LEGISLATIVE COUNCIL

Wednesday 3 December 2003

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

The Clerk of the Parliaments offered the Prayers.

BILLS RETURNED

The following bills were returned from the Legislative Assembly without amendment:

Bail Amendment (Firearms and Property Offences) Bill
Crimes Legislation Further Amendment Bill

ARCHITECTS BILL

CHILD PROTECTION LEGISLATION AMENDMENT BILL

CONTAMINATED LAND MANAGEMENT AMENDMENT BILL

FIREARMS AND CRIMES LEGISLATION AMENDMENT (PUBLIC SAFETY) BILL

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

INDEPENDENT COMMISSION AGAINST CORRUPTION

Report

The President tabled, pursuant to the Independent Commission Against Corruption Act 1988, the report entitled "Report on Investigation into Mr Glen Oakley's use of False Academic Qualifications" dated December 2003.

The President announced that she had authorised the report to be printed.

BUSINESS OF THE HOUSE

Precedence of Business

Motion by the Hon. Michael Egan agreed to:

That on Thursday 4 December 2003 Government Business take precedence of General Business.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders

Motion by the Hon. Rick Colless agreed to:

That standing and sessional orders be suspended to a motion to be moved forthwith that Private Members' Business item No. 74 outside the Order of Precedence, relating to the proposed cessation of all residential and full-time courses at Murrumbidgee College of Agriculture, be called on forthwith.

Order of Business

Motion by the Hon. Rick Colless agreed to:

That Private Members Business item No. 74 outside the Order of Precedence be called on forthwith.

MURRUMBIDGEE COLLEGE OF AGRICULTURE CLOSURE

The Hon. RICK COLLESS [11.08 a.m.]: I move:

That this House:

(a) calls on the Government to place a 12-month moratorium on the proposed cessation of all residential and full-time courses at Murrumbidgee College of Agriculture,

(b) notes that this moratorium is necessary to:

(i) allow appropriate time for a full review into the Government's allegedly flawed cost calculations and estimated savings regarding these courses,

(ii) allow current students to complete their courses at Murrumbidgee,

(iii) allow prospective students to commence their courses next year,

(c) notes that after an assessment of the Government's justification for closure and related paperwork, the Coalition has found what appear to be fundamental flaws in NSW Agriculture's cost calculations and figures,

(d) acknowledges the contribution that Murrumbidgee College of Agriculture has made to education of young men and women from rural and regional New South Wales,

(e) notes this decision was announced by the Government without proper community consultation, resulting in students being forced to transfer at short notice to other less suitable institutions, or to cease their studies,

(f) calls on the Government to undertake a thorough, in-depth rural communities impact assessment on the effects to the local community by the closure of residential and full-time courses through a genuine community consultation process involving students, prospective students and their families, employees and contractors, unions, the MCA Advisory Council, Leeton Shire Council and other stakeholders.

Yesterday I gave notice of a motion to call for a moratorium on the proposed cessation of all residential and full-time courses at Murrumbidgee College of Agriculture [MCA]. The MCA is located in the heart of the Murrumbidgee Irrigation Area at Yanco in the Riverina. It provides a wide range of training courses for the agricultural and food and fibre industries, and has meeting and conference facilities suitable for many functions. The college was established in 1963 and is run by the New South Wales Department of Agriculture. The college has residential facilities for approximately 150 students whose ages range from 15 to 70 years. The MCA was originally part of the Yanco Agricultural Research Station, with 38 students in the first intake. In 1965 the college was named the Yanco Agricultural College, and retained that name until 1981. It was then renamed Murrumbidgee College of Agriculture to overcome the confusion of identity with Yanco Agricultural High School.

The first advanced certificate course was introduced in 1971. It was known as the Advanced Certificate in Irrigation and was aimed at people wanting to manage irrigation farms. Courses at the college have been progressively accredited by the New South Wales Vocational Education and Training Accreditation Board. Suddenly, out of the blue, NSW Agriculture has announced that it is transferring full-time residential students to the C. B. Alexander Agricultural College at Tocal. This college, which plays such a pivotal role in the community, is facing the biggest threat to its existence to date. The announcement has devastated the community of Leeton. The President of the Isolated Children's Parents' Association of New South Wales, Mr Gordon Dunlop, issued a press release dated 8 September 2003 in which he stated:

> Murrumbidgee Agricultural College provides full and part time courses for students who live in surrounding regions. The college is in the heart of the agricultural industry and offers students a comprehensive range of work experience and training that is not available anywhere else in NSW.
>
> Residential courses in the Hunter Valley do not offer the same practical experience for students who wish to pursue careers in dry land cropping, rice production and pastoral property management.
>
> Cost and accessibility for travel to attend college in the Hunter Valley will be extremely difficult for isolated students from the western and southern areas of the State.
>
> Families who choose to have siblings at Yanco Agricultural High School will also be disadvantaged with increased travelling costs in attempting to keep the family together.
>
> The closure of the full time residential courses will leave a gaping hole in agricultural education in the highly productive southern half of NSW.
>
> The ICPA strongly believes in regional development and keeping employment and training opportunities in the bush. Why must rural NSW lose another vital service?

In that media release Mr Dunlop referred to rice production. The courses that Murrumbidgee offers are much broader than just rice production; it offers training in irrigated agriculture. Tocal, based in the Hunter Valley and not in an irrigation area, does not offer that training. It is now less than two weeks before the guillotine falls. The MCA is set to cease taking full-time residential enrolments on 13 December 2003. Students will then be forced to relocate to C. B. Alexander Agricultural College at Tocal or to cease their studies. Some parents have informed me that following their efforts to find accommodation in the Maitland area so that their children can attend C. B. Alexander Agricultural College they have been told that the only way they could accommodate their kids in the area was to buy a caravan to put them in. That is a disgraceful situation for those people.

We believe that the moratorium is necessary, firstly, to allow time for a full review of the Government's allegedly flawed cost calculations and estimated savings regarding the courses; secondly, to allow current students to complete their courses at the MCA; thirdly, to allow prospective students to commence their courses next year; fourthly, to address the concerns about the Government's figures used as justification for the closure; fifthly, to address the concerns about the lack of proper community consultation; and, finally, to allow time for the Government to undertake a thorough community consultation process involving students, prospective students, their families, employees, contractors, unions, the MCA Advisory Council, Leeton Shire Council and all the other stakeholders. Leeton Shire Mayor, Joe Burns, said on Friday 28 November 2003:

> The proposed cuts would mark a significant decline in the life of the college. Once you send off all the teaching staff it's very hard to collect that kind of intelligence again.

He also went on to say:

> They are also sending off the people who manage the accommodation and the meals.
>
> If there is no accommodation and no catering it is certainly going to be very difficult to resurrect the college.

Spare a thought for those people who actually work at the college, many of them wives and partners of local people who simply cannot move on to find another job somewhere else. It means the end of their working life. The argument put forward by the Government that full-time enrolments are on the decline is dubious. Departmental figures show that enrolments in full-time residential courses are up from 28 in 2002 to 39 in 2003. It is more than obvious that the low student numbers of the last few years are due to the severe strictures placed on families by the worst drought in 100 years. The Minister's claim that full-time enrolments at the MCA had fallen from 65 in 2000 to 39 in 2003 is misleading as the 65 included both full-time and part-time students while the figure of 39 represents only full-time students. So he is not comparing apples with apples.

The Hon. Duncan Gay: He would not mislead this House, would he?

The Hon. RICK COLLESS: No, of course he would not! Community consultation was non-existent, with a four-page rural impact statement being provided to the college council two weeks after the decision was made. The statement was less than adequate in its content and obviously hastily put together. It could be argued that during the MCA restructuring process NSW Agriculture has breached clause 68A of the Crown Employees (Public Service Conditions of Employment) Award 2002, which states:

> There shall be effective means of consultation, as set out in the Consultative Arrangements Policy and Guidelines document, on matters of mutual interest and concern, both formal and informal, between management and association.

It is alleged that NSW Agriculture failed to engage in proper consultation with affected staff, including 31 from MCA and 13 from Yanco Agricultural Institute. The Minister for Agriculture, the Hon. Ian Macdonald, claimed in a press release dated 3 September 2003 that the estimated net cost to government to support each full-time student in 2003 is $24,800—double what it was three years ago, and nearly three times the net cost per full-time student at the Tocal campus. This claim is a gross misrepresentation of the facts, as shown in the latest NSW Agriculture calculations. The net cost per full-time student three years ago, in 2000, at Yanco was $18,132.91.

I was never very good at mathematics but my simple maths ability tells me that double that figure is $36,265. In line with a rise in student numbers of 30 per cent from 2002-2003, the cost to the Government per full-time student at Yanco has actually gone down in the past two years, not doubled as claimed by the Minister. The cost per full-time student at MCA in 2000, as I said, was $18,132.91; in 2001 it was $30,032; in 2002 it was $34,323; and in 2003 the cost fell back to $24,642. Calculations for the cost for annual student contact hours for in 2002, as provided by NSW Agriculture documents, were $22.67 at Yanco compared with $8.39 at Tocal.

The Hon. Duncan Gay: We read the documents rather than relying on the department.

The Hon. RICK COLLESS: The Minister has not read the documents. We acknowledge that Yanco has fewer full-time hours than Tocal, as it is a smaller college. We also note that Tocal registers four times the number of hours for short-course, external or other contact hours, which brings the average cost per annual student hour well down. However, this discrepancy in the figures is misleading. Of course external, and assumedly other, contact hours would cost less than on-farm skills training as offered by Yanco. Currently 94 trainees are catered for by MCA as occasional residents at the college. What will happen to them? According to NSW Agriculture figures 80 percent of current trainees come from a 300-kilometre radius of the college. The trainees from furthest away come from Mildura, which is even further south. The latest completion date for these full-time trainees is August 2004. Will they be relocated to Tocal for just one semester? I have been approached by many people from within the Darling branch, which covers the area between Broken Hill and Wentworth, who are very concerned about the closure of the college. It is the main facility at which their children get training in agricultural activities.

Why are the full-time trainees not included in the full-time enrolment figures? They are enrolled on a full-time basis at the MCA and depend on the same teaching facilities. The Tocal figures per student include calculations based on home study hours. They are a large component of the figures and have the effect of significantly reducing the per-student cost. Why are the home study hours included? The Government is making capital out of insisting that the closure of MCA will not restrict educational opportunities for any New South Wales students because it is offering 10 scholarships for potential students from south-western New South Wales. What about the remaining students? They will have to offset the significant cost of studying at such distances from their homes and families.

I was a student at Hawkesbury Agricultural College in the early 1970s. At that stage there were two main agricultural colleges in New South Wales run by the New South Wales Department of Agriculture—Hawkesbury Agricultural College and Wagga Agricultural College. They are now part of the university system and no longer provide the type of training that I received. Three other colleges—at Tocal, Yanco and Orange—offered certificate courses in agriculture. Orange Agricultural College is now tied to the University of Sydney, and MCA at Yanco is about to close. Where will people go to get that training in practical agriculture? These kids are unable to do university courses but they need training in practical agriculture. There will be nowhere for them to go. When I was at Hawkesbury Agricultural College five colleges provided that education at different academic levels. There will be one such facility if this closure goes ahead.

I emphasise the concern expressed by the Coalition, the Isolated Children's Parents' Association, New South Wales Farmers, the local council and the unions involved that the figures and arguments used by the Government to justify the cessation of all residential and full-time courses at MCA are fundamentally flawed. The figures need to be far more transparent. I call on my colleagues to support the motion requesting a 12-month moratorium to allow for proper community consultation and a review of the Government's cost calculations and, most importantly, to allow the current students to complete their courses.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [11.24 a.m.]: I support the important and timely motion moved by my colleague the Hon. Rick Colless. As he indicated, on 13 December, less than two weeks time, Murrumbidgee College of Agriculture [MCA] at Yanco will cease offering full-time residential courses. That means that all prospective students must transfer from Murrumbidgee to the C. B. Alexander Agricultural College at Tocal in the Hunter Valley or cease studying. Any examination of the geography of the State indicates that Murrumbidgee is in the far south and Tocal is in the Hunter Valley, nearly two-thirds of the way across the State. The Coalition argues that a 12-month moratorium is necessary to allow current students to complete their courses. That would be justice. It would allow time for proper research of the allegedly fudged cost calculations—it goes beyond alleged—and estimated savings, for community consultation and for prospective students to commence courses next year.

The closure of the college is a classic example of the short-term approach that governments are sometimes willing to take. According to the Government, the cessation of full-time courses at MCA will generate savings of about $1 million. I wonder what the long-term cost will be to that community and the economy of New South Wales. That is roughly the amount the Minister spent on his web page. If the Government truly understood the long-term knock-on effect that this mad proposal will have on the local farming community and the disadvantages it will bring to the current and prospective students it would review the situation, and I hope it does.

MCA has been educating young farmers in the Murrumbidgee Irrigation Area since 1963—nearly 40 years. According to the college approximately 90 per cent of graduates find employment in farms throughout the

region. Beginning life as an educational institution designed for the sons of farmers who wished to return to the family farm, the college is a respected and award-winning educational centre offering a wide range of full-time courses and specific vocational training in everything from wine science to irrigation techniques, rice cultivation and other broadacre farming techniques. Those subjects cannot be covered as thoroughly at the C. B. Alexander Agricultural College at Tocal. It is an excellent institution, but it is very different.

Since the announcement of the closure of full-time residential courses in early September The Nationals have been vocal in opposition to the decision. On 14 October my colleague in the other place and the local member, Adrian Piccoli, moved a motion calling for this moratorium. This is the community's motion; this is what it wants. It was disappointing to note that Tony McGrane, who represents many of the students, did not support the motion. Nor did Country Labor members, including Gerard Martin. I note that in his Christmas letter to friends around the bars of western New South Wales the honourable member for Murray-Darling expressed his support. The closure of the MCA has been widely sanctioned by all sectors of the rural community. I am sure their constituents would be disappointed about this lack of support for their interests.

The Nationals believe that the Minister has been ill-advised. I hope that he is not as heartless as this would suggest. Perhaps his grasp of the figures is slipping. He has made many statements recently about declining numbers, escalating costs and the expense of educating students at Yanco rather than at Tocal. However, a closer examination of the figures reveals a concerning number of discrepancies that must be addressed. The Nationals have the documents on which the department based its figures. Either the Minister was not aware of the true figures, he was misled or he is misleading us. What about the short-term nature of the closure? An announcement was made in September that the college would close in three months. Why the huge rush?

Does the Government need this small amount of money so urgently? How desperate is its budget? Something is not quite right here, and I am sure that all members would agree that it was more than unfair of the Government to give students, their parents and affected staff such a short time to consider their future. Imagine if your child's school called up and told you that in three months time it was shutting up shop so, like it or not, he or she would have to start attending a school 10 hours away, halfway across the State. Three months is not enough time to make the necessary adjustments for such a change. The Minister for Agriculture and Fisheries should have had more respect for the students' families and the employees involved with the college, by giving them more than a few months to turn their lives around. Redundancies will not help the students and their families, or their communities.

The Government has overwhelmingly failed to stop and listen to the outcry over this decision. Just this morning the New South Wales Farmers Association issued a press release in support of the moratorium that the Coalition and the community are calling for. The Isolated Children's Parents' Association has pleaded with the Government to review its decision, and rallies attended by up to 1,000 people have converged on Yanco to protest the closures. I will not repeat what my colleague the Hon. Rick Colless said about the botched figures that the decision was based upon, but I will take this opportunity to reinforce some of my concerns. Yesterday, in answer to a question, the Minister revealed his disturbing lack of understanding of this issue. He said that in 2003 student numbers at Tocal college were around 30. In fact, the number is 39. The Minister had previously claimed that student numbers have shown an irreversible decline. In fact, this year's numbers are up 30 per cent on last year's numbers. I do not know how the Minister infers a decline from a 30 per cent increase.

In assessing student numbers over the last few years the Government completely ignored the fact that because of the severe economic hardships wrought by the drought families have had to keep students at home. As I indicated earlier, the calculation methods used to produce the figures used by Labor to justify closure are highly dubious. For example, it is admitted that the Murrumbidgee College of Agriculture registers fewer full-time hours than Tocal college. Of course it does: it is a smaller college. But the fact that Tocal college registers four times the number of hours for short course, external or other hours than the Murrumbidgee College of Agriculture brings down disproportionately Tocal college's average cost per annual student hour. This discrepancy in the figures is highly misleading. Of course, external and other contact hours would cost less than on-farm skill training as offered by the Murrumbidgee College of Agriculture.

The Government has insisted that the closure of the Murrumbidgee College of Agriculture will not restrict educational opportunities for any New South Wales students. However, only 10 scholarships will be provided for potential students from south-western New South Wales. The rest—on my figures that is 20 each year—will have to offset the significant cost of studying at such distance from their families with no government assistance. Some families claim that it will be impossible for them to meet these costs. There is also

the doubtful capacity of Tocal college, a college set up for coastal farming, to offer courses specifically relevant to southern and western area agriculture—that is, rice production, dryland cropping, pastoral property management and so on. NSW Agriculture has indicated that Tocal college will adapt. It is a little difficult for Tocal college to adapt to dryland farming when it is located in such a lush area. We do not have any information about how the college will adapt. It is another instance of "We'll trust you, Minister." The fact that the Minister's office has provided him with dodgy figures is an indication that we really cannot trust him.

Accommodation facilities at Tocal college are limited. A recent NSW Agriculture briefing note stated, "This will mean that enrolments at Tocal may become more competitive." The Government addresses the limited accommodation facilities at the college by saying it will mean that enrolments may become more competitive. Thatcherism is alive and well in the Minister for Agriculture and Fisheries. This calls into question the Minister's assurances that current and prospective Yanco students will not be denied this education option. It is a pity that the Minister and his staff did not read the documents that the Coalition has been able to obtain, because they would have seen how farcical this is. Indeed, they should have seen in the first place how farcical it is. Let us not forget the Government's favourite old chestnut: community consultation. Unbelievably, the rural impact statement was not provided to council until two weeks after the decision was made. That is what the Government calls consultation. The rural impact statement was brief, it was hastily compiled, as usual, and it was not at all reflective of community concerns. It is disgraceful that the Government provides a rural impact statement to the local council two weeks after its decision.

The list of reasons why a moratorium is essential goes on and on. The impact of 44 job losses on the local community and its economy must be thoroughly assessed, as must the overwhelming concerns of those 44 staff members that they were not adequately consulted on their redundancy or transfer options. Redundancy and transfer becomes pretty academic when one's family and home are located in southern New South Wales and there are limited opportunities elsewhere. The Coalition argues that the moratorium is needed to address the trainee situation. Tocal college takes approximately 100 full-time trainees every year. Around 80 per cent of them come from areas located within a 300-kilometre radius of the college, with some trainees travelling from areas as far away as Mildura and even further south. The Department of Agriculture has made vague indications that TAFE or Tocal college will cater for these trainees after 13 December, but no further information has been made available.

That brings me to another concern regarding the figures produced by the Department of Agriculture. The official count for full-time course students is only 39. As my colleague the Hon. Rick Colless said, had the full-time trainees been accounted for, the number of full-time enrolments at Yanco would have been 188. This is yet another example of the Government fudging the figures. Why were these trainees not accounted for? They depend on these teaching facilities just as much as the full-time course students do. If NSW Agriculture is to progress and keep pace with the rapidly changing technologies and times, it is essential that we keep our focus on vocational agricultural education. Dodgy figures, dubious calculations and justifications aside, closing one of this State's two agricultural colleges just to make a quick buck is not a good long-term option. Education is a public good. From a community viewpoint there is absolutely no justification for the closure. I urge my colleagues to support this important motion.

Reverend the Hon. FRED NILE [11.38 a.m.]: The Christian Democratic Party shares the concerns expressed by the Deputy Leader of the Opposition and the Hon. Rick Colless in supporting this motion. They argue that a 12-month moratorium on the Government's decision would allow current students to complete their courses, time for proper research into allegedly fudged cost calculations, estimated savings and community consultation, and prospective students to commence their courses next year. I recall the debate on the bill regarding the closure of Seaforth TAFE. I wonder whether similar legislation would apply to educational institutions that are under the control of the Department of Agriculture, requiring community consultation regarding their closure. The Government might indicate whether that is the case. I gather from what has been said that it is not the case, which may be an oversight.

It certainly is in the requirements of the Department of Education and Training. The Education Act requires consultation with the community in relation to the closure of an educational institution. There was no requirement for TAFE colleges to have that consultation in regard to the Seaforth TAFE inquiry. Can the Minister advise whether agricultural colleges are outside the requirement? If there had been genuine community consultation there probably would not have been so much concern and anger from the people involved with the college at Leeton. The Deputy Leader of the Opposition and the Minister have given us some information. Frankly, it is difficult to act responsibly if we have to make a decision on the run. I have not discussed it with the Opposition, but I propose that this debate be adjourned until 2.30 p.m. to allow us time to consider the relevant submissions and responses.

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

UNPROCLAIMED LEGISLATION

The Hon. Ian Macdonald tabled a list detailing all legislation unproclaimed 90 calendar days after assent as at 2 December 2003.

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Orders of the Day Nos 1 to 14 postponed on motion by the Hon. Ian Macdonald.

JOINT SELECT COMMITTEE INTO THE TRANSPORTATION AND STORAGE OF NUCLEAR WASTE

Reporting Date

Motion by the Hon. Ian Macdonald agreed to:

That this House agrees to the resolution in the Legislative Assembly's message of 20 November 2003 relating to the extension of the reporting date of the Joint Select Committee into the Transportation and Storage of Nuclear Waste to 17 February 2004.

Message forwarded to the Legislative Assembly advising it of the resolution.

TRANSPORT ADMINISTRATION AMENDMENT (RAIL AGENCIES) BILL

Second Reading

Debate resumed from 2 December.

The Hon. MICHAEL COSTA (Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests)) [11.44 a.m.], in reply: I thank honourable members for their contributions to the debate. The Transport Administration Amendment (Rail Agencies) Bill is an important step forward for the rail industry in New South Wales. Experience with vertical separation of agencies both in New South Wales and internationally is that the splitting of functions across separate organisations reduces communication, spreads scarce technical expertise, and leads to ambiguities in accountabilities and responsibilities. This situation was highlighted by Justice McInerney in his report into the Glenbrook rail accident. The bill provides a model that will improve accountabilities and responsibilities in delivering safe, clean and reliable public transport. The establishment of a single entity to run trains and own and manage the metropolitan network is a sensible move, and I welcome the Opposition's support. The Leader of the Opposition raised concerns during his contribution about the future of employees of rail organisations.

I advise the House that special provisions have been incorporated into the bill to protect workers' rights. The bill will preserve mobility of entitlements for both Rail Infrastructure Corporation [RIC] and State Rail employees. In addition, by way of a regulation, it will provide for the staff of RailCorp to have mobility of entitlements where they might transfer to other sections of the public sector. This will facilitate employment opportunities for employees whose areas are duplicated in the merged structure. Superannuation, leave and other entitlements will not be affected by the merge, and will simply move with the employee. RailCorp staff will have the right of appeal to the Transport Appeals Board. I have indicated on a previous occasion, and it is important to note in this reply, that in relation to the Transport Appeals Board we will be writing to the unions to review the functions of that board. The Government has also undertaken consultation with the workforce in the establishment of the new organisation. I thank the workers and their representatives for their commitment to the rail industry.

Some concerns have been raised by members in the other place about the report of the Legislation Review Committee. I will address some of these concerns. The first concern deals with the exemption from application of part 3 of the Public Works Act 1912. The proposed sections replicate existing provisions under the Transport Administration Act in respect of the Director-General of Transport, section 104H; Parramatta rail link, section 125; and the Rail Infrastructure Corporation, section 13 in schedule 6A. Section 90 of the Roads Act 1993 exempts a roads authority from the provisions of part 3 of the Public Works Act. This section is not precedent setting. Compliance with part 3 of the Public Works Act would undoubtedly impact on the ability of

RailCorp and the Transport Infrastructure Development Corporation [TIDC] to efficiently and effectively deliver even relatively minor infrastructure projects.

In relation to the power to remove the chief executive officers of RailCorp and the TIDC, I advise that this provision is consistent with other statutes, including section 77 (1) of the Public Sector Employment and Management Act 2002, which provides that the employer of an executive officer may remove the executive officer from an executive position at any time for any or no reason and without notice. Schedule 9, section 6, of the State Owned Corporations Act similarly provides that the Governor, on recommendation of the portfolio Minister, may remove the chief executive officer of a statutory SOC from office at any time for any or no reason and without notice. Such a removal cannot be effected unless it is recommended by the board.

The requirement for the board to consult with both the voting shareholders and the portfolio Minister in removing a chief executive officer from office affords a strong governance regime. The provisions in the bill that give powers to search vehicles and luggage on certain railway premises replicates existing section 98 of the Act. These provisions provide important security protection both against theft and in consideration of heightened security awareness. I thank Opposition members and others for their support for this important legislation. I note that the Greens member Lee Rhiannon, in her usual manner, has sought to play the politics of the wedge, making outrageous statements about the implication of the bill. I also note that Lee Rhiannon, in her usual way, has played the amateur historian and exaggerated the Government's position. I was interested to hear her comments again about "old Mick Costa".

The Hon. Rick Colless: Mikey sounds better.

The Hon. MICHAEL COSTA: It is a serious issue. At least my intellectual evolution is on the public record. I have read Lee Rhiannon's inaugural speech and I find it quite extraordinary that she made only an oblique reference to the Communist Party—it was only one paragraph. The organisation she is talking about is the Socialist Party of Australia, which had the reputation of supporting both the Soviet invasion of Hungary in 1956 and the invasion of Czechoslovakia in 1968. Indeed, the organisation was formed as a consequence of that. If Lee Rhiannon wants to play the amateur historian, I am quite happy to do that, but I suggest she consults the Parliamentary Library and reads the excellent books that trace the history of Stalinism. I recommend *Harvest of Sorrows* by Robert Conquest, which outlines what Stalinism did to people in the Soviet Union and globally. Millions of people lost their lives under the oppressive regime that her acquaintances have supported. I do not know of any occasion where she has acknowledged publicly the history of her involvement in those sorts of activities. People are entitled to make mistakes, but they are also entitled to 'fess up when they had made mistakes. She has not done that, despite her interest in playing the amateur historian.

I also take up her reference to "Mick Costa". I am from a migrant background and I fought against the cultural oppression that the white Anglo people Lee Rhiannon represents in this Parliament would not understand. My actual name is Mιχαňλ; it is my grandfather's name. My family were good working-class people. The Irish tend to shorten Michael to Mick, but many people from migrant backgrounds found that offensive and spent many years trying to re-establish their real names. I had a friend whose real name was Giovanni but he was called Jack, and he did not appreciate that. Lee Rhiannon speaks in this place about cultural oppression but then exercises it without thinking of the consequences. In future she should be more sensitive to other cultures. She should acknowledge that many of us fought for many years to have our cultural heritage accepted and re-established in an oppressive environment. Her selective interpretation of history and lack of cultural awareness should be put on the record. With those few words, I commend the bill. I foreshadow that the Government will move an amendment during the Committee stage. I understand that it will be supported by the Opposition.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 4 agreed to.

The Hon. MICHAEL COSTA (Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests)) [11.56 a.m.]: I move Government amendment as circulated:

Page 10, schedule 1 [8], lines 18-21. Omit all words on those lines.

This amendment is not significant but it seeks to clarify one aspect of the bill. It seeks to bring the appointment of the union director into line with other State-owned corporations. The amendment simplifies the appointment of the director set out in new section 13 (4). The amendment follows discussions with the Labor Council. It makes the appointment of a selection committee and its process of appointing the director consistent with that set out in energy service corporations. The amendment also makes the appointment consistent with processes set out under schedule 8, section 4, of the State Owned Corporations Act. I commend the amendment to the Committee.

Amendment agreed to.

Schedule 1 as amended agreed to.

Schedules 2 and 3 agreed to.

Title agreed to.

Bill reported from Committee with an amendment and report adopted.

Third Reading

The Hon. MICHAEL COSTA (Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests)) [11.58 p.m.]: I move:

That this bill be now read a third time.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [11.58 a.m.]: I support the Transport Administration Amendment (Rail Agencies) Bill. It demonstrates the folly of splitting the rail industry into three structures, which may have been convenient economically but was unworkable. It is a managerial nightmare to create different bureaucracies that must interact with each other. I am reminded of the Glenbrook disaster. The former Minister for Transport, Carl Scully, with the support of the Opposition, tried to prevent crossbench members from initiating an inquiry into rail and rail safety.

The Minister jammed into room 1136 at least two people from each of the Rail Access Corporation, the State Rail Authority and the Rail Infrastructure Corporation, some of his minders and all the crossbenchers, and said, "Look, I am 'fessing up. Ask any questions you like. We don't need an inquiry but I can answer anything you want to know." There was a long pause, and then I said, "Who is responsible for safety in the railways?" There was another very long pause, and then they were saying, "Well, you better answer that, mate"—

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

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RAIL INFRASTRUCTURE CORPORATION RAIL TESTING ADAPTER

The Hon. MICHAEL GALLACHER: My question without notice is addressed to the Minister for Transport Services. What action has the Minister taken to address the concerns of a rail infrastructure corporation employee who asked for his assistance back in April and who alleged that for 18 months the corporation had been utilising and financially gaining from a rail testing adapter invented by the employee yet had failed to pay him to either use or rent the device he invented—a situation that has left the employee substantially out of pocket? Will the Minister undertake to direct his office to contact the employee concerned today to get the matter resolved as quickly as possible?

The Hon. MICHAEL COSTA: To my recollection, I do not know what the honourable member is talking about. However, I undertake that our office will search the records and contact the individual and have a discussion with him about the matter.

WORKCOVER PREMIUM DISCOUNT SCHEME

The Hon. TONY BURKE: My question without notice is addressed to the Minister for Commerce. Will the Minister update the House on the 2003 premium discount scheme?

The Hon. JOHN DELLA BOSCA: The premium discount scheme started in June 2001, and is designed to provide incentives for New South Wales employers to improve their occupational health and safety and injury management practices. Since then, more than 2,200 employers have received discounts on their workers compensation premiums. The discounts provided have totalled more than $67.5 million and safer work practices have been provided to more than 324,000 workers across the State. In particular, the scheme has been successful in targeting those employers with high claims costs or who are involved in high-risk industries. It is another example of the practical ways this Government is providing employers and workers with financial incentives to put in place measurable occupational health and safety and injury management systems.

Honourable members may recall the inaugural premium discount scheme awards that were given out in November 2002. The awards were created to acknowledge the achievements of scheme participants, including employers, occupational health and safety committees and workers, and their premium discount advisers. The awards were also intended to encourage further participation in the premium discount scheme. Awards were given to a diverse range of businesses for the good work done by them to improve workplace safety and injury management systems. The businesses receiving the awards included Marrickville municipal council, which was the Employer of the Year, Weir Engineering on the Central Coast, and Hunter Nursing Agencies. For the 2003 awards, which took place last week, employers participating in the premium discount scheme were again invited to nominate. More than 100 nominations were received and 21 finalists were short-listed in four employer categories: large metropolitan, large regional, small to medium metropolitan and small to medium regional.

Along with the four categories is the Employer of the Year award, which reflects employee participation, industry, potential for improvement and innovative safety practices. I am pleased to inform members of the winners in each category for 2003. The Employer of the Year was Continental Ace Pty Ltd, a manufacturer located at Somersby on the Central Coast. The large metropolitan winner was Revesby Workers Club, a licensed club located at Revesby that is known to many members of this House. The large regional award winner was the Illawarra Retirement Trust, an aged-care facility located at Woonoona. The small to medium metropolitan award went to Sylvanvale Handicapped Children's Centre located at Kirrawee, formerly known as the Handicapped Children's Centre of New South Wales.

The Hon. Patricia Forsythe: Lorna Stone is the chairman of directors there.

The Hon. JOHN DELLA BOSCA: I cannot understand what the Hon. Patricia Forsythe is saying, but I am sure it is something sensible.

The Hon. Patricia Forsythe: I said that Lorna Stone is the chairman of directors.

The Hon. JOHN DELLA BOSCA: That is very good, thank you.

The Hon. Michael Egan: You know Lorna Stone. She comes from the shire. She was a member of Parliament briefly.

The Hon. JOHN DELLA BOSCA: Yes. The small to medium regional award—and this one would be of interest to the Deputy Leader of the Opposition—went to Yarrawonga and Border Golf Club, a licensed club located at Mulwala.

The Hon. Duncan Gay: You need to get your geography right. Mulwala is not near Crookwell.

The Hon. JOHN DELLA BOSCA: I am referring to politics, not geography. Winners received a framed certificate and trophy in acknowledgement of their achievements. As occurred in 2002, Central Coast businesses were used to produce the awards, certificates and other printing and promotional material for the function. Once again the awards scheme has provided the opportunity for New South Wales employers who together with their employees are striving to make their workplaces safer and more productive to get the recognition they justly deserve. Once again I congratulate all the winners on their efforts to improve the safety and productivity of New South Wales workplaces.

RECREATIONAL FISHING LICENCE RENEWALS

The Hon. DUNCAN GAY: My question is directed to the Minister for Agriculture and Fisheries. Is the Minister aware of concerns from New South Wales recreational fishermen that sufficient notification for fishing licence renewals is not provided by the New South Wales Department of Fisheries? Why does the New South Wales Department of Fisheries not send out reminder notices for the renewal of fishing licences, as happens with car registration, drivers licences, et cetera, prior to their expiry date? How many recreational fishermen have been fined this year because of that oversight?

The Hon. IAN MACDONALD: The Leader of the House has just shown me his fishing licence, which is out of date. We had better sign him up quickly before he starts fishing illegally. I will get the Deputy Leader of the Opposition the answers to those questions. Recreational fishing licences have been very successful throughout this State. The honourable member would be only too happy to agree with me because these licences have a high compliance rate—it is estimated to be about 80 per cent compliance—and they raise in the order of about $8 million a year, which is being ploughed back into recreational fishing. If the honourable member would like me to provide details of this, I am happy to do so. For instance, some of the projects include studies of Lake Macquarie and Tuross Lake.

We are looking at catch histories over a period to see the effect of the recreational fishing havens in those areas. We are supplying lots of beaches that had ramps with wash down stations, which means that we are improving the environment of those areas. We are also supplying angel rings and fish attracting buoys so that people have a better chance of catching fish in the future. Those are some of the programs under the effective recreational fishing licence fee. Recently both South Australian and Western Australian officials have commented about the success of the fishing licence fee and the havens in New South Wales. I have had lots of interest in our system from around the country. It is the best system in this country. Effectively, it ensures that we develop our recreational fishing effort in New South Wales. The havens provide spots where we can de-emphasise the tensions between the commercial fishing sector and the recreational fishing sector.

I can inform the House that next year we are looking at reinstituting pro-am organisations, which were successful in the past in bringing together professional and amateur interests. There is one pro-am at Port Stephens. Indeed, I was on radio 2SM at about seven o'clock last Sunday morning talking to Stinker Clark, who runs the program. On these fishing shows one must use people's nicknames; they prefer it. On that program he pointed out that at Port Stephens a program is very successful in bringing together commercial and professional fishers. The program in Sydney is still active. Next year I will be rolling out a policy across the State so we can start to end the divisions of the past and bring people who are interested in the catching sector, whether it is professional or commercial, back to where they can discuss the issues once more. I thank the honourable member for his question, and I will reply with a detailed answer.

TEACHERS NOTIFICATION RECORDS

The Hon. DAVID OLDFIELD: My question is directed to the Minister for Community Services, representing the Minister for Education and Training. Will the Minister advise whether teaching staff are informed of all notifications made against them, whether they are considered actionable or not? Is the Minister concerned at the effect on teachers as a result of false allegations by students and parents? Is the Minister aware that malicious and vexatious allegations are being used against teachers and that there is the appearance that guilt is assumed until innocence is proved? Is the Minister concerned that despite allegations being shown to be completely false, some teachers are still being left with records that may be interpreted as amounting to a suspicious history? Is it absolutely necessary that allegations proved to be false remain a part of the teacher's permanent record?

The Hon. CARMEL TEBBUTT: The Hon. David Oldfield will be aware that legislation went through Parliament the week before last to address a range of issues of concern mainly to the teaching profession but also to other professionals who are working with children and who are subject to the working with children checks regime. Nonetheless, he has asked some specific questions that I will refer to the Minister in the other place because I am not clear whether the honourable member is talking about records maintained by the Department of Education and Training or records maintained by the Commission for Children and Young People. I will refer the questions to the Minister in the other place and get a response.

The Hon. David Oldfield: By the Department of Education and Training.

The Hon. CARMEL TEBBUTT: The honourable member has just clarified that it is the Department of Education and Training. That will be useful for the Minister.

INTERNATIONAL DAY OF PEOPLE WITH A DISABILITY

The Hon. KAYEE GRIFFIN: My question is addressed to the Minister for Disability Services. What action is the Government taking to promote the International Day of People with a Disability?

The Hon. CARMEL TEBBUTT: Today is the International Day of People with a Disability, a United Nations designated celebration. It is good to see honourable members in the Chamber wearing orange ribbons to signify International Day of People with a Disability. The accent is very much on recognising ability and achievement. It is about inclusion not exclusion, about the expectation that services, systems and structures will promote community participation for people with a disability. Today and throughout the week we are celebrating the contribution and achievements of people with a disability in the community in so many different ways. I am sure honourable members will agree that there is no shortage of Australians who have achieved, not in spite of but because of their disability. One only needs to think of the wonderful Paralympians as one example.

I am pleased to say that the New South Wales Government is supporting a number of events and programs this week, beginning with the week-long Accessing the Arts program run by Accessible Arts. This program brings together both the arts and the disability communities, and provides opportunities for people with a disability to experience the arts and to make their own contribution. For example, today the Albury-Wodonga disability service providers group is sponsoring a Celebrating Ability Expo, with displays, workshops, music and drama. The Art Gallery of New South Wales has planned a free sculpture-touch tour for people who are blind or vision impaired.

In Port Macquarie on Friday Arts Mid North Coast is presenting a forum, Arts and Disability: How to Reach Full Potential. The Department of Ageing, Disability and Home Care is sponsoring a number of events in Coonabarabran, Dubbo, Mudgee and Hornsby, including art exhibitions, information displays, school visits and morning teas with parents and service providers. On Saturday, in conjunction with the Disability Council of New South Wales, the department is sponsoring the Connecting Communities Family Street Fair in Church Street Mall in Parramatta. It will feature live performances, information stalls, storytellers and a host of other activities. I was pleased to hear my colleague the Minister for Tourism and Sport and Recreation urging sporting and recreation groups to do more to support people with a disability. I understand that Wesley Mission is also having a big luncheon of disability staff and clients. That is another event celebrating International Day of People with a Disability.

This week's activities are designed to show the talents and abilities of people with a disability as well as providing the chance for people to share information on the services and support available. These community events reflect the new approach being implemented by the Department of Ageing, Disability and Home Care to deliver and manage services to people with a disability. The emphasis is on providing people with a disability with increased opportunities to participate in community life, providing the resources and building the relationships that allow people with a disability to live independently, and providing prevention, early intervention and basic support services to enable people to remain in their own home environments. To do so, the Government is spending more than ever on disability services: $890 million, or double what we spent in 1995. We have expanded disability accommodation services, boosted the attendant care program and will continue to support more than 3,000 young people seeking to make the transition from school to employment in the Adult Training, Learning and Support and Post-School Options programs.

However, I take this opportunity to single out one program that is proving highly successful in assisting people to participate in their local communities—the Local Support Co-ordination program. This program has great potential, and that is why I am pleased to say that as part of the $1.8 million expansion of the program the department has recently advertised for a further 20 positions. This will bring to 28 the number of co-ordinators working in rural and regional New South Wales. Their emphasis is on building informal supports and mainstream services to strengthen connections in local communities. I wish everyone well on the international day celebrating people with a disability.

PORTS GROWTH PLAN

Ms LEE RHIANNON: I direct my question to the Minister for Transport Services. Considering it has taken him nearly two months to publicly release a summary of the ports growth plan, which appeared suddenly on the Ministry of Transport's web site on 28 November, how long will it take him to publicly release the full ports growth plan? Will the full release of the ports growth plan happen before the deadline for submissions to

the State development committee inquiry into port infrastructure? Is he refusing to release the full ports growth plan because it does not exist or because he is trying to continue deceiving the people of the Illawarra rather than admit that he has minimal growth plans for Port Kembla that cannot possibly deliver the 2,000 jobs that the region so badly needs and the Premier promised on 5 October?

The Hon. Catherine Cusack: There is no plan, is there?

The Hon. MICHAEL COSTA: There is a plan. The Government has announced a plan. We certainly do not have a five-year plan à la the Stalinist Gosplan approach to five-year plans. I can freely admit we do not have five-year plans.

Ms Lee Rhiannon: Point of order: I draw your attention to imputations and offensive language, apart from the fact that he is starting to sound like a broken record.

The Hon. Michael Egan: To the point of order: There was no imputation. The honourable member is obviously fairly thin-skinned, and I suppose one would be entitled to say if the cap fits, wear it.

The Hon. Dr Arthur Chesterfield-Evans: To the point of order: We have got to the stage where we cannot have imputations in questions. I suggest the same standard should apply to answers. I have given notice of a change to the standing orders to do that, but I believe the Government should in good faith refrain from using personal abuse in answers as well as in questions.

The Hon. Michael Egan: Further to the point of order: I am sure it would help the Minister and the House generally if either the Hon. Dr Arthur Chesterfield-Evans or the Hon. Lee Rhiannon could tell us what the imputation was that is complained of. I find it difficult to understand.

The PRESIDENT: Order! I remind the Hon. Dr Arthur Chesterfield-Evans of the general rule of debate that all imputations against other members are disorderly. The same requirement on members applies when they are asking and answering questions. The Minister was commenting generally about economic plans and made no imputations against anyone. No point of order is involved.

The Hon. MICHAEL COSTA: As I was saying, this Government does not engage in Soviet-style five-year plans or ten-year plans. We set a framework. We believe in the market economy. We believe the decisions that need to be made in relation to port investment are essentially decisions that the marketplace will make. The private sector will make those decisions within the framework the Government has announced. If the honourable member is seeking a five-year plan I suggest she consult the history books. I can recommend a number of history books.

Ms Lee Rhiannon: Point of order: Under the standing orders the Minister is not allowed to debate the question. The question was quite simple. It was not about five-year plans; it was about Port Kembla and the people there who have an expectation of jobs that were promised by the Premier that clearly this Minister cannot deliver.

The PRESIDENT: Order! There is no point of order. The Minister was addressing himself to the question in a fairly general way.

[*Interruption*]

The PRESIDENT: Order! I remind the Minister that interjections are disorderly.

The Hon. MICHAEL COSTA: As I was saying, this Government supports the market. It supports private-sector investment. We have announced a framework. That framework will provide certainty for investment decisions. That certainly was the essence of the port strategy announced by the Premier. If the honourable member is seeking five-year plans, as I said, she ought to consult the history books. There is a history of the failure of five-year plans, particularly in the former Soviet Union.

Ms LEE RHIANNON: I ask a supplementary question. Will the Minister elucidate his answer in light of the fact that the Port Kembla expansion is reliant on the closure of container operations in Sydney, which make up only 5 per cent of container operations in this State, and which employ 500 people? Will the Minister elucidate how the 2,000 promised jobs will be created?

The Hon. Michael Egan: Point of order: This can hardly be a supplementary question. When a member reads the draft of a supplementary question, which went for about half a page, it clearly is not a question that arises from the answer. If it is written before the Minister's answer it can hardly be said to be a question that arises from the Minister's answer. Ms Lee Rhiannon is simply making a mockery of supplementary questions and should be ruled out of order.

Ms Lee Rhiannon: To the point of order: One can make notes and read from them. But the key issue here is that the Minister should be given an opportunity to give some details on an issue that he has been avoiding time and again. Now he is hiding behind the protection of the Treasurer. He should not be a gutless wonder: he should stand up and answer the question.

The PRESIDENT: Order! Standing orders are quite clear: a supplementary question may be asked to elucidate an answer. The member's question was obviously seeking new material, not seeking elucidation of an answer given by the Minister.

DEPARTMENT OF AGEING, DISABILITY AND HOME CARE REGIONAL BUDGETS

The Hon. JOHN RYAN: My question is directed to the Minister for Community Services. Did the Director-General of the Department of Ageing, Disability and Home Care promise a recent supplementary budget estimates hearing that she could and would provide Parliament with details of the budgets allocated to all eight departmental regions? Why has the Minister not provided these details in the answers she gave yesterday to the questions taken on notice? What does the Minister have to hide? Why cannot the public know the details of the budgets that directors are working to in each region, since almost every request for funding is determined by regional directors?

The Hon. Jan Burnswoods: Point of order: This question relates very specifically to the work of the general purpose standing committees. I gather that the committee in question will meet at lunchtime today to consider its report. It is out of order for the honourable member to pursue issues in the House at question time that are the subject of a committee meeting at lunchtime.

The Hon. John Ryan: To the point of order: I am using the only available means that I have between now and the rising of this Parliament to get details of information that is required by the committee. The Minister avoided providing the information. The matter relates to the budget. Unless the Government wants to hide behind the use of a parliamentary practice, there is no reason why this information should not be provided.

The Hon. Amanda Fazio: Oh, come on! You are a pathetic shadow Minister. Why don't you sit down.

The Hon. John Ryan: I beg your pardon?

The Hon. Amanda Fazio: I don't agree with the way you have been behaving.

The Hon. John Ryan: Yes. If the Minister wants to hide behind some sort of spurious point of order in order to not provide the details of the budgets of the eight departments, one of the most vital pieces of information to understanding her budget, then fine. But I am giving the Minister an opportunity to provide supplementary details on an important issue that has been raised in this Parliament. A public servant promised that the information was available. The Minister did not give it. She knows that if I did not ask this question now there would have been no opportunity to do so until next year.

The Hon. Michael Egan: To the point of order: Standing Order 65 (3) (b) states that questions must not refer to proceedings in committee not yet reported to the House. The Hon. John Ryan, for all his histrionics, has been here long enough to know the standing orders.

The Hon. John Ryan: You just want to cover up. You are just covering up. You didn't answer to the point of order because you want to cover up the information; you don't want to give it.

The Hon. Carmel Tebbutt: You have got an answer you don't want.

The Hon. John Ryan: I do want the answer. If you want to answer, answer.

The Hon. Michael Egan: The Hon. John Ryan said, "If you want to answer, answer." That is not right at all. If the question is out of order, it is out of order, and Ministers should not be answering questions that are out of order.

The Hon. Carmel Tebbutt: I said you have got an answer.

The Hon. John Ryan: We have not got an answer.

The PRESIDENT: Order! I call the Hon. Catherine Cusack to order for the first time.

The Hon. Amanda Fazio: Point of order, Madam President.

The Hon. John Ryan: To the point of order—

The PRESIDENT: Order! Is the Hon. Amanda Fazio taking a point of order on the Hon. John Ryan's point of order?

The Hon. Amanda Fazio: I am taking a point of order on a matter that he raised during one of his earlier contributions.

The PRESIDENT: Order! I remind members that if they wish to speak to the original point of order they must wait their turn. A member can seek the call only if he or she is taking a point of order on the point of order that is being taken at the time. The Hon. John Ryan has the call.

The Hon. John Ryan: Madam President, I have no intention of using any further one of the precious opportunities that we have at question time. The Government knows the issues. The Minister said she was willing to answer the question. She knows that the answer she gave—

The Hon. Michael Egan: Point of order: The Hon. John Ryan is now clearly not taking a point of order and is just taking up time at question time to make a political argument. He knows that the purpose of question time is to allow members to put to Ministers questions seeking information. I am sure that many members of the House have questions that are in order. They should have the opportunity to put them rather than having the Hon. John Ryan taking up the time of the House.

The PRESIDENT: Order! I rule the comments of the Leader of the House out of order. The Hon. John Ryan is still making his point of order.

The Hon. Duncan Gay: Madam President—

The PRESIDENT: Does the Deputy Leader of the Opposition wish to take a point of order on the Hon. Michael Egan?

The Hon. Duncan Gay: Yes. Madam President, you quite correctly eventually stopped the Minister because, as you indicated earlier, raising points of order on a point of order is out of order. That is exactly what he did, and you stopped it.

The PRESIDENT: Order! No, the Deputy Leader of the Opposition has completely misinterpreted my ruling.

The Hon. Michael Egan: I was actually raising a point of order on the point of order by simply arguing—I believe validly but you have overruled me—that the Hon. John Ryan was not at that stage raising a point of order. He was addressing some general political arguments, not raising a point of order.

The PRESIDENT: Order! The point I made is that if a member wishes to speak to a point of order he or she must wait until the member with the call has finished speaking, unless he or she wishes to object and take a point of order on the member with the call. A practice has developed whereby members leap to their feet to contribute to debate before the member with the call has finished speaking and has sat down. It is very confusing. Has the Hon. John Ryan finished his contribution to the point of order?

The Hon. John Ryan: If the Minister does not want to answer the question, she can make a ministerial statement later. I am not taking up any more time of the House.

The PRESIDENT: Order! Are honourable members speaking to the point of order?

The Hon. Amanda Fazio: To the point of order: Madam President, I draw your attention to the Hon. John Ryan's continual references to the Minister as "she" during his contribution on the point of order. I find that offensive. I refer you to the President's ruling of 27 October 1994, when the Hon. Duncan Gay ruled that honourable members must refer to Ministers as "the honourable". The Hon. John Ryan should be called to order. Continually referring to the Minister as "she" is derogatory and offensive. We should not accept that sort of behaviour in this Chamber.

The PRESIDENT: Order! I will rule on the original point of order. Questions may be put to a Minister relating to public affairs with which the Minister is officially connected. That part of the question that relates to information that is already in the public domain is in order. However, that part of the question that relates to proceedings in committee not yet reported to the House is out of order. If the Minister wishes to answer that part of the question that is in order, she may.

The Hon. CARMEL TEBBUTT: I thank the honourable member for his question. As I understand what he has asked—

The Hon. Michael Gallacher: You didn't a minute ago.

The Hon. CARMEL TEBBUTT: I always said I had an answer. I am happy to provide as much information as I can. The honourable member is seeking a regional breakdown of the budget of the Department of Ageing, Disability Services and Home Care. He sought that information in the estimates committee hearings and he is following up that line of questioning. I am happy to provide information. As the director-general indicated at the estimates committee hearing on Monday, for the first time the department has been able to provide regional budgets because of the rollout of its new regional structure. As honourable members are aware, that process has brought together three separate agencies. Providing regional budgets has not been easy in relation to consolidating the budgets of the three different agencies and this is the first year in which it has been done. The honourable member is seeking information about those regional budgets. The department has said that that is somewhat problematic. The budgets are indicative only and do not include the allocations for services delivered centrally. That creates some problems because the budgets may not be directly comparable from region to region.

The difficulty is that on many occasions the Hon. John Ryan has shown that he is prepared to use information provided to him in good faith contrary to the intention of those providing it or he has misrepresented the information. The most recent example is the Healthline data. The honourable member tried to increase community concern but he did not provide all the facts. There is some doubt about whether he will use information provided to him in accordance with the qualifications attached to it. Having said that, I am happy to look at what useful information can be provided to the honourable member about regional allocations for the Department of Ageing, Disability and Home Care. The honourable member referred in his point of order to the allocations for the eight departments.

The Hon. John Ryan: I meant "regions".

The Hon. CARMEL TEBBUTT: The honourable member said "departments". They are regions and they do not operate like area health services. The honourable member should appreciate that the information provided must be seen in the context of the qualifications placed upon it. If he is prepared to make a commitment in that regard I am happy to review what information the department can provide. However, he should appreciate that at this stage the regional budgets do not reflect the allocations for all the programs. Some of them are still administered centrally.

MINOR PORTS PROGRAM

The Hon. HENRY TSANG: I direct my question to the Minister for Natural Resources (Lands). Will the Minister update the House on the latest projects under the Government's minor ports program?

The Hon. TONY KELLY: The minor ports program is worth $2.4 million and helps the commercial fishing industry by providing and maintaining port infrastructure facilities as well as safe and secure port access. The Government will provide $185,000 to dredge the Terranora Inlet on the Tweed River. The build-up of sand in the inlet is causing concern for the local boating industry and particularly the local fishing industry. As a result of their representations and representations made by the Country Labor member for Tweed the inlet will now be dredged. The local industry was concerned that the build-up of sand and sediment in the inlet was

stopping vessels accessing the offshore fishing grounds and returning to moorings at any time other than high tide. The build-up of sand in the lower estuaries of our rivers is a natural and recurring process. Periodic flooding reduces sand build-up or shoals and improves navigation. However, because of the drought the shoals have hindered commercial fishing fleets and damaged hulls and steering gear.

I am sure that I do not have to tell honourable members how important the commercial fishing industry is to the Tweed. The Government is pleased to be able to provide it with this support. The dredging of approximately 15,000 cubic metres of sand will provide immediate relief from the difficulties faced by fishing and recreational boat operators navigating this section of the river. It will also include the removal of sand restricting access to the adjacent vessel sewage pump-out facilities. That will reduce the environmental and public health risks associated with vessels discharging into the estuary. The dredging operation will commence this week and is expected to last two to three weeks. The sand removed will be transported by the dredge offshore and deposited at one of the disposal sites nominated by the Tweed River Entrance Sand Bypassing Project. This campaign reinforces the Government's commitment to the commercial fishing and boating industries to the benefit of the entire Tweed area. I thank the Country Labor member for Tweed for his work on this project and congratulate him on this great outcome for his local fishing industry. Fishing on the North Coast means jobs, and that is what the Government is supporting by undertaking this dredging. It will continue to work closely with communities and local fishing and boating industries to ensure that our waterways are fit for them to use.

MICROSOFT WINDOWS SOFTWARE

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I direct my question to the Special Minister of State. On 24 June I asked a number of questions on notice about the cost of Windows-based software, but I did not get a quantitative answer, nor did I get an answer in the estimates committee hearings. Given that the Minister is chairing a working party on this subject, will he say how much money was spent on Windows-based software during the past financial year? I would also like a breakdown of those figures by department. Do the costs relate to operating systems, major packages, application suites or other packages? If the Minister does not have the details with him, I would like the question placed on notice.

The Hon. JOHN DELLA BOSCA: I am sorry that I will have to disappoint the honourable member in some respects. The purchase of computer software packages is an important part of the State Government's investment in information and communication technology. To ensure taxpayers' money is spent wisely and most effectively the State Contracts Control Board, through the Department of Commerce, has set up a number of software contracts. Government agencies can access these contracts when purchasing software that best suits their business needs. Given that nearly all agencies use Microsoft software in some form or another, it made sense to have a government contract for those products so that all agencies could gain the benefit of reduced prices. With that in mind, the State Contracts Control Board recently approved a new aggregated purchasing arrangement with Microsoft effective from 20 June 2003 to 2005.

While I cannot release actual figures because of the commercial-in-confidence clause in the agreement entered into with Microsoft, I can say that the level of savings is up to 50 per cent of the best prices previously available. I should also point out that agencies are under no obligation to use Microsoft software if other products are more appropriate. For example, some agencies have decided that open source products, such as Sun's Star Office or Linux systems, better suit their needs. Where that is the case, Government contracts are already in place for agencies to purchase such products. Either way, the Government is leveraging its purchasing power to achieve the best prices for agencies, irrespective of their choice of software products, and therefore gaining best price for the taxpayer dollar.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I ask a supplementary question. Firstly, the Minister's answer did not provide information about the amount of spending in the last financial year. Although the question referred to the last financial year, the answer did not relate to that year. Secondly, given that the contract entered into with the State Contracts Control Board specified Microsoft software, does that contract contravene the National Competition Policy, which provides that there should not be a binding arrangement in which only a certain brand of software is specified in a contract?

The Hon. JOHN DELLA BOSCA: I would have to seek advice about the ways in which a contract of that nature could contravene the National Competition Policy. I am unable to answer the honourable member's supplementary question, but I will seek advice on the matter and inform him accordingly. I did not make it clear in my original answer, but I advise that it is very difficult to make the calculations requested by the honourable member because of the commercial in-confidence agreement with the Microsoft software company with respect to discounts.

The Hon. Dr Arthur Chesterfield-Evans: There were too many to mention in the *Australian Financial Review*.

The Hon. JOHN DELLA BOSCA: The honourable member is asking a different question. He is not asking how much was spent; he is asking how much the products cost. It is not possible to answer that question given the commercial in-confidence agreement. I thought I made that clear in my original answer. With regard to the National Competition Policy issue, I am a little confused about the honourable member's question. Obviously, the Government must consider this matter having regard to the National Competition Policy. As I said, agencies can choose other software products—open systems, Linux products, Sun's Star Office products and other major options for office-based software. I do not think we in any way offend the general principles of an open market. However, if the Hon. Dr Arthur Chesterfield-Evans is of the view that we in some way offend National Competition Policy principles, I will seek advice on the matter and inform him accordingly.

THIRROUL TUNNEL

The Hon. CHARLIE LYNN: My question without notice is directed to the Minister for Transport Services, representing the Minister for Infrastructure and Planning. Will the Minister table all documents relating to the feasibility study into the construction of the Thirroul tunnel, a project that is now expected to cost $1.4 billion rather than the original forecasted $320 million? Given the massive blowout in the cost of the project, will the Minister establish a public inquiry into the Government's handling of the planning and costing of this important project for the thousands of commuters from Wollongong, the Illawarra and the South Coast? Further, when will the Minister for the Illawarra be briefed on a feasibility study for which he announced tenders in November last year?

The Hon. MICHAEL COSTA: If the Hon. Charlie Lynn provides me with the details of his question, I will obtain a response from the Minister and inform him accordingly.

DEPARTMENT OF CORRECTIVE SERVICES RESTORATIVE JUSTICE UNIT

The Hon. CHRISTINE ROBERTSON: My question is addressed to the Minister for Justice. Will the Minister outline to the House the work of the Restorative Justice Unit of the Department of Corrective Services and its role in assisting victims of crime?

The Hon. JOHN HATZISTERGOS: I advise honourable members that the week before last was International Restorative Justice Week. Restorative justice is a process that works to repair the damage done by criminal or antisocial acts. It gives victims of crime a voice and a better deal. Offenders are encouraged to take responsibility for their actions and their impact on others. Assistance is offered in finding more personal solutions to the harm that was caused by the crime. The theme for International Restorative Justice Week was "Pathways to a strengthened community". It was recognised in 18 countries around the world, including Australia, Canada, the Philippines, the United States of America, India, South Africa and Japan. These events were held globally to help raise awareness in the community and to recognise the achievements of local restorative justice programs.

The department's Restorative Justice Unit is a world leader in the field of restorative justice. The unit was originally a pilot project established in 1999, and because of its positive success it has now become a permanent unit within the Offender Management Division of the department. The unit provides a unique program that is the first post-sentence conferencing program to be conducted by a corrections department in Australia. The main part of the program is victim-offender conferencing, which allows a victim to meet the offender, talk about the effect of the crime, and come to an agreement about how the harm caused may be repaired.

Taking part in a conference does not reduce an offender's sentence or give an offender any extra privileges, but it can assist victims on the road to recovery. The conference gives victims the opportunity to explain to an offender the impact of the crime on them. This can assist in dealing with fear and anger whilst obtaining answers to outstanding questions. Offenders can gain an understanding of the devastating impact of what they have done and confront the consequences of their actions. Since the program began it has benefited more than 210 victims of crime or relatives and friends of victims at 48 victim-offender meetings consisting of conferences, victim awareness sessions, and even a letter of apology.

Examples include the following. A man who was sitting on the front porch of his house with his wife was bashed by an offender without provocation. The incident traumatised the victim and his wife and family.

Through the Restorative Justice Unit the offender offered to meet the victim and his family to apologise. The simply offer of a personal apology was enough to ease the nightmares of the victim's wife. A couple whose daughter was murdered by an offender met the offender in a victim-offender conference 10 years after the murder. The victim's family had an opportunity to question the offender and to express their emotions to the offender. They said the experience changed their lives. A woman passenger was killed when a female offender lost control of her car in a police chase and crashed. The offender met the policeman in a victim-offender conference and learned for the first time that the officer had risked his life to save hers because her car was in danger of exploding. This changed her attitude towards police and towards authority generally.

The Government recognises that there is a valuable place for restorative justice in the criminal justice system, and this year it has allocated $518,000 to the program. Victims who so far have taken part in victim-offender meetings have reported immediate and long-lasting benefits from taking part in the program. Whilst conferencing may not be for everyone, the process has been highly recommended by the many victims who have chosen to participate. The Department of Corrective Services held a restorative justice workshop to mark International Restorative Justice Week. The workshop featured a panel of speakers that included Commissioner Woodham and restorative justice experts and officers. I congratulate the unit and the department on establishing what is clearly a world leader in corrections-based restorative programs.

BAGO STATE FOREST LOGGING

Mr IAN COHEN: My question is directed to the Minister for Transport Services, and Minister Assisting the Minister for Natural Resources (Forests). Can the Minister explain why repeated requests to State Forests from two residents, Jim and Mary Kelton, to halt logging on their Brandy Marys Crown leasehold land within the Bago State Forest near Tumbarumba have been ignored, despite evidence of threatened plants and animals, and Aboriginal archaeological heritage sites? Can the Minister explain why the logging operations have been allowed to proceed, despite evidence of the presence of more than 100 Aboriginal sites being identified and supplied to both State Forests and the National Parks and Wildlife Service? Is the Minister aware that three Aboriginal archaeological sites have now been impacted upon by logging operations under way in compartments 117 and 118 of the Bago State Forest? Is this not a breach of the National Parks and Wildlife Act relating to the protection of Aboriginal archaeological heritage?

The Hon. MICHAEL COSTA: I am not aware of the details of the matter raised by Mr Ian Cohen in his question. I am happy to obtain advice on the matter and return to the House with the details. However, having said that, I would be surprised if the facts presented by the member are correct. The State has a framework for processing these sorts of issues in a sensible way. I also make the point that I am a supporter of State forests, and I believe we need a viable forest industry in this State. That is why the Government is currently embarking upon a process of determining the future of State forests. That has been canvassed with a number of the stakeholders. I met recently with both unions and councils representing forest industries in the south of the State.

The Hon. Rick Colless: What about private native forests?

The Hon. MICHAEL COSTA: I have indicated before that I am a supporter of forests, be they private or public. We want to encourage a sustainable forest industry, and I know the Treasurer has the same view.

The Hon. Rick Colless: What about private forestry?

The Hon. MICHAEL COSTA: Including private forestry.

The Hon. Rick Colless: What have you got against private forestry?

The Hon. MICHAEL COSTA: Let me make it absolutely clear, the Government has no opposition to private forests. The Government encourages private forestry and would like to see a thriving forest industry in this State. That is why we are embarking on the review in conjunction with a number of central government agencies. In relation to the specific question, I will take some advice and come back to the House. The Greens tend to take the view that no forestry should be undertaken as an industry. That is certainly not the Government's view. We are very strongly supportive of it. We want a sustainable industry; we want an industry that provides job security. We also want economic input to ensure a diversified economy, which is needed for a sustainable employment base.

Mr IAN COHEN: I ask a supplementary question. Given the Minister' s assurance to the House of the importance of both public and private forest activities in New South Wales—and having regard to the

unfortunate lack of credibility he gives me in terms of accuracy of information—will he agree that private native forestry should operate under the same guidelines as public native forestry?

The Hon. MICHAEL COSTA: I apologise if the honourable member took some umbrage at what I said. It was not directed at him; it was directed at his two lunatic friends, because I know that he is a genuine tree lover.

Mr Ian Cohen: Point of order: Such an accusation is both completely unparliamentary and insulting. Also, if the Minister had any understanding of the activities of other members of this House he would know that I am the Greens spokesperson on forestry, not the other members of the Greens.

The PRESIDENT: Order! I will remind the Minister that imputations against other members of Parliament are disorderly.

The Hon. MICHAEL COSTA: I did not make an imputation against any other member. I did not say that his colleagues were two lunatic friends. I am sure Mr Ian Cohen has two lunatic friends. I am sure we all have two lunatic friends. Can anyone here say they do not have two lunatic friends? I have two lunatic friends. Mr Ian Cohen may have an opinion about his two colleagues that places them in the category of lunatic. I do not. I was certainly not implying that they were lunatics. The Government has a sustainable framework for forests, be they public or private. It believes that that framework is the way forward for such an investment.

WOODS REEF MAGNESIUM PROJECT EXTRACTION PLANT

The Hon. RICK COLLESS: My question without notice is directed to the Minister for Industrial Relations. Could the Minister advise the House of the hold-up regarding the WorkCover protocols for the Woods Reef magnesium project extraction plant at Barraba, New South Wales? Why has no action been taken in this regard, given that the Barraba council was advised in writing 12 months ago that the general protocol had been drafted?

The Hon. JOHN DELLA BOSCA: I am afraid I am not in a position to provide the honourable member with the sort of detail his question would appear to require. Therefore, I will undertake to get him a detailed answer as quickly as I can and make it available to the House. If I cannot do that by tomorrow I will arrange to have it communicated to him as soon as possible. As the honourable member would be aware—and I do not go into the specifics of this particular project—extractive industries have left us with a great working heritage. They have been major contributors to the sort of economic sustainability and diversity that the Hon. Michael Costa was just talking about.

Extractive industries have also been increasingly sensitive to environmental concerns—although some would argue not sufficiently sensitive. However, it is also important to remember that, tragically, extractive industries have left us with a very substantial liability in terms of the health and welfare of their employees. Therefore, I suggest that WorkCover does tend to err on the side of caution in relation to protocols and guidelines for any extractive industry, and without labouring the point, I think most people would understand why that would be the case. Nonetheless, it is important that prompt action is taken with regard to potential production. I will get an answer for the honourable member and see whether there is any way that matters can be expedited.

MEDICA INTERNATIONAL MEDICAL SUPPLIES AND DEVICE TRADE SHOW

The Hon. PETER PRIMROSE: My question without notice is directed to the Treasurer and Minister for State Development. Will the Minister inform the House about the results of the Medica mission to Germany in November?

The Hon. MICHAEL EGAN: In mid-November a major delegation from New South Wales attended Medica, which is the world's largest showcase of medical innovations and supplies. Medica is held annually in Dusseldorf, in Germany, and it attracts distributors and hospital purchasing officers from more than 65 countries. This year almost 145,000 visitors attended, making Medica 2003 the biggest and probably the most successful in its 35-year history. For the first time in a decade there was an Australian stand at Medica, with half the 26 organisations exhibiting, I am pleased to say, from New South Wales. New South Wales participants indicate that more than $5 million of sales will result from attending the event. Of course that is a very early figure and it will no doubt increase as contracts are followed up.

New South Wales has a strong reputation as a leading centre of medical device development, with Cochlear and ResMed being notable success stories. Medica provided an opportunity to showcase the next generation of New South Wales medical innovations. The Australian delegation was organised by the Department of State and Regional Development, Austrade and the South Australian Government. Medica was an opportunity for New South Wales companies to raise their profiles to the international audience, develop new business links and strengthen existing links with members of the international medical device community.

A Bathurst-based company, Devro, is one of the world's largest processors of bovine collagen, a product with food, medical and cosmetic applications. According to the company, a possible deal with a European manufacturer has the potential to increase the company's business in this area by 15 per cent. Another local company, Cellabs, is a Brookvale diagnostics company specialising in the manufacture and distribution of immunodiagnostic kits for tropical and infectious diseases. Cellabs organised a distributor information session for a dozen distributors from Asia, Europe and Africa, and outlined its plans for 2004. The success of these companies at Medica 2003 and the overwhelmingly positive response to their technologies is testament to the quality and potential of the medical device and equipment industry in New South Wales.

SOUTH SYDNEY COUNCIL AND SYDNEY CITY COUNCIL BUILDINGS TRANSFER

Ms SYLVIA HALE: I direct my question to the Minister for Local Government. In relation to the transfer of seven buildings from South Sydney Council to Sydney city council, is the Minister aware that the report commissioned by the Department of Local Government found that:

> The removal of $7-8 million from council's recurrent income of $75 million would have a detrimental impact on the council's ability to deliver services.

Is the Minister also aware that the council itself has announced that the loss of the buildings would result in the loss of 100 staff and may make South Sydney Council unviable? Will the Minister give an undertaking to reject the transfer of these buildings to the Sydney city council?

The Hon. TONY KELLY: As honourable members would be aware, the Department of Local Government produced a report outlining where those assets should go and the continued viability of South Sydney City Council if the assets are transferred. Five options were given. I wrote to both councils on 12 November, giving them 21 days in which to respond to the report. Therefore, it is inappropriate for me to make any comment on where the assets should go.

The Hon. Duncan Gay: I am a ratepayer of South Sydney. Give the assets back to South Sydney; Frank Sartor stole them.

The Hon. TONY KELLY: It was my original decision that those assets should stay with South Sydney Council. City of Sydney Council contested that decision. Therefore, I have given both councils an opportunity to comment within 21 days. The expiry time is either today or tomorrow. I have received a detailed response from South Sydney City Council, but before I make any decision on the matter I will wait until either Sydney city council gives me a response or the 21 days elapse, whichever occurs first.

Ms SYLVIA HALE: I ask a supplementary question. Would the Minister further elucidate his answer by indicating whether any decision to remove the properties from South Sydney City Council would be just another step in the dismantling of that council?

The Hon. TONY KELLY: That is not a supplementary question.

POWERHOUSE MUSEUM EVELEIGH SITE

The Hon. PATRICIA FORSYTHE: My question without notice is directed to the Minister for Transport Services. Has the State Rail Authority given the Powerhouse Museum until January to vacate premises at Eveleigh that it uses both to store and to restore valuable and historic rail machinery? Is it a fact that no other site has been identified to house the collection? Will the Minister intervene to ensure that this valuable collection is not put at risk by the actions of his department?

The Hon. MICHAEL COSTA: I do not have detailed information on this. However, I will take advice and ensure that a process is put in place to try to resolve these matters and report back to the House on the matter.

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

DEPARTMENT OF AGEING, DISABILITY AND HOME CARE REGIONAL BUDGETS

The Hon. CARMEL TEBBUTT: Further to a question asked earlier in question time by the Hon. John Ryan, I have received advice that some further details can be provided to the committee, subject to the qualifications I outlined in my early response. I will provide that information to the committee by the close of business today.

Questions without notice concluded.

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

BUSINESS OF THE HOUSE

Postponement of Business

Committee Reports Order of the Day No. 1 postponed on motion by the Hon. Ian Macdonald.

REGISTERED CLUBS AMENDMENT BILL

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

TABLING OF PAPERS

The Hon. Ian Macdonald tabled the following paper:

Annual Reports (Statutory Bodies) Act 1984—Report of the Health Foundation for the year ended 30 June 2003:

Ordered to be printed.

TRANSPORT ADMINISTRATION AMENDMENT (RAIL AGENCIES) BILL

Third Reading

Debate resumed from an earlier hour.

Motion agreed to.

Bill read a third time.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders

Motion by the Hon. Rick Colless agreed to:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Member's Business item No. 74 outside the Order of Precedence, relating to the proposed cessation of all residential and full-time courses at Murrumbidgee College of Agriculture, be called on forthwith.

Order of Business

Motion by the Hon. Rick Colless agreed to:

That Private Member's Business item No. 74 outside the Order of Precedence be called on forthwith.

MURRUMBIDGEE COLLEGE OF AGRICULTURE CLOSURE

Debate resumed from an earlier hour.

Reverend the Hon. Dr GORDON MOYES [2.34 p.m.]: The Christian Democratic Party is concerned about the issue of a moratorium on the closure of the Murrumbidgee College of Agriculture. Taking a slightly

different tack to other speakers on this issue, it is important that we have a variety of opportunities for education in industry-specific colleges. For example, we have the National Institute of Dramatic Arts, which is important for training young dramatists. We have ballet schools, music schools and schools for a range of different industries. It is not possible to have every kind of school in every place. Therefore, people who want to understand more about drama realise that they must travel in order to understand about drama. But there are subsections of those particular industries.

I am not convinced that Tocal, which I have visited a number of times—I attend the C. B. Alexander College at Tocal every year for the Tocal Agricultural Show, and have done so over many years—is able to provide the same courses that are required for people living in what is basically an irrigation and rice-growing area. However, I understand the Minister's problems; he must meet budgets. Fortunately, the amount of money involved in a moratorium is relatively small. Over the lunch break we had the opportunity to contact the principal and others at the college. I will leave it to my esteemed leader to give details of that. We understand that some students will be continuing at Murrumbidgee College of Agriculture next year and that new students are enrolling, making both the course and the college viable.

We understand that teachers are appalled at the idea of having to move so far away. The fact is that the college will close in 10 days' time. We also believe that in order to be transparent, and to protect the Minister from some of the accusations that could be levelled against him and the department, that transparency must be achieved by more public and community consultation on the issue. I appreciate NSW Agriculture's continued interest in training young persons in the arts of agriculture. Recently on *Landline* on ABC television I noted an excellent program which showed students who travelled to central Queensland to carry out specific studies in a certain kind of cattle industry.

Given student trends and other interests, and particularly the strong employment growth in the Murrumbidgee area, I would support the continuation of the college over the next year. That would give the Government an opportunity to see exactly what is happening with student numbers, and it would give members of the college faculty a greater chance to plan their futures. I understand that at the moment there is a feeling of utter despair among faculty members. They do not think there will be jobs for them at Tocal. I understand that many rice farmers and other farmers in rural communities face difficult financial times, and to have the additional cost of supporting their children in private accommodation in the upper Hunter will not make it easy for them. For those reasons and for other reasons the Christian Democratic Party has decided to support the necessary moratorium on the closure of the Murrumbidgee College of Agriculture.

Ms LEE RHIANNON [2.38 p.m.]: The Greens support this motion, which needed to be discussed urgently. As we have heard from other speakers, this institution will close in 10 days. So we support a 12-month moratorium on the proposed cessation of all residential and full-time courses at the Murrumbidgee College of Agriculture. Surely as a matter of principle we should stand up for the rights of remote and rural communities and protect their access to services, and public agricultural education is one important example of that. I hope the Government will see that there has been a problem in the way it has brought forward this plan, and that it will support the motion so it can pass through this House unanimously. The proposed alternative locations are a long way from the Western Division and the Riverina and would deny educational opportunities to many young people who live in those areas. We have heard about the proposed alternatives, but there would be many problems with those alternatives if it meant losing the Murrumbidgee facility. They are in different climatic zones so the agricultural methods used would be different. That important factor needs to be taken into consideration and highlights the need to maintain the Murrumbidgee college.

The loss of jobs is also an important factor. The Murrumbidgee College of Agriculture employs many people in teaching and general duties and there is a spin-off for the whole community, so the loss of jobs is a big consideration. If an agricultural college is needed at Tocal or Orange or some other area it should be built, but not at the expense of the Murrumbidgee college. This motion calls for a 12-month moratorium, and we need to ensure that within that 12 months community consultation is real and occurs quickly to allow a meaningful evaluation to be made of the future of agricultural education in this State. At the moment the Government is making rushed and one-sided decisions when it is clear that there is a need for a more considered approach that involves extensive communication. The Greens support this motion. We congratulate the mover and hope the Government will recognise that there is wide support for the motion. Everyone makes mistakes sometimes. The Minister for Agriculture and Fisheries is new in the job.

The Hon. Duncan Gay: He may have been misled.

Ms LEE RHIANNON: That is a good point; he might have been misled. We need to be mindful of these things and ensure that New South Wales has top-quality agricultural education.

The Hon. Dr PETER WONG [2.42 p.m.]: I also support the motion. It is important that the welfare and educational opportunities of country people are taken care of. I noted also evidence provided by the Hon. Rick Colless that for the past 10 years 95 per cent of graduates of the college have gained employment within the rural sector. This is a good quality college and should be supported. I ask the Government to reconsider its decision.

The Hon. IAN MACDONALD (Minister for Agriculture and Fisheries) [2.43 p.m.]: I wish to make it absolutely clear that the Government does not accept this motion and will proceed with its plans as stated. This motion is another example of the Opposition indulging in cheap and obvious political point scoring. If the Opposition were serious about doing something it would have moved for this moratorium three months ago, when the decision was first made. Members of this House knew about it at the time.

The Hon. Duncan Gay: We did not have the documents. You hid the documents.

The Hon. IAN MACDONALD: We did not hide anything. To delay the decision for a further 12 months would only upset and confuse the students and parents, who were all individually advised of this decision on 3 September this year. Rather than be productive, the Opposition has launched a campaign to deliberately misinform the public wherever possible. It has constantly referred to the closure of the Murrumbidgee College of Agriculture [MCA]. That is simply not the case. NSW Agriculture is not closing, and has never planned to close, the Murrumbidgee College of Agriculture. Instead, it is proposed to transfer the full-time student residential function to the C. B. Alexander College at Tocal. The suggestion that this decision was made hastily is completely erroneous and utterly misleading. The Hon. Rick Colless's suggestion that the decision came out of the blue could not be further from the truth. The issue dates back to 2000, when a comprehensive study was conducted by NSW Agriculture to review the services and costs of agricultural colleges within NSW Agriculture. It was hardly done hastily.

The Hon. Duncan Gay: You did not tell the people of the electorate.

The Hon. IAN MACDONALD: Just give me a second.

The Hon. Greg Pearce: Like everything else—

The Hon. IAN MACDONALD: If the member with the big mouth listens he will learn something. Consultation was undertaken in 2000 with college management, staff and full-time residential students, education and program management, program leaders and managers, college advisory councils and TAFE New South Wales staff. The review conducted staff meetings, interviews and structured group meetings, and received written submissions. The final report was written the following year, and that report was given to the staff. The impact of this decision on rural communities was also assessed. There was consultation two years ago and the report was given to the staff.

The impact of this decision on rural communities was also assessed prior to the Government finalising its position. In addition, a rural community impact statement has been completed. The assessment made a number of key points: Firstly, that enrolments at Yanco were small and were declining in number; second, that the services could continue to be provided from Tocal, which is a rural area of New South Wales; and, third, that the regional disadvantage across New South Wales was therefore minimal and there was much greater potential for wider gains from any future improvement in education programs delivered from Tocal. However, because of the smaller community size, the impact of lost regional salaries will be greatest in the Leeton area.

This will be offset to a degree by the small number of jobs in Leeton in comparison to the total numbers employed in Leeton and the expanding Leeton-Griffith economy; the positive income effects—and I think the figure was in the order of 4,600 employed—associated with voluntary redundancy payments; favourable prospects for regional employment growth and re-employment; and positive employment effects in Orange and Tocal, where the staff will go. The assessment concluded that overall income and employment impacts on regional New South Wales were likely to be neutral. There can be absolutely no doubt about the extent or the legitimacy of the consultation process that was undertaken.

The report recommended that consideration should be given to consolidation of services offered if student numbers continued to decline. Unfortunately, they did. This was well known to the principal and staff of

the college, largely because of the open and honest process undertaken by the department in its review. This was not a knee-jerk reaction, as claimed by the Deputy Leader of the Opposition, but a properly constituted and carefully considered process. It is also critical to situate this decision within the broader changing role of education. The role of education has changed according to economic, social and technical trends. The decision to consolidate full-time educational courses is consistent with the long-term educational demands by farmers which, in recent years, has shifted. Where once it was focused on traditional full-time courses, it has now shifted to more vocationally oriented short courses that provide practical forms of continuing education.

The Deputy Leader of the Opposition is obviously out of touch with the changing needs of education. The very purpose of education is to bring about a change in students' behaviour, skills and knowledge base. While previously it was thought that the best process to follow was for full-time students to study a set curriculum, the emphasis has now shifted to a more flexible, dynamic form of delivery. Inevitably, these needs are best met by short courses. The continuing education staff who develop these courses will remain at Yanco. An extensive range of courses is planned for development over the next three years. Most of these courses will be developed by education officers at Murrumbidgee college and delivered statewide by a network of extension staff and other public and private providers throughout the State. Beginning next year the MCA will focus on its long and proud tradition of providing lifelong learning courses for farmers. Next year NSW Agriculture will introduce more than a dozen new short and distance learning courses, with 18 Yanco staff conducting these programs.

Next year farmers and agribusiness professionals in the Yanco area will be able to enrol in roughly a dozen new short and distance learning courses. Property management planning involves a suite of short courses that help farmers manage the physical, financial, human and environmental resources of farming. This course is required to meet the needs of catchment management boards, the community and the Government. The short courses in irrigation efficiencies are designed to meet the needs of irrigators, large and small, with the overall objective of enhancing water efficiency. Productive pastures are the key to sustaining the natural resource base—water and soils. Students in that course will learn how to manage native and introduced pastures to meet the needs of livestock and the environment. The course in integrated pest management for greenhouse production co-ordinates chemical, biological and physical methods of pest management with the aim to reduce pesticide use. The managing salinity on the farm course teaches techniques designed to eliminate rising watertables and reduce dryland irrigation salinity.

Nitrogen and phosphorus management of pastures is often the most limiting factor in pasture production. The course in this subject will assist farmers in understanding the input/output equations associated with nitrogen and phosphorus in their cropping systems. A workshop on soil management will help farmers to avoid soil degradation caused by the loss of chemical and physical fertility. The new courses are part of NSW Agriculture plans to strengthen the MCA's nationally recognised continuing education efforts and improve access to lifelong learning for farming professionals. They will complement the many short course and distance learning efforts already offered at the MCA. This will enable the department to reach a far greater number of prospective students and assist in adapting to the latest scientific and environmental developments. Short courses are conducted at locations around the State, not in one static location. The courses reflect an enhanced emphasis on natural resource management that will help farmers create a more efficient, profitable and sustainable agricultural sector.

These changes also do not affect the Yanco Agricultural Institute. It will continue to have a strong future, and NSW Agriculture plans to strengthen its research program in the coming years. But while this decision is consistent with public demands for education, it is also a responsible, even if difficult, one. The demand for residential agricultural educational training had been declining for the last 10 years at Yanco, long before the recent drought. That is a separate issue. The demand for short courses, however, has increased. This is a long-term trend, not something that has happened overnight. In fact, full-time residential enrolments at the MCA have steadily declined, from 65 in 2000 to 39 in 2003. Full-time enrolments at Tocal averaged 100 during the same period, but the number of lecturing and domestic staff supporting this activity at both colleges was the same. At Murrumbidgee College of Agriculture 12 domestic staff provided meals and accommodation for a mere 28 full-time students. Let us also not forget that the main reason for having kitchen and accommodation facilities at Yanco is to cater for residential students—not to compete with local businesses. No short course provider, including New South Wales TAFE, C. B. Alexander College or Murrumbidgee college relies on provision of catering and accommodation to attract students.

As enrolments declined the cost to the Government changed dramatically. Given the enrolment trends, the net cost for the Government to support each full-time student continued to rise. NSW Agriculture has

informed me that in 2000 the cost of full-time students at Yanco was $14,785 and at Tocal it was $9,197. In 2003 the cost had risen to $24,871 for Yanco and $9,601 for Tocal. While these figures have varied up and down in the intervening years, there has been one consistent fact: since 2000 full-time students at Yanco have cost at least twice, if not three times, as much as they cost at Tocal. That is the issue. In fact, this very point was made by the Hon. Rick Colless when he stated in his contribution this morning that NSW Agriculture figures showing that the cost per hour of education at Yanco was $22.67 and $8.39 at Tocal. That difference is unsustainable. It is almost two to three times more. This decision is about finding the most efficient and effective means of providing the services, which is exactly what we have done. The figures represent the net cost to the Government above and beyond what each student pays towards fees, plus the cost of board and lodging and incidentals. It would be simply irresponsible of the Government not to take action on what is a clearly inefficient use of public resources.

Another of the Opposition's tactics has been to try to confuse the issue by the comparison of different or unrelated numbers. One of these relates to trainees. Full-time students and traineeships were also considered as a separate issue in discussions between NSW Agriculture and TAFE to more clearly define potential overlap and duplication. A memorandum of understanding currently exists between these two organisations. It covers the joint development and delivery of courses and encourages co-operation and collaboration in future activity. In fact, TAFE has recently expressed concern that the Murrumbidgee college was offering traineeships in the area of food processing laboratory skills, viticulture and food handling. These courses have traditionally been provided by TAFE in the Riverina. The memorandum of understanding will be expanded to have a co-operative approach to traineeships as well as short courses. This will be implemented in the new year. However, it should be recognised in any comparison of full-time students and trainees on the basis of hours spent in training that the difference is in the vicinity of one-third to one-quarter of student load, depending on which courses are compared.

The figure cited by the Opposition of a full-time equivalent of 188 bears no resemblance to any figures the department has. I am advised that the maximum number of traineeships recorded for the Murrumbidgee college was 127 in 2002, and that is an audited figure. This equates to between 32 or 42 full-time equivalents. When added to the 28 full-time students this gives a total of between 60 and 74 full-time equivalents depending on which divisor is used—a long way short of the figure of 188. Using the audited 2002 figures for Tocal, the comparative full-time equivalent figure is between 110 and 113. The financial input in both colleges is approximately $4.4 million. However, it is clear that the activities and outputs from Tocal exceed those at Yanco, resulting in greater efficiencies at Tocal.

In addition, irrespective of whether Tocal home study hours are included or not, the cost per student is much lower at Tocal because the college has a full complement of students. This allows for the costs of overheads to be spread across a greater number of people. Yanco having only one third of the capacity, inevitably it has much higher costs per student than Tocal. This resource allocation clearly needed to be changed. However, the same opportunities need to be offered to both existing and future students. That is why any of the full-time and part-time courses that would normally have been offered at Yanco will be offered at Tocal. Similarly, all on-farm skill training will be, and in fact already is, conducted at Tocal in an identical fashion to how it is run at Yanco. In fact, more than half of the certificate III course in agriculture offered at Tocal is practical training either at the college or at local farms. Students learn about beef cattle, horses, farm machinery, sheep, dairy cattle, fencing, chainsaws and general farm skills. Tocal also offers students the opportunity to work on one of its own farms in areas such as beef cattle, dairy, broiler, first cross ewes as well as cereal or other crops.

The Hon. Rick Colless: Where is that?

The Hon. IAN MACDONALD: At Tocal.

The Hon. Rick Colless: What has Tocal got in common with Wentworth?

The Hon. IAN MACDONALD: Listen to me for a moment. The certificate IV course goes a step further, demanding that students complete two four-week periods gaining practical experience on commercial farms in New South Wales, Queensland, the Northern Territory or New Zealand. Tocal is a proven provider of residential education for students and will focus on those strengths moving forward. These changes will allow each facility to focus on its core strengths, and provide the best service to its student base. At the same time, the department has offered all affected 21 permanent MCA staff employment at other NSW Agriculture sites, and those who are unable to transfer to other facilities will be offered voluntary redundancy. In total, the changes affect 44 of the 164 people employed at the MCA, including 34 permanent and 10 casual staff.

The Opposition has deliberately attempted to suggest that under the new arrangements people from the Western Division will be disadvantaged. The C. B. Alexander Agricultural College at Tocal already draws students from all over the State. In fact, there are five full-time students at Tocal from the Western Division but there are none at the MCA. Interestingly, there are four full-time residential students at the MCA from Victoria rather than New South Wales. The issue is where the students come from, not where they stay. In fact, using a very broad interpretation, only 10 of the full-time students come from the Riverina. That is why the Government has made 10 travel scholarships available.

The Hon. Duncan Gay: How accurate are the figures?

The Hon. IAN MACDONALD: They are all accurate. Clearly, this decision will not severely disadvantage students from the Western Division of New South Wales because more of them are already choosing to study at Tocal. Accommodation will be provided for all students wanting to study at the C. B. Alexander Agricultural College. The existing facilities for full-time students are not yet fully utilised. Additional accommodation generally used for visitors and short-course students is also available. It will be used to accommodate full-time residential students if necessary. In total, Tocal has accommodation for 141 students, but it currently has only 113 resident students. The college principal has been in contact with local rental agents who have stated that they have the most vacancies they have had in 18 months. Therefore, there would be no constraint on housing any additional students. That is why NSW Agriculture has been able to guarantee that no eligible student will be turned away from Tocal because of a lack of accommodation.

In addition, by making travel scholarships available to students currently enrolled at the MCA who wish to continue their studies at Tocal, I have ensured that no students will be financially disadvantaged by this decision. These scholarships will continue to be available for prospective students from the Riverina and the Western Division. At the same time, the MCA will still have a critical mass of more than 15 education officers and technical support staff in the continuing education area. That area is showing strong growth and the remaining staff will support the department's extension and research efforts. The MCA research division has more than 100 technicians and support staff involved in agricultural production systems and sustainable natural resources, and the prospects are good for further developments in that area.

There is no doubt that this has been and continues to be a difficult decision, but it will offer long-term benefits to the people of New South Wales, and farmers in particular. The financial implications have been carefully calculated and assessed. The timing of this decision is also crucial because the changes cannot be implemented half way through the academic year. Making the decision when we did provided a transition period before the start of the 2004 academic year. The announcement was made as early as possible and everyone involved has had three months in which to consider their position, in addition to knowing that the changes were inevitable for more than three years. To delay for a further 12 months would be irresponsible. These decisions have not been easy to make, but they are necessary.

NSW Agriculture is extremely mindful of the difficulties facing rural communities, particularly as the drought continues to take its toll. The Government is also mindful of the short-term difficulties that this might pose for affected students and staff and NSW Agriculture has provided as much support for them as possible over the past few months. However, given the declining demand for full-time residential student places at the MCA over the past 10 years, it is clear that maintaining the status quo is not a responsible use of taxpayers' dollars. These changes will allow each facility to focus on its core strengths and to provide the best service possible to the student base. The Government has made its decision. This carefully considered decision has taken much time, effort and diligence.

Mr IAN COHEN [3.05 p.m.]: I listened with interest to the position put by the Minister for Agriculture and Fisheries. This issue has been brewing in the House over the past 24 hours. I will add to the comments made by Ms Lee Rhiannon, who focused on the education aspect of this issue given her responsibility for that portfolio area. I will reflect on a few other issues, particularly those relating to rural areas. I refer specifically to the dislocation being experienced in rural communities and the impact of decisions involving the closure of institutions and industries. As the chair of General Purpose Standing Committee No. 5 I have recently heard submissions from many people in small communities about the impact of the closure of institutions such as the Murrumbidgee College of Agriculture. These decisions affect jobs and the viability of certain communities.

Reverend the Hon. Dr Gordon Moyes referred to the different types of institutions that support the arts and other activities in our communities. I have not examined the details, but I believe we could lose some

specific activities from this rural community. Will we see a proper duplication of the practical activities being offered at the Murrumbidgee College of Agriculture if those students are moved to the C. B. Alexander College of Agriculture at Tocal? Will that institution service the needs of the Murrumbidgee Irrigation Area? I note that New South Wales Farmers has very specific concerns. This motion calls for a moratorium, not a total rejection of the proposition. The Minister and I were on the Standing Committee on State Development, which examined the closure of veterinary and agricultural stations. The committee noted the incredible amount of insecurity and breakdown in the functioning of those facilities because of the lack of certainty. That atmosphere has an effect on the culture of an institution. The closure of these facilities can have long-term negative effects. The veterinary and agricultural stations ceased functioning and serving their communities.

The Greens acknowledge that this is a reasonable motion calling for a moratorium on the closure of the Murrumbidgee College of Agriculture. As I spend more time visiting rural areas on committee work it is becoming apparent that we cannot easily measure the effectiveness of the facilities, particularly after severe drought. We cannot simply measure their activities in terms of streamlining institutions. We must look at the social capital and the need for maintenance of infrastructure if these communities are to remain viable. As Ms Lee Rhiannon said, the Greens support this motion.

The Hon. JON JENKINS [3.09 p.m.]: I support the Opposition's proposal for a moratorium. Regional communities are currently stretched to their limit and are suffering enormously. The most recent figures produced by the Australian Bureau for Agricultural and Resource Economics show that the average farm loss this year was $78,000. As with many public infrastructure projects, there is a certain amount of public support for the proposal. Keeping the Murrumbidgee College of Agriculture open for another year may prove to be of great benefit for the local community. Therefore, I support the motion.

The Hon. RICK COLLESS [3.10 p.m.], in reply: I thank honourable members for their contributions to the debate on this very important issue, particularly those who have supported the Coalition's motion. Education, particularly for young people in rural and remote areas of the State, is not simply a dry, economic argument. It is not an argument that can be accounted for by simply putting dollar signs on the bottom lines of balance sheets. That is what the Minister for Agriculture and Fisheries has attempted to do—to indicate to the House that that is the only important issue. Education for people in the west is about improving the social capital, the training and employment opportunities for young people, and the management skills of people who will in future manage the lands in western New South Wales. If the Murrumbidgee College of Agriculture is to close or reduce its full-time residential capacity there will be a decline in the social capital of western New South Wales.

There will be a decline in opportunities for young people in western New South Wales, and there will be a decline in the management skills being applied to the lands of that part of the State. They are the reasons why the Coalition is concerned about this issue. In his usual arrogant fashion, the Minister accused The Nationals of politicising this issue. The debate is not about politicising the issue; it is about addressing the issues I spoke about a moment ago. The Minister said that regardless of the vote of this House, the Government's decision will stand. I note that the Minister nods his head in agreement. What is the power of this Parliament? The Minister spoke about a review, which he claimed had been widely circulated in the Riverina. In a moment I will demonstrate that it was not so circulated. The review pointed out that closure of the college and the cessation of full-time residential courses was but one of the options the Government had considered.

The Hon. Duncan Gay: What about their recommendations?

The Hon. RICK COLLESS: The recommendation was that there should be consolidation of these facilities, not cessation of full-time residential courses and closure. We wonder where on earth the Minister is coming from on this. Community consultation needs to take place, and it probably should be in the form of an inquiry under one of the general purpose standing committees of this House.

[*Interruption*]

Such an obtuse sound coming from Country Labor is remarkable. I cannot describe it, nor do I know how to spell it. I will place on record something that is far more intelligent than the interjection that just came from Country Labor. I refer to a letter written to the Minister by the Mayor of Leeton, Councillor Joe Burns—

The Hon. Ian Macdonald: Which was replied to.

The Hon. RICK COLLESS: —which was replied to. The letter, which is dated 9 September 2003, reads:

> Dear Minister,
>
> I was shocked, dismayed and appalled to hear last week that the state government has taken a decision to virtually close down the operations of the Murrumbidgee College of Agriculture at Yanco, at the end of this year without any semblance of consultation at all.
>
> Why hasn't the Department of Agriculture complied with the government requirements that departmental decisions which may impact on the social and economic aspects of rural communities must be subject to a Rural Communities Impact Statement before they are implemented? What has happened to the "whole of government" approach which is supposed to be applied to the making of significant decisions which affect rural communities? …
>
> Minister, last Wednesday, 3rd September, I sat through a meeting at the College where Mr Alan Gleeson, Executive Director (Administration), and Ellen Howard, Program Manager, Education and Training, from the Department of Agriculture, did their best to advise staff of the decision, their options and the reasons behind the decision.

It does not sound as though there was much consultation prior to 3 September. The Mayor of Leeton continued:

> The clear implication from their presentation was that they (the Department) were implementing a Cabinet decision or a decision of a Cabinet Committee. I note that at least one of your recent press releases on the matter states that you have endorsed the recommendation by NSW Agriculture. A significant variation, I am sure you will agree.

That letter clearly points out that the public consultation that the Minister referred to simply did not take place. The community of Leeton simply did not know about the decision. If that community did know about it, one would think the mayor would know about it, but he did not. The Minister said that the community knew about the decision two years ago—

The Hon. Ian Macdonald: I didn't. I said the stakeholders knew about it.

The Hon. RICK COLLESS: Why would the Minister have suddenly dropped it on the community a few months before it happened? Why did he not tell the community about it, say, before the recent State election?

The Hon. Duncan Gay: Or his predecessor.

The Hon. RICK COLLESS: Or his predecessor. Today we have seen what my good friend the late the Hon. Doug Moppett used to say in this House about the Minister for Agriculture and Fisheries: the peri-pedantic perambulations of the Minister as he marches up and down this Chamber quoting meaningless figures. As the documents on this issue show, the Minister's figures are incorrect. The declining importance of agricultural education is a matter we all need to be concerned about. As I said in my earlier contribution, this is yet another step in the process of reducing agricultural education across the State. Short courses are fine for some specific issues, but what about the need for more formal education for young people who need this sort of training?

[*Interruption*]

The Minister interjects about universities. We are not talking about kids who want to go to university; we are talking about young people who want to get some formal education so they can get employment on the farm and that type of thing. They do not necessarily have the academic ability to go to university, nor the desire to go to university. They do have a desire to go to an agricultural college to get a good, solid education in agriculture within their region. Over a number of years the Department of Agriculture has been closing agricultural education institutions, to such an extent that there is now only one college that provides that type of education: the Murrumbidgee College of Agriculture at Yanco. I fear greatly the ramifications of the Minister's arrogant attitude in saying that whichever way the House votes this afternoon will be irrelevant. He is trivialising the whole process of Parliament—

The Hon. Ian Macdonald: Stop verballing me. I said that the decision will stand. I think that is very relevant.

The Hon. RICK COLLESS: The Minister is suggesting that he considers his decisions to be bigger than the decisions of this Parliament. I conclude by again thanking all those who have contributed and for the support they have given to the Opposition on this issue. The legislation is supported by the people in the west and south-west of the State, particularly the people of Leeton. At the end of the day it is a government of which the present Minister is a member that is trying to shut down agriculture in this State. Eventually there will be no need for agricultural education because there will be no agriculture. And the Minister calls himself a farmer!

Motion agreed to.

TRANSPORT ADMINISTRATION AMENDMENT (SYDNEY FERRIES) BILL

Second Reading

Debate resumed from 19 November.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [3.20 p.m.]: At the outset I advise that the Coalition will oppose the bill in its present form as we have a number of serious concerns about its provisions. We believe that the lack of consultation on this bill prior to its introduction into this House has resulted in a flawed piece of legislation. The bill is intended to amend the Transport Administration Act 1988 and establish Sydney Ferries as a corporation in its own right, separate from the State Transit Authority [STA], which, as members are aware, currently operates Sydney buses, Sydney ferries and Newcastle bus and ferry services. I note that the Government's rationale for this legislation is that it will give Sydney ferry operations a greater maritime and financial focus, given that at present ferry operations are effectively a subsidiary of State Transit's main operational area in the provision of bus services.

The Hon. Greg Pearce: Point of order: Madam Deputy-President, contrary to standing orders the Hon. Jan Burnswoods is reading a newspaper. I would ask you to direct her to either leave the Chamber or abide by the rules of the House.

The Hon. Jan Burnswoods: To the point of order: I am not sure whether the *Sydney Star Observer*, which is a weekly magazine, would count as a newspaper.

The DEPUTY-PRESIDENT (The Hon. Patricia Forsythe): Order! I do not believe on this occasion that I need any advice about the status of the article the Hon. Jan Burnswoods is reading. From all appearances it is a newspaper. The standing orders are clear: members should not read newspapers in the Chamber. I ask the honourable member to desist.

The Hon. MICHAEL GALLACHER: The intention of the Government in this regard is not unexpected. It follows on from one of the reform options mooted in the Parry Inquiry Interim Report, namely:

> Improve the cost effectiveness of government-operated ferry services by separating ferry operations from the STA and establishing a Sydney Ferries Corporation that would focus solely on ferry services.

However, in his second reading speech the Minister made the following specific point:

> Under this bill, the principal objective of Sydney Ferries will be to deliver safe and reliable passenger ferry services in the Sydney area in an efficient, effective and financially responsible manner.

The bill is fundamentally flawed. In its current form it will not deliver efficient, effective and financially responsible services from Sydney Ferries. It has failed to address inequities that currently exist. Before addressing areas of concern, I will deal with the general parameters of the legislation. The new Sydney Ferries Corporation will operate Sydney ferry services that are currently operated by the State Transit Authority, as indicated by proposed section 35C. I note, however, that Newcastle ferry services will still remain under the umbrella of the State Transit Authority, as is indicated by the amendment to section 20A (1) (a) of the Transport Administration Act. State Transit's objectives will now be bus services and Newcastle ferry services. Proposed section 35A formally establishes Sydney Ferries as a non-dividend paying statutory State-owned corporation. This is intended to commence operation by 1 July next year. Clearly defined objectives and functions of the new Sydney Ferries are to be established by proposed section 35B. A full management structure, including a governing board and a chief executive officer, will be established by proposed sections 35H through to 35K, as referred to in division 4 of schedule 1. Sydney Ferries will be required to provide a statement of corporate intent as provided in proposed section 35O, and the Minister will be able to direct that certain assets, rights and liabilities of the current State Transit Authority be transferred to Sydney Ferries. Thus the creation of the new corporation will be effected.

Power is also provided to transfer certain staff of the State Transit Authority to Sydney Ferries, conditional on them retaining their current State Transit Authority rights and entitlements. Proposed section 35Q ensures that Sydney Ferries employees retain their rights to appeals under the Transport Appeals Board Act 1980. The Minister said in his second reading speech that he wants to ensure that Sydney Ferries remains a viable and affordable operation. He also said that this legislation will give Sydney Ferries a direction and focus that it needs to build revenue and manage properly a safe and reliable maritime transport service. Sydney Ferries is an important part of our public transport network. No-one here would disagree with that sentiment. It is a pity that this legislation simply does not deliver it.

How many of us have at some stage taken a first-time visitor to Sydney out on the Manly ferry? It is, without any doubt, one of the must do things in Sydney. Far more than either our trains or buses, Sydney ferries are an integral part of the social and cultural fabric of our society, our State and, indeed, this country. The ferries also play a role in getting employees to their workplace, and there is certainly room for commuters to utilise more ferry services where these are available as a means of public transport.

The most obvious concern of the Opposition is that of process—and it is not limited to this bill or even to this portfolio. Again in this House we are witnessing yet another attempt by the Carr Government to ram through legislation at the end of a sitting year without allowing appropriate time for due process, including allowing time for members to consider legislation and to consult fully with all stakeholders. This has led to the situation we are confronted with this week, whereby the Government has suddenly decided to introduce numerous pieces of very important legislation. We all know why it has done this: it wants to stifle public debate as well as potential criticism and, at the same time, prevent this place fulfilling its function as a true House of review. It is as simple as that.

The Hon. Michael Costa has been the Minister for Transport Services since April, and it is now December. He has had eight months, plenty of time, to introduce legislation, but he has not done so. In fact, we had no idea this legislation was even on the Minister's radar until just before it was introduced. We have had three major transport bills to consider in the past few weeks: the Transport Legislation Amendment (Safety and Reliability) Bill, the Transport Amendment (Rail Agencies) Bill and the Transport Administration Amendment (Sydney Ferries) Bill. The Minister will put up the excuse that he has had to have time to get on top of the portfolio and to conduct reviews—such as those conducted by Parry and Unsworth—to find out what was wrong before he actually introduced legislation to fix anything. In reality, such an excuse is simply a Labor con to gloss over its failings after eight years in office—eight years of maladministration. The fact remains that both he and the Government knew already what was wrong in transport—and it was not just Carl Scully, even though he must accept a large part of the blame. Labor has been running the show for the past eight years, going on nine years, and it is expecting the public to forget that it has presided over inadequacies in our transport system for all of that time by going through the pretence of conducting reviews and inquiries to cover itself.

Only last week we saw another cover-up attempt when the Minister announced a special taxi summit to resolve problems in that industry. The summit, so-called, was, however, nothing more than a December meeting of the Taxi Advisory Committee, a body that had been set up under Carl Scully back in 2000. A major part of the Government's strategy includes introducing important legislation such as this bill in the last sitting week of the year to try to restrict the time available for scrutiny by the Parliament and the wider community. But as usual, the Government has failed to consult with industry stakeholders before introducing legislation. I witnessed a similar pattern with industrial relations matters when I was Opposition spokesperson for that portfolio. Unfortunately, the same thing is happening in the Transport Services portfolio.

Given the resources the Minister has at his disposal, he should have done a better job to get things right the first time, but the mismanagement of the Government extends to legislation. The Government should have consulted widely before introducing the bill. Consultation would have revealed flaws that could have been addressed before the bill was brought forward for debate. The Coalition, in the limited time available, has consulted with a number of stakeholders about the bill. During that consultation it became apparent to me that, yet again, the Government had not bothered to consult. I put on record my appreciation of the New South Wales Commuters Council, Action for Public Transport, the Bus and Coach Association and, in particular, the Charter Vessel Association for their input and feedback on various aspects of this bill, despite the unavoidable short notice. Their feedback has assisted me to understand the potential ramifications of the bill and to identify areas of concern.

Consultation with relevant stakeholders is a key process of government. Therefore, I recommend to the Minister that in future he consider consulting stakeholders, and by that, I do not mean just quickly running matters past his old mates down at the Labor Council. Honourable members will recall that I referred earlier to the Minister's comments that the aim of the bill is to ensure that Sydney Ferries acts in an efficient, effective and financially responsible manner. If the Minister had bothered to consult, he would have been informed of areas where this objective has not been realised. I shall now refer to those areas. Proposed section 35D, together with proposed section 35E, will preserve the rights of Sydney Ferries to operate in the tourist cruise market in competition with private operators.

The Hon. Michael Costa: Currently, that is the case.

The Hon. MICHAEL GALLACHER: The Minister indicates that currently that is the case. In fairness, the Minister has proposed a number of amendments. However, I continue to make the point that had the crossbench members and the Opposition not been at pains over the past few days to make these obvious failings apparent to the Minister, and had the Government rammed the bill through this House as it did in the Legislative Assembly, there would have been a huge mess on the water and in the not too distant future we would have been debating legislation to fix the problems—just as occurred back in 1996 under Brian Langton when reforms to the rail industry were rammed through the Parliament. On that occasion the Government, some time later, realised its error and, yet again, rushed through legislation to try to fix the problems.

The Opposition does not oppose competition but it is opposed to hurried legislation that, for all intents and purposes, contains various flaws. Indeed, the problem is in the detail. I acknowledge that the Government has sought to rectify some of the problems, but it will not rectify all the problems because sufficient work has not been done. The Government will need to return to the drawing board. Competition is fine, but for it to be effective, one needs a level playing field. Unfortunately, that element is missing for private harbour cruise operators, who have felt the impact for quite some time.

The Hon. Michael Costa: That is their view. Don't assume that is true.

The Hon. MICHAEL GALLACHER: The Minister interjects stating that what I am saying is not true.

The Hon. Michael Costa: I said it is their view. But their view is not necessarily true.

The Hon. MICHAEL GALLACHER: It may well be their view and the Minister might disagree with it, but if he does disagree, he should not put forward amendments to rectify it. If he believes that the bill in its original form will achieve its objectives, it should stand. But that will not happen.

The Hon. Michael Costa: We are not amending it.

The Hon. MICHAEL GALLACHER: The Minister may not seek to amend the bill per se but some agreement will be made in an effort to appease the industry in the short term. I hope that in the foreseeable future the Government will iron out the problems identified by the Opposition and the Charter Vessel Association. It should be remembered that the objective of the bill is for Sydney Ferries to be an efficient and financially responsible operator. However, the bill contains no provision to address the inequity that currently exists, the negative impact of which affects not only private sector operators; ultimately it has an effect on the taxpayer. Currently, Sydney Ferries is not—and under this bill will still not—be subject to the same wharf access charges and ticketing fees currently imposed by the State Government on its private sector competitors at wharfs in Sydney Harbour such as Circular Quay, King Street Wharf and Darling Harbour.

The most glaring example of this—and I thank the Charter Vessel Association for providing me with this information—is Wharf 6 at Circular Quay. Private operators pay more than $1 million annually for the use of this wharf, yet Sydney Ferries pays nothing and, under this bill, will still pay nothing to access the other wharfs at Circular Quay. The Charter Vessel Association has raised the valid concern that if Sydney Ferries works to act more aggressively in the tourist cruise market, as distinct from commuter services, without being subject to the same charges and taxes that private operators have to face, the bill has the potential of maximising inequities that private operators already face.

Private sector tourist cruise operators provide employment to more than 1,500 people, generating an annual income to New South Wales of approximately $250 million. Therefore, I do not think their concerns can be ignored. In addition, the Charter Vessel Association raised concerns that the bill is potentially in breach of prohibitions against anti-competitive conduct in competition law. If this matter were subsequently referred to the Australian Competition and Consumer Commission or the Federal Court for a determination, taxpayers would incur costs on behalf of the Sydney Ferries Corporation. Therefore, the taxpayer would become liable for fines and damages, and that would not be good for the balance sheet of Sydney Ferries. Failing to address anti-competitive conduct will certainly not help the Sydney Ferries Corporation become an efficient, effective and financially responsible operator, yet that is the objective of the bill.

A further flaw can be found in proposed section 35N (2), which allows the Treasurer to suspend the obligation of Sydney Ferries to pay amounts under section 20T of the State Owned Corporations Act 1989. In effect, this provides the Treasurer with the discretion to waive the requirement for Sydney Ferries to pay tax

equivalents in the way that State-owned corporations are normally required to pay. New section 17B of the Transport Administration Act, as proposed by the Transport Administration Amendment (Rail Agencies) Bill, contains a similar provision with respect to waiving the requirement to pay tax equivalents. However, the competitive situation of the new RailCorp is fundamentally different from that of Sydney Ferries. RailCorp, which will operate CityRail and CountryLink services, has no direct competition in its field of rail operations, whereas the proposed Sydney Ferries Corporation will compete for business against private cruise operators.

I note the concerns of the Charter Vessel Association that the payment of tax equivalents by State-owned corporations is a key feature of national competition policy and the principle of competitive neutrality between government and private service providers competing in the same market. By contrast, private operators are required to pay all forms of State and Federal taxes related to corporate activity—the same as other businesses—and this includes GST, fringe benefits tax, corporate tax, payroll tax and the like.

The payment of tax equivalents by government corporations is a requirement of the national competition policy and the principle of competitive neutrality where government and private operators compete in the same market. If the Treasurer were to persist with this proposal, a serious inequity would arise. I would like to know whether the Government has consulted the National Competition Council about the inequity in proposed section 35N. I certainly would not want a complaint to be made to the National Competition Council that could result in national competition policy payments to New South Wales being withheld. That would not encourage the Sydney Ferries Corporation to become an efficient, effective and financially responsible operator in the tourist cruise market.

These are serious flaws in the bill and reason enough to oppose it and have it sent straight back to the drawing board. It is clear that currently the tourist cruise market is not a level playing field, and this bill does not even attempt to rectify that problem. I reiterate that if the Government had bothered to consult with industry and allowed more time for consideration, these problems could have been avoided and a superior bill introduced.

Back in October, when the Minister first indicated that he was planning to corporatise Sydney Ferries and separate it from the State Transit Authority, I warned that there would be more to this than was first apparent. In particular, I warned that the Minister would use this as a means of keeping himself at arm's length from Sydney Ferries. Of course, if the corporation were to improve the position of Sydney Ferries the Minister would be the first person to claim credit. However, if there are any future problems, fare increases or sackings resulting from poor performance, the Minister will be the first to say, "It's not my fault. Blame the corporation." If problems of low patronage, declining revenue and mounting debt are not addressed, the Minister will simply say, "I don't control them. It's their fault, not the Government's."

Corporatising Sydney Ferries in this form is simply too serious a matter to be used as an excuse by the Minister to duck responsibility whenever it suits him. Yet we all know that is exactly what he will try to do. Provision is made in the legislation for employees to be transferred from the State Transit Authority to the new Sydney Ferries Corporation. The Government has a policy of no forced redundancies in the public sector. Whilst it is hoped that the new corporation will fully utilise employees who are transferred, I wonder what arrangements have been put in place for staff who may be regarded as surplus by the new corporation once it commences operation. It is possible that the new corporation may end up with current State Transit Authority staff on its payroll who have not accepted voluntary redundancy but who cannot be readily utilised.

Nor do we know the details of voluntary redundancies that may be offered to current State Transit Authority employees and the impact that this will have on the balance sheet of the new corporation. This may have an adverse impact on its finances; therefore, the Minister's objective for Sydney Ferries to be an efficient, effective and financially responsible provider of ferry services may be put in doubt. I have highlighted the reasons why we oppose this legislation. But there other problems that arise when the Government rushes legislation through and fails to consult. There are other reasons why we oppose this legislation. Proposed section 35D states:

> Sydney Ferries may operate other transport services, including bus services, whether or not in connection with its ferry services.

This provision reminded me of new section 9 of the Transport Administration Act, as proposed by the Transport Administration Amendment (Rail Agencies) Bill, which allows the new Rail Corporation to operate bus services, whether or not in connection with its railway services. So we have the same thing all over again but this time with ferries. Supposedly, the purpose of this legislation is to give Sydney Ferries the maritime focus it needs, rather than just being a subsidiary of what is a government bus company. But now the ferries could be operating their own buses. The last time I looked, one certainly could not use a bus to cruise the harbour. That

obviously means land operations, which then begs the question: If the Sydney Ferries Corporation introduces bus services, will those services be competing against State Transit Authority buses or buses operated by private bus companies? In his second reading speech on 19 November the Minister said that the reason for this was:

> … to ensure that Sydney Ferries is able to fully exploit the public transport potential of ferry services, and can properly plan for and manage all contingencies.

Perhaps the Minister can tell us what the actual rationale is for that. The interim report of the Unsworth review of bus services certainly does not canvass this or make a recommendation to that effect. Yet in the two major transport services bills we are debating this week, both the new Rail Corporation and the new Sydney Ferries Corporation have apparently been given the green light to set up business in direct competition with both State Transit Authority and private buses. It is beyond me how on earth this is going to result in Sydney Ferries Corporation providing efficient, effective and financially responsible ferry services. It must be remembered that that is the Minister's objective.

As with my earlier comments about a level playing field, I wonder what the Bus and Coach Association would have to say about anti-competitive behaviour if Sydney Ferries—which already has a financial advantage by not having to pay certain charges and the potential for the Treasurer to suspend its payment of tax equivalents—wanted to enter into the provision of regular bus services. It certainly adds up to another reason to oppose the legislation. Speaking of buses, it is interesting to note that in terms of fully exploiting the public transport potential of ferry services—to use the language employed in the bill—we do not see anything specific about requiring better co-ordination of bus and ferry services in terms of timetabling, namely, making sure that the ferries and connecting bus services are better co-ordinated than they are at present. This would certainly assist Sydney Ferries in developing efficient, effective and financially responsible ferry services, but we do not see any overt requirement for it in this legislation. All the Minister said about this issue during his second reading speech was the following:

> In respect of the co-ordination and integration of Sydney Ferries timetabling with other public transport modes, arrangements will continue to ensure customers using different modes are linked.

Nothing about improving upon what is already in place! No doubt the Minister will say that the statement of corporate intent and benchmarking process in proposed section 35O will address the issue of timetabling in due course. Personally, I would have thought that ensuring better timetable co-ordination, particularly between bus and ferry services, would be of more direct relevance to the travelling public and more relevance to the intention of this legislation than a provision that enabled Sydney Ferries to set up its own bus fleet. This omission is another reason to oppose the legislation.

Proposed section 35H describes the composition of the board of the new Sydney Ferries Corporation. In that regard, we can see that the Minister will get his way; his old mates at the Labor Council will get their say, acting on behalf of unions that represent Sydney Ferries employees. There is also a provision for other directors of the board to have expertise in maritime safety and vessel operations. However, I note that while the unions get looked after, there is absolutely no provision in proposed section 35K for a passenger representative on the board; nor, for that matter, does there appear to be any way that passenger representatives can have any direct input.

The Hon. Michael Costa: What about passenger representatives?

The Hon. MICHAEL GALLACHER: The Minister asks about passenger representatives. I note that the Hon. Dr Arthur Chesterfield-Evans has circulated an amendment, which I believe the Government will take on board in some form. I look forward to hearing the Minister's response with regard to the commuter council.

The Hon. Michael Costa: That is fine.

The Hon. MICHAEL GALLACHER: I would have thought that instead of nitpicking words we would have a whole-of-government approach to ensure that everyone who utilises public transport—whether they be employees, providers or users—is looked after and is involved in the process. For the past nine years or so the Government has done an absolutely fantastic job of stuffing up the public transport system in this State. The ball is now at the Minister's feet. The Minister rolls his eyes when I talk about passengers being involved, and that is exactly what the former Minister was like. He was dismissive of passengers as well.

Until the Minister gets up to speed with the fact that there is a three-legged stool when it comes to public transport—providers, the workers and the passengers—he will continue to lose sight of what must be

achieved. If he asks passengers about their needs, he will get valuable information that can be used to improve services and, therefore, increase patronage. This in turn will result in more effective, efficient and financially responsible ferry services—remember the Government's intention as stated by the Minister—because the Minister is asking commuters what they want and what services they will use. It is important that the Minister provides passengers with an opportunity to participate every step of the way and that he does not simply say, "Well, that is what the new regulator will do."

I know of private bus operators who have taken this approach and as a result are improving both patronage and revenue. There is no reason the same logic of consultation cannot apply to Sydney Ferries. I have already raised the issue of the Government failing to consult with stakeholders, and this certainly includes the travelling public who use Sydney Ferries. At the moment, as with other public transport areas, I think the only input the Minister will let Sydney Ferries passengers have when something goes wrong will be via a telephone call to 131500—and this will be at their own expense. This is yet another reason the Coalition opposes the bill.

Another area of concern with this legislation—and for that matter with the other two transport services bills introduced in recent times—is the involvement of the Treasurer in ministerial directions to the relevant agency, which in this case is Sydney Ferries. Proposed section 35K relates to ministerial direction, and states that the Minister may give a written direction in relation to their functions if the action is warranted on the grounds of urgency or public safety. Then comes the caveat, provided by proposed section 35K (4), namely:

> If the Minister considers that compliance with the direction may cause a significant variation in the approved financial outcomes of Sydney Ferries, the direction must be given in consultation with the Treasurer.

Yet again the Treasurer may say that a safety improvement is too expensive to implement, or the Minister for Transport Services may say to the Treasurer, "Tell me I do not have to do it." This situation has been replicated in the other two recent transport services bills. Section 42I (5) of the Transport Legislation Amendment (Safety and Reliability) Act contains a similar provision in relation to directions given by the new regulator in relation to Waterways Authority matters. The Minister has to consult with the Treasurer before giving approval to proceed.

Proposed section 16 (4) of the Transport Administration Amendment (Rail Agencies) Bill also directs the Minister to consult with the Treasurer if he considers that compliance with urgent or public safety-related directions will cause significant variation with the finances of the new RailCorp. As with those two items, in this bill the Government has given itself a ready-made escape clause in relation to public safety. That is simply not good enough. I put to all honourable members that we do not want a situation in which the Treasurer can knock back a direction to improve public safety merely because it costs too much.

Proposed section 35O relates to the statement of corporate intent by the new board of Sydney Ferries. That statement is to include performance benchmarking. A recent Auditor-General's report strongly criticised the benchmarking used by the State Rail Authority. Neither the Auditor-General, the Minister nor the travelling public believe the on-time running figures supplied by State Rail. I hope the Minister will closely examine the benchmarking process relating to Sydney Ferries currently employed by State Transit, which, presumably, will be carried over to the new Sydney Ferries Corporation when it is established. We do not want another State Rail style benchmarking fiasco with Sydney Ferries. This legislation requires performance benchmarks for Sydney Ferries. In turn, the Government must ensure that the information being collected for that purpose is as accurate as possible. Until that issue is clarified—which should have been done before this legislation was introduced—the public will not trust performance data. That is another reason the Coalition opposes the legislation.

Another area of concern is the revenue derived from fines. Proposed section 35P provides that all fines and penalties in relation to Sydney Ferries services must be paid to Sydney Ferries. A similar provision exists in proposed section 17D of the Transport Administration Amendment (Rail Agencies) Bill, relating to RailCorp. Proposed section 35P will effectively give Sydney Ferries the power to self-fundraise: money from fines will come straight to it. Such a power must not be abused. We are all aware that there would be a public outcry if all the revenue derived from infringement notices issued by NSW Police went directly to fund the police and not into the Consolidated Fund. The same logic applies here. We do not want to see the Treasurer's minimum cost to government agenda lead to an overzealous use of power simply to provide funds to a financially strapped agency. This is yet another example of the Coalition's concerns in opposing this legislation.

In conclusion, I reiterate that the Opposition will oppose the bill in its current form because of the many shortcomings I have noted. This is primarily due to many anti-competitive and other issues that the legislation fails to address, and which are serious enough to prevent Sydney Ferries meeting what the Minister has

described as its objectives—namely, efficient, effective and financially responsible services. As I said earlier, there is also what we consider to be a lack of consultation, and the assistance the Government is prepared to give Sydney Ferries to give it a real advantage when it begins to compete with the private sector in and around the harbour.

I suspect that the Minister for Transport Services will try to make some political mileage out of the fact that we are not supporting his corporatised model, and that he will say that the Opposition has changed its direction. It is important to put on the record that we are not opposed to corporatisation. The Opposition is concerned about the Government's model, and some serious questions remain to be answered. If the Minister says there will be no change in staff numbers and that those who do not want to leave will not be forced to leave, what will happen to staff numbers? What will happen to the workers of Sydney Ferries? If the staff remains static, what will happen with fares? Will the Minister guarantee that fares will be stable, as they are now, and that they will not increase? If this is all about the new look for Sydney Ferries, what will be achieved as a result of this new look?

As I said earlier, this is all about having this new body at arm's length from the Minister—a defensive line, if you like—so that in future when the decision is made to scrap the jobs, jack up fares, or cut back Sydney ferry services, the Minister will be able to say, "Do not blame me, it was those nasty people at the corporation. I will have a stern word with them in the morning, but there is nothing I can do because they are the independent umpires." These are the people with the business acumen whom we have entrusted to make the decisions. Heaven forbid we should involve ourselves in the corporation, because if the jobs and the fares are going to stay the same, how is the Minister going to make the money to turn this around?

The Hon. Michael Costa: He sounds like Nick Greiner.

The Hon. MICHAEL GALLACHER: This is not about corporatisation. The Minister is trying to put up a defensive block. The Minister can go on about Nick Greiner. He can go back to the 1980s if he wants to, but he has the ball, he is in charge of it, and he should not try to flick it.

The Hon. Michael Costa: You are distancing yourself from Nick Greiner.

The Hon. MICHAEL GALLACHER: We are not distancing ourselves from Nick Greiner at all. The Minister is the one who is trying to set up this entity that puts him at arm's length from protecting the workers. He is not interested in the workers at Sydney Ferries. The Government is turning its back on them. It is turning its back on the people who travel to work by public transport every day. How will they afford it? The Opposition supports competition, but this model is not about competition. This model is about trying to protect this bloke's backside when the Government starts jacking up the fares and sacking people in Sydney Ferries. He should be ashamed of himself.

Reverend the Hon. FRED NILE [3.57 p.m.]: The Christian Democratic Party supports the Transport Administration Amendment (Sydney Ferries) Bill. This has been our consistent policy in this House, as distinct from that of the Opposition. We support the object of the bill, which will constitute Sydney Ferries as a statutory State-owned corporation and confer on it the State Transit Authority's functions to provide Sydney ferry services and related functions. It is hoped that this corporatisation will result in a far more efficient and economic operation of this entity, which has been a subsidiary of a bus company. The principal objective of Sydney Ferries, through this legislation, will be to continue to deliver safe and reliable ferry services in the Sydney area in an efficient, effective and financially responsible manner. The Independent Pricing and Regulatory Tribunal will continue to apply any fare increases, such as occurs in regard to buses and trains. The bill will separate the functions of Sydney Ferries from the State Transit Authority and establish Sydney Ferries as a non-dividend-paying, State-owned statutory corporation within the Transport Services portfolio.

The Charter Vessel Association has raised the possibility—I think probably the certainty—that under the restructure Sydney Ferries will become more active in advertising and initiating greater use of Sydney Ferries for tourist cruises in particular. We have all been impressed by the great expansion in the use of beautiful Sydney Harbour for tourist cruises by companies such as Captain Cook Cruises, Blue Line Cruises and Matilda Cruises. Overseas and interstate tourists expect quality tourist vessels to operate efficiently and to be in good condition. In fact, most vessels owned by the cruise companies are reasonably new. They can be seen operating every day, and particularly on weekends.

The Charter Vessel Association is concerned that Sydney Ferries may expand its operations to directly compete against charter vessel companies in the tourist market. The association is concerned that the

government operation would not have to pay the very heavy charges the private operators have to pay for such things as wharf facilities. I will detail the amounts later. We do not want Sydney Ferries to become a monopoly with the private companies being driven out of business. As far as possible—the Leader of the Opposition has raised this point—there should be a level playing field. We all talk about it but it is not always easy to achieve. This is an important consideration in regard to this bill.

I received a letter from the Charter Vessel Association dated 30 November asking me to support an amendment to the bill to ensure that there is a level playing field for Sydney Ferries and the private operators within the tourist cruise market. I have prepared a few draft amendments but will not proceed with them as I will put a proposal to the Government that I believe will meet some of the concerns of the Charter Vessel Association. The association makes the point that its members have to meet heavy costs that Sydney Ferries is not liable for. It has never paid for access to Circular Quay wharves 2 to 5, which are a prime destination for tourists choosing a harbour cruise. In contrast, the three private charter vessel companies—Captain Cook Cruises, Blue Line Cruises and Matilda Cruises—share access to Circular Quay wharf 6 and pay over $1 million to the Waterways Authority for that access. They also pay additional fees for ticketing facilities that do not apply to Sydney Ferries.

Sydney Ferries could establish a cruise ticket price based on its lower costs but the private operators have to add a percentage of the $1 million they pay for the use of the wharf and the other charges. So the ticket prices of the private operators would be dramatically higher than the ticket price that could be offered by Sydney Ferries. This does not provide a level playing field. The charter companies will not be able to compete if they have to charge, say, twice as much as Sydney Ferries for tickets. None of us would want to see them go out of business. At the moment 250 private charter vessels operate on Sydney Harbour. The four main operators offer 20,000 scheduled tourist cruises per year and employ more than 1,500 people. The operators carry about 1.5 million passengers per year and generate an annual value to New South Wales of about $250 million. The Government should also take into account the income it gets directly and indirectly, through taxation and other means, from a successful tourist industry.

If the Government kills the goose that lays the golden egg it will not have a golden egg, the income benefiting the State budget. On 1 December the Charter Vessel Association provided me with the details of charges for which its members are liable. The estimated total of wharf access charges and lease fees for all three operators is $2.26 million per year. Captain Cook Cruises pays $730,000, Blue Line Cruises pays $730,000 and Matilda Cruises pays $800,000. The association believes that the charges will quadruple from 1 April 2004, which would virtually send the companies out of business. The private operators also pay a range of taxes such as goods and services tax, group corporation tax, fringe benefits tax, payroll tax and the superannuation guarantee levy.

Together, the three main private operators pay about $10.7 million in taxes—Captain Cook cruises $4.9 million, Blue Line Cruises $3.1 million and Matilda Cruises $2.7 million. They are breathtakingly high figures. If tourist charter companies cannot use the wharf they cannot operate a business. Monopoly control of the wharves has allowed the Sydney Waterways Authority to charge exorbitant amounts. I ask the Minister for Transport Services, when he speaks in reply, to give an assurance that he will establish a working group to look at competitive neutrality issues in respect of Sydney Ferries charter and tourist services. The working group should include representatives from the Ministry of Transport, Treasury, the Sydney Waterways Authority, Sydney Ferries and, of course, representatives—plural—of the Charter Vessel Association. If the Minister gives that assurance we will support the bill without proceeding with the draft amendments I mentioned.

Ms LEE RHIANNON [4.10 p.m.]: The Greens do not support this bill. According to the Government, the premise of the legislation is that it is more logical for the bus and ferry networks to be run by separate entities. Is that the real reason for breaking up the State Transit Authority [STA]? The Greens believe that the Government's primary concern is not to improve the maritime focus but to sharpen the financial focus. In other words, the Government's purpose is to reduce public expenditure on the ferry system. The tactic is simple. The Government will herd the ferry system into an administrative and financial corner, and then claim that the system does not have enough money. We have seen it all before. After that, the usual solutions will be offered: fare rises, service cuts, job losses and even privatisation.

The Greens have been told that the cost of running the STA's ferry network stands at $100 million a year. We understand that $40 million comes from ticket sales, $30 million comes from community service obligation payments and another $30 million comes from other sources. The big issue is the $30 million from other sources. In recent years the Greens have been told that this funding has come from the bus side of the

STA—that is, selling bus depots and other assets. Those sources of funding are now exhausted. From where will that $30 million come? The Government wants the public to ask that question and to answer it by agreeing to massive fare increases. In the words of the advisor to the Minister for Transport Services, everyone is paying for people to travel cheaply.

When an economic rationalist hears that, his or her answer is that the user should pay. According to the economic rationalists, if the ferries need another $30 million then the people who use them should pay more—about 75 per cent more. The Greens believe that public transport is a public service. It delivers externalities and public benefits such as less pollution, better health and higher standards of living. These benefits do not appear on the STA ledger, and under this Government we know that they never will. It is not only ferry passengers who benefit from public transport. When the adviser says that everyone is paying for people to travel cheaply, the Greens agree. We do not see it as a problem: it is a desirable outcome.

Public transport should be affordable and it should be publicly subsidised. Ferries might be able to run more efficiently if their management were separated from the management of buses. However, that is not what this bill is designed to achieve. It will result in a restructure that the Government hopes will create the case for higher fares. Ferry fares are already relatively expensive compared with rail and bus fares. Huge fare hikes will deter users and further imperil the future of Sydney's much-loved ferry network. The network could be extended to benefit not only ferry users but also the wider population of Sydney. The harbour could be used more extensively for ferry trips, which would encourage more people off the roads.

The Government's carve up of the STA will create yet another problem. The Greens are committed to an integrated and tightly planned public transport network. Separating the management of buses and ferries will not help efforts to promote integration. The Government says that integration of bus and ferry services is poor now, even though they are under the same umbrella. It says that 60 per cent of ferry users walk to and from the wharf and that only 40 per cent connect to another form of transport. The Greens believe that 40 per cent is very good. It is an impressive start and a good foundation on which to build. That figure could be improved if ferry services were more tightly integrated with other forms of transport. However, that is hardly likely to happen if ferries are operated by an entirely separate entity.

The Greens are looking for assurances from the Government that integration is a top priority. We heard that from the Labor Party when it was in opposition, but when it came into government integration dropped out of its vocabulary. The Greens want to know what mechanisms the new Sydney Ferries Corporation will put in place to facilitate more integrated planning with the bus and rail networks. So far all we have been told is that this is a matter for the board and chief executive of the Sydney Ferries Corporation. However, it is the role and responsibility of the Government to ensure that integration happens. Corporatisation does not mean that we should leave everything in the hands of the corporations. The Greens are unwilling to support corporatisation if it does not contribute to integration, better planning across the transport portfolio and an overall upgrading of services. We have not seen evidence of how, or whether, that will occur.

In his second reading speech the Minister said that the unions support the restructure. I have talked to representatives of the Maritime Union of Australia [MUA] and I acknowledge that it does not oppose the bill. However, I have no doubt that the MUA and other unions would oppose attempts to privatise Sydney Ferries. I am also sure that the MUA and other unions would oppose any moves to rationalise the ferry service. The Greens and unions oppose privatisation and any economic rationalist agenda. The Greens acknowledge the support of the Combined Pensioners and Superannuants Association, which has told us of its opposition to this bill. The Minister might like to share what happened when he addressed one of the association's meetings. I believe it was interesting when he had to contend with some of the comments made to him.

Aged people are getting a very bad deal from this Government with regard to transport. Their pensioner discounts are being eroded, the Unsworth bus review suggests that they be kept off buses in the morning, fares will rise and rural rail services are being run down. All those issues have a particular impact on older members of our community. Minister Costa should not underestimate grey power as a political force in this country. Other State governments have made that mistake in the past and they have paid for it at ballot box. The Greens support the existing arrangements for older people. They are among the most regular and frequent users of public transport and they subsist on low weekly incomes.

Indeed, I believe that the fact that public transport is available to many old people helps to ensure their health and wellbeing. Only a mean-spirited and heartless Government would seek to make already struggling pensioners bear the brunt of funding cuts and fare increases. The Greens are prepared to stand up for the rights

and entitlements of our older people. If the Labor Government did that we would be right there with it. The Greens are prepared to fight for publicly funded, publicly owned public transport and that is why we will oppose this bill.

The Hon. Dr PETER WONG [4.17 p.m.]: I support the principle of the Transport Administration Amendment (Sydney Ferries) Bill. However, I have some concerns about job opportunities, the careers of workers, increasing fares and the new structure.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [4.18 p.m.]: I am a dedicated ferry traveller and I try to schedule my departure from this House to fit in with the ferry timetable. As honourable members are aware, I even swap adjournment speech times to enable me to catch the ferry home. Ferry travel has a calming effect when compared with driving, and I relish the fact that I am not polluting the atmosphere. As a keen ferry user I have spoken to many deckhands and passengers, particularly since the introduction of this bill. Unfortunately there is no ferry users group. Ferry users feel unrepresented and they are concerned about increasing fares and poor services, particularly on weekends. They are also concerned about the Parry report's statement that ferry travel has low price elasticity. That means that if the price goes up ferry users will be prepared to pay the increase. They are seen as a soft target.

I have been disappointed in the Government's response to my representations, particularly the previous Minister's response. I have spoken about the pollution caused by ferries, which are diesel-powered and do not run at full capacity. As a result they do not burn fuel completely and produce a large amount of smoke and the funnels are only ornamental. On the First Fleeter class, harbour kittens and the JetCats the exhaust comes out close to the waterline and sits around the wharves, and people inhale it in large quantities. That problem could be addressed by changing the fuel mix, retrofitting fuel interjectors or installing catalytic converters with palladium catalysts. When I mentioned this to the previous Minister he was almost contemptuous. He was losing money on the ferries, and his message was, in effect, "Let the silver tails put up with it." I was a very annoyed by that. I do not see why inverted snobbery should damage the health of people who travel on ferries.

The objects of the Transport Administration Amendment (Sydney Ferries) Bill are to restructure the State Transit Authority and to constitute a new Sydney Ferries Corporation, which will commence operations by 1 July 2004. The management structure of the new corporation will be based on the standard arrangements for the statutory State-owned corporations as outlined in the State Owned Corporations Act. In his second reading speech the Minister for Transport Services said that last financial year Sydney Ferries carried just over 13 million passengers, comprising commuters and local, domestic and international tourists at a cost of almost $100 million. That is still only 0.5 per cent of the commuting public that travel into the central business district [CBD]. The Minister also stressed that Sydney Ferries faces an increase in accumulated debt attributed to ferry operations from $89 million to $219 million by 2008, increasing to $430 million by 2013.

The average patronage on Sydney ferries during peak hour is said to be 19 per cent of capacity. However, this does not take into account the fact that if an empty ferry goes out from the CBD to pick up passengers and it returns to the CBD with 80 per cent of capacity, the average patronage is still only 40 per cent. Thus, if the ferry is half filled to capacity because it does the return journey against the direction of the main movement of passengers, that represents only 25 per cent of its capacity. Some ferries will carry around 400 passengers with three staff on board. The harbour kittens carry about half that number of passengers and the JetCats carry about 280 passengers. Sometimes an inappropriate choice of vessel will result in the vessel not being filled to capacity. If the vessel fills to capacity only at its last destination point, it may be half full or less than half full for part of its journey. Therefore I am not sure how the patronage figures were calculated.

The Minister also pointed out that the average operating cost of a ferry trip per person is $7.42. However, the average fare is only $2.96, which is 40 per cent of the running cost, with government subsidies and harbour land sales making up the deficit. As a person concerned about the long-term future of Sydney Harbour, I am not keen that the Government should sell land, usually to developers, to make up the deficit. The Minister makes no secret about the fact that he wants the deficit addressed. Under new section 35B the principal objective of Sydney Ferries will now be to deliver safe and reliable passenger ferry services in the Sydney area in an efficient, effective and financially responsible manner. The Independent Transport Safety and Reliability Regulator will oversee the pricing of fares and issues of general economic efficiency. Under the Marine Safety Act and the Commercial Vessels Act, the Waterways Authority will regulate and audit the safety of ferry transport, investigate accidents, and advise on the reliability and performance of Sydney Ferries.

During my discussions about the recent history of Sydney Ferries I was told that there has been a huge increase in the number of non-operational staff. Apparently, 28 staff were based at Balmain, since the company

took up premises in Pitt Street the number of staff has increased to 68, and it is estimated that it will increase further to 80. It has been suggested that the cost of the new premises and the increase in supervisory staff will be foisted on passengers. Given that the Government complains that is losing money on Sydney Ferries, it should do something about addressing the blow-out in staff numbers. From a passengers' perspective, what is required is a management structure with adequate, competent operating staff, and appropriately sized ferries offering the best possible service to as many destinations as possible, including the provision of services from early in the morning until relatively late at night.

The establishment of a Sydney Ferries Corporation was recommended in the interim Parry report. The report also recommended a review of the private ferry contracting system with a view to removing fare regulation. The Parry report stated that there is a low price elasticity of demand, which is economists' code for the fact that patrons will still use the service even if the fare is increased substantially. The opportunity cost is that if you drive into the city you are faced with substantial parking costs, and if you travel to the city by car or bus during peak hours you can waste a lot of time. For example, in peak hours the ferry trip from Woolwich to the city takes around 18 minutes. By contrast, it takes about 45 to 50 minutes to drive from Woolwich to the city. I think a bus might do the trip in a little less time than that because of the clearways.

Paragraph 4.3.3 of the Parry report referred to scope for efficiencies. The report noted that Sydney Ferries has made some poor acquisition decisions having purchased seven different classes of ferries for its total fleet of 32 boats. Only 22 boats are operational during peak times. The Parry report recommended rationalising the fleet down to 25. I note that there is also no standardisation with regard to wharves. The intention may be to have two gangways operating so that the ferries can be emptied more quickly. However, the distance between the gangways is not consistent and the wharves do not have constant receiving points for the gangways so it is difficult to use the gangways, except those on pontoon wharves. The Parry report states:

> Rationalising the fleet and reviewing the services provided can achieve cost savings …
>
> - Increasing crew interchangeability could reduce the level of overtime required at penalty rates. Savings of up to 0.5 per cent of operational costs could be achieved, although some would be offset to some extent by additional training needs.
> - Respecifying the period of operation of manned ticket outlets at the Circular Quay wharves could save five positions with a wage cost benefit of up to $300,000 a year.
> - Divesting ownership of wharves could reduce costs but this is likely to be offset by annual leasing charges.
> - Lowering the insurance values may deliver savings but will increase risk.
> - Conducting a consequence analysis of the inventory at Balmain Shipyard could yield $200,000 (savings exclude the cost of the analysis).
> - Reforming maintenance practices, including the development of an Asset Management Plan, that reflects government guidelines could yield cost savings of $2.5 million a year in the medium to long term.

Clearly, some of the ferry services should be increased. For example, I believe there is a demand for a weekend service to Balmoral. The services to Watsons Bay at two-hour intervals on weekends are absolutely packed. I believe a more frequent service would attract even more passengers. Ferry services are often very poor. For example, on weekends the first service from western areas to the city is at 10.15 a.m. and the last service is at 6:15 p.m. and they are at two-hour intervals in between. As a result, very few people use that service. The service is also not linked with a bus service. Not many people will use a ferry service that is infrequent, will not get them home at a convenient time and will not get them into the city earlier than about 10.45 a.m.

Serious reform is needed. I do not know why there is a need to corporatise and give power to a management that has recently bloated itself with an office in the city, rather than where the ferries are based. It could use a small office over either wharf 2 or wharf 3, and concentrate its rentals on its Balmain property. It is bloating the number of people who are not operating the ferries. I do not know why. I am informed that it is now difficult to get stores because orders go through head office rather than via a direct communication from deckhands who order stores of garbage bags, toilet paper and simple things such as that. The process is now much harder because of the interference of the middle management structure.

It is worrying that the Minister is saying, "If you give us more power, we can separate it from the buses and give it a go." If current management is bloating itself and it is given even more power, the worry is that the bloat will continue and the Minister will simply say, "I have taken this thing at arm's-length. The price is going up. Goodness gracious, fancy that happening! It is not my fault." We want the ferries to be integrated into an overall transport structure. We want an improvement in ferry patronage and intermodal communications. We

want more bus routes feeding ferries so that they have a higher patronage. It has been put to me that there should be a consumer consultative committee. I have proposed an amendment to this effect, which I have discussed with the Minister. I will read the amendment onto the record. My amendment inserts a section 35P as follows:

35P Sydney Ferries Consultative Committee

(1) The Minister is to establish a Sydney Ferries Consultative Committee.

(2) The Committee is to consist of 7 part-time members appointed by the Minister, of whom:

(a) one is to be nominated by Action for Public Transport (NSW), and

(b) one is to be nominated by the Australian Consumers Association, and

(c) 3 are to be jointly nominated by the councils of local government areas to which Sydney Ferries provides ferry services, and

(d) one is to be nominated by the Federation of Parents and Citizens' Associations of New South Wales, and

(e) one is to be a representative of the users of public transport who have disabilities, appointed by the Minister from the disability advocacy sector.

(3) The function of the Committee is to advise Sydney Ferries in relation to issues relating to users of its ferry services.

(4) The chief executive officer of Sydney Ferries is to meet with the Committee at least 4 times a year.

(5) The Minister may determine the terms and conditions of appointment of members of the Committee.

I have spoken to the Minister for Transport Services about the establishment of such a committee. He said that, if I do not move my amendment, he will give a commitment in his reply to have a committee that performs these functions. I have agreed to not move my amendment, provided the Minister guarantees that he will accept the concept of my amendment. The Chartered Vessels Association approached me in relation to this bill. It is concerned about an aspect also dealt with by Reverend the Hon. Fred Nile in his contribution to the second reading debate—that is, the need for national competition policy. The association is concerned that it has to pay for access to wharf 6, whereas wharves 2 to 5 are reserved for Sydney Ferries. The percentage of use by the ferries is not as high as that by the association. Sydney Ferries provide a regular and public service, with the objective of transporting commuters in a not-for-profit way. In essence, they are a public service. Ferries have to be seen as public. Transport has to be seen in the context of a public service.

The Carr Government wants increased urban density. It has created its land tax and its Land and Environment Court to create a situation that will favour increased urban density because, first, it stops urban sprawl and, second, there is less need for increased infrastructure in the city. The corollary of that is that you cannot expect people living in large tower blocks, with very small roads along the foreshores, to all pile in their cars at once. It is logistically impossible and extremely undesirable from a pollution and road usage point of view. Therefore, we need ferries as a public service. If we want them to be used outside peak hours we have to have later services. If we are keeping cars off the road there is a cost to that. It is time this Government said, "We do not want cars in the city and we will pay so much per car for every car we do not have in the city."

In other words, there is a public benefit for not clogging the roads, not having to increase the number of roads and not having to build more harbour tunnels. The public benefit is the subsidy that should be paid for public transport—not just for ferries, but for buses and trains as well. When someone drives into the city no-one says that the cost of the road must be recovered from the person driving the car. However, the Government says that buses, ferries and trains must pay their way. Why? It is a question of making the city work overall in relation to its planning and its totally choked arterial roads. We may say that ferries do not make a profit, but we must then ask, "But how many cars do they take off the roads?" We should then structure the fees accordingly, recognising that people can use their cars but if they take a ferry they are not on the roads. In most cases, ferry routes are not near rail. They are often not near bus routes either because they tend to be on peninsulas. Therefore, people have the option of a car or a ferry. Approximately 60 per cent of ferry users walk to the ferry.

I refer to competition policy. Commuter services are a public service. Clearly, ferries are not used by commuters in the middle of the day—they tend to be used mostly in the morning and evening peaks. It is not unreasonable that cruisers be used. If the ferries are competing with the private sector, which only uses ferries in those peak periods and thus has low utilisation during those times, clearly the ferries are in a slightly subsidised position. On the other hand, it seems foolish to make the ferries stay home so that the charter boats can go in

those times. They would then have to recover all their money in the peak times, while the ferries make a loss from not being able to be used during those times. The net result from the public's point of view is that there will be twice as many boats being used half as much. Of course, the community has to pay for two sets of boats, one of which is losing money, the ferries and their commuter services; and the other of which is charging high prices, the private sector, which has lower utilisation in the peak periods.

That is probably the current situation. If one were able to get co-operation, perhaps the Government would be leasing out the ferries to the private operators during the non-peak periods. The private sector would not have to buy more boats, the population would get better utilisation of the boats and so on. Obviously, this would require some delicate negotiations. There have been difficulties in the negotiations in the waste contracts, which has resulted in the Collex legislation. I refer to the inaptitude of the Federal Government in national competition policy in respect of not insisting on one telephone network—four companies are setting up different telephone wiring systems in competition with each other. It would be silly to have two water boards and to dig up the street twice. It is badly managed competition in that sense. Having boats that are not being used in the peak period because they are the non-commuter boats and not being used during the day for the tourists because they are not the private charter boats is foolish. A little more thought needs to go into co-operative approaches to maximise the service and minimise the price.

The charter boats are complaining about having to pay to access wharves. In a sense, there is some truth in that. However, they do not have to run the non-profitable services in the middle of the night, which they are trying to use other services to offset. It is true that they are perhaps able to skim the cream—in other words, to go only for the profitable routes. I gather that they are the routes to the zoo and Manly. Obviously, if they were taking those lucrative routes at lucrative times the cross-subsidy available to ferries would be lost.

Commuters would have to subsidise the service or, alternatively, the taxpayer would have to pick up the tab while the operators make a tidy profit. It is sensible for the private sector to be given access to wharves if they can make a profit. Indeed, Matilda Cruises now runs a catamaran service called the Rocket to Darling Harbour and Lane Cove during peak periods. This is a clear demonstration of the public sector lacking initiative and missing out on lucrative markets. Perhaps the public sector could provide improved services to areas such as Pulpit Point, Balmain and Watsons Bay. The scope is considerable. In general, having a small group that is savvy and dedicated is smarter than putting them under a large bureaucracy that lacks entrepreneurial flair or even an understanding of the possibilities. I am concerned about the recent bloated administrative structures of Sydney Ferries with its new offices in Pitt Street rather than the cheaper ones it owned at Balmain but did not use.

I ask the Minister to give an assurance that Sydney Ferries will work within the framework of national competition policy, which may not necessarily be cut and dried. I acknowledge that it is not reasonable for the public sector to compete on an equal basis for every service when the private sector has the profitable runs. Equally, it is not fair that ferries should not pay wharf charges yet run cruises in direct competition to existing private services. There is room for give-and-take. The Minister must give a commitment to national competition policy and arbitrate on what ferries can do in terms of cross-subsidies without damaging the interests of reasonable charter cruises looking for innovative products for tourists or the top end of the market where Sydney Ferries does not have the appropriate vessels.

Integration of buses is important, although I acknowledge that their services have improved. Previously, public buses often did not co-ordinate with ferry services and many people missed their connections, although I must admit that North and Western always met the ferry at Woolwich. Subsidies should be more transparent and ferries must meet reasonable environmental standards. There should also be more intelligent use of ferries, with smaller, faster ferries that run more frequently. These are not JetCats but harbour kittens, which require two operators instead of three and provide faster service, on the weekends in particular. The first fleeters are very slow and cumbersome. These problems should be rectified. I urge the Minister to safeguard the interests of charter vessel operators with respect to competition. I also suggest meaningful commuter input from people with a disability and the general public rather than using a theoretical group of public transport analysts.

I also acknowledge the difficulty with ownership and maintenance of wharves in that it is difficult to negotiate between councils, which have rate capping, and ferries, which are losing money. It is not for the Democrats to insist that government have inefficient structures to work with. I have received assurances from the Minister and, therefore, will not oppose the bill. However, I will carefully monitor Sydney Ferries and if fares increase without real changes in efficiency, staffing and so on, I will be the first to attack the Minister. The Minister has assured me that the management change will be for the better, so I give my cautious support to the bill.

The Hon. MICHAEL COSTA (Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests)) [4.44 p.m.], in reply: I thank honourable members for their contributions to the debate. The Transport Administration Amendment (Sydney Ferries) Bill is an important step for Sydney Ferries. As I said at the outset, the bill will ensure a viable Sydney Ferries into the future. It will bring financial and marine expertise and focus to Sydney ferry operations. Separating Sydney Ferries from the State Transit Authority will benefit both organisations. The bill provides a model that will improve accountability and responsibility in delivering safe, clean, reliable public transport. I note concerns raised by Opposition and crossbench members about the future of Sydney Ferries employees. In particular, the Hon. Dr Peter Wong raised concerns that I am happy to address by restating that the Government's policy is no forced redundancies.

With respect to employee entitlements, I advise the House that special provisions have been incorporated in the bill to protect workers' rights. The bill preserves mobility of entitlements and continues the right of Sydney Ferries employees to access transport appeal boards. The Government has also undertaken consultation with the work force in the establishment of the new organisation. I thank the workers and their representatives for their commitment to Sydney Ferries. I give an assurance to the Hon. Dr Arthur Chesterfield-Evans and Reverend the Hon. Fred Nile that I will convene a working group to consider ferry service issues. I note also that the new safety regulator has within its charter a responsibility for looking at performance issues, but I accept the proposition that a very specific group needs to be put together with respect to ferries.

I understand that the support of those members is contingent upon establishment of this group. The working group will consist of the Ministry of Transport, Action for Public Transport, a commuter representative from local government and a ferry commuter with disabilities. The group will meet regularly at least four times a year and will report directly to the Minister. In response to concerns put to me by the crossbenchers I will also convene a working group to look at competitive neutrality, Sydney Ferries charter and tourist services and their relationship with private ferry operators. That working group will include the Ministry of Transport, Treasury officers, transport and competition policy people, the Waterways Authority, Sydney Ferries and representatives of the Charter Vessel Association. That group will be convened early in the new year and will report to the Minister by 31 March 2004

I take on board the thoughtful comments of the Hon. Dr Arthur Chesterfield-Evans with respect to national competition policy. The Government is bound by the national competition agreement in relation to ferries. However, this does not imply that Sydney Ferries should have the same cost structure as a private operator and, clearly, it is difficult to achieve that. We must also deal with competitive neutrality between the operation of charter boats and Sydney Ferries. I suggest that the Opposition is not aware that Sydney Ferries does pay wharf charges through commercial contracts to the Waterways Authority for a number of its wharves. Indeed, many charter operators also have commercial contracts although the terms of those contracts vary because of the different types of services. That matter can be addressed through the processes outlined. The purpose of the bill is to provide a viable ferry operation. Our ferries are Sydney icons. Honourable members would acknowledge their importance goes beyond commuter services. They are harbour icons from national and broader global tourist perspectives.

Getting the balance right between the commuter aspects and the tourist aspects is an important challenge for the new board. We had difficulties with some of the definitions in the proposed amendments. Indeed, the definition of "tourist service" could also imply that services such as the Taronga Zoo service fall within that definition. A better way of handling this matter is to convene the working group, look at the competitive neutrality issues and make every effort to ensure that we get a sensible approach to that.

As the Hon. Dr Arthur Chesterfield-Evans said, we need to avoid cherry picking. It is not an exercise in providing lucrative services to one group at the exclusion of the public operator that needs to have a degree of cross-subsidy for its operations. However, we need to look at the taxes and charges imposed by the State to ensure that they are not impacting adversely on competitive neutrality, and I give that commitment. In relation to the bill, I foreshadow two small Government amendments, one is similar to the amendment we made to the Transport Administration Amendment (Rail Agencies) Bill. The amendment will clarify and bring into line the appointment of the Labor Council representative so that it is consistent across the public sector. With those words, I commend the bill to the House.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 3 agreed to.

Reverend the Hon. FRED NILE [4.53 p.m.]: During my contribution to the second reading debate I indicated that I would not proceed with the amendment I had drafted. That amendment simply indicated that Sydney Ferries is, so far as is practicable, when operating a regular passenger service, tourist service or charter service, to be subject to the same State government charges or fees as any private operator of a regular passenger service, tourist service or charter service of the same kind. As the Minister has given an assurance that he will establish a working group that includes charter service operators, I will not move my amendment.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [4.54 p.m.]: I indicate that I will not move the amendment that was circulated in my name, which related to the Sydney Ferries consultative committee. In my contribution to the second reading debate I referred to the aim of the amendment. Having regard to the Minister's assurance I will not move that amendment.

The Hon. MICHAEL COSTA (Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests)) [4.54 p.m.]: I move Government amendment No. 1:

No. 1 Page 7, schedule 1 [7], lines 16-19. Omit all words on those lines.

As I pointed out in my speech in reply to debate at the second reading stage of the bill, this amendment clarifies the position of the director appointed by the Labor Council.

Amendment agreed to.

The Hon. MICHAEL COSTA (Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests)) [4.55 p.m.]: I move Government amendment No. 2:

No. 2 Page 19, schedule 1 [20], line 27. Omit "State Transit Authority". Insert instead "State Rail Authority".

This straightforward amendment clarifies some drafting issues.

Amendment agreed to.

Schedule 1 as amended agreed to.

Schedule 2 agreed to.

Title agreed to.

Bill reported from Committee with amendments and report adopted.

Third Reading

The Hon. MICHAEL COSTA (Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests)) [4.57 p.m.]: I move:

That this bill be now read a third time.

The House divided.

Ayes, 23

Mr Breen	Ms Fazio	Mr Oldfield
Mr Burke	Ms Griffin	Ms Robertson
Ms Burnswoods	Mr Hatzistergos	Ms Tebbutt
Mr Catanzariti	Mr Jenkins	Mr Tsang
Dr Chesterfield-Evans	Mr Kelly	Dr Wong
Mr Costa	Mr Macdonald	*Tellers,*
Mr Della Bosca	Reverend Dr Moyes	Mr Primrose
Mr Egan	Reverend Nile	Mr West

Noes, 15

Mr Clarke	Mr Gay	Mr Ryan
Mr Cohen	Ms Hale	
Ms Cusack	Mr Lynn	*Tellers,*
Mrs Forsythe	Ms Parker	Mr Harwin
Mr Gallacher	Mr Pearce	Mrs Pavey
Miss Gardiner	Ms Rhiannon	

Pair

Mr Obeid	Mr Colless

Question resolved in the affirmative.

Motion agreed to.

Bill read a third time.

MISS TANIA SINGH AUSTRALIAN CITIZENSHIP APPLICATION

Personal Explanation

The Hon. DAVID OLDFIELD, by leave: On 3 September this year I made a short adjournment speech on an adjournment motion relating to an application for citizenship by Tania Singh. In that speech I made certain references to a Mr Levet, a barrister in the Australian Capital Territory, relating to his reasons for offering his services free to the Singh family. Mr Levet has been in contact with me. I acknowledge that Mr Levet is not able to speak in this House to respond to the matters I referred to in my speech. I wish to put on the record that while I suggested in that speech that Mr Levet was seeking a win in that there would be a great amount of compensation, much of which would go to him as a barrister in future cases, Mr Levet has assured me there was no ideology and no design on his behalf to gain personally from the matter. He advised me that his clerk puts before him a number of cases that he does for free at different times and that this matter was merely one such case. He was performing a community service to help the Singhs as there was apparently no other legal help available to them. I wanted to put that explanation on the record as Mr Levet has no way of doing so himself, and I have done that in fairness to him.

ASSENT TO BILLS

Assent to the following bills reported:

City Tattersall's Club Amendment Bill
Duties Amendment (Land Rich) Bill
State Revenue Legislation Further Amendment Bill
Workers Compensation Amendment (Insurance Reform) Bill
Statute Law (Miscellaneous Provisions) Bill (No 2)

WINE GRAPES MARKETING BOARD (RECONSTITUTION) BILL

Second Reading

Debate resumed from 20 November.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [5.08 p.m.]: The Opposition supports the Wine Grapes Marketing Board (Reconstitution) Bill, which provides for the reconstitution of the Wine Grapes Marketing Board as an agricultural industry services committee under the Agricultural Industry Services Act 1998 and provides for the temporary regulation of the terms and conditions of supply and payments of wine grapes in the Murrumbidgee Irrigation Area. This will mean that the board, instead of being constituted under the Marketing of Primary Products Act 1983 as it currently is, will be constituted under the Agricultural and Services Act 1998 and supplemented with some additional powers that will expire on 31 December 2007.

Following a national competition policy [NCP] review of the Wine Grapes Marketing Board it was recommended that the board continue to have the power to regulate terms and conditions of payment by buyers

of wine grapes produced in the Murrumbidgee area for a limited time to enable a transition to widespread trading under contract. However, if the industry can establish that there are net public benefits from continuing to set terms and conditions of payment, it will have the opportunity to seek an extension of those arrangements that comply with national competition policy principles.

The Wine Grapes Marketing Board represents the wine grape growers in the Murrumbidgee Irrigation Area, which is made up of the city of Griffith and the shires of Leeton, Carrathool and Murrumbidgee. The Murrumbidgee Irrigation Area produces about 200,000 tonnes of wine grapes annually, which is approximately 40 per cent of the production of wine grapes in New South Wales. Some 520 growers, who deliver to 16 wineries in the area, produce these grapes. The typical Murrumbidgee Irrigation Area farm size is between 10 and 20 hectares—or 25 to 50 acres. It commonly has a mixture of citrus and wine grape production. Wine is an agricultural product with a long timeframe between picking the raw product and selling bottled wine on the market. Therefore the many small growers need a secure environment in which to conduct their business with their customer—the winery.

In the Murrumbidgee Irrigation Area the proportion of grapes sold under some form of contract is less than 25 per cent. This compares with 80 per cent of grapes in the South Australian Riverland and 50 per cent of grapes in the Murray Valley being sold under some form of contract. Under these circumstances there is an obvious need for government intervention to encourage the greater use of contract trading in the Murrumbidgee Irrigation Area for the benefit of both the grower and the winery that he or she supplies. The bill proposes to allow the Wine Grapes Marketing Board to assist growers in the drawing up and negotiation of individual contracts for the sale of their grapes to wineries and to encourage the board to develop a code of conduct for contract negotiations. Where no individual contracts are made the bill enables the board to set default terms and conditions for payment for Murrumbidgee Irrigation Area wine grapes. These terms and conditions are to be published in the *Government Gazette*.

Part 2 of the bill sets the prices and terms and conditions for payment for Murrumbidgee Irrigation Area wine grapes and regulates delivery and payments for Murrumbidgee wine grapes. Part 3 governs the appointment of persons including departmental inspectors and sets out the powers they may exercise, including functions under the Agricultural Industry Services Act, and other powers such as requiring a person to provide certain information—for example, information to establish whether or not a document is a complying contract. Clause 21 provides that if a corporation contravenes a provision of the Act, a director of or a person concerned with the management of the corporation will be treated as having contravened that provision. The director or person must have knowingly authorised or permitted the contravention. In such cases the director or person may be prosecuted and convicted for the contravention regardless of whether or not the corporation itself has been prosecuted and convicted.

After consultation with wine growers, the Wine Grapes Marketing Board and the Wine Makers Association the Opposition understands that all parties affected by the bill have been thoroughly consulted and are generally satisfied with the content of the bill. However, I wish to read onto the record a number of concerns currently held by the Wine Grapes Marketing Board. Whilst the board supports the bill, it still harbours minor concern about what defines a "complying contract". It is believed that the current bill as supported by the board has not accurately addressed the issues that were supported by both wine makers and the board during the initial stages of the review. The board acknowledges that the bill has been written to increase the number of contracts in the region. However, this may not occur as the bill does not allow for wineries to set their own payment terms with growers based on unknown offer prices. Therefore it envisages that not many growers will enter into these types of contractual arrangements. We can understand why.

The Wine Grapes Marketing Board has requested that the Opposition request that—and I am doing that now—if the bill in its current form does not sufficiently satisfy or address the needs of the wine growers of the Riverina, the Government will consider amendments to the bill. The Wine Grapes Marketing Board has also questioned the Government's decision to remove the vesting in the Riverina region as from July 2000 while the rice industry, under similar pressure in relation to a National Competition Policy adjustment, has been provided with vesting power. These two industries are in the one region. One has been allowed to have vesting power yet the Wine Grapes Marketing Board has not. The board is wondering why. It has discussed the issue with my Nationals colleague and the honourable member for Murrumbidgee in another place. The board has also advised me that it has raised this matter with the Minister for Agriculture. The board had a good meeting with our parliamentary colleague across the Chamber the Hon. Tony Catanzariti. I am sure he is aware of the concerns of the board. In conclusion, the Opposition believes that in broad terms the bill is sensible and will continue to deliver a great number of benefits to the wine industry in the Murrumbidgee Irrigation Area. We support the bill and look forward to the Minister's answers to the issues I have raised when he speaks in reply to the second reading debate.

The Hon. DAVID OLDFIELD [5.18 p.m.]: Although this bill is directed mainly at the wine grape industry of the Murrumbidgee Irrigation Area and the benefits it will have on that region, it should be brought to the Minister's attention that many of the growers in the Hunter Valley were not aware of this bill and were disappointed that the Government had not addressed the concerns of the growers in this region in relation to other matters including licensing. The Hunter Valley Growers Association has been lobbying the Government for quite some time to have a licence review in relation to issues surrounding the difficulties by growers owning two or more vineyards. I will be visiting the Hunter Valley in the near future and will pursue this particular issue with the Minister at a later time. While on the subject of wine, I take the opportunity to call on the State Government to support the Australian wine industry's 2003-04 pre-budget submission to the Federal Government to have the wine equalisation tax modified. The proposal is for an exemption on the first 600,000 litres of domestic sales, with a 29 per cent wine equalisation tax on further sales. There are currently 1,620 wineries in Australia producing approximately 398,431,930 litres of wine each year. The Australian wine industry is an important part of our domestic and export economy. Australia overtook France last year as the major international supplier to Britain. The second largest international destination for Australian wine is the United States.

For many it is arguable that Australian wine is the best in the world. For me, in general, Australian wine is the best in the world and by all international comparisons that should be taken as a matter of fact. The Australian wine industry has developed an incredible diversity of styles, and a number of Australian wineries now boast the oldest active producing vines in the world. The New South Wales wine regions have their renowned specific styles, as do other parts of Australia. They proudly exhibit particular wine types that are consistent and outstanding. Personally, I buy wine from most regions and I have been fortunate to build up a relatively substantial collection of fine Australian vintages that go back over 20 years.

The Hon. Duncan Gay: Like Blackie, but he doesn't keep any.

The Hon. DAVID OLDFIELD: I understand that he does not keep it very long. I believe he keeps it in a glass and it does not get much chance to age. It is delivered by barrel directly to his home. While I would not in any way suggest that I am a connoisseur of wine, or that I have a highly conditioned or developed palate, I can say without question that I am fortunate to be able to enjoy many of our great wines, particularly reds, which I tend to favour. When asked why governments should intervene, the Australian wine industry answers the question in simple and compelling terms:

> The basis of wine taxation in Australia being on value rather than volume is grossly inequitable as it is a tax on the additional costs that small/medium producers must inevitably incur over the large due to their size. Furthermore, as small/medium producers are not involved in cask wine production and are focussed on the premium end of the market this tax being on value becomes a tax on excellence.
>
> The on cost of the value based Wine Equalisation Tax increases the final selling price of wine produced by small/medium wineries disproportionately to the large and is threatening their commercial viability with many currently failing financially and many more expected to do so in the foreseeable future.

It goes on:

> **Taxation is punitive**
>
> The Commonwealth Government receives $670M annually in Wine Equalisation Tax receipts, and the States receive more than $350M in GST. Overall, taxation represents about 25 per cent of the retail price of a bottle of wine. By comparison, a winery selling around 450,000 litres in domestic sales receives around $0.14 per bottle or 1 per cent of the final retail price (Deloitte Benchmarking Survey, 2001-02). The wine industry is one of the few industries that is taxed over and above the GST. It is taxed too high, and it has a right and we would suggest that in view of the damage that will be caused in regional Australia the obligation, to request of government that a proportion of that tax is used as part of a targeted package to assist the very regional economies where it has made such a contribution in the past.
>
> The proposed 600,000 litre exemption will result in the major benefit of this flowing through to small/medium producers who are the most severely disadvantaged by value-based tax that is effectively making them non-competitive with Australia's major wine producers who are paying on average less than half the tax per litre.

It should also be noted:

> There is overwhelming evidence that the challenges facing the wine industry are now acute and threatening. Econotech has established that the outlook over the next five years is unlikely to improve.
>
> Without intervention, it is now certain that a large number of Australian wineries will go out of business over the next two years.
>
> The Government has demonstrated that it is prepared to recognise and support small regional wineries by introducing the Commonwealth cellar door rebate in 2000. The growing and acute viability pressures on small and medium wineries warrant an expansion of this policy
>
> This is particularly so as many wineries are not located in regions that can attract tourists or are off the tourist trail and with the consolidation of retail outlets in Australia into fewer and fewer hands the availability for them to a secure shelf space is becoming acute.

Some of the top-end wineries do not have the capacity to access shelf space because their wine is distributed by direct mail and cannot be purchased in any other way. In fact, some wineries require prospective customers to be on a mailing list for some time to qualify to purchase wine. However, that happens only at the top end of the market and involves only some of the very small and fabulous boutique wineries.

Only today I was asked why it is important to take the side of the Australian wine industry. Of course, many points substantiate such a position, but a few came immediately to mind. The Australian wine industry is a significant contributor to the national economy and has the potential to be one of our most sought-after exports, not only the mass-produced wines—such as Jacobs Creek, which the Hon. Duncan Gay mentioned—but also the exceptional wines that are the best in the world and produced in Australia. The production process is time consuming and costly. The Australian wine industry makes a significant contribution to employment and, given the nature of the geography of production, many of the jobs are regionally or rurally based in areas in which employment is needed the most.

Winemaking in Australia is a part of our culture and, for many in the industry, a long-held family tradition stretching over many generations. Even today some of our small but highly notable wineries are passed down from father to son, or on occasion from father to daughter. The last point that immediately came to mind when I was asked that question today is the simple matter of excellence. Excellence itself must be supported. The Australian wine industry sets standards of quality that international competitors cannot meet, yet our producers continue to strive to be better and better. The wine industry has earned and deserves the support of Australians as consumers and our Government's commitment to assistance to ensure its ongoing success. I support the bill, but I call upon the Government to continue and increase its support of the wine industry, and particularly in respect of the wine equalisation tax.

The Hon. TONY CATANZARITI [5.26 p.m.]: The Murrumbidgee Irrigation Area currently produces around 200,000 tonnes of wine grapes, which is around 48 per cent of the New South Wales production. The grapes are produced by some 520 growers who deliver to 16 wineries in the area. The typical Murrumbidgee Irrigation Area farm size is between 10 and 20 hectares, or 25 to 50 acres, and is commonly a mixture of citrus and wine grape production. The South Australian Riverland, the Murray Valley and the Murrumbidgee Irrigation Area have similar production systems, with large numbers of growers selling their grapes to a limited number of wineries. That feature is linked to the original development of the irrigation areas with smallholder fruit blocks for soldier settlers and, later, new immigrants.

In contrast, the wine industry in most other wine regions of Australia is based on a more universal production system, in which wineries have their own vineyards, or vineyards produce for specific wineries under contract. In that system the going price for wine grapes and the application of terms and conditions of payment are not such an issue. The few wineries of the South Australian Riverland, the Murray Valley and the Murrumbidgee Irrigation Area produce a large proportion of Australia's wine output. Wine is an agricultural product with a long time lag between picking the raw product and selling bottled wine to the consumer. This is an environment in which many small growers need to conduct business with their customer—the winery—with some security.

In the South Australian Riverland 80 per cent of the grapes are either produced by or sold to wineries under some form of contract, and in the Murray Valley the proportion is about 50 per cent. In the Murrumbidgee Irrigation Area that proportion is less than 25 per cent. Wine grape growers in the Murrumbidgee Irrigation Area, including Griffith, Leeton, Murrumbidgee and Carrathool, have until recently been able to sell their grapes under a regulated regime of payment. Since 1932 the Wine Grapes Marketing Board has, by vesting the grapes produced in the area, been able to regulate the terms and conditions of payment to growers. Reviews of the legislation were carried out under national competition policy guidelines and resulted in the recommendation of eventual deregulation, with the latest review in 2001 recommending that the board be allowed to continue with the power to set and enforce terms and conditions of payment, but only until 31 December 2007, as a period in which the board would facilitate the wider use of private contracts.

The Government has acknowledged that some kind of default protection should be available during this transition period, and that is what this legislation is designed to provide. Its intention has the support of grape growers who sell their grapes, and wineries and other businesses in the area that buy those products. The legislation will offer buyers and sellers the choice between making a transaction under contract or, in the absence of a contract, under the terms set out by the board. The board will have the power to inspect records of transactions relating to wine grapes, irrespective of whether they are at the premises of a buyer or seller, and there will be penalties for not following the legislative procedures for transactions that are conducted in the absence of a complying contract.

The legislation will expire on 31 December 2007. After that date the industry will be expected to operate on contract or on unregulated spot price offers of payment and terms, which is what happens in other wine grape growing regions elsewhere in New South Wales. However, if the industry is able to establish at that time that there are net public benefits associated with continuing to set terms and conditions of payment, it could seek an extension of those arrangements provided that they comply with national competition policy principles. This legislation will create an appropriate environment of transition to open negotiations between the Murrumbidgee Irrigation Area wine grape growers and the wineries that buy their grapes. I commend the bill to the House.

Reverend the Hon. FRED NILE [5.31 p.m.]: The Christian Democratic Party supports the Wine Grapes Marketing Board (Reconstitution) Bill. The bill provides for the abolition of the Wine Grapes Marketing Board, which was established under the Marketing of Primary Products Act 1983 and reconstitutes the board as an agricultural industry services committee under the Agricultural Industry Services Act 1998. The Wine Grapes Marketing Board, which represents wine grape growers in the Murrumbidgee Irrigation Area, was originally constituted in 1932. The board has been operating effectively since that time, and the purpose of this legislation is to reconstitute the board so that it operates under the Agricultural Industry Services Act 1998.

I note that the bill specifically relates to the Murrumbidgee Irrigation Area, which accounts for 48 per cent of New South Wales wine grape production, and that it does not cover other wine grape growing areas of the State. One of the previous speakers referred to the Hunter Valley. I note that in the Shoalhaven region, where I live, there is now a great deal of development in wine grape production. Obviously, wine grape growing takes place in many areas of the State. I received a letter from the Wine Grapes Marketing Board which reads:

> The Board advises that it supports the Bill as written which has been subjected to extensive negotiation between the NSW Government, winemakers and winegrape growers in the region.
>
> The Board supports the passage of the Bill through the NSW Parliament …

In its letter the board raised two matters of concern. The first was whether the cessation date could be extended from 31 December 2007 to 31 December 2008. I have been advised that because of the national competition policy principles it would be almost impossible to extend the cessation date unless very good reasons were put forward for doing so. The board also has a concern about written contracts. However, again it is not possible to address that issue in this legislation. Nevertheless, the board supports the bill, as does the Christian Democratic Party.

Mr IAN COHEN [5.34 p.m.]: I defer to the Minister's expertise in the wine area; I am but an amateur by comparison. The Wine Grapes Marketing Board (Reconstitution) Bill reconstitutes the Wine Grapes Marketing Board, in line with the national competition policy review, and enables it to continue to regulate the terms and conditions of payment for wine grapes produced in the Murrumbidgee Irrigation Area [MIA]. The Wine Grapes Marketing Board was established as long ago as 3 February 1933 to represent the interests of wine grape growers within what is now the city of Griffith and the shires of Leeton, Carrathool and Murrumbidgee. At that time governments were promoting policies of decentralisation and job creation in rural New South Wales following the return of soldiers from World War I. Legislation establishing the Murrumbidgee, Coleambally and Murray irrigation areas was subsequently passed, as was closer settlement legislation to facilitate regional development.

These various policy settings created isolated, regionally based farming communities. In the absence of sophisticated communication, transport, and marketing systems as they exist today, statutory marketing arrangements were introduced to provide farmers with a means of countervailing the market power of the purchasers of their products. Until 1976 the board negotiated informally with MIA winemakers on prices, with agreements made on a handshake basis. This mode of operation broke down during the mid-1970s when demand changes resulted in a price slump for red wine grapes, which were the predominant grape varieties at the time. In 1976 vesting power, or ownership of the crop, was granted to the board for those varieties. In 1978 this power was extended to all wine grapes produced in the board's area of jurisdiction. The board rarely used its vesting power to compulsorily acquire a crop.

However, the board has used vesting as a reserve power to set minimum grape prices and conditions of payment, to pursue late payments by winemakers, and to require payments to growers to be made through the board. The latter condition simplifies the collection of the grower levies which the board uses to fund grower services. In 1997 legislative changes constrained the board's vesting power in that it was prohibited from physically receiving wine grapes. An expiry date of 31 July 2000 for constrained vesting was also set. In

preparation for the expiry of constrained vesting, the board introduced an indicator price system, rather than minimum prices, for the 2000 harvest. This was in part due to the following board observations:

> … minimum prices tended to create a low benchmark, which wineries then treated as the price. Prices above the Board minimum were regarded as bonuses …

Currently the board uses a system of consultation with individual wineries to ascertain a range of indicator prices for each variety in the regional market. This service to wine grape growers enables growers to have a benchmark or starting point when discussing individual prices with wineries prior to delivery. With total annual sales expected to reach $4.5 billion by 2025, the Australian wine industry is undergoing a period of growth that will have a significant impact on water use levels for both grape growing and wine production. I point out, as does the Australian Wine Industry Environment Strategy, "Sustaining Success", that the current success and future growth of the industry can be sustained only if environmental issues, such as water use, are addressed.

Many areas are not able to access more water from depleted natural systems, so water is becoming a limiting factor. Businesses have to learn how to do more with less. I also point out that wise water management in vineyard and winery operations not only will ensure a healthy financial outcome for business, but also will enhance the image of companies as clean and green. This is because the broader impacts associated with water use in the wine industry are also of concern to neighbours and the broader community. Those impacts include salinity, ecosystem health, natural flows and water cycles, run-off and erosion, water quality, ground water contamination, and local water supply and community impacts.

There is no doubt that more needs to be done to ensure water use efficiency and the effective and efficient application of water, not only to avoid diverting more water from the environment than is absolutely necessary, but also to get the best possible return on its use. For both vineyards and wineries good management of water resources is essential. Water use efficiency in irrigation can add value by increasing grape yield, whilst increasing the quality of the wine grape. Water use efficiency can also be applied to winery operations where most of the water is used in once-through cleaning processes.

By auditing the site, training staff, retrofitting equipment and investigating recycling opportunities, wineries may be able to reduce water use by over 25 per cent. For example, substantial amounts of water can be saved by installing water meters on major plant machinery or processes to track water use performance, identify leaks and set targets for water reductions; conducting detailed water audits to identify problem areas and prioritise solutions; using equipment with automatic shut off devices to eliminate water wastage; using high-pressure nozzles and spray devices to clean surfaces more effectively with limited volumes of water; using flow restrictors to control flow rates to equipment and taps; trying to avoid mixing solids with water wherever possible; sweeping down surfaces rather than hosing or mopping; filtering out organic materials before discharging water as effluent; introducing automatic cleaning systems to reduce both water and chemical use; using water sparingly when cleaning equipment; recycling water used in leak testing barrels; treating and reusing winery wastewater for vineyard or other crop irrigation; and using rainwater and stormwater collected from the site for activities such as wash downs and toilet flushing.

As many other members have said, the wine industry is a very strong world leader. The Greens are pleased to see this bill will provide further moves forward in the industry's regulation and we can look forward to a future clean, green industry that is a major export for Australia and at the same time uses the best processes to protect the environment.

The Hon. IAN MACDONALD (Minister for Agriculture and Fisheries) [5.41 p.m.], in reply: I thank honourable members for their contributions to this debate. Mr Ian Cohen's comments are very apposite in relation to the development of the wine industry. The WaterWise program has been very successful in advising farmers, particularly in the irrigation areas, about the benefits of using the latest technology in meters to attract the profile of water through the soil, when to apply it and how best to apply any additional nutrients. As a consequence, I believe that industries using irrigation—particularly the wine industry—can continue to develop but will be able to produce more with less. I believe we all agree on that as a direction.

This legislation will help the wine industry in the Murrumbidgee Irrigation Area to maintain stability in the supply of grapes to local wineries while the industry adjusts from the conditions that existed under vesting. The provisions of the bill encourage suppliers of grapes to contract sales to their buyers while giving a transitional period of protection in relation to terms and conditions of payment for grapes that are not yet delivered under contract. This transitional period will last until December 2007. The legislation also provides for the Wine Grape Marketing Board to facilitate the use of suitable contracts between growers and wineries

through the development of a voluntary code of conduct and draft contract provisions. The legislation will create an appropriate environment of transition to open negotiations between Murrumbidgee Irrigation Area wine grape growers and the wineries that buy their grapes.

The Deputy Leader of the Opposition and Reverend the Hon. Fred Nile raised the issue of the complying contract and its definition. The Wine Grape Marketing Board (Reconstitution) Bill 2003 provides for exemption of complying contracts from the board's terms and conditions of payment. Among other conditions, complying contracts must fix the price to be paid for consignments delivered by the grower or, alternatively, the manner in which those prices are to be calculated. The Wine Grape Marketing Board is not happy with the definition of "complying contract" in the bill because contracts which contain the manner in which prices are to be calculated will not include the minimum price that the grower will receive for the delivery.

The board therefore proposes that contracts containing the manner in which a price was to be calculated must also contain a minimum price to be considered a complying contract. Such a provision would, however, have the effect of either being a disincentive for buyers to offer long-term contracts due to the difficulties of pre-empting market conditions two and three years out, or forcing buyers to insert in their contracts unrealistic minimum prices which would introduce an element of confusion for growers and undermine the uptake of formula-based and longer term contracts. The Government has looked at whether the board's concerns could be addressed. However, the Riverina Winemakers Association is not prepared to support an amendment to the definition of "complying contract". Without this support there is a risk that the National Competition Council [NCC] will find the proposed provision non-compliant with national competition principles and, if enacted by Parliament, may result in the withholding of NCC tranche payments.

[*Interruption*]

We are holding firm on this in order to say that the bill does not attract the payments.

The Hon. Duncan Gay: You are looking at a changed definition.

The Hon. IAN MACDONALD: No. They wanted us to look at a changed definition. We take the view that we cannot get the winemakers to agree to it, and if we cannot get that consensus—

The Hon. Duncan Gay: You have tried to get them to agree to it?

The Hon. IAN MACDONALD: Yes, the department has tried. It is very thorough in all its activities. If the winemakers do not agree it is difficult for the Government to amend the bill. The board must be able to establish a net public benefit, which it cannot do if wine makers are opposed. It is different to the rice industry in that the Rice Growers Co-operative Ltd owns the processing operation and growers make the decisions. The rice industry is also predominantly an export industry and its power is as a single export desk. With the wine industry the wineries are independent and are not under the control of the growers. So you get more of a consensus between processors and growers in the rice industry because they are part and parcel of the one entity.

The Hon. David Oldfield's comments in relation to the Hunter Valley and Australia generally are not directly relevant to the Murrumbidgee region. I agree with him about the quality of Hunter Valley and Australian wines generally and the concerns they have with the Federal Government's taxation provisions. I think I have covered most of the points that have been raised by members. It should be remembered that with these issues there is an overriding competition policy element that is driving a lot of things that may or may not be required to be done at any particular point of time. As a consequence, to some degree we have to construct these bills to ensure that the State is not unduly penalised. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

LEGAL PROFESSION LEGISLATION AMENDMENT (ADVERTISING) BILL

Second Reading

Debate resumed from 2 December.

The Hon. GREG PEARCE [5.50 p.m.]: The Opposition supports the Legal Profession Legislation Amendment (Advertising) Bill, which amends the Legal Profession Act 1987 and the Workplace Injury

Management and Workers Compensation Act 1998 with respect to prohibition on advertising for personal injury and workers compensation work. First, the bill amends the Acts to expand the power to make regulations under those Acts to regulate advertising by legal practitioners by providing that the regulations can regulate or prohibit advertising in connection with the provision of legal services or of services connected with personal or work injuries. Second, it ensures that the regulations under the Legal Profession Act 1987 with respect to advertising can regulate any conduct with respect to the marketing of legal services.

The bill will increase from $1,100 to $22,000 the penalty that advertising regulations under the Legal Profession Act can impose. This is in line with the maximum penalty applicable under the Workplace Injury Management and Workers Compensation Act. The bill also seeks to empower the Law Society Council, the Bar Council and the Legal Services Commissioner to apply to the Administrative Decisions Tribunal for a direction that a person cease advertising or other conduct considered to be in breach of the regulations. Similarly, it gives the Minister administering the Legal Profession Act and the Minister administering the Workplace Injury Management and Workers Compensation Act the same power to issue a direction to any person to cease advertising or other conduct without the involvement of the Administrative Decisions Tribunal.

In his second reading speech the Minister for Justice stated that the need for the bill has arisen because advertising has continued throughout professional misconduct proceedings against a practitioner or through prosecution, and this has impeded the quick resolution of cases. The Minister justified the amendments on the basis that advertising and marketing of legal services can have a detrimental effect on the court system and on the availability of affordable insurance. That is the key issue. The Government has had considerable difficulty managing the workers compensation scheme and has adopted numerous measures to remedy the situation. Indeed, the situation has deteriorated between 1998 and last year. Therefore, I am not surprised that the Government has now made this piecemeal effort, as with other bills, to reduce legal costs, particularly with respect to workers compensation, and to ensure that injured workers are unable to pursue their former rights.

As a former practising solicitor I suggest a balance must be reached between the need to provide public information about legal services and requirements and the need to protect the public. Many lawyers advertise responsibly in a way that provides useful information to the public about the availability of a range of legal services. Some solicitors are incorporated and, therefore, may be subject to trade practices and other restrictions on the way they advertise. The Opposition accepts that the Government has introduced the bill to ensure that advertising is not detrimental to the court system. However, it also seeks to deal with the Government's concerns about public liability and workers compensation insurance premiums.

Ms LEE RHIANNON [5.56 p.m.]: The Greens object to the fact that the Legal Profession Legislation Amendment (Advertising) Bill was declared urgent because the Minister for Justice did not get his act together in time to introduce the bill by the deadline. He neatly sidestepped the sessional orders by declaring the bill urgent. This is a blatant abuse of the relevant sessional order, which allows for genuinely urgent and unpredictable events. Clearly, this bill has been in the pipeline for some time; it is not responding to a rapidly changing event. The Minister should have introduced the bill before 20 November or waited until next year.

The Greens have no problem with strengthening the enforcement mechanisms with respect to legal advertising that breaks the rules. Limits should be placed on legal advertising and in order for those limits to be effective viable enforcement procedures must be in place. The Greens have been extremely critical of Labor's weakening of the workers compensation system in New South Wales. It is essential that injured workers have access to information and advice regarding their rights. However, advertising can create artificial demand and unrealistic expectations, and it is quite reasonable that it be regulated. The Greens welcome and support the substance of the bill.

Reverend the Hon. FRED NILE [5.58 p.m.]: The Christian Democratic Party supports the Legal Profession Legislation Amendment (Advertising) Bill. The bill seeks to amend the Legal Profession Act 1987 and the Workplace Injury Management and Workers Compensation Act 1998. The main object of the bill is to expand the power to make regulations under those Acts to regulate advertising by legal practitioners by providing that regulations can regulate or prohibit advertising by or on behalf of legal practitioners and advertising by any person in connection with the provision of legal services or of services connected with personal or work injuries. The bill also seeks to ensure that regulations under the Legal Profession Act 1987 with respect to advertising can regulate any conduct with respect to the marketing of legal services, in line with the power conferred under the Workplace Injury Management and Workers Compensation Act 1998. The bill makes consequential amendments with respect to the power and role of the Law Society Council in the case of solicitors, the Bar Council in the case of barristers, and the Legal Services Commissioner in the case of solicitors and barristers.

Although the Minister has been criticised for declaring this bill an urgent bill, I believe the matter must be dealt with urgently. During the time I have been deeply involved in workers compensation issues and workplace inquiries, which I have chaired for a number of years, I have been concerned about abuse by some sections of the legal profession in terms of touting for business and encouraging injured workers to get involved in expensive court cases, sometimes with the idea of "no win, no pay". That in turn encourages injured workers to take a risk and move in that direction. Recently I have noted that there seems to be more television advertising by the legal profession. Some legal practitioners use front companies operating on behalf of legal firms, but they use names that have an official ring about them. It may even sound like a government department. They may use phrases such as "contact us for the legal services bureau", not "contact our law company", although they are solicitors and/or barristers.

I am aware of a large increase in that type of advertising. Under the workers compensation and WorkCover's policies implemented by the Government, the plan is to try conciliation as much as possible to ensure that injured workers get their benefits, and to reduce the number of court cases. The commission was reorganised and so on to enable the conciliation approach to work. I remember that in one inquiry it was revealed that in one year lawyers received almost the same amount as that paid to injured workers—roughly $450 million. So the lawyers are almost getting ahead of the injured workers. That highlighted a problem. The Government needed legislation such as the bill we are now debating to reduce that type of advertising, which is seducing injured workers who are very vulnerable to that type of advertising as well. We support the bill before the House.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [6.02 p.m.]: The Legal Profession Legislation Amendment (Advertising) Bill effectively seeks to ban lawyers and barristers from advertising their services if their firms specialise in either workers compensation or personal injury cases. Schedule 1 amends the Legal Profession Act, which specifies the regulation-making powers regarding the advertising of specialised legal services. If the law is to be for everybody, everyone has to know about it. I must confess that it has been my position for many a long day that the advertising industry cannot revert to the simple principle of legal to sell, legal to advertise. Things are legal sometimes because of historic accidents and may have immensely negative social consequences if they have untrammelled advertising. When I was in the Billboard-utilising Graffitists Against Unhealthy Products [BUGA-UP] group we had two factions or two points of discussion. One was that we should try to ban tobacco products, and the other was that we should have a framework in which to regulate tobacco advertising.

The social consequences of tobacco led to systematic consumer interference or advocacy within advertising that made the tobacco companies responsible for the social consequences and then the consumer advocates advertised the social consequences. At the end of the day we managed to get rid of tobacco advertising; that faction won. The advertising industry was happy to jettison that advertising in order to maintain a farcical advertising regulatory system in which the corporations advertising had a lot of power and the consumers had very little power. There was a double advertising system that enabled consumers to complain on the grounds of taste; a little freebie system enabled an advertisement to be drawn to the attention of the tobacco company, which then withdrew the advertisement. And the tobacco company received publicity for withdrawing the advertisement.

Doing the right thing, the company said it would not run the advertisement when in fact the advertisement had run its full compass time; it was a one-off advertisement. If an advertisement said that Holdens were better than Falcons, a person could make a substantive complaint, an expensive system enabled the advertisement to be considered on its merits if it happened to be factual. A ridiculous complaint was the best thing in the world. Then that was called puffery and it was regarded as being absurd. Indeed, it was so absurd that no-one took it seriously, and therefore it did not matter. If a person complained that this was better than that, they would say that it was so close to being true that it did not matter. So it was either an absurd complaint, in which case the advertiser was absurd and everyone knew that, or the advertisement was misleading from the consumer's point of view, in which case the person who complained did not get much joy. And if an advertisement was banned after it had finished running, because the complaint process delayed it, again there was no consumer input.

At the moment we have bans on tobacco advertising and relatively few restrictions of alcohol advertising. There are some restrictions on gambling advertising, which effectively means that the biggest gamblers can run advertisements but individual bookmakers cannot. Now the Government has introduced a funny little bill that will ban the legal profession from advertising. The question is: Why is the Government so keen to prohibit lawyers who practise in the fields of workers compensation and personal injury from

advertising? As I have said in relation to medical liability, the best way to stop harm from medical problems is to use an industrial model; establish a record system for accidents and incidents and feed that back into the system, in which they are discussed without them becoming fodder for law suits later.

Indeed, things should be somewhat decriminalised so that not everything is done in an adversarial framework; that would allow for intelligent discussion of errors and feedback. An adversarial framework allows people to hide their mistakes and distort the evidence. Fights ensue and the mistake continues for several years. Often a problem is not even fixed by feedback years after. Prevention measures might lessen the medical negligence that happens. In the field of workers compensation and personal injury, the whole system is adversarial. Indeed, in adversarial models, redress is future oriented. I have said previously in discussions on workers compensation that much of the money goes to lawyers, the insurance companies profit, the costs of running the court system are high, and feedback is poor.

The fear of being sued in the future might result in more caution now. However, generally the result is avoidance of premiums. That matter will be covered by legislation to be introduced relating to workers compensation premiums for trainees. Premiums can get so high that they distort business and investment decisions, and they can be a huge drain on industry. The walkways around the harbour where I live have been closed because of the danger of people slipping on wet stones after rain. Some people have given away their playground equipment. Indeed, my local pub gave away its playground equipment because of the whole adversarial system of public liability.. In terms of workers compensation, there is corruption in the building industry with subcontractors, and phoenix companies are established to try to get rid of bad workers compensation records.

The solution to this problem is to say, "We will not advertise, so the workers who may have been injured will not know the law and will not have access to this expensive system. As they are not putting in their claim, we will say that it was not meritorious anyway. We will solve the problem by not allowing them to find out." That is an absurd solution! The philosophy of the cynics is that these people are ambulance chasers. The insurance companies created a straw man, if you like. The real motivation is far less altruistic. The insurance companies and the Carr Government do not want injured people to know about their rights. That is the nub of the problem.

My experience is that very few workers fake workers compensation claims—less than 5 per cent. In every case I have been involved in, the insurance companies have tried to minimise their payouts. Even if the case is totally justified and the person's life has been ruined, the insurance companies will try to not pay out for workers compensation. No matter how much pain a person suffers, that is what the insurance company will do. Now the idea is to not even let them get to first base, to not let them find out that they might have a cause of action. If the benefit is clearly defined and they make an unmeritorious claim, the lawyer should be able to say that the claim is unmeritorious and the matter will not proceed.. It is all right for big tobacco companies to sponsor fundraising events for the Australian Labor Party. It is basically marketing a few politicians to do as little as possible to cut the restrictions that might be put, quite justifiably, on their product.

It is all right for large defendant law firms to sponsor political fundraising events. Despite the discussion on alcohol advertising generated during the Alcohol Summit, it is still all right to advertise alcohol during the television coverage of the Rugby World Cup—40 games, 28 nations, one beer. The real cause of the insurance crisis is Stacks the Law Firm running a television advertisement at 12.30 a.m. We want a far more systemic way to solve our workers compensation problems and our personal injury problems. We want preventive services. We want registers of injuries. We want people to follow up on claims. We want a comprehensive system in which prevention and rehabilitation receive maximum attention and lotteries receive minimum attention. We do not need silly bills such as this. I oppose the bill because it is the wrong solution; it is using this straw man that the insurance industry uses all the time.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [6.12 p.m.], in reply: I thank honourable members for their contributions to this debate. I want to clarify something that the Hon. Dr Arthur Chesterfield-Evans incorrectly stated in his contribution to the second reading debate. He seemed to indicate that somehow members of the public will be disadvantaged by this bill. It is important to remember that members of the public will still be able to find lawyers to provide advice on personal injury or workers compensation claims, using Law Society services or other permitted practitioner directives. However, these amendments will ensure that restrictions on advertising remain effective and that advertising does not have a detrimental effect on workers compensation and public liability insurance premiums. They will not affect the ability of injured workers to pursue their legal rights.

Motion agreed to.

Bill read a second time.

Third Reading

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [6.14 p.m.]: I move:

That this bill be now read a third time.

The House divided.

Division, by leave, called off.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: In accordance with Standing Order 112(5) I would like my opposition to the bill recorded in the *Minutes of Proceedings*.

Motion agreed to.

Bill read a third time.

ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT (QUALITY OF CONSTRUCTION) BILL

Second Reading

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [6.17 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

Introduction

I am pleased to introduce the Environmental Planning and Assessment Amendment (Quality of Construction) Bill 2003 into the House today. This Bill puts forward important legislation relating to building quality. In March of 2002, the Deputy Premier and then Minister for Planning (the Honourable Dr Andrew Refshauge MP) announced that the State Government had set up a Joint Select Parliamentary Committee, known as the Campbell Committee, to look into the quality of buildings in New South Wales.

The select committee looked at the role that building certifiers should play in ensuring the quality of workmanship in home building across the State. It examined what checks and balances there should be to ensure that consumers are protected and that their homes are safe, properly certified and built to an appropriate standard. The examination also covered options for improving the system of builder licensing.

The legislative reforms proposed in this Bill are reflective of the recommendations of the Campbell Committee.

The Campbell Committee Recommendations

In July 2002, the Campbell Committee released its recommendations on the changes it considered necessary to make the home building industry more responsive to the needs of consumers. In all, there were 55 recommendations relating to certification, licensing, dispute resolution, consumer education, building contracts, building standards and structural change. The select committee identified key challenges for home building in New South Wales.

The first key challenge was to improve the structure of the system so that it would be more efficient, less complex and costly, and better understood by both builders and consumers.

The second key challenge was to focus attention at the point at which homes are actually being built, with locally based building inspectors intervening when things go wrong.

The third key challenge was to streamline co-ordination between government regulatory bodies with roles in overseeing home building, so that key functions are no longer fragmented.

The Building Legislation Amendment (Quality of Construction) Act 2002

The New South Wales Government has responded to the committee's recommendations by introducing measures designed to improve the quality of buildings, particularly residential buildings, and the accountability of the people who build and certify them. The Building Legislation Amendment (Quality of Construction) Act 2002 (the BLA Act), which was assented to on 18 December 2002, is one of these measures. It includes a wide range of provisions related to improving the quality of buildings

in NSW. The Environmental Planning and Assessment Amendment (Quality of Construction) Bill 2003 will carry over provisions from the BLA Act, with some changes, and introduce some new provisions.

Schedule 1 of the BLA Act makes changes to the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000, which are administered by the Department of Infrastructure, Planning and Natural Resources (DIPNR), to make them work better, particularly in relation to the certification of building work and other development under Part 4A of the Act. A small number of the provisions in Schedule 1 of the BLA Act commenced in February 2003. However, the remainder of the provisions in this schedule did not commence because a number of the provisions required further refinement.

The provisions of the Building Legislation Amendment (Quality of Construction) Act 2002 that amend the Environmental Planning and Assessment Act and Regulation, that commenced in February 2003, primarily relate to technical and administrative matters, and amendments to the penalty infringement notice regime and include provisions that:

- give principal certifying authorities (PCAs) power of entry to land on which they have been appointed to oversee building work or subdivision work;
- introduce a new penalty of $1500 for failing to comply with an order by council requiring a person to comply with a development consent;
- give power for DIPNR's Departmental Auditors to be authorised to issue a new $600 penalty on certifiers who fail to lodge copies of certificates that they have issued with the relevant council;
- introduce new cumulative penalty infringement notices relating to fire safety;
- allow an application to modify a development consent granted by the Court to be submitted to the consent authority, rather than the council;
- clarify that requirements of the EP&A Act and Regulation continue to apply even after the time in which they were meant to be complied with has passed; and
- clarify that for every offence against the Regulation, a person is liable for the amount set down in the Regulation, or where no amount is set, for a maximum penalty of 1000 penalty units ($110,000).

Schedule 2 of the BLA Act makes amendments to the Home Building Act and Regulation. Most of the provisions relating to home building have commenced. The major initiatives now in place as a result of those amendments include:

- A new dispute resolution process (that has been in place since 1 July 2003), to help consumers and traders resolve residential building disputes. Where appropriate, the dispute can be referred to a building inspector or the parties advised of other avenues of resolution such as an application to the Consumer, Trader and Tenancy Tribunal. Building inspectors can meet the consumer and trader on site, inspect the items in dispute, and assist the parties to achieve a suitable outcome.
- An on-line register has been established where consumers can check if their preferred contractor is correctly licensed before they actually sign the contract.
- A Standards and Tolerances Guide for building work has been produced to help ensure both consumers and traders know with certainty the quality standards that need to be met in cases where standards are not prescribed in the Home Building Act, the Building Code of Australia or the Australian Standards.

While the provisions relating to a home building advisory and advocacy service have not commenced, the Office of Fair Trading has established a Home Building Service to take responsibility for the licensing and regulation of builders and tradespeople in the home building industry and specialist contractors across all industries.

The Office of Fair Trading is currently reviewing the remaining uncommenced provisions of Schedule 2, which are not affected by the new Environmental Planning and Assessment Amendment (Quality of Construction) Bill. It is anticipated that the uncommenced provisions of Schedule 2 of the BLA Act will commence shortly, once the necessary Regulations have been made.

Schedule 3 of the BLA Act makes amendments to the Conveyancing Act. These amendments commenced on 1 July 2003, and have the effect of preventing vendors from completing the settlement of a contract for the purchase of a strata lot, a proposed strata lot, or a Torrens title lot that includes the future construction of a dwelling-house or a newly constructed dwelling-house, until an occupation certificate has been provided to the purchaser.

The Environmental Planning and Assessment Amendment (Quality of Construction) Bill 2003

Because a decision was made not to commence the remaining provisions of the BLA Act that amend the Environmental Planning and Assessment Act and Regulation on 1 July 2003, Government approval for further amendments to the Act and Regulation was sought and granted. While most of the un-commenced provisions have been revisited, not all have been amended. However, both the revised and unrevised provisions have been included in the new Bill for administrative convenience.

DIPNR has revised some other provisions of the BLA Act after undertaking further consultation. Some of this consultation was undertaken in the form of fourteen information forums that DIPNR held for stakeholders, including councils and certifiers, across the State during September and October 2003.

Stakeholders invited to DIPNR'S September/October 2003 development assessment and certification forums

All NSW Councils
The four NSW Accreditation Bodies
All accredited certifiers
Australian Institute of Building Surveyors (which did a mail-out of invitations to all its members)
Housing Industry Association of Australia
Master Builders Association
Upper Parramatta Catchment Management Trust

A number of developers, lawyers and academics also attended.

It should be noted that the 14 sessions were held across the State for external stakeholders were attended by a total of around 800 people. (Sydney (5 sessions), Parramatta, Wollongong, Newcastle, Port Macquarie, Ballina, Queanbeyan, Wagga Wagga, Dubbo and Tamworth). The venues for the forums were Sydney (5 sessions), Parramatta, Wollongong, Newcastle, Port Macquarie, Ballina, Queanbeyan, Wagga Wagga, Dubbo and Tamworth.

The feedback obtained from participants at these forums has helped the Department to understand the development and building issues that councils and private certifiers are dealing with, and inform finalisation of the provisions of the Bill.

The main purpose of amending some of the uncommenced provisions of the BLA Act (in so far as they relate to the Environmental Planning and Assessment Act and Regulation), is to make the provisions as clear and easy to interpret as possible. Amendments have also been made to create linkages between the roles and responsibilities of certifiers, builders and councils so that each is aware of the other party's role, and to better define terms whose interpretation has proved problematic.

The Environmental Planning and Assessment Amendment (Quality of Construction) Bill 2003 amends the Environmental Planning and Assessment Act and the Environmental Planning and Assessment Regulation to improve the way that both councils and private accredited certifiers approve plans for buildings and subdivision and inspect buildings that are under construction.

The uncommenced provisions of the BLA Act that have been transferred across to the Environmental Planning and Assessment Amendment (Quality of Construction) Bill include provisions that:

- will make it an offence for a person to influence an accredited certifier and for an accredited certifier to seek or accept any benefit by introducing new penalties of 10,000 penalty units ($1.1 million) or two years imprisonment or both, for the improper influence of certifiers – one for persons found guilty of trying to influence a certifier and one for certifiers who allow themselves to be influenced;
- give DIPNR's Departmental Auditors the authority to audit councils acting as certifying authorities, in addition to accredited certifiers;
- require a PCA to be appointed, and council to be informed of the appointment, prior to work commencing;
- require occupation certificates for single dwelling houses and associated structures such as sheds, garages and swimming pools and introducing penalties of 5 penalty units ($550) for not obtaining an occupation certificate before occupying or using these buildings. The maximum penalty for occupying a building, apart from a dwelling-house, without an occupation certificate, will be increased to $110,000.
- increase the penalty for unsatisfactory professional conduct or professional misconduct by an accredited certifier from 300 to 1000 penalty units (from $33,000 to $110,000);
- allow a certifier (other than the PCA) to issue compliance certificates on particular components of a development if they were involved in the preparation of plans and specifications for those components of a development – this reflects current industry practice where building designers inspect a building during its construction to ensure that it meets their design.
- allow proceedings for offences under the Act to be commenced up to two years after the offence was alleged to be committed, rather than up to six months after the alleged offence as is currently the case;
- require the PCA for residential building work to notify the council of the details of the head contractor's licence and insurance, or the details of the owner builder's permit, as the case may be;
- require a replacement PCA to notify the consent authority (and the council if it is not the consent authority) of their appointment within 2 days of the appointment;
- set the procedure for replacing a PCA with another PCA;
- as part of this Bill, the provisions of the Local Government Act that have allowed councils to continue to accept self-certification will no longer be saved under the Environmental Planning and Assessment Act.

Other provisions have been amended to achieve the following effects:

- introduce mandatory critical stage inspections for each class of building and require records of inspections to be kept by the PCA for at least 15 years. Certifying authorities will be required to inspect buildings at certain critical stages of construction, such as commencement, framework, stormwater and completion, prior to the issue of an occupation certificate;
- clearly define roles and responsibilities during the construction process, particularly the responsibilities of the person with the benefit of the development consent, the role and responsibilities of the PCA, and some responsibilities for the head contractor or owner-builder - PCAs must satisfy themselves that the relevant conditions of development consents have been complied with and be satisfied that the buildings being constructed are the same buildings as those approved in the plans;
- to improve the functions of certifying authorities, the role of the PCA will be defined. This will ensure that there is no confusion between accredited certifiers and councils over who is responsible for a development site during construction. The PCA will need to be satisfied that the building or subdivision work has been approved, that the head contractor is licensed and insured or that an owner-builder permit has been obtained, that the building is inspected at critical stages, that the finished building is the same as the approved plans, and that an occupation certificate is issued for the building after the relevant conditions of consent have been complied with, and if the building is suitable for occupation in accordance with its class under the Building Code of Australia;
- specify that the builder may not appoint the PCA, unless the builder is also the land owner – this will reinforce the responsibility of the PCA to act in the public interest. This change addresses a concern of the Campbell Committee that conflicts of interest can exist between builders and certifiers;
- require signs to be placed on development sites showing the name and contact details for the PCA and head contractor, which will enable easy contact for people who wish to raise concerns about anything that is occurring on a development site;
- make it clear that a notice of determination of a development application, an application for modification of a development consent, or an application for a complying development certificate must include a copy of any plans

endorsed by the consent authority. This will prevent confusion and possible mistakes being made with council, the builder and the certifying authority relying of different sets of plans for the same development; and

- require the classification of the building to appear on the construction certificate rather than the development consent, except in cases where there will be no construction certificate.

New provisions include those that:

- require the principal certifying authority to notify the person with the benefit of the consent of the inspections, including any mandatory critical stage inspections, required during construction and for the person with the benefit of the consent to notify the head contractor of those inspections;
- require the head contractor or owner builder to give the PCA at least 48 hours notice before an inspection is required to ensure that the inspections are carried out at the right time, and that an occupation certificate will be able to be issued when the development is complete.
- give accreditation bodies power to place conditions on a certifier's accreditation;
- allow complaints to be made, and action to be taken against, accredited certifiers who continue to do the work of an accredited certifier after their accreditation has lapsed;
- clearly define the difference between interim and final occupation certificates;
- allow an applicant for a construction certificate to withdraw the application at any time before it is determined; and
- allow councils to reject development applications within 7 days if they do not contain the information required by Schedule 1 of the EP&A Regulation 2000. This will help to alleviate the problems that consent authorities experience in having to seek further information from applicants.

Concluding Comments

Together, the commenced provisions of the BLA Act that amend the Environmental Planning and Assessment Act and Regulation, and the provisions of the new Bill will ensure that the role of certifying authorities are defined and the powers of the Director-General of Planning are increased to allow better investigation of the conduct of accredited certifiers and councils.

The link between the certification process and the development consent will be strengthened by augmenting the provisions that require the PCA to be appointed before the subdivision work or building work may start.

The Director-General of Planning will be able to take swift action against certifiers who do not meet their obligations. The Director-General will be able to suspend a certifier where there is sufficient evidence of improper conduct and where the matter has been referred to the Administrative Decisions Tribunal. The Director-General has the power to fine certifiers who do not send documentation to councils within the specified times. In addition, DIPNR will have the power to audit certifiers and councils, which will help to create a more level playing field.

The controls in relation to construction certificates and occupation certificates will also be improved. The requirements for issuing occupation certificates will be more strongly linked to the requirements of the development consent. These amendments will contribute towards improvements in building construction quality through managing the certification and construction process and making both councils and accredited certifiers more accountable.

DIPNR is also developing proposals to implement other actions to address the recommendations of the Campbell Inquiry. These recommendations include the establishment of a Building Professionals Board (the BPB) to take over the role of accrediting and auditing certifiers who are currently accredited under four separate schemes administered by the relevant professional associations. It is anticipated that the BPB will be in existence to undertake some administrative functions from 1 January 2004.

Together, the Environmental Planning and Assessment Amendment (Quality of Construction) Bill 2003 and the other initiatives that I have outlined today, capture the essence of many of the recommendations of the Campbell Inquiry and will improve the development and building certification systems in NSW for the benefit of consumers and other stakeholders. I therefore commend the Bill to the House.

The Hon. PATRICIA FORSYTHE [6.17 p.m.]: The objects of the Environmental Planning and Assessment Amendment (Quality of Construction) Bill are to amend the Environmental Planning and Assessment Act to deal with the functions of certifying authorities, the investigation of certifying authorities, the improper influence with respect to the conduct of certifying authorities, matters relating to principal contractors, construction certificates, occupation certificates, conditions of development consent and other matters. The Opposition does not oppose the bill but we have some serious concerns, which could have been and should have been addressed by the Minister for Infrastructure and Planning (Planning Administration) in her reply in the other place. However, they were glossed over by the Minister, who, it would seem, lacked detailed knowledge of the portfolio.

I contrast the excellent, thorough speech of the shadow Minister, the honourable member for Southern Highlands, with that of the Minister who, when faced with a long series of concerns and questions posed by the Opposition, basically gave no reply. I understand that the Government is now proposing a long series of amendments to deal with some issues raised by the Opposition and by many interested groups who have had consultations with the Opposition in relation to apparent flaws and inadequacies in the bill. It would have been more appropriate for the Government, in moving the second reading in this Chamber, to outline the direction it proposes to take with the amendments rather than simply deal with them, as it will, individually when we get to the Committee stage. The concerns raised by the Opposition in the other place were of such significance that we deserve better from the Government. However, that apparently is not to be.

The key element in the bill relates to the role and functions of private certifiers. The introduction of private certifiers in 1998 was not opposed by the Opposition and followed briefings with the then Minister for Planning who, as it happens, is the current Minister for Infrastructure and Planning—although not the Minister with responsibility for this bill. Despite high hopes for the new system, which was part of a major overhaul of the planning legislation, it is fair to say that the Government has not yet got it right. In 1997, speaking on the Environmental Planning and Assessment Amendment Bill, the Minister said:

> The Government sees the certification scheme as the key to establishing an environment for competition and consumer choice to take place which will promote a responsive and efficient assessment service. This will result in reduced approval response times, reduced holding costs and improvements in the service provided to applicants.

That was the vision and they were the goals. The reality has fallen well short. This is regrettable because the concepts of competition and consumer choice are important, as is an efficient and effective system. In introducing the legislation in 1997 the Minister said that "an effective auditing system for accredited certifiers is being established at State level and certifiers will need to submit themselves to random auditing". The Minister outlined other proposed changes to protect the public interest generally. The present bill is a further attempt by the Carr Government to get the system right. The effective regulatory regime has simply not been achieved. This is clearly evidenced by the case of the certifiers who, although unlicensed for approximately two years, certified about 150 homes in at least four local government areas. If there was a random audit system, it was clearly so random that it missed this certifier for two years.

The Government has been aware of problems with the system for some time. In 2002 it established the Joint Select Committee on the Quality of Buildings. That committee made 55 recommendations, some of which are implemented in the bill. The most significant relates to new penalties for improper influence of certifiers, both for the person seeking to influence and any certifier who allows himself or herself to be swayed by this undue influence. Section 148A of the Act makes it clear that certifiers must act impartially in the exercise of their functions. To do otherwise will attract a penalty of up to 10,000 penalty points, which I am advised by the Minister's office is equivalent to a fine of $1.1 million, or two years imprisonment or both. The Opposition hopes that this penalty will provide an appropriate deterrent and that the introduction of such a penalty will be widely publicised. This aspect of the bill is long overdue as private certification has been a feature of the planning and building system in New South Wales since 1998. However, the views of industry groups conveyed to the Opposition suggest that the Government has not yet got the whole process right.

As the shadow Minister, the member for Southern Highlands, said in leading for the Opposition in the other place, in what I said earlier was a comprehensive analysis of the bill and the issues that underpin it, it is believed that one effect of the proposed changes is that up to $5,000 could be added to the cost of building a home because of the introduction of mandatory inspections at critical stages. For some classes of buildings there are seven critical stages and there are three for others. The Government has glossed over the extra cost involved, the additional charges that will inevitably flow. Proposed section 162A not only sets out the critical stages but also makes it clear that the first and last inspections must be carried out by the principal certifying authority and the remainder by the principal certifying authority or another certifying authority. I understand that the Government will move amendments in relation to this. I am a little disappointed that this was not spelt out in a comprehensive second reading speech by the Minister in this place. The Housing Industry Authority [HIA] has raised valid concerns—concerns that raise doubt about whether practical implementation of the bill is possible. In correspondence to the Opposition the HIA stated:

> The proposed mandatory inspections include several engineering inspections and a waterproofing inspection. There are very few engineers accredited to carry out these inspections. There are no private certifiers or council staff specifically accredited to carry out waterproofing inspections. Therefore, in the case of engineering inspections, the home owner will have to pay for two people to come out to an inspection—the PCA and an engineer. For wet area inspections, again the home owner will have to pay for two people to inspect—the PCA and the waterproofing installer.

The basis for the Opposition's concerns about the cost seem to be supported. It is possible, given the importance of a house, that people would be prepared to pay more to have the peace of mind of knowing that the quality of its construction was assured. But the Government should have been more up front in explaining the consequences of the bill. Cost, however, is only one aspect of concern. The Government needs to explain how the legislation is to be enacted where there are no appropriate certifiers available—and as the Government seems to be moving to mega local councils in future the appropriate council officers may be some hours drive away from a construction site. One can imagine that the effect of the bill will be delays in construction, particularly in parts of New South Wales where skilled professionals are in short supply. The HIA commented:

> The newly proposed inspection regime places an onus on the PCA to carry out the first and last inspection.

I understand that that will be the subject of an amendment. The letter continues:

> This is not practical for accredited certifiers as the Act requires them to be appointed as a "natural person" rather than as a group, such as councils who have multiple inspectors who can all carry out separate inspections on the same development.

The letter goes on to state:

> A company who employs more than one certifier, or even a single certifier, should be able to rely upon another certifier to carry out any of the required inspections (including first and last) when they are sick, when they take annual leave, or if their schedule simply does not allow the inspection to be done on the given day.

The HIA makes a plea for a level playing field between accredited certifiers and local councils. That should be achievable. After all, it was the Minister in the 1997 second reading speech who said that private certification would provide consumer choice. Proposed section 162B requires that upon inspection a record of inspection must be made. What is to be recorded is set out in the bill. The focus seems to be on process. As the shadow Minister in the other place said:

> Mandatory critical stage inspections will not improve the quality of building at all if they are not underpinned by a builders licensing regime that focuses on the quality of the building being built.

As we all know, a focus on process has the capacity to tie activities in red tape. The bill sets out the various stages at which inspections are required. Class 1 and 10 buildings have a particular requirement; class 2, 3 and 4 buildings have different requirements; and class 5, 6, 7, 8 and 9 buildings have other requirements. I had to refer to the Building Code of Australia to familiarise myself with those classes of buildings. Class 1 and 10 buildings are single dwelling buildings. Class 10 would include a non-inhabitable building such as a private garage. Class 3 buildings are residential buildings that house a number of unrelated persons, which could include aged care facilities, detention centres and hotels. Obviously, quality is required for large and more complex buildings. A guarantee of quality is needed for all sorts of buildings. A critical stage inspection is to be made prior to covering any stormwater drainage connections. In relation to this the Executive Officer of the Australian Institute of Building Surveyors of New South Wales stated:

> Clause 162A (3) (f) of the Regulations needs to be amended to delete the covering of any stormwater drainage connections as a critical stage inspection, as this is a function of the consent authority under Section 68 of the *Local Government Act 1993* or a water and sewer authority under Section 68 (2) of the *Local Government Act 1993*. (NB: a person undertaking this work is required to submit an application to the Council for approval to carry out this work prior to the commencement of the work—see Section 68 (1) of the *Local Government Act 1993*.

I look forward to an explanation from the Government on this. The bill has important provisions in relation to the auditing of private certifiers. The Department of Infrastructure, Planning and Natural Resources will be able to audit council and private certifiers. The Opposition does not oppose this provision but notes that concerns have been expressed that it has the potential to become unduly bureaucratic in its set-up.

There will be better definition of roles and responsibilities between the consent authority, councils, head contractors and certifiers as a result of this legislation. The legislation requires that a person who owns the development application rather than the builder is to appoint the certifier. There is a requirement that a sign be erected in a prominent position on the site at which building, subdivision or demolition work is to be carried out giving certain details about the principal certifying authority and showing the name and out-of-hours contact details of the head contractor and other advice.

The Housing Industry Association [HIA] has commented that this section does not clarify whose responsibility it is to erect the sign, and it notes that clause 277A of the regulations does not address the issue. There is no reference in proposed sections 97A and 136B about the relationship to clause 277A of the regulations. That will require an amendment, and in that regard the HIA proposes that the applicant be responsible for the sign. The HIA is also concerned that schedule 1 [20], which inserts a new section 109EA after section 109E, is not adequate and should be amended so that certifying authorities for construction certificates that have been issued also be subject to the rules of change that are proposed in relation to the principal certifying authority.

The list of concerns highlighted by industry groups is not limited to those I have outlined. The shadow Minister in another place highlighted numerous other flaws in the bill that have been identified by key industry groups. The Government's advice to the Opposition was that the Building Legislation Amendment (Quality of Construction) Act 2002 had been the subject of further consultation by the Department of Infrastructure, Planning and Natural Resources, including information forums with stakeholders. That may be so, but it is clear

that the bill falls well short of industry expectations. I understand that the Government has taken on board some of the concerns that have been raised. The department has agreed to examine two other issues as a result of the Opposition's contributions to the debate in another place. In particular, the honourable member for Southern Highlands raised concerns about conflicts of interest.

The Institute of Strata Title Management has suggested amendments that are designed to strengthen the conflict of interest provisions, including that the Minister should consider applying the Australian Taxation Office definition to private certificates. I note that as a result of the Opposition's raising those issues an undertaking has been given that the department will examine the proposal. The honourable member for Hornsby, who was a member of the Joint Select Committee on the Quality of Buildings, raised the issue of damage to adjoining properties. She relayed comments made to her during site inspections and stated:

> I was terribly shocked by the situations in which many people found themselves, people who had trusted the builder and certifier. Some people had problems due to construction next-door, some homes had huge cracks because of holes that had been dug next-door for future building, while others had to put up with permanent mould behind all their furniture.

She pointed out that the people involved did not know how they could identify the person responsible for the damage. I welcome advice from the Minister's office that it will examine that issue. The Opposition will not oppose this bill. However, it falls well short of industry expectations. The Government has let down a significant number of industry groups by not adequately consulting and working through many of the issues raised by the Opposition. Therefore, I look forward to the amendments to the bill, which may go some way to correcting what is clearly flawed legislation.

The DEPUTY-PRESIDENT (The Hon. Kayee Griffin): Order! I acknowledge in the gallery a delegation from our sister State representing the Guandong Television and Radio Broadcasting Commission.

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

Ms SYLVIA HALE [8.15 p.m.]: This bill does little to address the inherently flawed system of private building certification introduced by the Government in 1998. The legislation was opposed by the Greens based on serious concerns that have since, sadly, been abundantly proven to be well grounded. Since its introduction the system of private certification has been plagued by problems, and this bill is nothing but an ineffective bandaid response. It will not address in any way the serious and fundamental problems uncovered by the Campbell inquiry.

Despite being a Government-dominated joint select committee, the Campbell inquiry produced a damning report and revealed a seriously flawed system. Its recommendations form the basis of the amendments proposed in this bill, but the inquiry itself failed to address the underlying problem, namely, the contradictions involved in privatised regulation. Back in 2001 the construction unions raised alarms over problems with private building certification. It was reported that up to a third of new residential buildings may be faulty, failing regulation standards and, in particular, that the collapse of building indemnity through HIH has encouraged illegal work. The secretary of the Environmental Health and Building Surveyors Association, Ian Robertson, said that having a certification system that allows developers to employ their own people to certify buildings was:

> … so flawed in logic that it must contain the seeds of its own destruction.

Around the same time Sydney City Council took legal action against Meriton Apartments over alleged failure to comply with building codes in an apartment tower consisting of 1,200 units. The council alleged that the building failed to meet standards because walls between units did not join the slab and fire collars were missing. These defects would have allowed fire to spread between units. The then Lord Mayor of Sydney, Frank Sartor, said:

> Under the present scheme private certifiers have a conflict of interest in being paid by developers to certify buildings.

As early as 2000 serious concerns were being raised by building law experts, such as Kim Lovegrove of Lovegrove Solicitors, that:

> private certifiers are unwilling to upset the developers—those who pay their wages.

Not long after that, even the Independent Commission Against Corruption [ICAC] warned the Government that private certification was a recipe for corruption. Since the system was introduced councils have also experienced

a host of problems with private certification. I refer to just some of the horror stories from the Local Government and Shires Associations' submission of August this year to the Department of Infrastructure, Planning and Natural Resources [DIPNR] Local Development Task Force.

In Bankstown a private certifier approved the occupation of a development that was later found to have a large unauthorised mezzanine floor. In Bathurst the council refused a construction certificate for a development, only to have a private certifier issue a certificate for the same development on the basis that the private certifier's interpretation of the building code was different to that of council's. A complaint was made to the accreditation body, but six months later there was still no response. Baulkham Hills council reported several separate cases of dwellings being constructed before a development consent or construction certificate were issued and one case in which a construction certificate was issued without any development consent at all. The private certifier allegedly inspected one of the works and did not require work to cease. Complaints to accreditation bodies again elicited no response. Baulkham Hills council issued 10 separate complaints relating to a particular certifier who still continues to operate.

In Blayney a State-significant mine development worth over $500 million was handled by private certifiers who failed to provide any of the required documentation to the council. Botany Bay Council reported cases in which certifiers approved a building 45 centimetres higher than that approved, another without proper drainage, a pergola certified as complete when it was not, and unapproved major modifications to a house, including moving windows and a laundry. In Canada Bay a private certifier oversaw the construction of a building with more than 50 unauthorised modifications. As a result, the council was pressured to provide retrospective consent for a larger and taller house than originally approved, with strong objections from neighbours. Council eventually approved the completed development on the basis of advice that if it refused it would lose on appeal in the Land and Environment Court. In Cessnock a building was approved with drainage pipes that did not connect to the sewerage system. Bushfire setbacks were inadequate, bushfire protective design was not followed, and termite protection was incomplete.

In Coffs Harbour a number of problem developments included the unauthorised installation of a 900,000-litre above-ground water storage tank and several instances of certification provided for "complying development" that were actually in a completely different category and required development approval. In Gosford problems included construction of a restaurant without disabled access, conversion of premises to a youth club for 500 people which had to be closed down due to extensive and serious fire safety issues, and a number of other developments, including a three-storey block of units built without adequate fire and other safety features.

In Hurstville the balcony of a residential building was extended by two metres, impacting on the privacy of neighbours. In the same building internal layouts were radically altered and external windows were repositioned. The private certifier admitted that he had not inspected the building at all until the roof frame was in place and was unaware of the changes. In Kogarah retaining walls 3.9 metres high were built adjoining the foreshore without consent, and excavation material was pushed into the river. In another development a basement was converted to a room and a rooftop converted to a terrace, again without consent.

In Lake Macquarie a private certifier allowed a client to proceed with works before the development applications were approved. In another case a certifier approved development based on an interpretation of council's conditions of consent, which were in conflict with council's stated intent. Most serious, compliance certificates were issued and accepted from non-accredited people. I turn now to an area with which I am extremely familiar, namely, the Marrickville local government area. At 2A Union Street, Tempe, a two-storey block of approximately 12 units was built so close to neighbouring properties that one could stand in the units and look directly into the living rooms of properties to the rear, which caused great concern. Admittedly, the development was pushed through with unseemly haste by the Labor majority of council. Requests by residents to inspect the building and make known their objections were refused.

The residents' concern was such that finally a meeting was arranged between the developer, a Mr Hanna, and the residents. That was not Councillor Morris Hanna, who is well known to a number of members. As a result of that meeting the developer gave undertakings that frosted glass would be installed up to 1,200 millimetres above floor level and evergreen trees would be provided to screen the neighbours. When the neighbours asked me to look at the building, which to all intents and purposes had been completed, I saw that the glass admittedly had been tinted but was totally transparent: it was possible to see everything that was happening in the neighbouring houses. I asked whether council was responsible for the certification but, unfortunately, the plans had somehow disappeared. Finally, it came to light that the private certifier had been

responsible. Following my inquiries about this development, on 14 November I received a letter from Marrickville Council, which stated:

> Dear Ms Hale,
>
> I did locate a letter on the file from the Architect following the site meeting with residents agreeing to make several amendments to the proposal. Specifically, the letter stated:
>
> > "*The rear balcony has been deleted. Doors and windows will be frosted to 1200mm above floor level. The evergreen trees will also provide screening to neighbours.*"

The undertaking to make these amendments was referred to in the report to council's Development and Environmental Services Committee when the application was considered by council and approved. As this letter forms part of the application, a consent condition reiterating these amendments was not necessary. The privately certified construction certificate plans do not show frosted glazing. A consent condition was imposed requiring consultation with the neighbours in Stanley Street in relation to the type of landscaping provided along the boundary. There is no evidence of consultation in the information provided to council by the private certifier who approved the construction certificate.

I have quoted the letter at length to indicate the difficulties residents face with the system of private certification. It took me a good two to three months to elicit this information. Despite numerous requests to council the situation still has not been rectified. Council has been put to the expense of having not only to inspect these premises on several occasions but also to follow up with letters to me and the construction certifier, a Mr Tsiontsis. This is an added expense. Admittedly, it is a minor expense in the great scale of things, but an expense that councils are now having to wear because residents—and councillors, for that matter—have nowhere to turn other than to councils if they want to know why a building has not been constructed according to plans.

These examples—honourable members will note that I have only gone from B to M in the alphabet, but I could have gone all the way to Z with numerous examples—represent only a few of the dozens of specific examples provided by councils to the Government and demonstrate a serious problem with private certification. Some of the common themes arising from the specific problems councils have reported with private certification include development certificates issued for developments that are not complying developments under council's local environment plan and/or development control plan; construction certificates issued retrospectively; problems with modification of consents under section 96 of the Environmental Planning and Assessment Act; occupation certificates issued when matters are still outstanding; and failure to notify neighbours.

Councils also find, in many cases too late, that certifiers act outside the limits of their accreditation. Last, but not least, councils report a consistent pattern when too many certifiers act in their own commercial interests with little or no regard for their statutory obligations to act in the public interest. This last point is a recurring theme. In its wisdom, the Government also privatised the accreditation of certifiers, so there is no single accreditation body for consumers to turn to when things go wrong. With multiple accreditors—Allied Professionals, the Royal Australian Institute of Architects and the Institute of Engineers, to name just a few—councils are constantly approached by dissatisfied residents not knowing where to turn.

Other States have similar systems of private building certification but with the relative safeguard of a government-controlled auditing system. Only New South Wales has privatised the certification of certifiers. This confusion means that customers have nowhere to turn when faced with a shonky builder. Heaven help them if they have a shonky builder working with a shonky certifier! And shonky certification happens. In May 2000 the peak building surveyors accreditation body, the Building Surveyors and Allied Professions Accreditations Scheme—known as BSAP—was stripped of its power to licence building certifiers.

The then Minister for Planning, Andrew Refshauge, recognised that BSAP—one of four professional bodies authorised to accredit building certifiers at that time—had failed to deal with more than 40 serious complaints about shonky certifiers. This is precisely what happens in the creative world of market forces. Shonky operators are a ubiquitous part of the free market, which is precisely why we need regulation—strong, independent regulation. The Greens maintain that a system of private regulation is inherently flawed. There is a fundamental contradiction involved in builders paying private contractors to certify their own work, particularly when both the certifier and the builder will in most cases have an ongoing professional relationship in which both parties rely on each other for business.

The buyer or home owner, on the other hand, is the outsider to this relationship but the one who must bear the brunt of any problems that arise. There is a structural incentive for builders and certifiers to collude at

the expense of home owners. The Government has strengthened this tendency with this bill by removing the requirement for a builder to give reasons when changing certifiers. Following this legislation, builders will be able to blatantly shop around for a certifier who will give them the result they want. There is nothing to ensure that certifiers will look after the interests of the community and the property owner, when it is the developer and the building industry that provide them with ongoing work.

This bill introduces a small technical change that superficially appears to address this direct pecuniary relationship but in reality amounts to nothing more than lip-service. All that the bill does is transfer the contract between the certifier and the builder to the person who lodged the development application. This fails to recognise what happens in the real world. In practice, the vast majority of consumers rarely come into contact with the building industry. In most cases they will simply rely on their builder, engineer or architect to recommend or arrange a certifier. Most builders and developers will work with the same certifiers on a regular basis, in the same way that they work with a regular plumber, electrician and so forth. This is the way the building industry operates. This is not just an issue being raised by the Greens. As recently as two weeks ago the *Australian Financial Review* cited this exact issue as the underlying problem that must be addressed. I quote:

> At present one of the proposed reforms in NSW is to get the owners of the development to select the certifier. In practice, the builder will still be putting forward whomever they want.

Another major thrust of this bill is a raft of increased penalties for breaches and non-compliance. These will do little to achieve improved overall building quality, and amount to little more than mopping up after the event. The Government continues to refuse to scrap this flawed system, despite its own inquiry warning that some certifiers simply "tick the boxes automatically to ensure more work from developers", and that the system of self-regulation is a sham with professional associations failing to deal with serious complaints. This bill is a disgraceful response to an industry in serious strife.

The Government has consistently refused to admit that the private certification system is fundamentally flawed. It is a system at best undermined by core conflicts of interest or at worst open to corruption. The Government's response has been to ignore the real problem and to simply drown it out by adding ever-greater layers of complexity, as demonstrated by this bill. It proposes new advisory and regulatory bodies such as a Home Building Compliance Commission, a Home Building Advice and Advocacy Centre and a Building Professionals Board. These are simply adding extra layers of complexity, rather than solving the core problem. This system cannot be fixed. Regulation is a core role and responsibility of government. It cannot be privatised. The sooner this Government accepts this basic tenet, the sooner consumers and the public interests in New South Wales will be served.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [8.38 p.m.]: Once a genie is let out of a bottle it is very difficult to put it back in. That is inherently the problem with this Government. My predecessor, the Hon. Elisabeth Kirby, was very strident in her opposition to the privatisation of the regulatory system of the building industry. And how prescient she has been shown to be, although it must be said that that was fairly obvious at that time to everyone but this Government. This bill and the amendments—I have not had a chance to examine the amendments but I believe they are extensive and are a move in the right direction—are an attempt to try to put the genie back into the bottle.

It is proposed to amend the Environmental Planning and Assessment Act to carry over certain conditions of the Building Legislation (Quality of Construction) Act. It intends to codify the remaining recommendation from last year's joint parliamentary select committee inquiry on the quality of buildings, generally known as the Campbell report. I am disappointed that the Building Action Review Group was not consulted about this bill. This is the first time I have heard that the redoubtable Irene Onoratti did not know about this bill. Indeed, the first time she heard about it was when my office called her today asking for her opinion on its adequacy. Amendments to the Environmental Planning and Assessment Act include clarifying the roles and functions of certifying authorities relating to investigations, the appointment and functions of principal contractors, and the issuing of construction and occupation certificates.

Proposed amendments to sections 81A and 86 now require the principal certifying authority to notify relevant consent authorities and local councils of the appointment two days prior to work beginning. The principal certifying authority will now be required to place signs on the construction sites showing their names and contact details along with those of the builders. Key amendments to last year's Building Legislation Act include increased penalties of up to $1 million and/or two years imprisonment for corruptly influencing building certifiers. Certifiers who take bribes will also suffer from the same penalty. The Department of Infrastructure, Planning and Natural Resources will now have the power to audit councils acting as certifying authorities as

well. The bill is quite substantial. I confess, in the hurry at the end of this week, I have not been able to go over it with as fine a toothcomb as I would have liked. However, I have read the bill and it is encouraging that the Government is taking further action to eliminate dodgy builders who destroy so many homeowners' lives. The Government has indicated it will move amendments after additional consultation with stakeholders. I gather some of the prodding was from the Opposition as well. I will consider those amendments on their merits. In general, I support the bill as a move in the right direction.

Reverend the Hon. FRED NILE [8.41 p.m.]: The Christian Democratic Party supports the Environmental Planning and Assessment Amendment (Quality of Construction) Bill. Some major problems in the building industry have been reported. I am sure all honourable members are still receiving complaints from consumers about problems with buildings not being properly constructed and problems in seeking to have financial rectification from the builder or from anyone involved—insurance companies and so on. I am mostly concerned about older, retired people who have made complaints. They cannot cope with the pressure and tension of finding that they have been rorted by a poor or dishonest builder with no qualifications. This bill tightens up the law in this regard.

There have been reports also of collusion between builders and private certifiers. Obviously there has been pressure on some certifiers to approve some buildings, maybe to keep relations with builders and others. There have been suggestions of financial inducements to some certifiers. This bill seeks to rectify those problems and close loopholes. A number of uncommenced provisions of the Building Legislation Amendment Act had been transferred to this bill. In dealing with some of the problems with certifiers, it will now make it an offence for any person to influence an accredited certifier and for an accredited certifier to seek or accept any benefit, by introducing new penalties of 10,000 penalty units—that is, $1.1 million or two years imprisonment or both—for the improper influence of certifiers, one for a person found guilty of trying to influence a certifier and one for a certifier who allows himself to be influenced. We commend the Government for bringing in that very severe penalty, which hopefully will be a deterrent.

The bill also empowers the authority to audit councils acting as certifying authorities. This will be carried out by the Department of Infrastructure, Planning and Natural Resources auditors. I hope that this will improve the quality of the certifiers. There are also increased penalties for unsatisfactory professional conduct or professional misconduct by an accredited certifier from 300 to 1,000 penalty points—that is, from $33,000 to $110,000. A number of other provisions will be amended by this bill. One is to introduce mandatory critical stage inspections for each class of building and require records of inspection to be kept by the principal certifying authority for at least 15 years. The certifying authorities will be required to inspect buildings at certain critical stages of construction, such as commencement, framework, stormwater and completion, prior to the issue of occupation certificates. Again, if it is properly enforced, this should ensure that buildings are built to the correct specifications. For those reasons, the Christian Democratic Party supports this bill.

The Hon. MICHAEL EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [8.46 p.m.], in reply: I thank honourable members for their contributions to the debate.

Motion agreed to.

Bill read a second time.

Consideration in Committee ordered to stand as an order of the day.

TOTALIZATOR LEGISLATION AMENDMENT BILL

Second Reading

Debate resumed from 19 November.

The Hon. MELINDA PAVEY [8.47 p.m.]: I lead for the Opposition on the Totalizator Legislation Amendment Bill. I put on the record the concerns of the shadow Minister for Gaming, the Hon. George Souris in the other place, who should be leading debate for the Opposition in the Legislative Assembly. However, because the bill is being rushed through in the last week before Parliament closes for Christmas I lead on behalf of the Opposition. I have been speaking very closely with the Hon. George Souris about this bill, which will amend the Totalizator Agency Board Privatisation Act 1997 and the Totalizator Act 1997 to remove restrictions to accommodate either the proposed merger via a reverse takeover between TAB Ltd from Victoria and UNiTAB Ltd from Queensland or the proposed takeover of TAB Ltd by TABCORP Holdings Ltd in Victoria.

The object of the bill is to provide an exemption from the 10 per cent shareholding restriction and from the prohibition on totalisator licensees also having a casino licence in New South Wales. These changes will be necessary as TABCORP is licensee of Star City. The prohibitions will be removed for the successful company. Additional conditions contained in the bill are that TABCORP Ltd will be required to divest its Central Monitoring System business within 18 months, so as to remove any conflict of interest. This is because Central Monitoring System is the basis for monitoring gaming machines and the collection of tax by the Government. TABCORP's licence to own and operate gambling machines in hotels and share profits will be withdrawn. The Government also intends that TABCORP's licence to develop a statewide, linked jackpot system relying on Central Monitoring System data will be withdrawn subject to the ability for TABCORP to complete its contractual obligations.

Both proposals involve a merger of the totalisator pools of Victoria or Queensland with that of New South Wales. With any merger New South Wales tax revenue would have to be protected. Another important point is that the legislation will not be proclaimed unless the Government is satisfied that the New South Wales racing industry will not be disadvantaged under either proposal. The Opposition shares that sentiment. The racing industry in New South Wales is strong and a major employer—racetrack workers, jockeys, trainers, stable hands, horse fitters and people who provide feed to the stables. We have a very proud history and tradition in the racing industry, especially in the shadow Minister's area of the Upper Hunter, where there are some of the best stables in Australia. It is important that any bill passed by this Chamber does not impact on the viability of that industry, which is vital to metropolitan and country New South Wales.

We accept wholeheartedly that the reasonable concerns of the racing industry need to be addressed. Either proposal, by UNiTAB in Queensland or TABCORP in Victoria, will require approval by the Australian Competition and Consumer Commission [ACCC]. The amendments will allow the shareholders of TAB Ltd to determine their future. The New South Wales Opposition supports either proposal that on equal footing allow shareholders to make an informed choice. The UNiTAB proposal will see a shift of the headquarters to Queensland, although the employment situation in New South Wales would not be unduly affected as totalisator headquarters and staffing would continue in New South Wales.

Under the TABCORP proposal the headquarters would be in New South Wales: there would be a shift from Melbourne to Sydney and general staffing would be unaffected. TAB prefers the UNiTAB proposal from Queensland and considers the TABCORP proposal to involve a hostile takeover. I also note concerns from the New South Wales racing industry that the continued ownership of Sky Channel and radio 2KY by TAB Ltd may involve the movement of some operations to Victoria, with broadcasts of race meetings through New South Wales not having the prominence they deserve. We will watch these issues closely. This morning the Government circulated amendments affecting many clauses of the bill, which would suggest that things have been rushed and that the Government has had to tidy up a few things. One amendment is to ensure that the New South Wales racing industry is not affected by any merger. The Opposition will not oppose the bill. We will explain our position on the amendments in Committee.

Ms LEE RHIANNON [8.53 p.m.]: The Totalizator Legislation Amendment Bill is intended to facilitate the merger of TAB Ltd with either TABCORP from Victoria or UNiTAB from Queensland. The Greens do not oppose the bill per se. We certainly care about issues of privatisation, but once something such as TAB Ltd has been privatised we believe that it matters relatively little in principle whether it operates independently in New South Wales or as part of a combined entity across State lines. Certainly we support the Government's intention to maintain the 10 per cent limit on individual shareholding, and we would be concerned if that limitation were to go. Should the Government later seek to lift that limit the Greens would oppose it at that time. However, we support the present bill.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [8.54 p.m.]: Before proceeding with my speech I declare a pecuniary interest: I am a small shareholder in New South Wales TAB Ltd, but I will take my consistent antigambling line nevertheless. The Totalizator Legislation Amendment Bill is intended to amend the Totalizator Agency Board Privatisation Act 1997 so that all shareholders can consider voting on two commercial propositions: a merger between Queensland's UNiTAB or purchase by Victoria's TABCORP. The current Act prevents any person from owning more than a 10 per cent interest in the TAB and prevents the holder of a casino licence from controlling the TAB's licence. However, under this bill TABCORP, the owner of the Star City Casino, will also be able to have the TAB's wagering licence. The bill will remove the 10 per cent cap and will exempt the abovementioned entities from other provisions as long as they maintain their own 10 per cent shareholding caps and remain listed on the Australian Stock Exchange.

The Government's briefing note on the bill states that if TABCORP is successful in its proposition to purchase New South Wales TAB, TABCORP would have to divest the Central Monitoring System [CMS]

business arm within 18 months of the purchase. However, I do not think there is anything in the bill that clearly states this. TAB holds an exclusive 15-year licence on the New South Wales linked jackpot system that links all machines in New South Wales to the CMS. There will be some growth in the racing industry as a result of this bill but the downside is that the State is likely to lose control of social policy on gambling. Merging of the pools will increase profits but whether it is this Government's job to increase profits from gambling is quite another question.

I would like to make a number of points. Firstly, my predecessor, Elisabeth Kirkby, on 19 June 1997 opposed the privatisation of the TAB, saying that the extra marketing of gambling would worsen the State's gambling problem, and pointing out that the Matthew Talbot Hostel for homeless men had as many people with gambling addiction as with alcohol addiction and things would get worse if the privatisation went ahead. How right she was! Private corporations market more successfully than governments. If they have control of a socially damaging habit they will worsen it compared with what would happen under a government monopoly. This has been shown whenever a government tobacco monopoly has been taken over by a multinational tobacco company. Consumption has gone up and the consequent misery created has also increased. Now this is happening in gambling.

The Hon. Michael Egan: All tobacco companies are multinational.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: No, that is not correct. Many were State-owned monopolies until recently, and they are being taking over increasingly.

The Hon. Michael Egan: We never had State-owned tobacco companies in Australia.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: This is not the only State in the world you simpering man. Secondly, it is appalling that a private gambling empire will now be created, with the Government often beholden to such a powerful lobby as it is beholden to the development lobby in this State. In fact, arguably this bill is here because the large corporations wanted it to be here. This makes my point that powerful lobbies are not resisted by governments—this one in particular. According to the *Australian Financial Review* Australian Competition and Consumer Commission [ACCC] action is unlikely. It comes down to this legislation, which apparently was also thought unlikely. I wonder why it is here. What hope is there of meaningful regulation if a national company is being regulated by States that have shown scant co-operation so far?

New South Wales has introduced one of the best regulatory oversight systems in the world but the question becomes: if it is a merged operation, will the New South Wales regulators have similar oversight of the merged operations in respect of bets taken in New South Wales or in other States that impact on the pools in New South Wales? This brings me back to my question: Will we lose control of social policy as a consequence of this bill? The third point is that the Central Monitoring System, which links all gambling machines in New South Wales, apparently has to be divested if TABCORP buys TAB Ltd because TABCORP is a significant operator of gaming machines in New South Wales through its ownership of Star City Casino. This puts it in a conflict of interest position as it gets information from the clubs that also have gambling and are its competitors.

I have made the point in this Chamber before that there is potential to benefit public interest through the CMS electronic linking system. Arguably, it should be regulated under the Interactive Gambling Act. The Australian Democrats have had a long interest in the CMS as a means of providing responsible gaming. During the debate on the Interactive Gambling Act in the Federal Parliament Senators Woodley and Allison obtained a letter read into *Hansard* from Senator Vanstone, the former Minister for Family and Community Services and chair of the Ministerial Council on Gambling, committing the Federal Government to examining the opportunity for using the CMS as a means to mitigate harmful gambling. Unfortunately, little had been done to implement this until recently when the new Minister, Senator Kay Patterson, prodded by Democrats Senator Allison, had the issues examined by the Ministerial Council on Gambling, which met on 27 November.

The CMS should have a public benefit, and the Australian Democrats will actively pursue that. Just as the tobacco industry resisted packet warnings with lofty statements about its rights to package design and trademarks, so the gambling industry will resist giving facts to punters about their losses, let alone allow any technology to develop that warns individual gamblers of their losses. The right to prey on the vulnerable, to create misconceptions about the chances of winning, and to add alcohol and titrate excitement to weaken resolve are all still seen as legitimate in gambling practice. Hopefully, in a more enlightened future, some steps will be made to claw back these practices. I will try to stay abreast of developments in technology that might provide

some protection for punters through messages conveyed by the CMS. Anyone thinking of buying the CMS should keep that in mind. I have repeatedly tried to get action on the CMS in this Parliament, but each time it has been fobbed off as beyond the leave of the bill, or it will be considered later. Of course, no regulation has been introduced along those lines in New South Wales.

Another concerning factor is the inappropriateness of one operator having fixed-odds betting in the same race as a totalisator operation. That creates integrity risks. There is a real problem if the holder of a totalisator licence contemporaneously conducts totalisator and fixed-odds betting on the same contingencies. Until recently that did not occur. Just prior to the Spring Carnival the New South Wales Minister for Gaming and Racing authorised a fixed-odds betting trial until 30 June 2004 for TAB to conduct fixed-odds betting on all group 1, 2 and 3 racing events up until the start of the race. Serious concerns have been raised with Minister on this subject, but to date the response has been that the issues will be addressed at the conclusion of the trial. However, in view of the sale of TAB, and the fact that TABCORP, and through it UNiTAB, already conduct a broader range of fixed-odds betting activities, which of itself was TAB's prime argument for authorisation, this issue should be addressed now.

Highest on this list is the possibility of the TAB conducting its fixed-odds operation and parimutuel operation conjointly to maximise TAB profit, which would be hardly surprising given that its responsibility is to shareholders as managers of a corporation. However, that is plainly not in the public interest. If a fixed-odds bet were also placed on the totalisator by someone with an interest in the totalisator, and who therefore had a share of the 15 per cent that is retained as profit, it would increase the size of the dividend. That would distort that person's profit compared with that of other punters. That inequality means that the totalisator is slanted in favour of the person betting who also has an interest in the totalisator. I have an amendment to address that problem. The Government has said it is beyond the leave of the bill.

The TAB is the only betting body allowed to advertise. If the merger with TABCORP succeeds, which is currently the most favoured option for shareholders, there will be only one sports betting operation nationally, because TABCORP already provides sports betting services in areas in which TAB services are not privatised. Tasmania, the Australian Capital Territory, Western Australia and UniTAB in the Northern Territory, Queensland and South Australia already use TABCORP's Sportsbet product. That will allow them to advertise nationally, and be the only parties to do so because all other parties are restricted to advertising in the jurisdictions in which they are licensed. That is a huge market advantage.

The New South Wales TAB already owns SkyChannel, and the merger of the TAB with either of the other two will eventually lead to a merger with the other. That will lead to only one national racing channel owned by SkyChannel. That poses risks to the racing industry, which will be told how to run races for the convenience of television scheduling, and there will be a total private gambling monopoly in this country. That will be very difficult to control, given that this legislation exists principally for the benefit of companies smaller than the one that will be created. I am very concerned about this bill. The idea that this is simply a machinery bill and innocuous is a dangerous misconception. Gambling is a major social problem and it is time the Government gave it the serious consideration it deserves.

Reverend the Hon. FRED NILE [9.05 p.m.]: The Totalizator Legislation Amendment Bill is designed to provide an exemption for a nominated company in relation to its shareholding in TAB Ltd from the operation of the provisions of the Totalizator Agency Board Privatisation Act 1997 and the Totalizator Act 1977 that prohibit a person from entitlement to such number of voting shares in TAB Ltd as would constitute more than 10 per cent of the total number of voting shares in that company. The nominated company will be either UniTAB Ltd, formerly TAB Queensland Ltd, or TABCORP Holdings Ltd, formerly TABCORP Ltd, registered in Victoria. This represents a gigantic merger of the TAB bodies in New South Wales, Victoria and Queensland. The Government has proposed a number of amendments. I remind honourable members of the impact of gambling in our State and nation.

The TAB is involved in racing and sporting event gambling. Most participants in that type of gambling are men. New South Wales adults spent almost $150 each on racing and sports betting in 2001-02 compared to the Australian average of $133, and gambling provided more than $142 million in revenue to the New South Wales Government. That represents 11.84 per cent of total gambling revenue. TAB Ltd and licensed bookmakers conduct the wagering activities in New South Wales. As honourable members know, the TAB Board was privatised and listed on the Australian Stock Exchange in 1988. Total gambling expenditure in Australia is more than $15 billion or $1,016.85 per adult each year. However, each Australian adult, on average, wagered $8,447.66 in 2001-02. That does not include the amount put through gaming machines. Per capita

gambling expenditure per TAB gaming form in 2001-02 in New South Wales was $143.79, in Victoria it was $127.62 and in Queensland it was $92.01.

My concern is that as these TAB groups and companies become more organised and have more capital they will indulge in more extensive promotion. In other words, their profit is in direct relationship to their skill in encouraging people to gamble. They will obviously use every sophisticated means at their disposal to achieve that objective for shareholders. They will not be concerned about the social or economic impact of their activities; their only concern will be shareholders' profits. That is a very dangerous situation. By linking the gambling organisations of three States, and perhaps all the other States in time, we will be creating a huge gambling monopoly.

The Christian Democratic Party is very concerned about the massive impact that gambling is now having on society. Sadly, usually the people who can least afford it are the ones who are most seriously affected by it. The amount spent on gambling has substantially increased from $5.802 billion in 1990-91 to $12.429 billion in 1998-99. However, a small percentage of the population is responsible for the bulk of that expenditure. Seventy per cent of gambling expenditure can be attributed to 10 per cent of gamblers, with problem gamblers losing an average of 22.1 per cent of their household income before tax.

In other words, almost a quarter of their income—which should be going to the family for the purchase of food, clothing, and the provision of education for children—is going into various aspects of gambling. I know that poker machines are a massive social problem. However, the TAB runs a close second, with easy access to TAB facilities right across the eastern States of Australia. We express our concern about the legislation. Whenever gambling legislation is before the House, the Government and the Opposition always agree. Indeed, it seems that is impossible for the crossbench to prevent a gambling bill from being passed in this House. That raises questions about the objectives of the two major parties and the influence of the gambling industry on them.

I recall that, prior to the Government introducing a bill to put poker machines in hotels, the Opposition indicated to me that it would vote against that bill. The Opposition's vote, together with crossbench votes, would have defeated the bill. However, as a result of the Opposition reneging on its position, we now have further massive social problems and corruption following the installation of 28,000 or more poker machines in hotels. In some ways we regret the efficiency of the Treasurer in handling this area of operation. It seems that all his skills are applied to legislation of this nature, and that is regrettable.

The Hon. MICHAEL EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [9.13 p.m.], in reply: I thank honourable members for their contributions to the debate. I particularly thank the Opposition for its support for the bill. I can understand Reverend the Hon. Fred Nile's position on the bill; it is a consistent position. He has been anti-gambling for as long as I have known of him, and certainly for as long as he has been a member of this Parliament. However, I will correct Reverend the Hon. Fred Nile on one point. He asserted that when it comes to gambling matters the Opposition and the Government always vote together. I remind him that last night the Government voted one way on the Registered Clubs Amendment Bill, and the Opposition, Reverend the Hon. Fred Nile and his colleague Reverend the Hon. Dr Gordon Moyes voted together against the Government.

Reverend the Hon. Fred Nile: That wasn't a gambling bill.

The Hon. MICHAEL EGAN: It was to do with the governance of gaming organisations, namely, registered clubs in New South Wales.

The Hon. Catherine Cusack: You love them, don't you?

The Hon. MICHAEL EGAN: I do. I am a great supporter of them. They are all involved in gaming, except for a handful. Many of them—indeed, most of them—are valuable community assets. However, some registered clubs have gaming operations that represent a massive proportion of their total activities, and I therefore believe it is fair to call some of them poker machine businesses. Some of them are no longer community clubs but massive poker machine businesses. So it is not true, as Reverend the Hon. Fred Nile asserted, that the Government and the Opposition always vote together on these issues.

Reverend the Hon. Fred Nile: It wasn't a gambling bill.

The Hon. MICHAEL EGAN: It was a bill to do with the governance of registered clubs that are engaged in gaming activities. Whilst I understand the consistency and genuineness of the approach of Reverend

the Hon. Fred Nile, I have to say once more that I am completely flummoxed by the attitude taken by the Hon. Dr Arthur Chesterfield-Evans. He asserts time and again that he is against gambling; he thinks it is a terrible evil. But tonight he revealed that he owns shares in TAB Ltd. I am not going to say that is hypocritical, but I am sure others might. Indeed, I find it difficult to understand how it might not be hypocritical to be antigambling and yet be a shareholder in one of the biggest gambling businesses in the country.

Earlier my colleague the Minister for Local Government gave me the opportunity to wander out onto Macquarie Street to have a cigarette, but I said, "No, I am going to stay here because I want to listen to the Hon. Dr Arthur Chesterfield-Evans's explanation of how he can be so adamantly opposed to the evils of gambling yet profit from it." What a despicable approach! And the Hon. Dr Arthur Chesterfield-Evans did not seek to explain his position.

I thought there was no way I could come up with a logical explanation, but I thought that at least the Hon. Dr Arthur Chesterfield-Evans would make an attempt—we might have laughed at it, but at least it would have been an attempt. But he did not do it. I am very disappointed in him. I urge the Hon. Dr Arthur Chesterfield-Evans to sell his shares in TAB Ltd to someone who wants them, to someone who has no objection to wagering.

The Hon. Dr Arthur Chesterfield-Evans: Even appreciates them.

The Hon. MICHAEL EGAN: Someone who even appreciates them. Perhaps the Hon. Dr Arthur Chesterfield-Evans inherited the shares.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: They were dished out.

The Hon. MICHAEL EGAN: No, they were not dished out; they were offered, and they were purchased. When there was a quid to be made, the Hon. Dr Arthur Chesterfield-Evans purchased his shares in an organisation whose activities, he believed, were evil. I will not say any more about that matter. Again I thank members for their contributions to the debate. I particularly thank the Greens. I could not believe that the Greens would support such legislation. For a moment I even contemplated withdrawing the bill because of that fact. However, I thought better of it, and I thank the Greens for their support.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 4 agreed to.

The Hon. MICHAEL EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [9.20 p.m.], by leave: For the purposes of efficiency and given the volume of legislation this Chamber is required to consider before we adjourn for the year I believe it would be advisable for me to move Government amendments Nos 1 to 15, which deal with schedules 1 and 2, in globo:

No. 1 Page 3, schedule 1 [1], proposed section 37A (1), line 8. Insert "or a related body corporate (within the meaning of the *Corporations Act 2001* of the Commonwealth) of the nominated company (other than TAB Ltd or a TAB Ltd subsidiary)" after "company".

No. 2 Page 3, schedule 1 [1], proposed section 37A (2), lines 10–17. Omit all words on those lines. Insert instead:

(a) the nominated company (or, if the nominated company is a company referred to in paragraph (c) of the definition of ***nominated company*** in subsection (6), the ultimate holding company (within the meaning of the *Corporations Act 2001* of the Commonwealth) of the nominated company) is no longer listed on the Australian Stock Exchange, or

(b) there no longer exists, under the law of another jurisdiction or otherwise, a prohibition on shareholding interests in the nominated company (or, if the nominated company is a company referred to in paragraph (c) of the definition of ***nominated company*** in subsection (6), in the shareholding interests in the ultimate holding company (within the meaning of the *Corporations Act 2001* of the Commonwealth) of the nominated company) with substantially the same effect as the prohibition on shareholding interests in TAB Ltd under the other provisions of this Division, or

No. 3 Page 3, schedule 1 [1], proposed section 37A (2), lines 18–21. Omit all words on those lines. Insert instead:

(c) TAB Ltd is not wholly owned by the nominated company or the nominated company has not taken all reasonable steps to acquire a relevant interest in all the issued voting shares (within the meaning of the *Corporations Act 2001* of the Commonwealth) of TAB Ltd, or

(d) TAB Ltd is not a subsidiary (within the meaning of the *Corporations Act 2001* of the Commonwealth) of the nominated company,

No. 4 Page 3, schedule 1 [1], proposed section 37A (3) (a), line 31. Insert "or the ultimate holding company (within the meaning of the *Corporations Act 2001* of the Commonwealth) of the nominated company (as the case may require)" after "company".

No. 5 Page 3, schedule 1 [1], proposed section 37A (3) (c), line 36. Insert "or the nominated company has taken all reasonable steps to acquire a relevant interest in all the issued voting shares (within the meaning of the *Corporations Act 2001* of the Commonwealth) of TAB Ltd (as the case may be)" after "company".

No. 6 Page 4, schedule 1 [1], proposed section 37A (3) (d), line 1. Omit "controlled by". Insert instead "a subsidiary (within the meaning of the *Corporations Act 2001* of the Commonwealth) of".

No. 7 Page 4, schedule 1 [1], proposed section 37A (6), line 8. Omit "either". Insert instead "one of the following".

No. 8 Page 4, schedule 1 [1], proposed section 37A (6), line 11. Omit "or".

No. 9 Page 4, schedule 1 [1], proposed section 37A (6). Insert after line 14:

(c) a wholly owned subsidiary (within the meaning of the *Corporations Act 2001* of the Commonwealth) of a company referred to in paragraph (a) or (b),

No. 10 Page 5, schedule 2. Insert after line 8:

[2] Section 17A Trade Practices exemption

Omit "or 43 (2)" from section 17A (2) (a).

Insert instead ", 43 (2) or 43A".

No. 11 Page 5, schedule 2 [2], lines 12–15. Omit all words on those lines. Insert instead:

(3) However, subsection (1) (a) does not apply to or in respect of the nominated company or a related body corporate of the nominated company during any period during which the exemption granted to the nominated company and any related body corporate by section 32A is in force.

No. 12 Page 5, schedule 2 [3], proposed section 32A, lines 19–24. Omit all words on those lines. Insert instead:

The other provisions of this Division do not apply to or in respect of the nominated company or a related body corporate of the nominated company (other than a licensee or a subsidiary of a licensee), in relation to its entitlement to voting shares in TAB Ltd, during any period during which the exemption granted to the nominated company and any related body corporate by section 37A of the *Totalizator Agency Board Privatisation Act 1997* is in force.

No. 13 Page 5, schedule 2 [4], lines 27–32. Omit all words on those lines. Insert instead:

(2B) Every licence granted to TAB Ltd is subject to the condition that:

(a) no person has a prohibited shareholding interest (within the meaning of Division 3) in the nominated company, or

(b) if the nominated company is a company referred to in paragraph (c) of the definition of ***nominated company*** in section 37A (6) of the *Totalizator Agency Board Privatisation Act 1997*, no person has such an interest in the ultimate holding company (within the meaning of the *Corporations Act 2001* of the Commonwealth) of the nominated company.

However, this condition has effect only while the exemption granted to the nominated company and any related body corporate by section 32A is in force.

No. 14 Page 6, schedule 2. Insert after line 2:

[5] Section 43A

Insert after section 43:

43A Additional conditions of TAB Ltd licences

(1) It is a condition of every licence of TAB Ltd that both TAB Ltd and the nominated company must put in place and must give effect to such commercial arrangements (being arrangements that the racing industry has acknowledged in writing to the Minister are satisfactory to the racing industry) as the racing industry considers necessary to ensure that the racing industry is in no less favourable a position under the relevant arrangements in force under section 43 (2) than it was under those arrangements as in force immediately before the nominated company was nominated.

(2) It is also a condition of every licence of TAB Ltd that, if TAB Ltd and the racing industry enter into new arrangements under section 43 (2) on or after the date on which the nominated company was nominated, the nominated company must put in place and give effect to arrangements made by the nominated company and the racing industry for ensuring that the new arrangements, with respect to TAB Ltd as licensee, are effectively carried out.

(3) If the nominated company is a company referred to in paragraph (c) of the definition of ***nominated company*** in section 37A (6) of the *Totalizator Agency Board Privatisation Act 1997*, subsections (1) and (2) apply as if the reference in those subsections to the nominated company were a reference to the ultimate holding company (within the meaning of the *Corporations Act 2001* of the Commonwealth) of the nominated company.

(4) In this section:

nominated means nominated under section 37A (6).

the racing industry has the same meaning as it has in section 43 (2A).

No. 15 Page 6, schedule 2. Insert after line 5:

[6] schedule 2, clause 16 (1A)

Insert after clause 16 (1):

(1A) This clause applies to an arrangement under section 43A, and to any new arrangement under section 43 (2) as referred to in section 43A (2), as if the arrangement were an arrangement referred to in clause 14.

These amendments fall into three categories. The first category consists of technical amendments, the second category consists of amendments necessary to accommodate the possibility that either TABCORP or UNiTAB proceed to merge with or acquire TAB Ltd through subsidiary companies, and the third category consists of amendments necessary to ensure that the commercial position of the New South Wales racing industry is protected in the changes. The amendments are designed to reflect the true corporate environment in which takeovers or acquisitions occur. I should point out that the amendments have been developed in conjunction with the New South Wales racing industry and have been canvassed with TABCORP, TAB Ltd and UNiTAB, and I am advised that the amendments are supported by all four groups.

The Hon. Peter Breen: They are not supported by Peter Costello.

The Hon. MICHAEL EGAN: What has it got to do with Peter Costello?

The Hon. Peter Breen: Not Peter Costello, I am sorry, Tim Costello.

The Hon. MICHAEL EGAN: I have not consulted with Tim Costello and I have not consulted with his brother either. I consult with Peter Costello every now and again but not very satisfactorily. I get on a lot better with other Federal Ministers such as Mark Vaile, Helen Coonan, Nick Minchin and John Anderson. I find it is very easy to work with those Ministers.

The Hon. Melinda Pavey: And Mark Latham?

The Hon. MICHAEL EGAN: Mark is a colleague and a friend of mine. I have known him since he was a very young man and I can tell you that it will not take too many days before John Howard is shaking in his boots, along with the rest of you Tories. You mark my words! The purpose of amendment No. 1, which is a technical amendment, is to ensure that related bodies corporate of the nominated company do not infringe the 10 per cent shareholder restrictions applying to TAB Ltd. Technically, under the Corporations Law related bodies corporate could be deemed to also own the shares in TAB Ltd and therefore be in breach of the shareholder prohibitions. This is not the intended outcome of these provisions and the amendments will ensure that related companies are also exempt from the shareholder prohibitions.

Amendment No. 2 is necessary in the event that TAB Ltd could be acquired through a wholly-owned subsidiary of either TABCORP or UNiTAB. I will jump to deal with amendment No. 9 because some of the amendments before this amendment are consequential upon it. New South Wales has been careful to ensure that the legislation does not restrict options for acquisition. It is a commercial matter for the acquiring company to structure its acquisition of TAB Ltd as it sees fit. New South Wales legislation should not mandate a preferred method. Amendment No. 9 ensures that the legislation does not preclude the possibility that TAB Ltd may be acquired by a wholly-owned subsidiary of either UNiTAB or TABCORP.

Amendment No. 3 clarifies the requirements applying to an exemption granted under the bill. The amendment has been made with a view to ensuring that the legislation as far as possible reflects the real corporate environment in which takeovers and acquisitions occur. One of the bidders, TABCORP, has always publicly stated that its primary goal is to acquire 100 per cent of the shares in TAB Ltd. However, it may be technically impossible under a takeover scenario for the bidder to successfully achieve 100 per cent acceptance of bids. The legislation cannot make 100 per cent ownership a condition of the exemption if this is not practically possible. To do so would effectively mean that the legislation worked contrary to what the majority of shareholders may actually want. For this reason it is necessary to amend the legislation to provide flexibility where the bidder has taken all reasonable steps to acquire 100 per cent of the voting shares but has not been successful for one reason or another. The amendment also ensures that TAB Ltd must at all times be a subsidiary of the nominated company, and that will ensure that its voting shares and its board at all times are controlled by the nominated company.

Amendment No. 4 is consequential upon amendment No. 2. Amendment No. 5 is consequential upon amendment No. 3. Amendment No. 6 is consequential upon amendment No. 3. Amendment No. 7 is consequential upon amendment No. 9. Amendment No. 8 is consequential upon amendment No. 9. I have already dealt with amendment No. 9.

Amendment No. 10 ensures that existing trade practices exemptions that apply to current commercial arrangements between the racing industry and TAB Ltd extend to any new commercial arrangements that may be entered between the new owners of TAB Ltd and the racing industry.

Amendment No. 11 ensures that related bodies corporate of the nominated company get the benefit of the exemption from the prohibition of holding a casino licence. This exemption already applies to the nominated company under the bill.

Amendment No. 12 is similar to amendment No. 1 in that it exempts related bodies corporate of the nominated company from shareholder prohibitions applying under the Totalizator Act 1997. This amendment is required as otherwise related bodies corporate of the nominated company may inadvertently be in breach of the shareholder prohibitions.

Amendment No. 13 is consequential on amendment No. 9 and ensures that it is a condition of the totalisator licence that if the nominated company is a subsidiary company the parent company will be subject to the prohibited shareholder restrictions. That is, these protections will not be lost if the vehicle that holds the shares in TAB Ltd is a subsidiary of the nominated company.

Amendment No. 14 inserts a new section 43A into the Totalizator Act 1997. This provision has been included to address the concerns of the racing industry. The new section requires the nominated company, or the parent of the nominated company, to make arrangements with the racing industry to ensure that the racing industry is in no less a favourable position under its commercial arrangements than it was prior to TAB Ltd being sold or acquired. Provision is also made to ensure that the nominated company, or the parent of the nominated company, enters into new arrangements to back up any new arrangements entered into between TAB Ltd and the racing industry following the acquisition of TAB Ltd.

Amendment No. 15 extends existing stamp duty exemptions to new arrangements entered into under the new section 43A inserted by amendment No. 14.

Reverend the Hon. FRED NILE [9.27 p.m.]: I have two questions in regard to these amendments. The Minister said that amendment No. 11 will ensure that related bodies corporate of the nominated company will get the benefit of the exemption from the prohibition of holding a casino licence. This means that the company can hold a casino licence. What will be the impact of the amendment, and are there any plans for TAB Ltd to commence a casino, buy a casino or take over a casino in Sydney, Melbourne or even Brisbane?

Amendment No. 15 will extend existing stamp duty exemptions to new arrangements entered into under new section 43A. What would be the total value of this exemption in cash terms? Is it worth $1,000 or $500,000? There has been considerable debate relating to heavy stamp duty payments for first-home buyers and others buying new homes. The Government has said that it could not afford to give any exemptions or reductions. However, TAB Ltd will get an important exemption. What does it mean in money terms?

The Hon. MICHAEL EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [9.28 p.m.]: I will address the last question first. Amendment No. 15, as I said, extends

existing stamp duty exemptions—I repeat, existing stamp duty exemptions—to the new arrangements which are entered into under section 43A, which is inserted by amendment No. 14.

I remind the Committee that new section 43A has been included to address the concerns of the racing industry. That new section requires the nominated company or the parent of the nominated company to make arrangements with the racing industry to ensure that the racing industry is in no less a favourable position under its commercial arrangements than it was prior to TAB Ltd being sold or acquired. There is no benefit for the purchaser of TAB Ltd, whether it is UNiTAB Ltd or TABCORP. This provision protects the racing industry.

Reverend the Hon. Fred Nile: Do they still pay stamp duty?

The Hon. MICHAEL EGAN: Stamp duty should be paid on any new agreement. I do not know what the value might be, but it simply extends the stamp duty exemptions that already exist under the Act. My advisers are unable to give me much advice on that, but the amount would not be considerable because it is stamp duty on commercial documents.

Reverend the Hon. Fred Nile: Not on shares?

The Hon. MICHAEL EGAN: No, not on shares but on the agreement that the new owner of TAB Ltd would have to enter into with the racing industry. It is the stamp duty that would normally apply to those commercial documents. In relation to the other matter raise by Reverend the Hon. Fred Nile, this legislation enables, for example, TABCORP, which is the owner of Star City Casino, to make a bid for the New South Wales TAB. Under the current legislation it would be precluded from doing so because of its ownership of the casino. Certainly, there is nothing in this legislation or on the agenda that would enable the new owner of TAB Ltd, if the shareholders agree to one of the two proposals, to open another casino in New South Wales. We already have a restriction relating to the existing casino, which has an exclusive licence for quite some time. Nothing in this legislation will change that situation. There is nothing in this legislation that would prevent the new owner of TAB, if one or other of the proposals were accepted, from opening a casino in some other jurisdiction in which it is permitted already to do so. That would be ultra vires our powers, in any event.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [9.33 p.m.]: The Treasurer stated that he consulted all the financial partners, but he did not consult one anti-gambling or social policy person. He did say who was consulted on the amendments. The social consequences have not been considered in this financial approach. Clearly, a consequence of this bill will be a loss of social policy because the Minister has not considered its social impacts.

The Hon. Duncan Gay: They are not going to buy it.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: That fatuous interjection demonstrates a complete lack of understanding. It may be the approach of the Deputy Leader of the Opposition to social policy to suggest that, because they are not going to buy it, it does not matter. It is certainly not mine. I have often drawn parallels with the tobacco industry and the fact that its support plan continued for 25 or 30 years after the harmful effects of tobacco were acknowledged. Indeed, considerably more funding went into the tobacco industry than into health, despite research into the adverse effects of tobacco. The Department of Gaming and Racing will not even produce the statistics to show the social harm of gambling, so we have no feedback. Indeed, the matter has not even been considered by the Minister. Reverend the Hon. Fred Nile raised concerns about reduced taxes and the establishment of a monopoly if the owners of Star City Casino also owned the TAB. That would give some sort of synergy to marketing gambling as a social norm. The Government has already lost sight of social policy and these amendments further that objective.

The Hon. MELINDA PAVEY [9.35 p.m.]: The Opposition does not oppose Government amendments Nos 1 to 13, which attempt to tidy up the imperfect drafting instructions of the Government. Amendment No. 14 will ensure that the New South Wales racing industry is not adversely affected, and the Opposition will not oppose it. The amendments foreshadowed by the Hon. Dr Arthur Chesterfield-Evans are, on my advice, outside the leave of the bill, which deals with the privatisation of the Totalizator Agency Board. The bill does not deal with any social policy that may have been mooted during the drafting of the bill. The bill will allow shareholders to decide what is best for them and will remove any obstacle in that regard. Therefore, the Opposition will not support the amendments proposed to be moved by the Hon. Dr Arthur Chesterfield-Evans.

Amendments agreed to.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [9.37 p.m.]: I seek leave to move Australian Democrats amendments Nos 1 to 4.

The Hon. Michael Egan: Point of order: All four of the amendments circulated by the Hon. Dr Arthur Chesterfield-Evans are outside the leave of the bill. The long title of the bill is "An Act to amend the Totalizator Agency Board Privatisation Act 1997 and the Totalizator Act 1997 in relation to shareholding interests in TAB Ltd; and to amend the Totalizator Act 1997 in relation to licences under that Act". It is quite clear that the purpose of those changes is to permit a change in ownership of TAB Ltd. The amendments moved by the Hon. Dr Arthur Chesterfield-Evans have no relationship to the bill.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: To the point of order: The first amendment relates directly to licences and what licences can be approved to limit one's ability to bet where there are fixed odds and a totalisator in the same event. That matter is well within the leave of the bill. The second amendment relates to a condition on a licence that prevents the payment of a rebate to a person who makes an investment in a totalisator because it gives inequality of return for people who are given that rebate or incentive as opposed to other punters. That should not happen with totalisators. It is a condition on a licence and is therefore within the leave of the bill. Amendments Nos 1 and 2 relate to licences and are in order. Amendment No. 3 relates to bets and tickets. Of course, other items relate to the function of the Totalizator Agency Board privatisation with respect to betting and ticket offences. In other words, that is for other purposes in relation to the betting process. I would argue that amendments Nos 3 and 4 come within that scope.

The CHAIRMAN: Order! Having considered advice from the Clerk, and the amendment proposed by the Hon. Dr Arthur Chesterfield-Evans, I am of the opinion that amendments Nos 1 and 2 are in order. However, amendments Nos 3 and 4 are out of order because they do not relate to the long title of the bill.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS, by leave**:** I move Australian Democrats amendments Nos 1 and 2 in globo:

No. 1 Page 5, schedule 2. Insert after line 8:

[2] Section 13 Licensee can be approved to conduct other betting activities

Omit section 13 (3). Insert instead:

(3) The Minister must not, under this section, approve of a licensee conducting:

(a) any betting activity with respect to the same event or contingency as that with respect to which the licensee is authorised to conduct a totalizator, or

(b) any other betting activity that, in the opinion of the Minister, is offensive or contrary to the public interest.

No. 2 Page 5, schedule 2. Insert after line 24:

[4] Section 43 Conditions of licences

Insert after section 43 (1) (d):

(d1) prohibiting the payment of any rebate or incentive to a person who makes an investment on a totalizator, except where the rebate or incentive is available to all persons making such an investment,

Amendment No. 1 basically states that the Minister must not approve a licensee conducting any betting activity with respect to the same event or contingency as that with respect to which the licensee is authorised to conduct a totalisator, or any other betting activity that, in the opinion of the Minister, is offensive or contrary to the public interest. Paragraph (a) refers to the fact that if someone has fixed odds betting of, say, 10 to 1 and they bet that at fixed odds and then try to lay off that bet at 10 to 1 at the tote—for example, if the rate is 10 to 1 at the tote but the tote is owned by the same person and 15 per cent of the total pool is returned to the same licensee—effectively, the return is better than 10 to 1 so they are getting a higher return, although the odds are apparently the same, which gives them a huge advantage over any other punter.

The net result is that the punter is being diddled because he is not given an equal chance within the framework of that bet. This has been flagged as a bad practice in terms of the relative interests of the public to the licensee, and it needs to be specifically prohibited. Of course, corporations have a duty to their directors to maximise the profits to shareholders. Clearly, by running fixed odds betting at the same time as running a totalisator they could make much more profit than they otherwise should. That profit would come from smaller

punters within the same system and as such should be specifically prohibited; otherwise it is only a matter of ethics. Indeed, the corporations may regard that as a lack of opportunity, because there is an opportunity to make money there.

Amendment No. 2 will prohibit the payment of a rebate or incentive to a person who makes an investment in a totalisator. Such rebates or incentives are usually paid to professional punters; that has happened interstate. Certain professional punters are rewarded for punting on the totalisator by being given a rebate. That means that they are effectively paying less to bet than other punters. If they are generally significant punters with expertise and larger amounts of money than smaller punters, the rebate enables them to multiply that advantage. That has caused a great deal of angst in other jurisdictions. I believe it should also be prohibited under this legislation, in fairness to the people of New South Wales, who should be the first concern of this Minister and this bill. I commend the amendments to the Committee.

The Hon. MICHAEL EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [9.44 p.m.]: The Government does not support the amendments moved by the Hon. Dr Arthur Chesterfield-Evans.

Amendments negatived.

Schedule 1 as amended agreed to.

Schedule 2 as amended agreed to.

Title agreed to.

The Hon. MICHAEL EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [9.46 p.m.]: Once again I thank honourable members for their co-operation, and I thank the Opposition for its support of this bill. In particular I thank the member for Upper Hunter, Mr Souris, who is the shadow Minister for Gaming and Racing.

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

STANDING COMMITTEE ON PARLIAMENTARY PRIVILEGE AND ETHICS

Report

The Hon. Peter Primrose, as Chair, tabled Report No. 25, entitled "Parliamentary Privilege and Seizure of Documents by ICAC", dated December 2003, together with transcripts of evidence, submissions, correspondence and other documents.

Report and transcripts of evidence ordered to be printed.

The Hon. PETER PRIMROSE [9.47 p.m.], by leave: I am pleased to present the report of the committee's inquiry into parliamentary privilege and the seizure of documents by the Independent Commission Against Corruption [ICAC]. I thank my fellow committee members for their constructive participation and contributions during the inquiry: the Deputy Chair, the Hon. Patricia Forsythe, the Hon. Tony Catanzariti, the Hon. Amanda Fazio, the Hon. Jennifer Gardiner, the Hon. Kayee Griffin and Reverend the Hon. Fred Nile. I also thank the Clerk of the Parliaments, Mr John Evans, and the Deputy Clerk and Clerk to the Committee, Ms Lynn Lovelock, for their invaluable advice and expertise during the inquiry, and direction of the research and drafting of the report. I thank also the committee secretariat, Mr David Blunt, Ms Velia Mignacca and Ms Janet Williams, for their efforts.

This report concerns issues arising from the execution of a search warrant by officers of the Independent Commission Against Corruption at the Parliament House office of the Hon. Peter Breen, MLC, on 3 October 2003. In particular, the report concerns the question of whether documents covered by parliamentary privilege are immune from seizure under search warrant. Chapter 1 outlines the background to the committee's inquiry and the way in which the inquiry was conducted. Chapter 2 considers the nature and purpose of parliamentary privilege, and in particular article 9, which is regarded as the central parliamentary privilege—the freedom of speech and debate in parliamentary forums, and the limitations which that freedom necessarily places on the powers of courts and other extra-parliamentary bodies to question and examine statements made in Parliament.

The purpose of the privilege—that is, to ensure that the Legislature can exercise its powers freely on behalf of its electors, with access to all relevant information—goes to the very heart of representative democracy. Representative democracy can only flourish when citizens can communicate freely with a member of Parliament and in the knowledge that the actions of members in the conduct of proceedings in Parliament will go unchallenged by outside interference or intimidation. Section 122 of the Independent Commission Against Corruption Act 1988 preserves parliamentary privilege in relation to the freedom of speech, and debates and proceedings, in Parliament.

Chapter 3 focuses specifically on the execution of the search warrant on the Hon. Peter Breen's office. The committee found that in executing the search warrant the ICAC did in fact seize at least one document within the scope of proceedings in Parliament. The committee is of the view that proceedings in Parliament will inevitably be hindered, impeded or impaired if documents forming part of proceedings in Parliament are vulnerable to compulsory seizure. In that context, the committee has found that a breach of the immunities of the Legislative Council was involved in the execution of the search warrant in this case. However, as it does not appear that the ICAC acted with improper intent, or with reckless disregard as to the effect of its actions on the rights and immunities of the House or its members, no contempt of Parliament has been found. Nonetheless, the committee is mindful that any subsequent attempt by the ICAC to use documents that fall within the scope of proceedings in Parliament in its investigations could amount to a contempt.

Chapter 4 examines the question of appropriate protocols and procedures relating to the execution of search warrants and the protection of documents subject to parliamentary privilege. While recognising the right of the ICAC to seize documents under the authority of the search warrant, the committee considers that it had and has no authority to seize documents that fall within the scope of proceedings in Parliament. To facilitate the resolution of this matter without compromising the ability of the ICAC to legitimately investigate members of Parliament, and without undermining the very important principles embodied in the rights and immunities of Parliament, the committee has proposed that the documents be returned to the House, where the member, together with the Clerk and officers from the ICAC, can inspect them and the issue of privilege can be determined. In this way the Parliament can uphold its privileges, as recognised by section 122 of the Independent Commission Against Corruption Act 1988, and the ICAC can continue its investigations of the matters in hand.

Chapter 5 discusses various issues that emerged during the inquiry, which the committee believes are important and should be addressed in a future inquiry, but which it was not practicable to deal with in detail in this inquiry.

ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT (PLANNING AGREEMENTS) BILL

Second Reading

Debate resumed from 19 November.

The Hon. PATRICIA FORSYTHE [9.53 p.m.]: The Environmental Planning and Assessment Amendment (Planning Agreements) Bill is quite extraordinary. It was introduced in this House, not in the other place, as one would have expected because the Minister responsible for planning resides in the other place. When the second reading speech was read by the Parliamentary Secretary last week, one gained the immediate impression that it was an inconsequential bill, not something of major significance.

The Hon. Duncan Gay: They might have been sneaky.

The Hon. PATRICIA FORSYTHE: My colleague suggests that they might have been sneaky. I am not certain what the motives would be, but there is no doubt that the bill as presented by the Parliamentary Secretary appeared to be a nice, pleasant piece of legislation. The Parliamentary Secretary suggested it was the first step in legislative reform in New South Wales for the provision of public infrastructure through the planning system. That is significant, but the way it was pitched was that planning agreements had been in existence between councils and developers for some time. They are legal and they will remain legal no matter what happens with this legislation tonight. It was to be part of a broader direction of reform.

The Parliamentary Secretary suggested, in passing, that other things were happening—for example, the task force that the Minister for Infrastructure, Planning and Natural Resources established to inquire into section

94 contributions. Anybody who knows the planning legislation knows that section 94 contributions are critical in developer contributions. They are controversial. They have been of some concern to the developer community for a long time because they are seen as inflexible. We know that many councils in New South Wales have collected millions of dollars in section 94 contributions that have not been appropriately spent. It is quite extraordinary to suggest in passing that the task force is already under way and that we might amend section 93 to formalise these planning agreements.

At the end of my speech I will move that we do not proceed to the second reading of this bill. Basically I suggest that we defer consideration of the bill until after the task force—which was established by the Minister in recognition of issues relating to section 94 contributions—has reported and we have had an opportunity to examine its report. It is significant that the Minister, in establishing the task force, approached the former Director-General of the Department of Planning, Gabrielle Kibble, who is in many ways the Government's fix-it person. When things go wrong and one knows one has a problem, one asks Gabrielle Kibble to undertake an inquiry or a review. When she was Chair of Sydney Water she oversaw the corporations that might have had problems. She is a fine planner and administrator. The fact that the Minister turned to Gabriel Kibble suggests that there is a little more to this than meets the eye. This has been presented to us as a first step in the whole infrastructure of New South Wales.

The Parliamentary Secretary said in the second reading speech that these agreements would be voluntary. Whether they are voluntary or not must be clarified by an amendment to the Act. We must be certain beyond any doubt, by way of an amendment, that what we are getting are really voluntary agreements. I ask why this bill has been introduced, and why now? We know that an inquiry is under way on the very important issue of developer contributions. The Government, in its advice to the shadow Minister, made it clear that there were concerns about the GST.

As I said, voluntary planning agreements have existed for a long time, and there is obviously an intention to see a greater use of them. There is some concern because section 94 contributions are recognised in legislation dealing with the goods and services tax [GST]. They are for a public purpose. So to ensure that voluntary planning agreements are also recognised as being for a public purpose and therefore GST exempt, they should be included in legislation. That is a fair and plausible explanation. There is only one problem: If that is the reason we are dealing with the bill, which was introduced into this House in the last sitting period, why did the Minister's second reading speech make no reference to the tax implications?

The shadow Minister asked: Why the bill? Why now? Why not wait until after we see what the task force has said? The advisers' view was that there are issues to do with the GST. That might be so. It is clearly about a public amenity, a public purpose. Why on earth would the Minister not have made that clear in the second reading speech? Another extraordinary thing was suggested to the shadow Minister. I do not wish to verbal the Minister's advisers, but the shadow Minister took notes about this. It was indicated that the bill had been prepared 12 months ago and, for a variety of reasons, had not been introduced—and as it happens the task force is now under way. That does not explain why, in the second last sitting week, the bill was introduced in the Legislative Council, not in the House that the Minister resides in.

There is something odd about what we are dealing with. On the surface it makes sense. I understand why the Government would clarify the position in dealing with the GST. There is no doubt that whether it is section 94 or section 93, we are dealing with a public purpose and we would want to be sure that there was a GST exemption. But why on earth did the Minister not include it in the second reading speech? If the issue was identified and perhaps the Government took legal advice about it 12 months ago, why are we dealing with it late in the evening on potentially the second last sitting day in this House? I tried to get a better understanding of the definitions. Section 93D refers to the meaning of "public purpose". I am a little bamboozled. It takes it a little further than we have previously understood. It states that it would include:

> (b) the provision of affordable housing and the maintenance of affordable housing...

The Government can do a lot about affordable housing; it does not necessarily need planning agreements with developers. It can do a lot with taxes and the way it ties up land so that the cost of land underpins everything dealing with affordable housing. Previously when we have dealt with section 94 there has never been a suggestion that it is to do with anything that is recurrent expenditure; it has always been a capital cost. There has always been a nexus between a development and the infrastructure of the development. That has been the clear nexus in section 94. Now in this new section 93D we are referring to the maintenance of affordable housing.

Maintenance can only be one thing: it has to be ongoing and recurrent expenditure. I think this broadens the issue far more than the Minister's second reading speech suggested. It is not appropriate for the House to grapple with it tonight. As I said, I will move at the end of my speech that the debate be adjourned. The Opposition has a number of concerns about the other provisions in section 93D. Section 93D (e) refers to:

> funding recurrent expenditure relating to the provision of affordable housing, or any public amenities or public services...

So the agreement could allow a development to provide recurrent expenditure related to the provision of affordable housing. These planning agreements are perhaps different from what many developers would know and understand and from what we have seen in the past. It is not about public amenities and services; it is taking it to a new level. It has a new definition. There is no explanation as to why we have changed from what we know in relation to section 94. I could go on at length on this issue. I indicated to the House and the Minister that I would try to wrap up my contribution by about 10 o'clock, in part because I probably do not have sufficient voice to keep talking to make the sort of speech I would want to make on what I find now to be a curious bill.

Reverend the Hon. Fred Nile: Adjourn the debate so that you can speak tomorrow morning.

The Hon. PATRICIA FORSYTHE: I am happy to allow others to speak, as we have a fairly full schedule thanks to the—

The Hon. Henry Tsang: It is just that your voice is going. Give it some rest.

The Hon. PATRICIA FORSYTHE: It is fine. Thanks to the Government's logjam of legislation, there are very important issues to be debated. But I want the House to understand that as we consider this bill we have dealt with section 94, the planning legislation, and we even have a task force to examine it. I remind the House of the interim report dated August 2003 of the Ministerial Inquiry into Sustainable Transport in New South Wales, otherwise known as the report of the Parry inquiry. One of the reform options proposed is a nice little one relating to section 94 contribution plans. One of Professor Parry's options, amongst a range, was consideration of either an expansion of section 94 contribution plans to reflect both existing and new local and regional contributions, or separate "value capture" legislation.

I looked at the explanation of where that might be taking us. Professor Parry went on to say that an issue for the inquiry was the scope for additional levies to be introduced with the revenue directly or indirectly obtained by the State Government and dedicated to public transport funding. The Parry report makes very clear that there is a range of options for using section 94. I honestly ask the House: How on earth can we consider these amendments to section 93 when we not only have a task force looking at section 94—which is relevant to where we are going—but we also have the Parry inquiry report containing a broad scope of other ideas about tax reform, including expanding section 94 in relation to sustainable transport? It would be irresponsible for the House to consider this bill until we have had an opportunity to examine some of it. I am well aware that none of the key stakeholders has been appropriately consulted.

Debated adjourned on motion by the Hon Patricia Forsythe.

ADJOURNMENT

The Hon. MICHAEL EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [10.12 p.m.]: I move:

> That this House do now adjourn.

COFFS HARBOUR BUSINESS FORUM

The Hon. MELINDA PAVEY [10.12 p.m.]: Last Thursday I had the pleasure of being involved in a forum in my home town of Coffs Harbour. It was convened at Pacific Bay Resort, the home of the Wallabies. It was a very fine home for the Wallabies during their preparation for the World Cup.

The Hon. Duncan Gay: Go, you good thing!

The Hon. MELINDA PAVEY: I note the interjection of the Deputy Leader of the Opposition. The forum was organised by the Coffs Harbour Chamber of Commerce in conjunction with the State Chamber of

Commerce. It was an excellent initiative that brought together some very good people from across the North Coast and the north-west of New South Wales to discuss many issues affecting their local business communities and their general communities. It was probably one of the most interesting forums I have attended as an upper House member. It highlighted the many positive things these communities are doing for themselves. The biggest threat to our economic survival and success and business growth in the region is our proximity to Queensland.

As honourable members know, New South Wales is the highest taxing State in Australia, and small business is carrying an unfair share of that burden. The forum was attended by Sally Reed from the Manning Valley Chamber of Commerce, Max Cathcart from the Tamworth Chamber of Commerce and Industry, Judy Payne from the Forster-Tuncurry Chamber of Commerce, Peter Fraser from Lismore Unlimited Opportunities, Brian England from the Kempsey Chamber of Commerce, Lyn Diskon from the Grafton City Chamber of Commerce, Peter Verry from the Woolgoolga Chamber of Commerce, Glen Chapman from the Armidale Chamber of Commerce and Sharon Cadwallader from the Ballina Chamber of Commerce. Peter Lubans, the chairman of the Coffs Harbour Chamber of Commerce, and Colin Monro, the executive officer, who did an excellent job in organising the event.

The forum was addressed by three very successful people from the Coffs Harbour area. Tom Hamilton-Foster, the general manager of H. A. Bacharch (Nominees) Pty Ltd, has been involved for more than 25 years in the development of the region's biggest shopping centre and probably the biggest shopping centre in New South Wales. He and his company have a vision for the Coffs Harbour region extending to 2025. He had some salutary warnings and said that he and the company that he represents have been bogged down by the legislative process. His company also has shopping centres in Queensland and he pointed out that there is a completely different mindset in Queensland. In his opinion—I have also noticed it while visiting the area with parliamentary committees—Queensland has a "can-do" attitude in that it encourages investment and business. However, he is concerned that New South Wales is increasingly becoming the "can't-do" State.

He told the forum that occupational health and safety compliance costs are imposing horrendous costs on his business and businesses within his shopping centres. He talked about the amazing complexity of the system. Many big retailers are now checking electrical cords on a monthly basis. The legislation does not require that, but businesses are so concerned about doing the right thing that they are going overboard to cover themselves in the case of misadventure. He also discussed workers compensation and the Government's increasing cost grabs on the superannuation drawings of partners and directors. That is taking more and more profit from people who work extraordinarily long hours. It is another disincentive and burden on businesses that are trying to employ people, to make a profit and to contribute to the community. Mr Hamilton-Foster also raised the unfair situation of employees who over a lifetime of employment may have sustained an injury that becomes more and more disabling. However, only the final employer is hit with a workers compensation claim. That can have an enormous impact on the business, even though the employee worked for it for only six months.

The most important guest was Tom Lindsay, who is a Coffs Harbour icon and the managing director of Lindsay Brothers Transport. He summed up the problems facing New South Wales business by explaining the reasons that his company has shifted its headquarters from Coffs Harbour to Brisbane. There were some good-news stories. Sharon Cadwallader from Ballina spoke about an initiative to encourage Association of Independent Retirees members to mentor small businesses in their community. Max Cathcart explained his role with the Tamworth Country Music Festival. [*Time expired.*]

DYSLEXIA

Ms SYLVIA HALE [10.17 p.m.]: Dyslexia is an enormously important and underrated health issue. This is an issue of broad public significance, both for the individuals affected and for our society, because it is an obstacle to achievement and full participation for too many of our young people. Like many in this House, I have been directly affected by this issue. One of my children is dyslexic. This first came to our family's attention when she took longer than expected to learn to read, despite being a bright and lively child with an extensive spoken vocabulary. Like many children with dyslexia, my daughter was repeatedly misdiagnosed. At one point doctors believed she had a mild form of epilepsy. As a parent, this was an extremely distressing situation. However, it was even more frustrating for her, and her teachers, friends and fellow students.

I was lucky enough to have the resources to undertake personal research into various diagnosis and treatment options. Despite this, my daughter was still not properly diagnosed until the fourth year of high school. Finally, Dr Paul Whiting, now of the Faculty of Education at the University of Sydney, introduced to Australia Dr Helen Irlen's work in the United States. Dr Irlen discovered that at least one form of dyslexia is the

result of a perceptual disorder characterised by sensitivity to light and high-glare conditions. The treatment—coloured or Irlen lenses that reduce visible glare—was extremely successful in my daughter's case.

The Hon. Duncan Gay: It worked in my son's case, too.

Ms SYLVIA HALE: Good. Unfortunately, these lenses solve the problem for only about 20 per cent of dyslexics. A great deal more research is needed into the diagnosis and treatment of the many forms this condition may take. People suffering from Irlen syndrome appear to suffer from a biological condition affecting the way the brain processes the written word, including an inability to respond to light appropriately. People without dyslexia learn to read fluently, not by spelling out individual letters, but by seeing the overall appearance of a word. It is not uncommon even for good spellers to write a word down to check whether it looks right. People with dyslexia are unable to do this and must approach every word as if it were new, every time.

The implications of this for young people in our text-oriented world can be disastrous. Many come to believe that they are stupid and worthless. In most schools, the system is unable to cope and children do not receive the special attention they require. In the past, it was not uncommon for them to be shunted into general activities classes for slow learners. Although the situation has improved somewhat, at the time my daughter was diagnosed there was an almost total lack of recognition of the disability and its demands. I am pleased to say that with proper treatment and an enormous amount of willpower, this dyslexic child went on to complete a first class honours degree at the University of New South Wales and is now completing her doctorate. She has overcome many of the limitations of her condition, but at the cost of enormous blows to her self-esteem and self-confidence.

The schooling system, particularly the public system, needs to recognise that there is neither one condition nor one solution that fits everyone and that students with dyslexia need early diagnosis and lots of personal assistance. The first step in effective treatment is to recognise dyslexia as a disability. Once this recognition is formally reached, additional resources can be made available in schools to tackle the problem, not only for the dyslexic students but also for fellow pupils and teachers who may be affected. Links between the frustration of dyslexia and aggression and other challenging behaviour must be recognised. There must be early testing so that dyslexia is not miscategorised or mixed up with other learning disabilities or developmental delays.

The measures required to deal with the problem are the same as those prescribed for quality education in general: smaller classes, better facilities, specialist trained teachers and teachers aides—the formula is very familiar. It is crucial that the improved knowledge is available to everyone who can benefit. Diagnosis and treatment must not be the province only of those who can afford private schools and special coaching, particularly given that recent studies show that there may be a genetic component to this disability, meaning that often a parent may already be suffering disadvantage as a result of his or her own condition. Of course, early intervention is essential. Put simply, governments are resistant to recognising the scope of this problem because it costs money to diagnose and treat dyslexia.

It seems that all the information in the world will not change the basic resistance of the Government to accepting responsibility for the disadvantaged in our community. It did come close. I am advised that dyslexia was included in a draft policy as a recognised disability. However, it appears that this initiative has now been shelved. I challenge the Minister to clarify whether dyslexia will be recognised as a disability, with the access to funding associated with a classification. Until that is the case, we are limiting the options for many children in our society who, through no fault of their own, will never have the opportunity to fulfil their potential, for their own benefit and the benefit of all of us.

ASBESTOS-RELATED DISEASES

The Hon. PETER PRIMROSE [10.22 p.m.]: Asbestos is a silent killer. Asbestos fibres are very fine and often become airborne, contaminating a wide area. Once in the air, the fibres are easily inhaled or swallowed, where they can cause mesothelioma, asbestosis, lung cancer and pleural diseases. Every year thousands of people die from asbestos-related disease. The incidence of asbestos-related disease is increasing, not decreasing. Many people who were exposed to asbestos during the 1980s, 1970s, 1960s or even earlier are only now being diagnosed with asbestos-related disease. The number of people diagnosed with asbestos-related diseases will not peak until 2020. By then there will be 13,000 cases of mesothelioma and up to 40,000 cases of asbestos-related lung cancer. Anyone whose workplace or home has asbestos in it is at risk. The family of anyone who gets asbestos dust on his or her clothes is also at risk.

Owners and renovators of fibro homes built before approximately 1982 are at risk of developing an asbestos-related disease. Wives who shook out workers' overalls covered in asbestos dust before washing them are at risk. Children who hugged someone with asbestos dust on their clothes are at risk. The use of this material has now been either banned or restricted. It will still be encountered in maintenance and removal work. In Australia asbestos has been in widespread commercial use since 1920. Today exposure to asbestos is still a real concern. Recently there have been a number of cases involving asbestos contamination. For example, in September this year 400 workers were put at risk on the Hilton site due to contamination. In this environment it is a great shame that one of Australia's largest building product suppliers now seeks to avoid paying compensation to those affected by the deadly substance.

As reported on the *7.30 Report*, in 1966 the James Hardie group noted that there was no safe level of exposure to asbestos. At about that time the group began tracking its employees who were dying of mesothelioma. Only 20 years later did the group stop using asbestos—an unconscionable delay. Two years ago James Hardie performed an act of corporate skulduggery when it split off subsidiaries that had asbestos liability and placed them under the control of a foundation. James Hardie also transferred $292 million to compensate victims. Unions, such as the Australian Manufacturing Workers Union [AMWU], are on record as having raised serious concerns at the time, believing that the amount should be far higher. It has now been revealed that this figure is $800 million short. Peter Macdonald, the Chief Executive Officer of James Hardie, says, "It's very hard to understand how that could have happened." That is cold comfort for the families of victims denied compensation when the fund runs dry on.

John Gordon, the President of the Australian Trial Lawyers Association, believes, as he has indicated on the *7.30 Report*, that James Hardie has set up these companies to ring-fence their asbestos liability now that the group has departed Australia and set up its headquarters in the Netherlands. James Hardie is now fighting vigorously to avoid having to pay what it should be paying as a result of its conduct over the years in failing to warn product users, employees and others about the dangers of asbestos whilst at the same time making the company a fortune from that produce. Paul Bastian, the Secretary of the AWMU, stated on the *7.30 Report* that regardless of legal liabilities, James Hardie has a moral obligation to provide compensation to the victims of its corporate acts. I should like to conclude by quoting the words of Elizabeth Thurston, whose husband, Peter, recently died of mesothelioma:

> Peter came home covered in white dust. He kissed me. He picked up his babies. His babies are now 26 and 30. What does that hold for us? James Hardie are not going to get away with this. They think we're weak little victims who are still weeping over the people who died. They are so wrong.

GAMING MACHINE TAX

The Hon. JENNIFER GARDINER [10.27 p.m.]: It is important that the House is aware of the widespread concern of members of many registered clubs across New South Wales about the Carr Labor Government's forthcoming increase in poker machine tax. In recent months I have attended a number of meetings in country and coastal electorates at which club members and board members have expressed their concern about this issue. Such meetings have extended, literally, from the River Murray to the Tweed, from the terrific club in Wentworth in south-western New South Wales, to the Seagulls Club in the far north-east. The clubs are enduring a political campaign against them by the Australian Labor Party. They are being painted in adverse colours by a Government that, so far, has dug its heels in on this issue. They are appalled that their many substantial contributions to the social fabric of country and coastal communities are being portrayed by Labor Party Ministers as ungenerous.

Last week, together with the Leader of The Nationals, Andrew Stoner, and the Leader of the Opposition, John Brogden, and my Nationals colleague the Hon. Rick Colless, I attended a further gathering of club managers and board members from across the Tamworth electorate. A couple of months ago a number of members of the parliamentary wing of The Nationals, including the Hon. Melinda Pavey and me, also attended a gathering at West Tamworth Leagues Club, co-ordinated by Mr Rod Laing of that club. However, it was important that the Leader of the Opposition heard for himself the concerns of clubs in the Tamworth electorate. West Tamworth Leagues Club is an extraordinarily important institution in Tamworth; it is a most impressive, modern and attractive facility. The club is famous across Australia, because each year it hosts core events during Tamworth's Country Music Festival. The club takes its community contributions very seriously. For example, it underwrites the RSL's Anzac Day commemoration and contributes significantly to Tamworth's sporting life. Yet Country Labor has branded the club's contributions as "lousy".

Late last year West Tamworth Leagues Club completed a takeover of the smaller RSL-Diggers club, having been kept in the dark about Labor's plan to hike the poker machine tax. Labor's plan was kept secret from

the clubs before the State election, and so, of course, it could not be taken into account in any business plan entertaining such an amalgamation. The representatives of clubs who attended our latest meeting in Tamworth are gritting their teeth, anticipating that there may have to be staff cuts, reductions in catering and so on. Tamworth's economy has been through trying times for quite a long time. Indeed, one of the community leaders said that the local economy is still feeling the effects of the loss of East-West airlines, a major employer that started out in Tamworth and New England. The club representatives also spoke of their anger at the Government's language, referring to poker machine tax as a tax on profits, when it is in fact a tax on revenue.

One of the favourite emergency services in Tamworth and the State's north-west is the CareFlight Helicopter Service, a service that relies upon great and widespread community support. The service is supported by the club movement and is concerned that it will lose out because of the Carr Labor Government's new tax regime. Some of those attending the meeting also expressed concern that the member for Tamworth did not seem to understand the way the tax will apply. One of the alarming features of the meeting—alarming for the ALP—is that the smaller clubs, which benefit from the Liberals and Nationals GST rebate campaign, have resolved to stick with their friends and colleagues in the larger clubs in fighting the Carr Government on this issue.

Tamworth Golf Club, another fine institution, recently ran a charity golf day at which a large sum of money was raised for the Tamworth Base Hospital. Events of that nature are much needed. As well, the Opposition Leaders and I attended a large rally at South Tweed Bowls Club. It was not a run-of-the-mill political gathering; it was one that was heart-felt and representative of many groups that work with and benefit from the club movement in the Tweed. The rally was organised in conjunction with ClubsNSW. After a warm welcome by Tweed shire mayor Mr Warren Polglase, the first speaker was Mr Pat Rogan. The organisers had invited the member for Tweed, Mr Neville Newell, to speak at the rally, along with Mr Brogden and Mr Stoner. Mr Rogan is a former ALP member of this Parliament. Understandably, he gave Mr Newell some credit for expressing his concern about the impact of the tax hike on clubs in the Tweed, albeit behind closed doors in the Labor caucus.

The organisers extended a courtesy to Mr Newell, but the goodwill was destroyed when he read from the Carr Government script. His speech was so full of inaccuracies that the organisers immediately had to add a further unscheduled speaker to the speakers list, Mr David Costello, to rebut Mr Newell's speech. It was painful to watch. At one stage a Qantas plane flew overhead. Mr Newell looked at it and seemed to be wistfully thinking, "Why aren't I on that plane out of here?" Not surprising, after he had claimed that a handful of local clubs would be paying no more tax under the new arrangements. That is true in one case, but it is not because of its size: it is because it does not exist any more! The South Tweed Leagues Club had closed down and the local member had not even noticed. He was using that club to prop up the Labor Government's case, which was a weak case that collapsed before the crowd. Mr Brogden, Mr Stoner, The Nationals member for Clarence, Mr Steve Cansdell, and I also met at the Grafton Bowls Club, and the message there was much the same. The community is also outraged at the tenor of Labor's campaign— [*Time expired.*]

COUNTRY GREYHOUND RACING

AUSTRALIAN INSTITUTE OF CRIMINOLOGY ARTICLE

The Hon. CHRISTINE ROBERTSON [10.32 p.m.]: I refer to the importance of the greyhound industry to our country communities. Across country New South Wales, and particularly in western New South Wales, most of the district level towns have a greyhound club of some sort and most of them have a track. The sport can involve the entire family. I recently heard about a woman who planned to get fit and lose weight. She decided that buying a greyhound would do her a lot of good. She is not the usual person who has the whole family involved in greyhound racing. The industry comprises a broad spectrum of people. It is incredibly important that this access is maintained and that everybody can be involved in the sport that they love so much. What is really interesting about the sport is that a whole family—the wife, the husband and the children—can be involved in training and caring for the dogs. It makes a lot of difference to a lot of people. Country Labor is currently running a strong campaign to ensure that the tracks in these district towns—such as Moree and Coonamble—are maintained, despite efforts by the regulatory body to change the process. It is an incredibly important program for rural people.

I shall also discuss the Australian Institute of Criminology Trends and Issues article No. 247, which assessed some of the major costs for a range of offences. The article is called "Counting the Costs of Crime in Australia". It states:

> Some of the figures are inevitably tenuous, as there is insufficiently good data to improve the estimates. Nonetheless, this paper represents a major update of previous work by the Australian Institute of Criminology on the costs of crime, and gives the most sophisticated and credible estimates in Australia to date.
>
> The cost of the crimes covered here amounts to $19 billion—

that is a lot of money—

> Other costs (such as policing, prisons and the security industry) add nearly another $13 billion. The total estimated bill is nearly $32 billion per year. Fraud is the most costly crime—

which is interesting—

> followed by a violent crime (homicide, assault and sexual assault) and burglary. The human cost of drug abuse is also high, even discounting crimes committed to support a drug habit …
>
> No study, in Australia or elsewhere, has ever fully assessed the myriad costs of crime. Rather, the main focus has been on what countries spend on their criminal justice systems (usually a matter of public record), and on some of the more direct costs of crime. The Australian Institute of Criminology has previously generated estimates of the costs of crime in Australia … This paper uses more up-to-date figures and includes some additional costs. Chief among these is an assessment of the monetary value of pain, suffering and lost quality of life—so-called "intangible" costs. Estimates of lost productivity are also included.
>
> The empirical basis for assessing costs is weak in many cases. One difficulty is simply knowing the actual number of crimes to cost: the extent of shoplifting and fraud, for instance, is hard to pin down. Nor is the data for many cost components complete or necessarily sound. Some components are not amenable to costing. It is impossible to put a price on lost quality of life from fear of crime, for example, or on wider economic distortions such as lack of investment in high-crime areas.

Work such as this from the Australian Institute of Criminology gives us hope that in the future we will have total measurements of crime that will make a difference to the way we assess how to deal with crime. For example, the document states that the total amount for homicide was $930 million, and that is $1.6 million per individual homicide. It makes a lot of difference when all of the components are added in, whether they are social or law enforcement. I congratulate the Australian Institute of Criminology on its work.

MICROSOFT WINDOWS SOFTWARE

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [10.37 p.m.]: I refer to the software purchasing policy in New South Wales. On 24 June I placed questions on notice in 15 parts as to the cost of licences for Windows-based software in the past financial year. On Tuesday 2 September—two months later—I received 15 identical answers: that the procurement is based on software needs and that a project team has been set up to look at the issue. I was distressed that I had not had an answer in dollar terms, so I took the question to the estimates committee and again received no joy. I then wrote out the question and gave it to the Treasurer on 16 October. I wanted to get an answer, so I showed it to him prior to asking the question. The Treasurer said that he would take it, but in the end his staff said no, that the question had to be addressed to the Special Minister of State. A fortnight ago I told the Special Minister of State that I was going to ask the question. I did not ask the question at question time on Tuesday 2 December because I asked another question. I asked the question today. The question has been well and truly flagged throughout the system. The answer today referred to an article that stated:

> Microsoft has completed a clean sweep of Australia's biggest State, securing whole-of-government contracts worth $250 million and reaffirming its dominance in State Government desktop software.

The tender document for that sale is RFT0301018. It is a request for a quotation for the supply of Microsoft software licences. Not surprisingly, Microsoft won the tender for the supply of its own software licences. Therefore, in the sense that the tender document had specified only Microsoft software licences, it was, in effect, a restrictive trade practice in that it did not offer options. It turns out, of course, that open-source software is designed so that users can plan; they can look at the code, which adds up to what the software does. Anyone who understands software programming can look at what is done, add the modification they want and sell that modification, so long as they acknowledge the origin of the source. This means that each person can grow on the work of their predecessor and each person is effectively adding an increment for which they can be rewarded.

This is quite different to the approach of proprietary software, where the whole product or a licence for that product, but not the source code, is bought. Therefore, the purchaser is totally dependent on that supplier for years. It used to be that purchasers buying software could use it forever. There are now licences, and on a certain date the software will no longer work—at midnight on a certain day it will turn into a pumpkin. So the software is being continually resold. Added to this, the philosophy of Microsoft has been to add lots of frills that require

more memory. So although your word processing may not have changed quantitatively in the past decade, you have had to update your computer during that time because of that escalation.

People are dependent on the latest Microsoft changes, whereas with open-source software any person with a knowledge of programming can update their system and thus have a more competitive environment. Although Microsoft has asserted that open-source software is less reliable, in fact, it has more possibilities. The Government is locked into this $250 million software and cannot even say how much it has spent in the past 12 months. In question time today the Minister stated that people can buy Linux systems if they wish, but it would be ridiculous to do so if they have already expended huge sums on one system, even if individual software is cheaper under the Government's open licence program. An article in the *Sydney Morning Herald* of 25 November stated that Victoria was seeking to develop its options in open-source software. It is a shame that New South Wales has not done more in this area, particularly as the Minister is supposedly holding an inquiry into the subject.

Motion agreed to.

The House adjourned at 10.42 p.m. until Thursday 4 December 2003 at 11.00 a.m.