The bill also contains transitional and savings provisions to ensure that films and computer games which have previously been classified will be covered by the new regime, however, vendors will not be penalised for selling old stock which has not yet been re-labelled.

The opportunity has also been taken to review and update penalties to reflect community expectations regarding punishment of offences under the act, and to convert penalties expressed in dollar terms to penalty units. The bill also amends the act to allow for infringement notices to be issued for relatively minor breaches of the act. Regulations made under the act will prescribe offences where an infringement notice may be appropriate, as well as prescribing the penalties applicable.

Madam Speaker, I table the explanatory statement which accompanies this bill. I commend the bill to honourable members.

Debate adjourned.

## PROPORTIONATE LIABILITY BILL (Serial 281)

Continued from 17 February 2005.

**Ms CARNEY (Araluen):** Madam Speaker, the minister will be saddened to hear that I do not propose to quote from Bob Dylan in relation to this bill.

The bill is supposedly an attempt to further alleviate the 2002 crisis in the professional indemnity insurance industry, and the insurance industry generally. I am not persuaded that the reforms which this government, and other governments around the country, have introduced have achieved much in relation to the alleviation of the so-called crisis as I do not see people's insurance premiums going down. Governments around the country have embarked on massive tort law reform which arguably has not achieved anything - I invite the government, if it disagrees, to provide some results - let alone much of what the government said it would. However, having said that, we must of course deal with this bill on its merits.

According to the preamble, the bill seeks:

> *... to replace the common law rule that imposes joint and several liability for economic loss or damage to property caused by concurrent wrongdoers with rules that limit the liability of each concurrent wrongdoer to reflect the extent of the wrongdoer's responsibility for the loss or damage, and for related purposes.*

As the Attorney-General said in his second reading speech, the bill does seek to reform the law which determines the respective liabilities of individuals who have separately caused economic loss, or property damage, with the exception of cases involving personal injury, and I will come to that later.

The bill deals with issues arising where a court finds more than one respondent has contributed to a claimant's loss. In such a case, and at common law, the law of negligence operates so that the principle of joint and several liability determines what damages are paid for in the loss and damage caused. The bill seeks to reverse the common law position by introducing a new principle called 'proportionate liability', which is that a respondent should only be liable for his or her own share of the damage suffered by a claimant.

When the minister introduced the bill he tabled an explanatory statement for which I thank him. In that statement it said that the bill:

> *... repeals the common law provisions, namely those of joint and several liability, dealing with the awarding of damages in relation to claims for economic loss and damages, with the exception of personal injuries.*

And that it replaces, but retains:

> *... joint and several liability for those respondents who have intended to cause, or who have fraudulently caused, loss or damage.*

The Attorney-General assured us that the bill would not affect the existing law governing concepts such as contributory negligence, vicarious liability, and the liability of partners and partnerships, nor will it affect the liability of a principal for acts of an agent within the scope of the agent's commission.

This bill is apportioning liability so that the extent of the payment to be made to the plaintiff represents the extent of the wrong-doer's contribution to the damage, not of itself objectionable. I am pleased, as an old personal injuries lawyer, that the bill does not extend to personal injuries cases. I know there are a couple of other lawyers in parliament today, and I am sure that they would agree with me when I say that it is proper that the reversal of the common law does not extend to personal injuries cases. I say, with respect, that I agree with the rationale of Justice Ipp in his 2002 review of the law of negligence in that regard.