments.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [8.54 p.m.]: The Australian Democrats support the bill. It is a step towards more consumer protection in the delicate area of finance broking. I take on board the points raised by the Hon. Malcolm Jones in his extremely informative history of this matter and the benefits of competition. In early days banks happily told prospective consumers that if they did not have one-third of the value of the house to be purchased, the banks would not be interested in negotiating a loan. Building societies required a prospective purchaser to have only 10 per cent of the purchase price—a huge step forward. I bought my first house with a deposit of only $2,500 at a time when the banks were falling over laughing at the suggestion that $22,000 was a big mortgage for a man on a salary of $11,000.

The bill will repeal the Credit (Finance Brokers) Act 1984 and amend the Consumer Credit Administration Act. The Government insists the amendments will improve protection for consumers. The bill seeks to address problems that have arisen because of dishonest practices by some finance brokers—sometimes referred to as mortgage brokers. The main problem was that some brokers did not inform their clients that they were linked to certain credit providers who would give the broker a commission higher than that offered by other credit providers if they put business their way. The bill makes it mandatory for brokers to make full disclosures to clients about their fees and whether he or she is getting financial or other benefit from a particular credit provider. This is a positive step forward. I had proposed an amendment to insist on professional indemnity insurance for finance brokers. I will read that amendment onto the record, but I will not move it. It was pointed out to me that my amendment would be opposed because currently professional indemnity insurance is so expensive that it is a major problem in itself. The amendment proposed:

Page 13, schedule 1 [6]. Insert after line 16:

Division 7 Insurance

4M Finance brokers to be insured

(1) A finance broker must not engage in finance broking on behalf of a particular client unless there is in force in respect of the finance broker an approved professional indemnity insurance policy.
Maximum penalty: 50 penalty units.

(2) The policy must be in force at least from the time the finance broker commences to engage in finance broking on behalf of the client until the time consumer credit is secured for that client.

(3) A policy of professional indemnity insurance is approved if:

(a) the insurer, the level of insurance and the type of policy have been approved by the Minister by order published in the Gazette, and
(b) any conditions imposed by the order are complied with.

(4) The Minister may vary or revoke an order made under this section.

The intent of the amendment was to solve the problem of a broker defaulting by not having professional indemnity insurance. Interestingly, the Greens amendment tries to solve that problem by linking the finance broker to the resources of the lender by having a substantial entity to provide redress if the finance broker does not do the right thing. Obviously that has advantages in providing redress, but tying the brokers forever to the

providers makes them an agent, and probably takes away some of the benefit that would arise in a competitive open market. Although the Greens concept is supported by the Consumer Credit Legal Centre the Democrats are not sure whether it should be supported. Obviously that is one way of dealing with the problem of insurance. On a number of previous occasions I have said that the insurance industry worldwide is at present so dysfunctional that it is time the Government used its strength to put in place practical arrangements that fill the void left by insurance companies. After September 11 agencies have charged whatever premium they dream up.

Some insurance agents, who might not be adequately quantified, might have big deficits. The Government must step in and act in order to protect consumers. This legislation is yet another example of the Government's attempt to protect consumers. For the reasons enunciated earlier, I do not intend to move my foreshadowed amendment. It will not help consumers who do not have indemnity insurance or who are being priced out of the insurance market because of current difficulties. The Department of Fair Trading must do what it can to obtain reasonable deals for consumers. I am sure that the insurance market will work better as a result of this legislation. If a decent scheme were proposed, I could be persuaded the other way. If I had to make a choice between having professional indemnity insurance on the current market with the distorting effect that that would have, or relying on this legislation and asking the Government to do more, I would take the latter option.

Reverend the Hon. FRED NILE [9.01 p.m.]: The Christian Democratic Party is pleased to support the Consumer Credit Administration Amendment (Finance Brokers) Bill, which will give consumers greater protection and regulate the insurance industry. We support those measures. We believe that the Government's proposed amendments will also improve the operation of the insurance industry. We support those amendments.

The Hon JOHN DELLA BOSCA (Special Minister of State, Minister for Commerce, Minister for Industrial Relations, Assistant Treasurer, and Minister for the Central Coast) [9.02 p.m.], in reply: I thank all honourable members for their contribution to debate on this bill. I commend the bill to the House.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 5 agreed to.

Schedule 1

The Hon JOHN DELLA BOSCA (Special Minister of State, Minister for Commerce, Minister for Industrial Relations, Assistant Treasurer, and Minister for the Central Coast) [9.04 p.m.], by leave: I move Government amendments Nos 1 to 7 in globo:

No. 1 Page 3, schedule 1 [1], lines 25 and 26. Omit all words on those lines.

No. 2 Page 4, schedule 1 [5], lines 17-23. Omit all words on those lines.

No. 3 Page 6, schedule 1 [6], lines 15-25. Omit all words on those lines. Insert instead:

(c) if the consumer credit is intended to be repaid at regular intervals—the maximum periodic repayments the client is prepared to make in respect of the consumer credit (including the repayment of any credit application fee, credit establishment fee or other fee), and

(d) if the consumer credit is not intended to be repaid at regular intervals—the repayment arrangements acceptable to the client (including for the repayment of any credit application fee, credit establishment fee or other fee), and

(e) the maximum interest rate that will be payable in respect of the consumer credit, and

No. 4 Page 8, schedule 1 [6], lines 4-14. Omit all words on those lines. Insert instead:

(c) in the case of consumer credit intended to be repaid at regular intervals—the periodic repayments exceed the maximum periodic repayments specified in the contract, or

(d) in the case of consumer credit not intended to be repaid at regular intervals—the repayment arrangements are more onerous than the repayment arrangements specified in the contract, or

(e) the consumer credit is secured at a rate of interest that exceeds the maximum rate specified in the contract, or

No. 5 Page 8, schedule 1 [6]. Insert after line 20:

(3) A finance broker is not prevented by this section from demanding, receiving or accepting any commission in respect of finance broking merely because of the potential for an increase in the periodic repayments or interest rate, or for repayment arrangements that are more onerous, that arises because of a variation of the interest rate in accordance with the consumer credit contract.

No. 6 Page 9, schedule 1 [6], lines 20-31. Omit all words on those lines. Insert instead:

(iii) if the consumer credit is intended to be repaid at regular intervals—involves periodic repayments that do not exceed the maximum periodic repayments specified in the contract, and

(iv) if the consumer credit is not intended to be repaid at regular intervals—involves repayment arrangements that are not more onerous than the repayment arrangements specified in the contract, and

(v) is secured at a rate of interest that does not exceed the maximum rate specified in the contract, and

No. 7 Page 10, schedule 1 [6]. Insert after line 4:

(2) A finance broker is not prevented by this section from demanding, receiving or accepting any commission in respect of finance broking merely because of the potential for an increase in the periodic repayments or interest rate, or for repayment arrangements that are more onerous, that may have arisen because of a variation of the interest rate in accordance with the consumer credit contract.

My colleague the Hon. Malcolm Jones, voiced concerns about whether paragraphs (c) and (e) of proposed section 4C (3) would prevent variable rate mortgages being available through finance brokers. That is not the intention of this legislation. The policy is that consumers' requirements, as stated in the finance broking contract regarding the maximum repayment amount that they are prepared to pay and the interest rate that satisfies that requirement, are applicable only at the time that the contract is made.

Obviously neither brokers nor consumers can predict with certainty what interest rates will do. It is up to the consumer and the credit provider to factor that uncertainty into their calculations. Credit providers must take into account possible rate fluctuations with every variable rate product when assessing a consumer's capacity to repay his or her loan in the future. The bill is currently drafted with that purpose in mind. Nevertheless, the Government's amendments will ensure that finance brokers are not prevented from claiming their commission simply because of normal variable rate fluctuations. The relevant sections have been redrafted to take account of the honourable member's concerns.

The Hon. MALCOLM JONES [9.06 p.m.]: I thank the Minister for his comments but I point out to non-Government members that, after I first read the bill in December last year, I contacted Parliamentary Counsel and voiced my concerns, and I was furnished with a two-paragraph amendment, which I forwarded to the Minister. After the March State election the bill was returned to the Legislative Council. I went to the department and again voiced my concerns. Departmental representatives approached Parliamentary Counsel and were presented with seven amendments. The Government's amendments, which are complete, will ensure that the bill meets its objectives. I commend the amendments to the Committee.

The Hon. MELINDA PAVEY [9.07 p.m.]: The Opposition supports the Government's amendments. We understand that they will clarify the position and ensure that there are no discrepancies.

Reverend the Hon. FRED NILE [9.07 p.m.]: The Christian Democratic Party supports the Government's amendments which were foreshadowed in the second reading debate.

The Hon JOHN DELLA BOSCA (Special Minister of State, Minister for Commerce, Minister for Industrial Relations, Assistant Treasurer, and Minister for the Central Coast) [9.08 p.m.]: Ms Sylvia Hale foreshadowed in debate on the second reading that the Greens proposed to move an amendment to this schedule to the bill. The Minister for Fair Trading has considered these matters and is prepared to give the following undertakings. With regard to the issue of agency, any proposal envisaged in the Greens amendment would need to be addressed at a national level and would require further consultation with the credit industry as well as broker and consumer representatives. The Minister for Fair Trading has agreed to raise this issue at the next meeting of the Ministerial Council for Consumer Affairs in August.

Ms SYLVIA HALE [9.08 p.m.]: In view of the Minister's undertaking the Greens do not propose to move their foreshadowed amendment.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [9.09 p.m.]: I congratulate the Government on achieving this sensible outcome. The Greens are attempting to solve a problem but the Government has come up with an alternative and better solution.

Amendments agreed to.

Schedule 1 as amended agreed to.

Schedule 2 agreed to.

Title agreed to.

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

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Order of the day No. 8 postponed on motion by the Hon. John Della Bosca.

RURAL LANDS PROTECTION AMENDMENT BILL

Second Reading

The Hon. IAN MACDONALD (Minister for Agriculture and Fisheries) [3.12 p.m.]: I move:

That this bill be now read a second time.

The Rural Lands Protection Act 1998 commenced in 2001. It replaced an Act of the same name that was passed in 1989. The new Act introduced some significant changes in the operation of the rural lands protection board system. One of the main changes is the creation of a statutory body, the State Council, which provides the 48 rural lands protection boards across the State with centralised services and representation at all levels of government. In September last year the first general election of directors of the 48 rural lands protection boards was held under the new Act. Changes in the election process were implemented to gain a greater representation amongst board directors of the different cross-sections of board ratepayers. In particular, NSW Agriculture and the Department for Women worked together to encourage women to stand for election to the boards by mailing out information and conducting a media campaign. When I was in Orange recently I met some female board members.

Each board consists of eight directors, except for the Central Tablelands board, which has nine. Under the former Rural Lands Protection Act 1989, the person who lodged the annual land and stock return was the person who was entitled to be nominated to stand for election as a director. Historically, it has usually been the male in a family unit who has lodged the annual return, and therefore predominantly males have stood for election as directors of rural lands protection boards. In addition, under the old Act, in order to qualify to stand for election as a director a person had to reside in the district. This disadvantaged many of the owners of land who resided elsewhere. The new Act gives each holding in a board district two votes, recognising that many family farms are held jointly by spouses or business partners. Furthermore, the automatic enrolment of the person who lodges the annual return of land and stock was abolished. In addition, it is now necessary that the person standing for election as a director only be an occupier or owner of rateable land within the relevant electoral division of the board's district, rather than a resident.

Attention is being paid to the needs of "minimum ratepayers". These persons are holders of land that consists of the smallest area or carrying capacity to which the rating provisions apply. They were encouraged to stand for election as directors and their concerns regarding the services that they receive from boards are being addressed through a national competition policy review of the Rural Lands Protection Act 1998 that is to be conducted. The newly elected directors took office in their respective rural lands protection boards for four-year terms commencing on 1 October 2002. A record number of women were elected, increasing the number of female directors across the State to 14 per cent, which is a significant increase from the results of the previous general election of directors held in 1997, when female directors represented only 6 per cent of the total number of directors.

In addition, there has been an increase in the number of persons who are minimum ratepayers who were elected as board directors. Ten persons who pay only the minimum rate were elected as directors of boards

situated in the coastal area of the State. This is an important improvement as 73 per cent of the ratepayers of coastal boards pay only the minimum rate. There is a growing trend towards subdivision of agricultural land, particularly around the larger towns and cities of the coastal region. This is creating larger numbers of minimum ratepayers who have an interest in board issues, such as feral animal control and animal health.

Another measure in the bill will enable the State Council to conduct postal ballots of boards in respect of urgent issues that need resolving between annual conferences of boards. The State Council is responsible for the implementation by the boards of the general policies for the protection of rural lands and the operation of boards that are determined from time to time at State conferences. An annual State conference of boards takes place in June. All the boards are represented and can vote on motions moved at the conference. The purpose of the conference is to determine general policies to be implemented by boards and to determine primary policies to guide the State Council in carrying out its functions. The State conference also must determine the annual budget of the State Council. The State Council must then operate for the following 12 months to implement these resolutions. However, if an urgent matter arises or if the State Council needs clarification or additional guidance regarding a resolution, at present there is no mechanism by which it can convene an urgent meeting of the State conference. The bill provides that the State Council may conduct a postal ballot of boards in order to resolve urgent issues.

Another issue that has been of concern to boards is a need for clarification regarding their power to recover outstanding rates left owing by an outgoing tenant or owner of land. The Act needs to state clearly that the current owner always remains liable for the rates left owing by an outgoing owner or tenant. Any person is entitled to apply under the Act to a board for a certificate that sets out the amount of any outstanding rates, charges or other amounts owing in respect of a particular parcel of land. This means that an incoming owner, or an owner whose tenant is about to vacate the land, can find out easily whether there are any charges owing to the board and can negotiate with the outgoing tenant or vendor of the land for the settlement of the outstanding amount. Generally vendors and purchasers of land and landlords and tenants have access to good information about each other and therefore may have a better opportunity than a board to enforce outstanding debts.

The Act also creates a strong incentive for outgoing owners and occupiers to settle debts relating to the land. Section 68 maintains the right of an owner or occupier who pays the rates left owing by someone else to recover the amount from that person. This provision mirrors the law under the Local Government Act with respect to rates owing at the time that a vendor of land sells to the purchaser. This bill will also allow flexibility to boards in setting fees for the use of travelling stock reserves and public roads for grazing and walking stock. There has been a significant increase in the numbers of stock using travelling stock reserves and public roads since the onset of the drought. This has focused attention on this valuable Crown land and its importance for emergency grazing and movement of stock in times of drought and other natural disasters. It has also highlighted the environmental value of travelling stock reserves that have been efficiently managed by rural lands protection boards for the past 120 years.

At present the Act requires that a board must charge a drover the exact fee that is set by the regulation for a permit to use a travelling stock reserve or public road. The proposed amendment will enable the boards to set a fee that is lower than the maximum amount set in the regulation. A board will not be able to arbitrarily set lower amounts. The fees must be based on classifications relating to situations that apply, or to the types of travelling stock reserves being grazed. For example, a different fee could apply to all travelling stock reserves within a particular division of the board's district, or to the grazing of stock in good seasons when traditional use of the reserves is low. The fees must be displayed in a conspicuous place in the board's office. The quality of feed available on roadsides and travelling stock reserves will vary greatly depending on circumstances such as the amount of grazing that has occurred previously on this land or the weather conditions. Boards may therefore want to vary the fees they charge in accordance with the conditions.

The bill also clarifies the situation with regard to the recovery of money from boards for work that is undertaken to eradicate insects such as plague locusts from the land by the Australian Plague Locust Commission. The Australian Plague Locust Commission has been extraordinarily effective in controlling locust plagues since its establishment in 1974, to which the Deputy Leader of the Opposition would surely attest. I pay an annual contribution to this commission to support its work.

Under section 174 of the Rural Lands Protection Act 1998 I can recoup from the boards a contribution to the cost of any action taken in eradicating insect pests. It is clear that insect pests such as plague locusts can impact on vast areas of land in a short space of time, leaving destroyed crops and pasture and native vegetation in their wake.

The Hon. Duncan Gay: What about national parks? Can you also get a levy back from them?

The Hon. IAN MACDONALD: That is in another department. The swift eradication of a plague in one board's district is of great benefit to all of the boards into whose district the plague may have otherwise travelled. It is therefore equitable that all boards whose district may play host to such insects should contribute to the cost of any eradication procedures carried out in the State. The amendment proposed to be made to section 174 will make it clear that I can recover the eradication costs for action taken in a board district within the State from any or all of the other boards. Under section 207 of the Act, all proceeds of penalties payable under penalty notices imposed for offences committed under the Act are payable to the board in whose district the offence took place. Where police officers issue penalty notices under the Act, it is difficult for them to easily ascertain in which of the 48 rural lands protection board districts the offence has occurred. In addition, the Infringement Processing Bureau requires a separate code to be written onto a penalty notice to designate the board district to which payment of the proceeds must be made.

This adds to the complexity of the administrative process. Rather than have 48 different Infringement Processing Bureau codes, it is proposed that any penalty payable under a penalty notice issued by a police officer under the Act is to be paid to the State Council. Once the State Council receives the penalty notice proceeds, it is to be distributed across all boards by reducing the amount that each board must pay annually to the State Council. The State Council is to calculate the total amount it receives from the proceeds of all penalties paid from penalty notices issued by the police under the Rural Lands Protection Act over the year. The benefit that each board receives by way of a reduction to its annual contribution to the State Council is to be calculated on the same basis that its contribution to the State Council's budget is calculated. This will ensure an equitable distribution of the benefit from these penalties across the State.

Finally, the bill makes certain amendments to the election process, concerning information to be contained on the elector's roll, the appointment of persons to fill casual vacancies that occur during any postponement of a general election and the removal of a requirement that the authorised officer of a board must choose persons to be enrolled for a holding where the ratepayers for that holding have failed to make the election themselves. These amendments are designed to assist the boards to run more efficiently and thereby provide a better service for their ratepayers in the management of travelling stock reserves and stock watering places, eradication of vertebrate and insect pests and the provision of animal health services. I note that the system of 48 rural lands protection boards, situated as they are across the State, provide a vital animal disease surveillance role. This is important in the maintenance of Australia's livestock export markets.

To assist in the efficiency of their operations I note that the Government has recently committed $3.5 million over three years to upgrade the information technology systems used by the boards. This will assist them with their efficiency in recording, reporting and communication, with consequent savings to ratepayers as well as the wider community. The value of their computer system has already been highlighted by the processing of drought claims where 15,579 claims from 5,072 ratepayers have already been paid out, providing $16.1 million into the drought stricken community as at 24 April 2003. With regard to the current drought the boards have been instrumental in expediting the exceptional circumstance application process. Exceptional circumstances are declared on board districts in New South Wales.

So far during the current drought, all board districts have applied to the Commonwealth for exceptional circumstances assistance. Once these declarations are made, primary producers within those districts are eligible to apply for income support from Centrelink and business support from the New South Wales Rural Assistance Authority under the program. To date, 69.7 per cent of New South Wales has been declared for exceptional circumstances assistance measures and a further 27.8 per cent of the State's area has applications for such a declaration pending, although some negative decisions have been made. It is evident that although some parts of coastal and north eastern New South Wales have received good rainfall, the drought is far from over with critical conditions prevailing in the south and west of the State. The adverse effects of the drought will be felt for many years to come by householders, rural communities and the economy. I commend this bill to the House.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [9.26 p.m.]: The Opposition supports the Rural Lands Protection Amendment Bill. The Rural Lands Protection Act provides for the protection of rural lands and the constitution and functions of the 48 rural lands protection boards of the State. One of the most important changes implemented under the new Act is that it makes provisions for a statutory body, the State Council, to provide boards with centralised services and political representation. In September last year, the first general elections of directors of the 48 rural lands protection boards were held, with the new directors taking office on 1 October 2002. Each board has eight members, with the exception of the Central Tablelands board which has nine. In light of this election, significant changes have been brought about to gain greater representation of the different cross-sections of the population who are board ratepayers.

Under the former Rural Lands Protection Act, the person who lodged the annual stock and land return was the person who was entitled to be nominated to stand for election as director. As the Minister quite correctly said, it was probably a male. In most cases this was the farmer, who was, more often than not, the man of the family. Under the new Act the annual land and stock return can be used to nominate two people to be enrolled in respect of the holding or a separate application can be lodged with the board. Under the new Act, a concerted effort has been made to encourage more women to vote and stand for election. The Opposition supports this important initiative.

I understand that a record number of women were elected at the general elections. The number of female directors across the State increased from a paltry 6 per cent in 1997 to 14 per cent—it still needs more but it is a big start. Honourable members would recognise that in most farming areas they are family farms with an equal partnership between the males and females. The greater recognition of females in these changes is applauded. In the past week or so, whilst the Minister was flying around in a Comanche from airstrip to airstrip with his captive press gallery friends, I was in the Commodore and visited some of the rural lands board in the State and met with them one on one. I think that is probably as important, if not more important, than touching down at airstrips armed with a press gallery.

Under the Act, greater attention has been paid to the requirements of minimum ratepayers, and there has been an increase in the number of persons who are minimum ratepayers who were elected as board directors. Ten persons who pay only the minimum rate were elected as directors of boards situated in the coastal areas of New South Wales. This is an important improvement bcause in those coastal areas, due to land subdivisions, an increasing number of ratepayers have an interest in and concern for feral animal control and animal health. It is important that those interests are effectively represented, given that a large number of people are paying just the minimum rate.

The amendments proposed in this bill provide a special measure that will enable rural lands protection boards to deal with urgent matters arising in between annual State conferences by conducting postal ballots of boards in respect of these issues. If an urgent matter arises or the State Council needs clarification or guidance regarding a resolution passed at the State conference, there is no mechanism currently in place by which it can convene an urgent meeting of the State conference. This commonsense proposal will enable the State Council to conduct a postal ballot in order to resolve urgent issues. The postal ballot may be conducted amongst all of the boards or only amongst the boards about which the issue is concerned. The Opposition supports that amendment proposed by the bill.

Members of the rural lands protection boards have expressed a number of concerns over the need to clarify their power to recover outstanding rates left owing by an outgoing tenant or owner of land. Under the principal Act, the occupier of land is liable to pay the rate to the board. If occupiers frequently change or outgoing occupiers leave the district, this can cause difficulties for the board to recover unpaid rates. Any person is entitled to apply to a board for a certificate setting the amount of outstanding rates, charges or amounts owing to a particular piece of land. This enables an incoming owner, or an owner whose tenant is about to vacate the land, to easily discover what charges are owed and negotiate for settlement of the outstanding amount. The bill before the House essentially seeks to clarify the liabilities of the former and incoming occupiers and owners of land for rates levied by the rural lands protection board.

The Rural Lands Protection Amendment Bill seeks to give the rural lands protection boards greater flexibility in establishing fees for the use of travelling stock reserves and public roads used for grazing and walking stock. At present, the board must charge a drover the exact fee that is set by the regulation for a permit to use a travelling stock reserve or a public road. The bill will allow the boards to set a fee that is lower than the maximum amount set in the regulation. That is a good amendment, and the Opposition supports it. The Government is going in the right direction. In periods of drought, such as that which still prevails over 90 per cent of New South Wales, travelling stock reserves and some public roads are greatly needed as an alternative source of feed and water for stock.

When the Minister spoke about this, he took the opportunity to bag the Federal Government. I thought that was a pretty ordinary approach. New South Wales farmers expect State and Federal governments to stop playing the name game, get on with it and try to help them. Frankly, the current situation of State departments blaming Federal departments regarding exceptional circumstances assistance, and Federal departments blaming State departments, Federal Ministers blaming State Ministers and State Ministers blaming Federal Ministers is not helping anyone. We all need to get over it and get on with addressing the problem. We must stop bagging each other and start talking because a lot of people are pretty desperate for this assistance. I was disappointed that in question time today and again when talking to the bill the Minister took the opportunity to sink the boot in. That does not help.

In good years, by way of reducing fodder, rural lands protection boards may decide to lease a portion or the whole of a stock reserve to a local landholder for an extended period. In this case rent is charged, which helps meet the board's costs. This happens opposite my farm. A neighbour of mine rents the travelling stock reserve, which is of assistance to him; he has extra land, and he looks after the travelling stock reserve. My father rented that reserve at one stage, as did I. Now a neighbour rents it. I have to say that, of the three of us, my neighbour is by far the better manager; the stock reserve looks better under his management than it did under ours. This responsible and commonsense procedure also helps eliminate or reduce the risk of bushfire.

Often rural lands protection boards would welcome the chance to lease land to an adjoining landowner for feral animal control, but owing to excessive fees often this does not happen. This amendment will allow the boards to have flexibility in determining how much to charge per head of stock, per day or per week. This is a practical and sensible business arrangement. I am aware that the Greens are planning amendments to this section of the bill. My message to the Greens is simple: Leave travelling stock reserves alone. You have got your extra national parks; you do not want your hands on travelling stock reserves as well.

Mr Ian Cohen: We want to look after it like your neighbour, that's all.

The Hon. DUNCAN GAY: My neighbour is looking after it pretty well. He does not need Greens coming in and allowing feral animals to run free. The Minister spoke about being able to recover from departments the costs of dealing with plague locusts. Once the National Parks and Wildlife Service takes over, he will have trouble recovering the costs from that agency. In conclusion, the Opposition supports the Rural Lands Amendment Bill as it removes restrictions that currently prevent rural lands protection boards from adopting sensible commercial management practices. The amendments proposed in the bill should enable rural lands protection boards to have greater control over the manner in which they implement their policies. This will also enable enforcement of measures for the protection of rural lands under their care. The Opposition has consulted the State Council of Rural Lands Protections Boards and the New South Wales Farmers Association. Both organisations have indicated their support for what they and we believe are the commonsense amendments proposed by the bill.

Mr IAN COHEN [9.37 p.m.]: I speak on the Rural Lands Protection Amendment Bill on behalf of the Greens. This bill amends the Rural Lands Protection Act 1998 to, amongst other things, enable rural lands protection boards to charge a lower fee than the maximum fee set in regulations for permits for the use of travelling stock reserves. Rural lands protection boards manage significant areas of public lands, particularly within travelling stock routes. Travelling stock routes are important for their conservation significance, not only their ecological value but also their heritage value. These routes are an important part of Australia's history and are an important community asset. The conservation values of travelling stock routes and reserves are outstanding. The Natural Heritage Trust recently funded a project on "Identifying and Managing Biodiversity on Travelling Stock Reserves (TSRs) in North Western NSW". It concluded that:

> … the occurrence of numerous areas of both Federal and State listed threatened ecological communities, threatened species and their associated habitats and remnant areas of once common regional vegetation types, means that TSRs have a critical role in nature conservation within the project area.

One of the main threats identified in the report to the value of TSRs as effective biodiversity corridors and conservation areas was:

> Overgrazing—including pressure by electric fence "sections"; change of pasture composition by overgrazing; and frequent grazing of fenced reserves by local land-holders and degradation of ground cover through the removal of fallen timber and the impact of grazing upon leaf litter levels.

The report noted:

> The conservation of wildlife, including threatened species and communities should fundamentally include implementing management and grazing strategies which prevent long-term damage to the area.
>
> The protection of TSRs against soil erosion and diminution of water quality primarily comes back to stock management and the maintenance of adequate ground cover to prevent soil loss in rainfall events.

The report went on to state:

> Maintaining 60-70% ground cover is recognised as being the minimum ground cover necessary to prevent soil loss and thus diminution of water quality. This is a difficult target to meet in drought times, when TSRs are often pushed past their sustainable grazing limits, but especially in normal seasons when stocks are just grazing, a high level of ground cover should be maintained.

The Hon. Duncan Gay: 60 to 70 per cent?

Mr IAN COHEN: Yes. Good conservation farmers, like the honourable member, should appreciate that. Therefore, grazing is clearly one of the major threats to the conservation values of TSRs. Previous overgrazing of TSRs has resulted in many of them being severely degraded. Any action that increases the incentive or opportunity for overgrazing by increasing access to permits represents a major threat to the conservation values and ecological integrity of the TSRs. The reduced fees provided for in the bill will result in easier and increased access to stock permits, which can be expected to increase grazing pressure on TSRs. It will be especially noticeable in drier times when pressure for use of TSRs will be increased. It is during dry times that many native fauna species retreat to areas of remnant vegetation that act as refuge from extreme conditions. Therefore it is in dry times that the integrity of TSRs is most critical. We must ensure that their habitat and values are maximised so that they function as refuges for native animal species.

The Hon. Duncan Gay: The kangaroos have eaten out their country.

Mr IAN COHEN: The honourable member admitted that he had not managed his area particularly well.

The Hon. Duncan Gay: It is being managed much better now. There are guidelines.

Mr IAN COHEN: I appreciate the magnanimity of his admission. It is wonderful. But let us move into the future.

The DEPUTY-PRESIDENT (The Hon. Patricia Forsythe): Order! Mr Ian Cohen should ignore the interjections of the Deputy Leader of the Opposition.

Mr IAN COHEN: Sometimes such disorder cannot be resisted, even in such an orderly House. Nevertheless, I will attempt to continue. Rural lands protection boards should seek more control over access to TSRs in dry times rather than make access even easier than it is already.

The Hon. Duncan Gay: He has never even eaten koala; what would he know?

Mr IAN COHEN: Perhaps the honourable member should spend more time with the honourable member for Murray-Darling, Blackie. It sounds as though they have a great deal in common.

The Hon. Rick Colless: I do not think you would have anything in common with Peter Black.

Mr IAN COHEN: He takes great pride in being a koala-eating man, which does not particularly impress the Greens. The conservation values of the rural lands protection board lands warrant extreme care and increased regulation of grazing and stocking levels. Unfortunately, the bill does the opposite of what is required to protect those unique values.

The Hon. Duncan Gay: Why did you give him your preferences?

Mr IAN COHEN: I am afraid the National Party was beyond help in that area, even with a representative like Blackie.

The DEPUTY-PRESIDENT (The Hon. Patricia Forsythe): Order! I remind the member that all comments should be directed through the Chair.

Mr IAN COHEN: I was referring to the fact that sometimes the National Party has such great difficulties that it cannot cope, even in an electorate with a member like Blackie. The pricing and valuation of natural resources was raised in the report to the National Heritage Trust. Clearly, even the standard fees for TSRs are not sufficient to cover the environmental costs incurred by overgrazing, and subsequent loss of habitat and species from TSRs. It is yet another case of ratepayers subsidising access to natural resources for one segment of a particular industry, which, in turn, costs the whole community and future generations through environmental degradation. It is time for us as a community to start putting a real price on natural resources instead of selling them off in yet another fire sale.

We now know that we cannot afford to be profligate with environmental values because once gone they cannot be replaced. We should not reduce the cost of permits and make it even easier to use and abuse TSRs.

We should increase costs to reflect their outstanding real value as irreplaceable remnants of ecosystems and species that have, in many cases, otherwise disappeared from the face of the earth. The Greens are concerned that giving the board discretion to vary fees will raise serious questions about fair and equitable administration of public lands. It will compromise the equitable administration of those lands, and encourage corruption and abuse of powers vested in the boards. First, and most important, the new powers to vary fees are open to misuse and corruption.

Members of the boards belong to local communities, and frequently are very strongly connected through social and kinship ties with those who make use of the boards' lands. The bill will create opportunities for due pressure to be placed on board members to reduce fees charged to particular individuals. It will be impossible to ensure equality of charges between different individuals seeking permits, or between different boards issuing permits. It is completely inappropriate for a single government body to charge different prices for the same commodity, in this case use of public lands designated as travelling stock reserves. An individual moving stock through public lands around Bingara, for example, should pay the same fee as an individual moving stock around Albury.

The Hon. Rick Colless: Where is that?

Mr IAN COHEN: I am not sure exactly.

The Hon. Rick Colless: It just shows that you haven't been there.

Mr IAN COHEN: I have not been there. I cannot go everywhere in the country, but just because one has been to Bingara does not mean that one has all the answers to rural problems.

The Hon. Duncan Gay: So you want local government rates to be the same.

Mr IAN COHEN: We are talking about different areas in the country. It is critical that administration of these public lands is consistent throughout New South Wales. Therefore either the fees are set by regulation, or any variation of fees is consistent and set by regulation across the State. However, ad hoc and discretionary variation of fees by individual boards will severely breach the public interest in equal access to their public lands. It is equally inappropriate for boards to charge different individuals different amounts for the same commodity. It is especially inappropriate when some individuals will have a strong social and familial contact with members of the board while others will not. Clearly, those who do not will be at a distinct disadvantage when it comes to fees set by the board. It is critical that administration of public lands, such as travelling stock reserves, is transparent and strictly accountable. Corruption of government at all levels has been the subject of considerable investigation of late. The community is outraged and concerned that secure legislation and other mechanisms are not in place to prevent such abuse of powers conferred on behalf of the public.

The Hon. Duncan Gay: Are you accusing them of being corrupt?

Mr IAN COHEN: No, I am not saying that anyone in particular is corrupt. I am saying that situations can arise where it is a little too in-house. The treatment and use of public lands and their commercial exploitation, together with the administration of those lands, is under scrutiny. The community expects procedures to be put in place to reduce opportunities for corruption, not to increase them. At the very least, uniform criteria should be set down for boards when determining any reduction in fees for permits for the use of travelling stock reserves, and those criteria should include environmental impacts.

Although the bill incorporates an amendment that places some limits on the power of boards to set lower fees, by requiring such fees to apply in particular circumstances to classes of stock or people it does not require boards to consider the environmental impacts of any reduction in fees. Boards should be required to make known the fees they set and the reasons for their decisions, and to keep a register of all stock permits they issue. I will therefore move amendments in Committee to do exactly that. I urge all members of this House to support the amendments. I reiterate some of the concerns of my constituents with respect to rural lands protection boards. In brief, they relate to the large proportion of rates being spent on their own bureaucracy and not on rural lands protection issues. The rating system is perceived to be inequitable and there is very little awareness of benefits being received.

The Hon. Duncan Gay: Have you ever been to a board?

Mr IAN COHEN: I pay regular fees to a board.

The Hon. Duncan Gay: That was not the question.

Mr IAN COHEN: I have been to the board, I have met the people at the board, and I have been to the Lismore office and discussed matters with the board. I think it is fair to answer the comments made by the Deputy Leader of the Opposition, who presumes that because I do not come from his part of the country I do not have any experience with rural lands protection boards. Earlier the Minister mentioned that changes have occurred in land use and priorities, and that is the case on the North Coast. Concerns have been held over a long period that the rural lands protection boards on the North Coast are not moving with the times and responding to people who adopt a different style of farming. The boards are not adequately looking after the needs of farmers in that community.

The Hon. Duncan Gay: You are only interested in illegal crops.

The DEPUTY-PRESIDENT (The Hon. Patricia Forsythe): Order!

Mr IAN COHEN: Madam Deputy-President, why do you not pull up the Deputy Leader of the Opposition for making the accusation that somehow the Greens are more interested in illegal crops than in farming generally? I am referring to the entirety of northern New South Wales, where many honest farmers are working hard not only to maintain the viability of their land but also to work their land in a sustainable, ecologically sound manner, to adopt excellent creative farming methods and to introduce new crops. Those farmers sometimes do not receive adequate support from the local rural lands protection boards which are still stuck in the old National Party method of farming—the old ways.

The DEPUTY-PRESIDENT (The Hon. Patricia Forsythe): Order! I remind all members that interjections are disorderly.

Mr IAN COHEN: Times have changed. Perhaps the National Party will recognise that as its vote continues to drop.

The Hon. Duncan Gay: We got an increase in ours, unlike some others.

Mr IAN COHEN: The Greens will soon have more members in the House than the National Party. Unfortunately rural lands protection boards do not have an obligation to consider conservation issues and tend to focus only on problems of particular types of land-holders rather than on what is good for the land. An example of this is their focus on some feral animals, such as dogs—which is an important issue—but their complete and utter lack of interest in a pest that is rampant in the northern part of the State where I live, namely, cane toads. It is well recognised that in that area the residents are unable to convince the rural land protection board to take any interest in that feral pest.

Reverend the Hon. Fred Nile: Are the Greens protecting them?

Mr IAN COHEN: Where did Reverend the Hon. Fred Nile get that from?

Reverend the Hon. Fred Nile: Frogs?

Mr IAN COHEN: No, cane toads. I suggest that Reverend the Hon. Fred Nile study references to species in the *Bible*, particularly as to where they came from and where they belong, and how certain species are so out of place that they need to be controlled. Last year approximately 10 million tonnes of topsoil from rural Australia was effectively exported. I pause to comment that last year when it was thought that this legislation would be debated, I noted that that occurred without an export licence and with no control being exercised by the Office of the Gene Technology Regulator. I am finally able to make that comment in this place. That topsoil was dumped in the ocean and on New Zealand. The loss of that topsoil is the result of land being cleared, grazed and cropped into a desert.

It is time that rural lands protection boards took their name seriously and encouraged conservation measures to protect rural lands. Measures should include speaking out against land clearing and ensuring that grazing land maintains at least 60 to 70 per cent of its ground cover. The Greens will move amendments at the Committee stage and will be happy to discuss this legislation with anyone who is seriously interested in keeping an open mind on the issue. We hope that debates such as this will result in rural lands protection boards in many areas recognising that significant changes have taken place in farming methods. While rural lands protection boards do great work in some areas, and while I support them in that, in other areas the boards are somewhat out of touch.

The Hon. RICK COLLESS [9.54 p.m.]: As my colleague the Deputy Leader of the Opposition said, the Opposition does not oppose the Rural Lands Protection Amendment Bill. The Rural Lands Protection Act 1998 provides for the protection of rural lands, the constitution functions of the State's 48 rural lands protection boards and makes provision for a statutory body, the State Council, to provide boards with centralised services and political representation. The State Council is responsible for ensuring that boards implement general policies for the protection of rural lands.

All boards are represented at the annual State conference, whose purpose is the determination of general policies to be implemented by boards and determination of primary policies to guide the State Council in carrying out its functions. The Hon. Ian Cohen has demonstrated by his speech that he does not understand the core function of the rural lands protection boards, which involves noxious animal and insect control, the management of travelling stock and the administration of stock identification systems. Boards are not involved in environmental management or land-clearing issues, which the Hon. Ian Cohen thinks they should be involved in.

The Hon. Duncan Gay: There are other departments to do that.

The Hon. RICK COLLESS: As my colleague the Deputy Leader of the Opposition points out, there are departments which have those functions in the administrative systems of this State. Those responsibilities do not rest with rural lands protection boards. The bill provides measures to allow the State Council to call special meetings between State conferences. This commonsense proposal will facilitate the management of rural lands protection boards. The boards are the managers of vast areas of land in New South Wales, the least politicised voice on land management in this State and the largest landowners. They are also the custodians of major corridors of flora and fauna in the State.

Historically, land under the control of rural lands protection boards has comprised those lands known as travelling stock routes [TSRs]. The reason that the boards hold reserves is to provide routes for travelling stock. During the current drought TSRs played a vital role in providing relief to starving stock. Irrespective of the traditional role of TSRs, they contain habitats and are a valuable asset in preserving the fauna of this State, but that is a secondary function. Any biodiversity objectives must play second fiddle to the primary reason for their existence, namely, the reservation of land for travelling stock. Despite members of rural lands protection boards being the able custodians of our land assets, the boards have expressed concern over the need to clarify their powers to recover outstanding rates owed by an outgoing tenant or owner of land.

Under the current Act, the occupier of land is liable to pay rates to the board. In other words, when for some reason a landowner has leased land or gifted the occupation of the land to another person and that person vacates the land or a change in ownership occurs, a rural lands protection board must collect the rates from somebody. Such a person may have occupied the land for only a short time. In the case of river land, three owners may have had the right to occupy the land in a period of 18 months or less. In those circumstances, the pursuit of outstanding rates is very difficult and a costly undertaking for the boards. As a result, some of the boards may have been forced to write off some of those outstanding rates. The bill clarifies this liability issue.

The titled owner of the land will be responsible for the payment of the rural lands protection board rates. I support the call made by the honourable member for Lachlan for the Government to make this issue public, and to draw it to the attention of the legal fraternity so that, when a lease or gift is executed for a short or intermittent period, the legal fraternity will ensure, during negotiations, that the owners are made fully aware of their responsibility and that lessees are made aware of their responsibilities to the owners. The bill will also provide boards with greater flexibility in setting fees for the use of travelling stock reserves and public roads for grazing and walking stock. As matters now stand, the boards must charge drovers the exact fee as set by regulation for a permit to use a travelling stock reserve or a public road. The bill will enable the boards to set a fee that is lower than the maximum amount set in the regulation, if they choose.

As the Deputy Leader of the Opposition outlined in his contribution, that is a very welcome change indeed. Occasions will arise when the board may choose, especially in good times, with the aim of reducing excessive fodder, to lease a portion or the whole of the stock reserve to a local land-holder for an extended period or to a land-holder who wishes his stock to remain there for some period. Rent is charged, and this helps to defray the cost. This practice can also assist in eliminating or reducing the risk of fire in these areas, and this is a very important factor. However, the fees for such leasing or agistment arrangements are not prescribed. Indeed, often rural lands protection boards would like to lease land to an adjoining landowner for feral animal control, et cetera, but the fees for such purposes are too excessive. The bill will allow the boards flexibility in determining how much to charge per head, per day or per week. These are good, sensible business arrangements.

The bill also deals with plague locusts, which usually come from the north to the south. With an outbreak of locusts on the Queensland border, a rural lands protection board to the south of the border may want the locusts sprayed or dealt with in their infancy. This is a responsible request and good management practice in the face of a plague of locusts. That board would then order the protection board afflicted with the plague locusts to take action. The question arises as to who would be responsible for the cost of the control of the plague locusts ordered by one protection board in another protection board area. The bill will clarify that point. It is considered to be more equitable if all boards in a district that play host to such insects contribute towards the cost of eradication procedures carried out by the State. If a board decides it wants plague locusts controlled, under the provisions of this bill it will contribute to their eradication. Again, that is a commonsense change.

The bill will enable rural lands protection boards to deal with urgent matters arising between annual State conferences. The Opposition has no problems with that provision and it welcomes the change. The Opposition does not want to delay the passage of this mostly sensible and practical bill. However, we have one major concern: the question of public liability as outlined by the honourable member for Lachlan in another place, the former shadow Minister for Agriculture. He said:

> Many shires are questioning their responsibilities with respect to public liability for stock that may be grazing within their districts … Shires have certain responsibilities under the Local Government Act for the control of all roads within their districts, whereas only rural lands protection boards can issue permits for travelling stock to travel upon roads, particularly stock routes. However, the Motor Traffic Act clearly states that livestock shall have a right of way over all others.
>
> A person riding horses, driving horses or livestock, walking livestock, grazing livestock, or taking stock to or from a market walking down the road has the right of way over all other traffic. Cars, trucks and buses must give way to them, as they do. If there were an accident involving stock grazing on a public road within a shire with a Rural Lands Protection Board permit, who is responsible if the accident were proven to be connected with the roadway or the surrounding? Is it the local government or the Rural Lands Protection Board? Local government owns the road and has the capacity to shut the road, but the Rural Lands Protection Board has the capacity to license stock to be in that area.

In closing, I refer to the leaked joint management document from the National Parks and Wildlife Service [NPWS]—a matter that came to light during the recent New South Wales election campaign and which pre-empted a takeover bid for other travelling stock routes [TSRs] from the rural lands protection boards by the NPWS, restricting access to the long paddocks and in many cases shutting them down entirely. Such a proposition would be deleterious to the management of stock throughout the State. We should keep in mind that TSRs are so named because their purpose is to have stock move along them. They are not pseudo national parks, nor should they become pseudo national parks.

NPWS cannot manage the land it already controls—that is the problem. These lands are havens for feral animals and noxious weeds and provide some of the greatest fire hazards in New South Wales, as was experienced last summer. We must ensure that extremely high fire hazard strips are not formed across New South Wales. These TSRs can and should be managed properly by grazing livestock. The Coalition seeks clarification of some issues, which it trusts the Government will provide, but in the meantime we do not oppose the bill.

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

ADJOURNMENT

The Hon. HENRY TSANG (Parliamentary Secretary) [10.07 p.m.]: I move:

That this House do now adjourn.

UNPROCLAIMED LEGISLATION

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [10.07 p.m.]: Recently my office completed a State-by-State comparative analysis of legislation passed but unproclaimed since 1999. New South Wales is the only State that keeps a record of how much legislation is unproclaimed—an initiative of my predecessor, the Hon. Elisabeth Kirkby. In New South Wales as of 6 May a total of 100 Acts dating as far back as 1967 have yet to be fully enacted. I regret to say that New South Wales, under the spin doctoring of the Carr Government, leads the way in failing to enact legislation passed by the elected representatives in State Parliament. As at 18 May New South Wales had 66 bills unproclaimed, Queensland 32, Victoria 19, Tasmania 18, and South Australia 16.

Three-fifths of the list comprises legislation passed in the last session of the New South Wales Parliament, and the Executive seems in no hurry to implement those provisions. Acts that were passed in the last

session of this Parliament and have yet to be proclaimed in their entirety are the Albury-Wodonga Development Repeal Act 2000, the Roman Catholic Church Communities' Lands Amendment Act 2001, the Dental Practice Act 2001, the Higher Education Act 2001, the Crimes (Local Courts Appeal and Review) Act 2001, the Road Transport (General) Amendment (Operator Owners Offences) Act 2002, the Justices of the Peace Act 2002, the Mining Legislation Amendment (Health and Safety) Act 2002, the Property, Stock and Information Privacy Act 2002, the Health Records and Information Privacy Act 2002, the Road Transport Legislation Amendment (Interlock Devices) Act 2002, the Surveying Act 2002, the Summary Offences Amendment (Spray Cans) Act 2002, the Driving Instructors Amendment Act 2002, and the Coal Mine Health and Safety Act 2002.

Whole schedules of Acts remain to be activated, including those in the Children and Young Person (Care and Protection) Act 1998; the Water Management Act 2000; the Adoption Act 2000; schedule 1 of the National Parks and Wildlife (Adjustment of Areas) Act 2001, which relates to Myall Lakes National Park; section 10 of the Smoke-Free Environment Act 2000, which relates to hotels providing smoke-free areas; the Threatened Species Conservation Amendment Act 2002; and the Building Legislation Amendment (Quality of Construction) Act 2002. This is a serious situation. Although I agree that occasionally it is necessary that some sections of Acts should not be proclaimed until the necessary resources and procedural structures are in place to enable State authorities and agencies to implement legislation effectively, it seems that in New South Wales bills that have been passed for purely political or populist reasons have never been enacted. The Carr Government's failure to enact key provisions of the Children and Young Persons (Care and Protection) Act for the past five years is a case in point. The Government appears to be doing something whereas in reality it is doing nothing.

The Carr Government seems to pick and choose which sections of an Act it wants to implement. If an amendment is successfully moved by an Opposition party, the Government can choose not to proclaim it, therefore making it redundant and usurping the will of Parliament. For example, the Carr Government did not proclaim section 61 (6) of the Motor Accidents Compensation Act 1999 after a former member of the Legislative Council, Mrs Helen Sham-Ho, introduced the amendment with the unanimous support of both Houses of this Parliament. The Government acted unconstitutionally on that occasion, and nothing will prevent it from doing so again. In New South Wales the Executive can override decisions made by the elected representatives of the people. An example of how the Carr Government operates in New South Wales is the way in which the Executive tightens its dominance over the Legislature. I propose to seek to amend the Interpretation Act to provide that Acts are proclaimed six months after assent unless a proclamation date is specified in the legislation.

Theoretically this State has responsible government with power vested in the Parliament. It is more than 150 years since the upper House was merely an advisory body to the Governor. Sadly, the power that should reside in the Parliament now rests with people in Governor Macquarie Tower and the Executive, which chooses what the Governor will and will not proclaim.

It is undemocratic and it makes a sham of our deliberations in this Parliament. I have not analysed in detail whether the bill is less likely to be proclaimed if the Government does not like the foreshadowed amendments. It would be extraordinary if that were the case. As this is an important issue, I will introduce an amending bill that will automatically proclaim bills six months after they are passed. But will this bill be proclaimed if it is agreed to by this Chamber?

COVECORP CONSTRUCTIONS PTY LTD

The Hon. CHARLIE LYNN [10.11 p.m.]: On 20 March 2002—14 months ago—I raised an issue concerning a Queensland company, Covecorp Constructions Pty Ltd, and its director, Paul Ferris, and the methods used by them to avoid paying subcontractors. The issue was brought to my attention because my brother's company, Lynn Civil Pty Ltd, had been driven to the edge of bankruptcy as a result of its dealings with Paul Ferris and his partner, David Robertson. At the time I called on the Queensland State Government to introduce security of payment legislation for subcontractors based on the same model as that introduced by the Carr Government with the full support of the Opposition.

Fourteen months later nothing has been done by the Queensland State Government and very little has been done by other industry organisations and associations that should have the interests of the building and construction industry at heart rather than just those of the big developers and the legal fraternity. This neglect has enabled rogue directors of construction companies, such as Paul Ferris and David Robertson, to continue to exploit the loopholes that exist in the Queensland building and construction industry. As a result, unsuspecting

subcontractors have been driven to the wall and unsuspecting employees of unscrupulous companies, such as Covecorp Constructions, have been deprived of their legal employee entitlements. It has become so entrenched that Paul Ferris is probably the biggest white-shoe crook operating in the Queensland construction industry today—an unashamed and unprincipled con man.

Last week I travelled to Brisbane to facilitate a meeting of subcontractors who had been burned as a result of their dealings with Ferris. They spoke of people they knew who had lost everything they had ever worked for, including the family home. They spoke about how Ferris kept them at bay by using every legal tactic in the book to delay their claims. They spoke about how contracts were doctored by Covecorp to buy time in the Queensland legal system. They heard how Ferris ordered them to be crossed off the list when news of their bankruptcy was reported to him. They heard how the lawyer for the Queensland Building Services Authority [QBSA], to whom they would normally go for advice, was also the lawyer for Covecorp. It is a shameful indictment of a corrupt system that allows unscrupulous white-shoe crooks like Paul Ferris and David Robertson to operate.

I acknowledge that the QBSA eventually served notice on Covecorp to show cause as to why it should continue to have a building licence in Queensland. That led to the long overdue suspension of its licence. In spite of that, Paul Ferris has been allowed to continue to operate in the Queensland building and construction industry because he has a private licence, and the QBSA knows that. When the Queensland State Government finally summons up the moral fortitude to reform the system, one of the first things it should do is call for radical change in the QBSA and the Master Builders Association because the management is so wedded to the white-shoe brigade—the big developers and the big legal firms. It is time for a big cleanout of the industry and it is time for the immediate introduction of security payment legislation for subcontractors along the lines of legislation introduced by the Carr Government in New South Wales.

Fourteen months ago I warned the New South Wales Government to keep an eye out for Ferris should he ever try to bring his unprincipled and shady business practices to this State. I now repeat that warning because he has arrived. I understand that he has done that through his relationship with a company called Alec Spencer Management Pty Ltd. I understand that this management company sources building contracts and then passes them on to Covecorp or other companies associated with Paul Ferris. I believe that a detailed investigation by the Australian Securities and Investments Commission [ASIC] of the personal and business relationships between Paul Ferris and Alec Spencer Management Pty Ltd would find that kickbacks have been received for contracts awarded to Covecorp. I also believe ASIC would find that Paul Ferris allowed Covecorp to operate while it was insolvent.

I understand that Paul Ferris and Alec Spencer Management Pty Ltd are associated with multimillion dollar developments at Mount Annan and Cardiff in New South Wales. I therefore warn any subcontractor or employee involved with these developments to check the fine print in their contract to verify that the contract they have is identical to the one held by Paul Ferris or any company that he is associated with, and for employees to check that their benefits are protected in accordance with their legal entitlements. I call on ASIC to thoroughly investigate all companies associated with Paul Ferris and David Robertson to ensure that they have made adequate provision for all employee benefits, including superannuation obligations. I also call on ASIC to investigate claims that Paul Ferris allowed Covecorp to operate when it was insolvent and claims that it fraudulently doctored construction contracts.

I call on the Australian Taxation Office to investigate the taxation liabilities of Covecorp Pty Ltd. I also call on the Queensland Government to introduce security payment legislation for subcontractors without any further delay. I am able to provide the names of Covecorp subcontractors and employees who will be able to provide the relevant authorities with information to assist their investigations. I will not place their names on the record because some of them have expressed a fear for their public safety if they were to be publicly identified. Threats have already been made to a number of subcontractors who attended last week's meeting. The sooner Covecorp is wound up and the sooner Paul Ferris and David Robertson are brought before criminal courts to answer charges of insolvent trading and company fraud, the sooner a lot of subcontractors and employees will be able to get on with their lives in Queensland. The Queensland State Government and the Federal Government—because of its responsibility for ASIC—have a moral obligation to ensure that that happens.

BRIGALOW BELT SOUTH BIOREGION ASSESSMENT PROCESS

Mr IAN COHEN [10.15 p.m.]: The first western regional assessment, which was conducted by the Resource and Conservation Assessment Council and which commenced in the Brigalow belt south bioregion,

was fast-tracked in an attempt to guarantee a supply of 230,000 tonnes of ironbark each year to feed the infamous charcoal plant proposal, mark 1. That was eventually ruled out in March 2000 when the Premier announced that no timber from the Pilliga and Goonoo State forests would be harvested specifically for charcoal production. All honourable members would be aware that the charcoal plant proposal, which has been debated around this State, finally fell over when John Brogden announced that the Liberals would not support the proposal if they won the election.

However, a less well-known scandal from stage one of the assessment was that while conservationists and the community were being briefed on assessment outputs the Government was negotiating a backroom deal with the logging industry to pre-empt conservation outcomes. That resulted in the signing of a 10-year wood supply agreement with Baradine Sawmilling and Gunnedah Timbers Pty Ltd for 27,000 tonnes each year of white cyprus pine and, the following year, the signing of a three-year wood supply agreement with Bingara Cypress for 3,200 tonnes each year. These new agreements, entered into during the assessment process without having the results of the wood inventory project, amount to almost half the annual timber allocation for the region. Yet there are still no conservation outcomes.

When the Labor Government came into office in 1995 there was an immediate 30 per cent cut in the timber quota from coastal forests, yet the sensitive woodlands of the Brigalow belt south bioregion have been subjected to the highest rate of logging in their history while being assessed for their conservation and resource values.

The Hon. Rick Colless: The most biodiversity is in the managed pockets. You should go and have a look.

Mr IAN COHEN: I have been to that area and I have had a look at what has been done. Opposition members should not be proud of that. The Brigalow belt south bioregion assessment and negotiation process was rushed to be finished in September 2002 with the aim of legislating changes to land management before Parliament rose in December 2002. That did not occur. The Premier indicated that a decision would be made after the March election. It is now the end of May and still no decision has been made. Areas of State forests identified as being of high conservation value are still being logged and are threatened by logging proposals to maintain those wood supply agreements. The Inverell management area of the Brigalow belt south bioregion has already been logged out. The only timber left is in areas with significant conservation and Aboriginal cultural heritage values.

Bingara Cypress is cutting its quotas from the Nandewar bioregion, which is under a current western regional assessment. Gunnedah and Barradine mills are logging in the Pilliga, further depleting the remaining timber resources in the region. The recently released national terrestrial biodiversity audit reports that eucalypt woodlands are the most extensively cleared vegetation group in Australia. The report identifies that the Brigalow belt south bioregion is on the highest priority list for consolidating Australia's protected area system. It is one of 14 bioregions in Australia that have been identified as having between 30 per cent and 50 per cent of their total ecosystems threatened.

The Brigalow belt south bioregion has also been identified as having a declining threatened species trend for vascular plants, mammals, birds, reptiles and amphibians. A decision to implement an extensive national park system in the Brigalow belt south bioregion would be one of the most important outcomes for biodiversity in Australia's modern history. That unfinished business will be a real test of this Government's commitment to the future. I visited that bioregion and I saw some magnificent glossy black cockatoos flying in that area.

[*Interruption*]

Opposition members obviously do not read the papers. A colour picture published in the *Sydney Morning Herald* shows me visiting the Brigalow belt south bioregion. Members of the National Party did not bother to read articles in the *Sydney Morning Herald* prior to the election, probably because it is a metropolitan newspaper and, as they reside in the country, they did not want anything to do with it. I have visited the Brigalow belt south bioregion on several occasions and I have seen degradation in an area that needs protection. It is the most important conservation issue in New South Wales at this time.

ADULT AND COMMUNITY EDUCATION

The Hon. TONY BURKE [10.19 p.m.]: I take great pleasure tonight in speaking about the adult and community education [ACE] sector, and particularly my involvement with Bankstown Community College. When people think of education they usually think of schools, universities and occasionally TAFE. The

education discussion is limited to the idea of educating children until their late teens or early 20s and then saying, "There you go, you're prepared for life." I want to explore how the ACE sector fits into that model, what the sector does and why its work is so important. The ACE sector is a collection of 69 community colleges in New South Wales, the vast majority of which are located in country regions—but some, like the Bankstown Community College, may also be found in suburban areas.

Community colleges have a simple purpose: they provide affordable short courses. Bankstown Community College—and I pay tribute to its principal, Alan Craig, the staff and teachers—provides English language courses that are much in demand across Bankstown and Canterbury, where I live. These popular courses are run in Lakemba from time to time and in Bankstown at Bankstown Girls High School. Other courses range from typing to dance, car repair, calligraphy, bookkeeping and child care. The college also gives people the opportunity to learn skills essential to establishing a small business. I have been fortunate to complete beginners courses in Greek, Italian, Vietnamese and Arabic. I did not become particularly proficient in these languages but they accounted for a sentence in my inaugural speech. I was also pleased to complete, for the benefit of my family, one of the most important courses that I have ever undertaken: we spent a day learning to cook seafood on the barbeque. The college also offers some important career-based courses, including the international computer drivers licence, which has been running for the past couple of years with the support of government. This fairly intensive course teaches important computer skills to people with no computer proficiency.

Enrolments across the ACE sector have grown dramatically. In 1996 colleges offered fewer than 300,000 courses but in 2001 they offered more than 415,000. Some 70 per cent of ACE sector students are female. As a consequence of this growing demand we must in time review the long-term structure of education. The reason for this review is simple. About 20 years ago we started to hear complaints when people who had remained loyal to the one company throughout their working lives were made redundant. These people in their mid forties and fifties, who had learnt only a single set of skills, wondered whether they would ever be employed again. ACE sector courses—whether career based or of a general or human interest nature—are significant because they involve people in education again, albeit briefly. The long-term unemployed in their forties and fifties often feel that they have lost some of the skills associated with learning. Adult education addresses that problem by giving people the opportunity to keep in touch with the education system in some small way—whether they enrol in a weekend course a few times a year or an eight-week course with classes every Monday night at Bankstown Girls High School.

When the Franklins stores were being sold a few years ago a staff member at the Lakemba store was facing possible redundancy. It was not known whether a buyer would be found for the store. Ultimately it was, and it now operates as an Independent Grocers of Australia store. The staff member commented how much better her career prospects would be if at some point she had had the opportunity to learn to type. We should be proud of the adult and community education sector that teaches such skills. The Government's involvement in the sector is extremely important and we expect the sector to continue to grow in the future.

HOUSE OF REPRESENTATIVES SELECT COMMITTEE ON THE RECENT AUSTRALIAN BUSHFIRES

The Hon. GREG PEARCE [10.24 p.m.]: I draw the attention of the House tonight to the good work being done by the House of Representatives Select Committee on the Recent Australian Bushfires. The committee, which is chaired by Gary Nairn, the Federal Member for Eden-Monaro, is due to report to the Federal Parliament in November so I hope that its recommendations can be implemented in time for the next bushfire season. The formal closing date for submissions to the committee was 9 May but I understand that it is still taking submissions and public hearings will be held in the near future. I shall comment tonight on the good work of one group that has made a submission to the inquiry, the Rural and Regional Committee of the New South Wales Division of the Liberal Party of Australia. The submission is not Liberal Party policy but it represents the views and responses of a number of regionally based party members whom the committee canvassed.

Members focused their responses on the management of national parks—which is a major concern to many of us at present—and were of the strong view that it had been a fundamental cause of the intensity of the bushfires. There was an acknowledgement that the prolonged dry conditions had exacerbated the wildfires and that many of the fires had started on private land and spread to Crown land. Of course, that did not mitigate the situation once the bushfires established themselves in national parks. The firm view of respondents to the committee was that the failure to undertake sufficient fuel reduction strategies was the primary cause of the abnormally destructive fires experienced last season.

The rural and regional committee of the New South Wales Division of the Liberal Party did not apportion blame, but it came up with what I believe is an interesting idea regarding an interim classification for national parks. It suggested—I emphasise that this is not official Liberal Party policy—a concept that it called "State Parks". State parks would be self-funding, potentially through forestry, restricted grazing leases and tourism. Such land would remain accessible to recreational users, and a State park would be created when a parcel of land is identified as having high conservation value and/or there is imminent danger of an ecosystem being degraded. The proposed parks would have proper National Parks and Wildlife Service fire management resources, including financial and manpower resources, to manage fires within their boundaries. Workable strategies for flora and fauna control would be considered to ensure that adequate fire breaks were built between the parks and private property. I think many people would be interested in pursuing the creation of this new land category. The management of our national parks and the resources allocated for that purpose are a source of concern to us all. The present situation whereby national parks are created by preference deals between the Greens and Bob Carr is certainly not good enough.

I must mention some of those involved in preparing the submission. The committee is chaired by Scot MacDonald, and its members include Sarah Cruickshank, Tim Johnston, Darren Day, Matthew Mason-Cox, Kay Jones, Colleen Essex, Angus McNeil and Peter Sykes. The concept of State parks should be pursued, and the attempt to bring some scientific rigour to the creation of public estates should be encouraged. I commend the committee for its work on that basis. The question of managing and funding our national parks is particularly sensitive in the context of the recent bushfires and must be given the attention that it deserves. I look forward to the forthcoming public hearings of the House of Representatives committee and to its report and recommendations in November.

TRIBUTE TO MR BEN AND MRS MERLE SMITH

Reverend the Hon. Dr GORDON MOYES [10.28 p.m.]: On Saturday 3 May I attended the celebration of the sixty-fifth wedding anniversary of Ben and Merle Smith and Ben's ninetieth birthday and Merle's eighty-ninth birthday at the Stanford Grand Hotel on Epping Road, Eastwood. It was a significant occasion. Ben and Merle have enjoyed 65 years of married partnership and strong family life and have given a combined total of 74 years voluntary service to the needy in the community through Wesley Mission. As a schoolteacher, Ben's influence in many communities has been exceptional. He has continued well beyond retirement age to teach history at Wesley's School for Seniors, which has about 1,400 students enrolled each year. Ben preached most Sundays for 65 years as a lay preacher. His son David said:

> We kids had Dad as father, teacher and preacher. It presented no problem in school with Dad—he has provided a great basis for our education. He never used the cane in any of his one-teacher schools—not even on us!

It was at Waverley Baptist Church that Ben met Merle in the Christian Endeavour Society. Ben and Merle were both teachers in the Sunday school—Ben ultimately becoming Sunday school superintendent at Woollahra Baptist. Having completed his studies at teachers' college, Ben was appointed to a series of one-teacher public schools at Toogong in the central-west of New South Wales, near Orange. In 1938 Merle and Ben were married and their marriage stands strong after 65 years. In 1939, at the commencement of World War II, Ben enlisted in the Australian Air Force, filling various postings including at Upwey, Victoria. During that period of enlistment, Merle with three youngsters moved to Victoria to be near Ben. Following Ben's demobilisation, he rejoined the teaching force. They lived at Concord and the Hunter Valley until 1956 when they moved to Guildford.

Ben became a qualified Methodist local preacher and was much in demand in leading worship services in many denominations. He conducted his last church service at the age of 87. Always justifiably proud of their three children, this was never more obvious than when Jan, Phillip and David operated as a folk rock group. In 1966, on a Sunday night, when Merle was worshipping at the mission in the new Lyceum, she responded to an appeal by Reverend Dr Sir Alan Walker. Volunteers were urgently needed to serve in the restaurant in the new centre. Thus began a combined 74 years of sterling service to this present time. Avenues of volunteer service have included attending at the welcome desk at Wesley Centre, membership in Christian Climbers and becoming leaders for 21 years, involvement with the College for Christians and Lifeline telephone counselling; teaching church history in school for seniors and working for many spring fairs in fundraising and stewardship campaigns. They fed the hungry multitudes at times of conferences and synods. They were foundation members in establishing the 3 p.m. congregation at the Wesley Mission. We honour such people, with long service in the community as volunteers, as Ben and Merle Smith.

PREMIER'S LEGACY

Ms LEE RHIANNON [10.32 p.m.]: On 6 May I commenced an adjournment speech about how the Premier may be remembered in history. Today I want to pick up on those comments. The Premier has not done enough to ensure our ecological heritage is secure for future generations. One is hard pressed to find an area where he can shore up his legacy. We will not hear Carr boast about his achievements in the area of industrial relations. Yes, the Premier can take credit for removing the worst aspects of the previous Liberal Government's industrial relations law, which dismantled basic award rights and minimum labour standards. But that is what any Labor Premier should have done. Once that was achieved there was no vision to improve the lot of the working people of New South Wales. Instead, Carr introduced new laws limiting payouts to injured workers. This extraordinary action that the Premier supported to the hilt resulted in an unprecedented 20-hour blockade of the New South Wales Parliament. What could be more fundamental to workers' rights than the issue of compensation for injuries sustained at work? It was Carr who betrayed New South Wales workers and the union leaders whose job is to defend their conditions.

The Hon. Patricia Forsythe: Point of order: I have raised this issue previously but as I understand it it is disorderly for the member to refer to the Premier simply as "Carr". She must refer to him by his correct title, that is, the Premier.

The PRESIDENT: Order! There is no specific rule requiring members to refer to the Premier by that title. It is simply a courtesy that is usually extended to him. However, the member should be reminded not to transgress those standing and sessional orders that provide that implications cannot be made against members of the other place except by way of substantive motion.

Ms LEE RHIANNON: That is the stuff of history, but one could bet it is not what the Premier would like to be remembered for. The Premier will go down in history as the Labor leader who won three successive elections. That is an impressive achievement. But will the Premier want to be remembered as the Labor leader who won those elections largely on the back of law and order scare tactics, promising to put more people in gaol. So what is left of the Premier's legacy? The trouble is, historians are not fooled by a clever media strategy. They see through spin. Judging by all the diary excerpts, and all this talk of history, it would appear that the Premier is trying to assist how the public, and probably history, judges him. But the Premier, as a lover of history, would know too well how cruel history can be. Great moments can with time end up as nothing more than a few lines and a date in our history books. As it appears the Premier only has a few more years in him as Premier, let us hope for the sake of the people and the environment of New South Wales, let alone the Premier's place in our history books, that he finds some substance.

Motion agreed to.

The House adjourned at 10.37 p.m.