LEGISLATIVE ASSEMBLY

Wednesday 21 May 2003

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Mr Speaker (The Hon. John Joseph Aquilina) took the chair at 10.00 a.m.

Mr Speaker offered the Prayer.

CRIMES AMENDMENT (SEXUAL OFFENCES) BILL

Second Reading

Debate resumed from 20 May.

Ms KENEALLY (Heffron) [10.00 a.m.]: The main purpose of this bill is to amend the New South Wales Crimes Act with respect to the equal treatment of sexual offences regardless of whether the victim or the perpetrator is male or female. The bill will also create an equal age of consent at 16 and provide a number of safeguards to protect young people from exploitation. I recognise that this bill evokes public discussion on moral and religious issues. I have listened to the views of many people in the community in the process of deciding how I will vote on this bill. Last night I spoke in this Chamber about how my passion for social justice has its roots in my Catholic faith. I think it appropriate that I include how my faith has impacted my views on this bill.

I will be supporting this legislation for the following reasons: I support tough new penalties on paedophilia, which is a despicable act and one of the greatest affronts to human dignity. As a mother of two young boys I particularly support broadening the law to include stronger penalties on persons in positions of trust—such as teachers, coaches and clergy—who prey upon children. Secondly, in a multicultural, diverse society such as ours there are many views in the community with respect to the morality of sexual behaviour. As a Catholic I recognise that Catholic teaching, while it accepts that homosexual orientation exists, does not condone homosexual activity. But I also note that this teaching is a matter for Catholics to judge with a fully-formed conscience. Further, I note that there is a distinction between what some judge as moral behaviour and what the State accepts as legal behaviour.

Homosexuality was decriminalised in 1984. This bill only creates an equal age of consent for what is already legal activity. Thirdly, 80 per cent of sexual abuse victims are female. I find it unjust that men who prey upon girls receive lesser penalties than those who sexually abuse boys. This bill will make no distinction between the genders of victims and will toughen the penalties across the board for sexual abuse. Fourthly, the Wood royal commission said that an unequal age of consent could encourage corrupt law enforcement practices and possible extortion of young gay men. Consistent laws will be more transparent for the public to understand and easier for the police to enforce.

Finally, as a Catholic, I passionately believe in the gospel message of love, acceptance and tolerance. I want to encourage a society in New South Wales where the stigma of homosexual orientation no longer exists, particularly for young people, and where all persons are accepted and supported, not condemned and criminalised. For these five reasons—particularly tougher paedophilia laws, creating transparent and consistent legislation, and establishing more just penalties for those who prey upon young girls—I will be voting to support the bill.

Mr HARTCHER (Gosford) [10.04 a.m.]: The primary purpose of the Crimes Amendment (Sexual Offences) Bill is to lower the age of homosexual consent for males from 18 to 16. The Premier and the Attorney General introduced the bill into Parliament and a conscience vote will be allowed for Liberal and Labor Party members. The principal argument of the bill's proponent is that of equity—that the age of heterosexual consent is 16 and, accordingly, the age of homosexual consent should also be 16. This argument has merit. People who do not accept the principle of equity need an even stronger argument to justify their position. As the member for Gosford I have consulted my electorate and I have received well-reasoned arguments both for and against. I thank all those in my electorate who have taken time to advise me of their views.

The protection of children in any civilised society must always be paramount. That is the very reason we have age of consent legislation. The decision that I have made and the vote that I will be casting on this bill

have been determined by my belief about how best to protect young people. I am aware of the concern expressed by supporters of the bill that sex education will not be legally available to homosexual males until they turn 18, even though many of them are sexually active before that age. This is an important matter and it needs to be addressed. I am also conscious of the medical fact that boys mature, on average, two years later than girls. I refer to the United States National Library of Medicine, an authoritative body established by the United States Congress, which states that females mature earlier than males. The difference in the age entering puberty is, on average, two years. Females are considered sexually, physically and emotionally mature by the age of 17.

The same cannot be said for males until approximately the age of 19. The *International Family Health Encyclopaedia* states, "Puberty normally begins at about 11 years for girls but at about 13 years for boys." The *Encyclopaedia of Family Health*, published under the imprimatur of the Australian Medical Association and the New Zealand Medical Association, states, "There is considerable variation in the age of onset of puberty but girls, on average, undergo puberty earlier than boys. The entire process takes about three to four years." It is well-established in a community as a form of consensual, shared knowledge that girls do mature sexually and physically in adolescence faster than boys and that accordingly there is an argument that there may well need to be some special protection of boys as they grow up. At page 1078 of Volume V of the Wood royal commission report, dealing with paedophilia, the commissioner referred to the principal argument against change to the law. Under the heading "The Arguments against Change" he stated:

> … The arguments against change turned on the propositions that:
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> - physical and emotional development was said to occur about two years later in boys than girls, so that extra time should be allowed for boys to determine their sexual identity and preference...

Conscious therefore of my responsibility for the protection of children and conscious that there is a difference in the maturation rates for boys and girls, I believe that there is a valid argument to maintain the distinction of two years between a boy's age of consent and a girl's age of consent. The present law enshrines that distinction in legislation. I believe the protection of children is of far greater importance than the important principle of equity. Accordingly, I do not support the bill and will vote against it.

Mr GIBSON (Blacktown) [10.08 a.m.]: I state from the outset that I will vote against the bill. Like the honourable member for Heffron, I am a practising Catholic and I take my religion seriously. I have no doubt that the three aspects of the bill should be dealt with by three separate bills. The first part of the bill deals with the age of consent for homosexual males, the second part of the bill deals with harsher penalties, and the third part deals with an amnesty. It is a Dolly Dunn clause as far as I am concerned. The age of consent is there to protect children from exploitation. That forms the rationale for retaining the age of consent laws. The question of what is the proper and best age for this consent is very hard to determine. On religion, ethics and morals we all have different opinions.

It is not good enough for people in this Chamber to say that the main reason to change the legislation is that it discriminates between males and females. South Australia and Western Australia have different ages of consent to New South Wales. When one considers that the age of consent varies around the world from 12 in Malta to 21 in other areas, I do not know how it can be said that our legislation is discriminatory. It is poor argument to suggest that we should change the law because it is discriminatory. It is a medical fact that boys mature two years later than girls. As members of Parliament we must consider all these things if we are to protect our children. The argument that the age of consent should be the same for males and females is invalid.

There is no doubt that our society treats 16-year-olds as children: they are not allowed to hold a driver's licence, they are not allowed to watch explicit sex scenes in R-rated movies, they cannot buy cigarettes, they cannot enter financial contracts, and they cannot get married without parental consent. Yesterday the Premier flagged the introduction of legislation to enable people with certain types of illnesses to use marijuana to reduce their pain and suffering. We have not yet seen that legislation, but according to today's news reports, its use will not be available to people under 18 years of age. Therefore that legislation will be discriminatory. If we were politically correct in every situation that could be said to be discriminatory, the State would become unworkable.

For the benefit of the people in my electorate I will put on the record some arguments against lowering the age of consent for males. Lowering the age of consent may encourage male homosexual prostitution by youths who are motivated by financial consideration to engage in homosexual acts. The discrepancy between male and female age of consent could be resolved by raising the age of consent for females to 18 years of age, thus addressing discrimination based on homosexuality in the age of consent laws. If we are so concerned about

discrimination, why not raise the age of consent for females to 18? If the age of consent for males is lowered to 16 years then the defence of restricted consent similar to that applying to girls between 14 and 16 could be introduced for 16-year-old boys.

Restricted consent is a defence to some charges of heterosexual sex with a child under the age of 16. Section 17 of the Crimes Act 1900 provides that it is a defence to a charge of sexual intercourse with a child under 16 under section 66C if the person charged and the child to whom the charge relates are not both male and if the child was over 14 years, the child consented to the defence and the person charged had, at the time of the offence, reasonable cause to believe, and did in fact believe, that the child to whom the charge relates was of or above the age of 16 years. On 9 May in the *Daily Telegraph* Liz Mullinar from the Advocates for the Survivors of Child Abuse said that lowering the age of consent for homosexuals could leave the way open for sex offenders to argue that children as young as 12 years of age look to be 16 years of age. Cases of child abuse are thrown out of court because the man says, "But the boy looked older than 14 or 15."

The Anglican Church and every other church are against these changes. No-one in this Chamber would be against harsher penalties for child abuse. If such a bill were introduced I am certain that it would have the support of the Chamber. To introduce a bill seeking to change the age of consent for heterosexuals combined with harsher penalties and what I call the Dolly Dunn factor—the third part of the bill—is an attempt to blackmail members of this House to support the bill. I have great regard and respect for the Attorney General. He is a friend. But for the life of me I cannot believe that he introduced this all-encompassing bill instead of three separate bills. I note the Attorney General said that if the bill were defeated in this Chamber he would resubmit it on the age of consent, which is what he should have done in the first instance. I probably think more deviously than others, and I believe that the third part of the bill—part 19 proposed new section 49—has been included for a reason. If I ever find out the reason I would be the first to jump up in this Chamber and state it. Part 19 of proposed new section 49 states:

> **49 Previous consensual homosexual acts**
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> (1) It is a defence to a homosexual offence that is alleged to have occurred before the commencement of the *Crimes Amendment (Sexual Offences) Act 2003* that:
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> (a) both parties were not less than 16 years of age at the time of the alleged offence, and
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> (b) both parties consented to the act concerned, and
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> (c) the act concerned would not, if it had occurred after that commencement, otherwise be unlawful.

Today, if a 30-, 45- or 50-year-old person were having an affair or living with a young person of 16 years of age, even if they were both consenting, that person would be charged and probably gaoled. If it were a person in a high position—a member of Parliament, a judge, or the boss of the Independent Commission Against Corruption—that person probably would lose his or her job. That person would be charged and found guilty because today it is against the law. But if we support this legislation, tomorrow those people would be doing nothing illegal. No offence would be committed. Today if I break the speed limit of 80 kilometres per hour and next month the speed limit is increased to 100 kilometres per hour I cannot expect to be exonerated because what I did not is no longer against the law. The same principle applies to any legislation.

The legislation is similar to playing monopoly. If you are a paedophile you do not have to pass "Go" to collect $200 and you do not have a get-out-of-gaol-free card because the legislation says that you will not be charged or fined. If you have committed 100 offences you will be neither charged nor fined under the legislation. I cannot support the legislation. I do not know why part 19 has been included. I cannot understand why we are debating an amnesty for paedophiles. The bill will protect paedophiles. It is hypocritical. We are debating looking after children by lowering the age of consent, but conversely the legislation is a lottery win for paedophiles, which is exactly why I will not vote for it. In my 16 years in this place I have seen a lot of legislation, but I have never seen more vile legislation than part 19 of proposed new section 49.

The legislation is a total sham. I have no doubt that paedophiles will rejoice today because if the bill is passed tomorrow they will not be charged for any wrongdoing. Today it is against the law to live with a 16-year-old person. Any persons doing so would not only lose their job because of bad publicity, they would be charged and found guilty. However, if the legislation is passed tomorrow, they will not be named and they will not be charged because there will be no charge to answer. We had an amnesty to enable people to hand in their firearms, which I can understand, but we are supposed to look after our kids. I cannot understand why we are providing an amnesty for paedophiles. We are not asking the paedophiles to come forward and repent; we are

telling them that they will not be charged and they will get off scot-free. It is the worst legislation I have seen in this House. It should have been introduced in three parts. The age of consent and the harsher penalties have been included in the bill as a cover for part 19. I hope the House rejects it.

Mr R. W. TURNER (Orange) [10.19 a.m.]: The National Party has foreshadowed an amendment to split the Crimes Amendment (Sexual Offences) Bill in two: one dealing with the age of consent and another dealing with increased penalties. None of us has any objection to the increased penalties; indeed, we support them. However, some honourable members in the National Party have problems with the proposed reduction in the age of consent. Although the National Party has stated that it will oppose the bill, I have been given the opportunity to speak on it, and I thank them for that. It is another sign that the National Party is flexible and will listen to its members.

This bill provides for the equal treatment of sexual offences irrespective of whether the victim or the perpetrator is male or female. It provides that the age of consent for all persons will be 16 years. Consensual male homosexual acts that have taken place before the commencement of the amendments between persons who were not less than 16 years of age at the time will cease to be unlawful. The honourable member for Blacktown who has just resumed his seat spoke passionately against that last amendment. I do not think it should create that level of passion because there have been no convictions in the past 20 years. It is simply enshrining in law the practice of the past two decades.

I will quote from various letters that I have received. I know that all honourable members have received letters from people supporting each side of the argument. I received a letter this morning from FPA Health, which was Family Planning New South Wales. FPA Health acknowledges as major funding sources the Commonwealth Department of Health and Ageing and the New South Wales Department of Health. The letter states:

> The existing legislation encourages stigmatisation and marginalisation of young gay men and exacerbates many significant health issues. The law tells young gay men that they need protection from their sexuality, that it is criminal and that they will be treated more punitively than their heterosexual peers if they are 'caught'. To be considered a criminal while coming to terms with one's sexuality is a burden that no young person should have to bear. At a time when it is widely acknowledged that depression and suicide are increasing, and that young gay men are particularly susceptible to both, it is unconscionable that the law perpetuates stigmatisation and marginalisation.

Yesterday I attended a meeting convened by the Gay and Lesbian Rights Lobby and the AIDS Council of New South Wales. I spoke to three young men: Chris from Nowra, who is 17; Daniel from Newcastle, who is 18; and Alex from Port Macquarie, who is 17. I spoke to them about what it was like to come out at their age. One said he came out at 14, the other at 15 and the other at 17. I also spoke to them about the level of acceptance they experienced in their schools and within their families. Sadly in this day and age, all of them had problems with family acceptance. They were suffering particular vilification within their schools, not only from students their own age but also from some younger and older students. They said that they would probably end up in Sydney because their small towns do not offer the support groups and advice they are desperately seeking.

The young men commented on the fact that some people have said that 16-year-old homosexuals are not mature enough to make the decisions they must make about sexual activity. They disagreed. They agreed that physically and biologically males were not as mature as females, but they said that their mental maturity was the same. I have not heard that point made previously. They saw variations between the physical-biological maturity and mental maturity. I spent a very interesting half an hour with them. They are looking forward to going to university, where they believe there will be more acceptance of their lifestyle because people there are older and generally more understanding. They made the point that lesbians are far more accepted than gay males and that there is very little discussion about homosexuality in the school system, except about how to have safe sex. They said that there is not enough discussion about their personal issues. I received a letter from Mr Frank Barnes from St Peters in which he states:

> As a gay man fast approaching 60 who was arrested because of my sexuality over 40 years ago. While luckily not being imprisoned, I came very close to taking my own life a number of times as I felt demeaned by the attitude of my church, family, friends and society to what was seen as my "weakness". I also saw too many of my peers succeed in committing suicide and therefore denied the full life they deserved. I have been fighting for this inequality to be fixed for most of my life as I have been fortunate to have worked through my sexuality in such a way that I have learned to ignore the insults and threats that seem to attach themselves to people who are gay.

Many males and females face that situation. I am sure it happens all over Australia and the world. On numerous occasions in Orange, both male and female residents who have reached the stage at which their children have left home, have had the strength to come out. It is not only young people who are grappling with this issue.

People in their twenties through to their sixties have faced their true sexuality, finally making a decision to accept it. That section of the community has not experienced the compassion that has been afforded to young people. We must remember that some older people have succumbed to social pressure and married and appeared to be happy, but that has not always been the case. I also received a letter from John Goldbaum of Potts Point in which he states:

> The vast majority of homosexual children are born to heterosexual parents and raised in ordinary families. Many of these parents and families display homophobic prejudices whilst unbeknown to them and their child, their gay child is growing up and internalising such hatred. When the child and/or the families realise they are gay, often in their teenage years, some of these parents and families mete out physical and emotional abuse to that child. This abuse is more common in regional and rural areas and is due to fear and ignorance, which is apparently supported by the National Party. It is no wonder that as a result of this internalised and/or overt hatred, many of these children suffer lack of self-esteem, homelessness and mental illness which causes them to fail to complete their education, turn to illicit drug abuse and often commit suicide. Those boys that survive often succumb to preventable disease because the law denies the appropriate sexual health and advice until they reach the age of 18 years, notwithstanding they are engaging in unsafe sex at an earlier age.
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> The arguments against equalising the age of consent are generally based on hatred of homosexuals, but are often advanced by the very people who should be most interested in the welfare of both their heterosexual and homosexual children, namely parents, religious institutions and schools.

I have received letters of support from teacher organisations such as the Blue Mountains Teachers Association, the Nepean Teachers Association, and the Lower Blue Mountains Teachers Association. I have also received a number of letters from the Sydney Diocese of the Anglican Church presenting strong arguments against the bill.

I conclude my remarks by outlining a brief history of how I arrived at a better understanding of this whole issue. I have spoken to my son on this topic on many occasions, and the National Party understands my position. My son is a homosexual and because of the understanding of my wife, Diane, and I, he was able to return from Sydney, where he trained at college to become a teacher, and feel comfortable in living in Orange. He is a very close member of the family. He is very close to his sister and her children and he sees them as part of his family. He has a partner, a business and a home in Orange. He is accepted by the friends of my wife and I and he is accepted by the vast majority of people in Orange who have a reasonable understanding of the issue.

A reasonable proportion of the population in Orange are gay, and I hope that over time many other parents will gain as much understanding as my wife and I have. I am aware through letters and conversations I have had with boys whom I met yesterday that in some cases mothers will accept the situation and fathers will not, and that is tragic. In other cases, some brothers and sisters have accepted their sexuality but others have not.

Society has to work through the issue of homosexuality and treat homosexuals as normal human beings. Generally they are very loving and caring people but most importantly they are sons and daughters of parents who agonise about how to handle the situation. My son has often told me that his friends remark about how lucky he is to have parents who are so understanding because in many cases, after telling their parents, homosexuals never see them again, or there is no longer any loving contact between the child and the parents, which is also a tragedy. I hope that by supporting this legislation and voting in favour of the bill, slowly some of the ignorance and fear that exist within the community will dissipate so that homosexuals will be accepted as part of the community and as people who deserve to be treated equally.

I hope that this bill will rid the community of most of the discrimination that homosexuals are currently suffering from. Society has come a long way, but there is still a long way to go. As I said earlier, people are living what appear to be normal lives, but a scratch of the surface reveals that they have not been able to acknowledge their true sexuality. I believe that the underlying issue of where homosexuals are at and who they are is a source of behavioural problems such as excessive alcohol consumption, physical abuse of children, and unhealthy relationships between husbands and wives. The pressures of society requiring people to conform and live what is perceived to be a normal life create enormous problems within families, as well as misunderstanding. The sooner the issue can be acknowledged and counselling services can be provided not only to younger people but to older people who are grappling with the problem, the better society will be. I hope this bill will go a long way towards a better understanding of the whole issue. [*Time expired.*]

Mr AMERY (Mount Druitt) [10.34 a.m.]: The debate on the Crimes Amendment (Sexual Offences) Bill last night and media reports focused on provisions of the bill relating to the uniform age of consent, which is basically the only matter of contention in the bill. All other provisions, particularly those relating to increased penalties and the removal of the defence of mistaken belief of age in response to charges of carnal knowledge, are most welcome. I have received a deal of correspondence on this matter advancing arguments against the bill because of the removal of that defence. Although I do not have legal advice on how tight the removal of the defence will be, I believe that once people see how the provisions work in practice, most of the criticisms that have been levelled at the bill will be answered.

The main issues in the bill are the age of consent and retrospectivity, which was referred to by the honourable member for Blacktown. If the bill is passed, a 16-year-old boy—a juvenile in the eyes of the law—will be able to decide that he is gay and be in a position to consent to sexual intercourse with another male, no matter how old that other male may be. Retrospectivity provisions of the bill will apply to homosexual acts, as the honourable member for Blacktown pointed out. I remind all honourable members that each member of the House will be free to exercise a conscience vote on this bill. Members on both sides of this House have acknowledged this during debate. Members will be able to vote according to how each of them feels about the proposed change in the law. It is very rare for honourable members to be given a conscience vote in the House.

If honourable members are happy with the changes, they should vote for the bill—it is as plain and as simple as that—and if they are not, of course they should vote against it, irrespective of whether the bill is a Government bill, an Opposition bill, a private member's bill, a Coalition bill or a Labor Party bill. Honourable members who are undecided will have to judge how people in their electorate would want them to vote on the bill. The inherent challenge for them is how they believe the proposition would be received in their electorate if it were put to a vote. The decision on how to vote on this bill is one for each member of this House.

I will vote against the bill. Although I have been told repeatedly, and somewhat arrogantly in some cases, that there is no real argument against a uniform age of consent, I am yet to hear a good argument for the presentation of this bill to this House. Recently I campaigned throughout my electorate and throughout the State, and this issue was not once raised with me. There was no outcry from the community for the changes to the law proposed in this bill. No political party promised the introduction of this legislation as part of its re-election campaign, with the possible exception of the Greens, who, honourable members might recall—I am sure the honourable member for Murray-Darling will—also promised a give-away drugs policy.

In arriving at my decision to vote against the bill I have rejected counterarguments. In the first place I do not care what the law is in other States or in Latvia, Romania, Estonia, Korea or in any other country on the list that has been circulated to honourable members. I am mainly worried about the law in New South Wales. I believe that the position in other jurisdictions has been misrepresented to some extent. An excellent briefing paper provided by the Parliamentary Library shows that in some jurisdictions, for example in Queensland, there are qualifications and variations in the age of consent. The argument regarding the law in other States is selective—in other words, it uses only the examples that suit the proponents of the law. Many of the countries shown on the list provided to members have laws relating to crime, traffic, building codes and equal opportunities—laws that we in this country would never entertain. So the argument comes back to our decision about what the law should be in New South Wales.

Another aspect of the campaign that I reject is the so-called intellectual snobbery that goes with these arguments. For example, as has been said, there are no sensible or rational arguments against the law. It seems that the only people opposing it are the bible-bashers, people who are living in the dark ages and, of course, proponents of the latest cliché, "You are a homophobe." I am confident that I do not fit any of those descriptions. Perhaps my views on these types of issues are conservative—and if so, so be it. However, I reject the intellectual snobbery and arrogance that goes with the debate about people daring to speak out on what is a sensible and practical amendment.

I also do not accept the argument that because a 16-year-old boy is allowed to do many things, he should be allowed to decide on a homosexual activity or lifestyle. I have been provided with briefing notes and other informative documents on the matter. I have been told, for example, that a person can obtain a licence to shoot at the age of 14—I will need to check the legislation; I thought it specified the age of 18—but at a younger age if the person is under the supervision of an adult. I have been told that a 16-year-old can drive a car, but let us not forget that a 16-year-old cannot drive unless accompanied by a licensed driver who is no longer on P-plates.

The bill provides that a man of, say, 40 or 50 would be able to have sexual intercourse, with consent, with a 16-year-old boy—but he would not be able to take the boy to a bar for a drink, and he would be charged if he supplied the boy with a cigarette. That is an absurd provision. I cannot accept such an inconsistency in the law, since inconsistency in the law has been used on many occasions to seek to convince people to support such a proposition. A number of people have expressed to me their opinions on this issue. My office has received many calls, emails and letters, and I wish to acknowledge some of them. Young Labor and Rainbow Labor have written to me and asked me to support the bill. I have read numerous letters to the editors of newspapers, but none has convinced me to support it. On the other hand, I am reassured by other views. An article in the *Catholic Weekly* of 18 May 2003 reported the Archbishop of Sydney, Dr George Pell, as saying:

> Parliament should not enshrine the ideological claim that homosexual and heterosexual activity are morally equivalent.
>
> It sounds a wrong note and makes the task of parents more difficult.

The article stated that Dr Pell had been supported in his stand by the Anglican Bishop of North Sydney, Dr Glenn Davies, who said:

> Lowering the age of consent to 16 takes away the onus of responsibility on adults to act with integrity towards young people.

In a strongly worded letter published in the *Illawarra Mercury* the former member for Kiama, Mr Bob Harrison, wrote:

> The manner in which adult persons choose to conduct their sex lives is totally their own business, but society must always protect the welfare of children and minors particularly against insidious advances from paedophiles and perverts who prey on the inexperience and innocence of the young.

Let us not forget that we are talking about people who are, in law, juveniles. Mr Harrison went on to say:

> To those people who will try to muddy the waters by claiming that it is discrimination for the age of consent to be 16 for girls and 18 for boys I offer 2 suggestions.
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> Either they should campaign for an all round age of 18 years or alternatively if it is their wish a 16 year age of consent for both boys and girls having heterosexual sex and an 18 year age of consent for both boys and girls to participate in homosexual sex, which is after all outside the social mainstream.
>
> I reiterate that society has a clear responsibility to enact laws, along with those laws related to the permissible age for drinking, smoking and gambling …

An extremely significant contribution came from a constituent, Richard Johnson of Rooty Hill, who I understand has corresponded with a number of members over some time. When Mr Johnson first made an appointment to see me, he argued very strongly that the age of consent should not be lowered. In a letter to me he wrote:

> It is with great sadness and sorrow emotionally for myself, to be writing this letter to you—However when reading the following, I pray my sincerity and courage of conviction will demonstrate why I feel, the way I do.
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> As a citizen of New South Wales, I would like to express my firm belief and opinion that The Homosexual Age Of Consent is NOT to be lowered to 16, and to REMAIN at the current LAW of 18 Years or Older …
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> During the period between July 2001 and December 2002, I would be in the true crime statistics, as a Victim of "Crime" under the Sexual Assault Category, I now pray I am in the Adult Survivors of Child Abuse category.
>
> While doing my best to move forward, I have become committed to hopefully ensuring the prevention of Child Abuse in an area I believe I can speak on with confidence.

I do not wish to go into the details of this man's history, but I regard him as a person who has lived many of the experiences that we, in an academic sense, simply talk about, and I take his advice very seriously. [*Extension of time agreed to.*]

We could argue all day about many of these matters. We can, and will, quote various organisations and individuals and use reports to support one point of view or the other. But at the end of the day, a conscience vote is about what we feel and believe. I do not believe in the concept of gender neutrality, a term I heard on talkback radio some years ago by an activist trying to push these sorts of law reforms. I believe that sexual development in males takes place at a different age to sexual development in females. In the main, a girl of 16 is more mature than a boy of 16.

I believe we should be more cautious when we speak about a male of 16 not just being sexually active but making a decision about whether he is homosexual. Obviously, he may be a homosexual and may live that lifestyle in the future, but this bill allows him to make that decision at 16 years of age. Despite all the comments about equalising the age of consent between males and females, a 16-year-old boy's decision to adopt a homosexual lifestyle is a bigger call. In a letter to me seeking my support for the bill the AIDS Council of New South Wales wrote:

> The recently completed Australian sex survey tells us that the majority of young people will experiment with sex between 16 and 18 and that most will do that with people of their own age. Some will do this with members of the opposite sex and some with their own gender. For heterosexual young people this is just a phase in growing up. For homosexual young men this can be a very traumatic time when they are unable to talk with anyone about their feelings for fear that they or their partner will face criminal charges.

I highlight the statement, "Some will do this with members of the opposite sex and some with their own gender. For heterosexual young people this is just a phase in growing up."

At 16 years, young males are in the mainstream of growing up and they should not be confronted by much older men, those of my age and so on. This bill is not about governing the way that 16-year-olds act socially and sexually, it is about sending a clear message to people of my generation and to all adult people in the State that it is inappropriate for 16-year-old boys to engage in homosexual activity. It is prudent to keep the current law in place because at 18 years a male is better able to make such a life-altering decision. I believe that that is very important. The current laws are not there to dictate to 16-year-olds; they are there to warn much older men that a 16-year-old is too young to make such a significant decision.

Finally, I do not agree with the arguments about separating the provisions contained in the bill. Members voting against the age of consent provisions in the bill should not be distracted by the fact that the bill contains many other provisions. There is no need for members to be concerned. The Attorney General has given an assurance that if the whole bill is voted down a new bill will be introduced to cover the provisions that fail on the conscience vote. Whilst I respect what Opposition members are saying about separation, that could be a distraction from the whole debate. At the conclusion of the second reading debate there will be a conscience vote and if the bill goes to the Committee stage a conscience vote will be held on the age of consent provisions. It is unnecessary to have a political fight about the separation of the bill, because if the bill fails, the provisions that we all support will be introduced in a separate bill later in the year. I oppose the bill.

Mr RICHARDSON (The Hills) [10.51 a.m.]: Last night and this morning I listened to this debate with interest. Certainly there has been passion on both sides of the debate. I will not go so far as to say that the bill is the product of a radical left-wing socialist government, but it certainly is true that this matter was not put before the people to consider prior to the recent election. In fact, no hint was given that a bill as contentious as this would be introduced into Parliament so soon in the session. The bill seeks to lower the age of consent for homosexual relations between consenting males from 18 to 16. It also bundles in higher penalties for sexual relations with persons aged under 16 years. As the honourable member for Epping said last night, it was dishonest of the Premier not to separate those two elements of the bill.

A couple of weeks ago the honourable member for Epping attempted to provide for the separation of those two elements of the bill, but the Premier pooh-poohed him for his pains. This morning the honourable member for Mount Druitt said that if this bill does not get up, the Attorney General has undertaken to bring in a separate bill with higher penalties for a person having homosexual relations with under-age males. If that is the case, why did the Attorney General not do the honourable and honest thing and introduce two bills? That would have been the obvious solution to this dilemma. Unquestionably it will be difficult for some members to separate the two issues—indeed, they are two separate issues.

I am sure that most, if not all, members of this House would support higher penalties for sexual offences against children. I state now that I cannot support the lowering of the age of homosexual consent. As the honourable member for Cronulla said, this bill is about the age at which teenagers may engage in sexual acts on equal terms with their partners. That age, if the partner is perhaps in his 30s or 40s, is certainly not 16. At 16, boys may think they are immortal, they may be strong and fit and superficially tough, but they are at a stage of great vulnerability in their lives, an age at which they may be easy prey for older men. This issue is not simply one of treating both sexes equally, as the honourable member for Camden said, because at those ages the sexes are not equal. Physical and emotional development occurs around two years later in boys than in girls. The United States of America National Library of Medicine has reported:

> Females mature earlier than males. The difference in age entering puberty is 2 years. Females are considered sexually, physically and emotionally mature by age 17. The same cannot be said for males until the age of 19.

I note that both those ages are one year older than the current age of consent in New South Wales. The *International Family Health Encyclopedia* states:

> Puberty begins at about 11 years in girls … In boys it starts somewhat later, they do not begin to develop sexually until about 13 years.

Those biological facts cannot be overruled by this House. The excellent briefing paper prepared by Rachel Simpson and Honor Figgis of the Parliamentary Library states:

> The age at which an adolescent male's sexual orientation is firmly fixed has not been conclusively determined, and while for many it may be below 16, there may be a significant number of youths between 16 and 18 years who are uncertain about their

> sexuality. The United Kingdom Policy Advisory Committee on Sexual Offences in its Working Paper of the Age of Consent in Relation to Sexual Offences stated that it is of the utmost importance to decide if possible the age by which a young man's sexual orientation usually becomes fixed, because of the risk that a homosexual seduction before that age might turn him towards homosexual behaviour and prevent him from developing as a heterosexual. The Committee concluded:
>
> > The majority of us, however, take note of the fact that the medical evidence is by no means unanimous and are not convinced that there does not exist a vulnerable minority of young men aged 16-18 who may be in need of protection.

I am not quite sure why the committee used a double negative; it could be rephrased to state that it is convinced that there does exist a minority of young men aged 16 to 18 who may be in need of protection. The briefing paper continued:

> The Committee further consider that: "a homosexual relationship may be disturbing to an immature boy, even though his basic sexual pattern has been established as heterosexual. The likelihood of disturbance increases with the pressure put upon him to consent to homosexual relationships … some boys may be confused about their sexuality and a boy who is so confused is particularly open to exploitation … The fact that the boy consents to homosexual advances does not mean that he is unlikely to be harmed.

I received a letter from Al Stewart, the Chief Executive Officer of Anglican Youthworks, which stated:

> Do we really believe that on one day a 16 year old is in need of protection, while they are still young and vulnerable and trying to sort out the issues of sexuality, and on the next day legislation could be passed to make the 16 year old an adult?
>
> Sexual decisions or mistakes made at the age of 16 can have life long consequences for young people.
>
> I have worked in Youth Ministry in Mt Druitt, Liverpool, and the Eastern Suburbs. I also have four children of my own, three of whom are teenagers. I understand fully how vulnerable kids are in their mid-teens and their need to be protected.
>
> Anyone who believes that an age of consent of 16 years will not be taken advantage of by predatory older males is living in a fantasy land.
>
> My question is a simple one. Are we as a society genuinely concerned about protecting our children?

That is the central issue for the House today. Are we, as a Parliament, genuinely concerned about protecting our children? Last night the honourable member for Liverpool gave what I regard as a totally predictable speech on this issue. He said that leaving things as they are would tend to criminalise nearly half of the young people between 16 and 18. He said that according to a Commonwealth study, 44.6 per cent of men who have had a homosexual experience had that experience before the age of 18. The honourable member for Liverpool may be very eloquent, particularly in the left-wing caucus, but maths is clearly not his strong point. We were not talking about 44.6 per cent of homosexuals having their first homosexual experience between the ages of 16 and 18, no, not at all. Grulich, et al, in a paper published only last month in the *Australian and New Zealand Journal of Public Health* found that 41.9 per cent of homosexual men had their first homosexual experience before the age of 18.

That might lead one to believe that two out of five homosexual men have formed their sexuality between the ages of 16 and 18. In fact, those people represented less than 18 per cent of the sample and 25 per cent of the men had had their first homosexual experience before the age of 16, in some cases at the age of 10. That is what the honourable member for Liverpool is talking about: 10-year-old boys having a homosexual experience. I do not think any member of this House would suggest that we should legislate to make sex with 10-year-old children legal. In fact, this bill increases the penalties for such activities.

Many honourable members who spoke in favour of this bill said that it is about not discriminating against males. We are not discriminating against the vast majority of males. In the major study Sex in Australia, the Australian Study of Health and Relationships just 1.6 per cent of men identified as being gay while 97.4 per cent identified as being heterosexual. The differential age of consent allows young boys time in which to mature and time in which to form their judgment as to their sexuality. Last night the honourable member for Ballina posed the question: What is the appropriate age of consent for homosexual sex? It is 17 in South Australia and 17 in Tasmania—honourable members would be aware that Tasmania was the last State in Australia to legalise homosexuality—and it is the same age for girls.

The question is: Where do we draw the line? Should it be at 17, as the honourable member for Ballina suggested? Should it be at 16, as this bill proposes? Or should it be lowered still further on the basis that, according to Grulich, 24 per cent of gay men have their first homosexual encounter before the age of 16? These results tend to make a nonsense of the arguments that have been advanced in favour of the bill. In his contribution to the second reading debate the honourable member for Camden said that he does not want to make criminals of two 17-year-old males who are having consensual sex. I would assume, equally, that he would not want to make criminals of two 15-year-olds, 14-year-olds or 13-year-olds who are doing the same thing. There has to be a cut-off point. There is either an age of consent or there is not.

I am persuaded by the arguments of the United Kingdom Policy Advisory Committee, of Al Stewart and of the evidence provided in the Grulich report that the age of consent for homosexual males should stay at 18. Nothing I have heard in this debate has changed my mind on that issue. While this bill may not encourage paedophilia—the removal of the reasonable mistake of age defence to carnal knowledge charges deals with that issue—it will certainly encourage sexual relations between persons of vastly differing ages: the gay Lolita. I understand that in some parts of the United States of America there is an upper limit for consensual heterosexual and homosexual sex to prevent predatory males preying on young people. Parliament should consider that issue if it is genuinely attempting to do something about predatory males preying on young people at a vulnerable stage of their development.

New section 49 wipes the slate clean for any offences that may have occurred before the bill is passed by Parliament—if, indeed, it is passed. It is totally dishonest of the Government to put that provision into this legislation. I heard the Attorney General speaking to Sally Loane on ABC radio this morning about that issue. I felt that he was singularly unconvincing in his support of that provision being included. All he could say was that it did not mean that the provision would be a defence to a rapist where a sexual offence had occurred, where a boy had been raped. That does not seem to be the central issue; the central issue is that—although there are no cases currently before the court there may be in the future, perhaps involving a prominent person—a person who would have been charged with having had sex with what was formerly an underage male will have the matter struck out.

That is a real cop-out by the Government, as other honourable members have suggested. It will legalise acts of paedophilia that have occurred in the past. That is absolutely abhorrent, particularly in the context of the argument that I have advanced against the proponents of this bill that we need to decide the age of consent. Parliament and society determine and set an age of consent. We set the age of consent at 18 for homosexual acts, which was done comparatively recently—in the past 22 years. It was decided that that age was appropriate. The men who may have engaged in homosexual acts with a person under the age of 18 knew that they were illegal at the time. It is absolutely reprehensible that the Government is attempting to introduce retrospective legislation that would overturn the criminality of those acts.

Mr ASHTON (East Hills) [11.05 a.m.]: I am pleased to speak in favour of the Crimes Amendment (Sexual Offences) Bill. Of course, this matter has a long history. To my knowledge, it goes back hundreds of years—in fact, we could go back to the ancient Greeks, the ancient Romans and the Egyptians. I am not sure what the age of consent was in ancient Egypt, but I know that they all married their brothers and sisters, which is what eventually led to the decline of that civilisation. The Wran Government—innovative as it was in the early 1980s—attempted to revise the age of consent. While it did not succeed, it showed that Labor governments are prepared to face up to these realities much more than conservative governments.

I recognise that this bill will be decided on a conscience vote, which is a rare situation in this House. I am told it will be the only conscience vote in this House since the early 1980s. There will be conscience votes on other issues, and that is not a bad thing. Therefore, any speech made on this bill is unlikely to persuade other members to change their minds on how they will vote. The passion expressed by the honourable member for Blacktown—understandably so—did not move me one iota to change my mind in relation to this bill. However, the speech of the honourable member for Orange confirmed the absolute necessity for me to vote for this bill. The best we can do is outline why we will each vote the way we will and why we believe what we will do is right.

If we believe in equality in all things—the word "equity" has been used—we should pass the bill. If we believe that it is wrong to discriminate against people of a different race, a different culture or a different religion we must also agree that it is wrong to discriminate against people based on their sexual preference. In 2003 gay men are still discriminated against. Some people fear homosexuals or have the wrong belief that homosexual men will prey on young men more than heterosexual men will prey on young girls. Such attitudes are difficult to change in society. The current law in New South Wales, in 2003, discriminates against young gay men. The law makes it illegal for male teenagers under the age of 18 to consent to sexual activity—if they consent they are regarded as engaging in criminal activity. At present if a consensual homosexual relationship exists between two young men one day short of their 18th birthdays they are both committing a crime.

A person could ring the police to inform them that two people aged almost 18 years of age are living together and demand that they be arrested. Police who did not arrest that couple or who ignored the request would be breaking the law and could be charged with not properly carrying out their duties. Indeed, as the Wood royal commission report stated, police could be regarded as committing a criminal offence if they harass or

intimidate that young couple. It is a crime for a young man under 18 years of age to engage in sexual relations, yet no-one has been charged or taken to court. The bill seeks to bring the law in line with community standards. When I was a schoolteacher it was mandatory for us to report that a student may have been beaten by his or her parents. Indeed, if two boys in year 11 or year 12 under the age of 18 were engaged in a homosexual relationship the schoolteacher would be required to report that fact to the principal, who would then call the police and the parents. The law as it stands makes criminals of people who are almost 18 years of age who commit an act they can commit legally when they turn 18. That does not make sense. Members of Parliament are also in a position of trust and we, too, are subject to that anomaly.

The people of New South Wales have caught up with the social changes that have taken place over dozens of years. Attitudes towards sexual preferences have changed remarkably—although not everywhere and not by all people. Some people still regard gay men as a threat to young boys, but they are in the minority. However, young men still suffer as a result of those prejudices. New South Wales is in the invidious position of being the last State to discriminate on the age of consent. We like to think we are the leading State economically, in attracting investment and in relation to construction, yet we are the last State to remedy this anomaly. South Australia changed its laws 28 years ago and Victoria changed its laws 20 years ago. New South Wales is not leading the rest of Australia or even the rest of the world—it is simply catching up.

All honourable members would have seen the charts that list the age of consent in other countries. I have great respect for the honourable member for Mount Druitt. He said he does not care what is done in other countries; he cares about what happens in New South Wales. Sexual behaviour for homosexuals, bisexuals and heterosexuals is legal at the age of 15 in France, 14 in Iceland, 13 in Korea, 16 in Germany, 15 in the Czech Republic, 14 in Austria, 16 in New Zealand and 16 in the United Kingdom. If people from those countries came to Australia and engaged in the same relationship they could be arrested for breaking the law. Accordingly, the laws of other countries cannot be ignored. We are part of the world and we should have laws in line with the rest of the world. In Malta boys can engage in sex with other males at the age of 12, while in Italy the age is 14.

The age of consent varies among the States of America and those who understand American history will appreciate the interesting reasons for those variations—from a more liberal age of consent in the northern and western States to a higher age for sexual behaviour in the mid-west and the famous deep south. Young gay men already suffer considerably given that the vast majority of people are heterosexual. Clearly, gay men are in the minority and history shows that the minority will always be picked on—whether it was the Jews in Germany, the Tutsis or the Hutus in Rwanda, or the people in Aceh who will be bombed into oblivion by the Indonesian Government. Gay women also suffer. They can be ostracised at school, in their workplace or, unfortunately, even by their families. It is ironic that in all States of Australia girls aged 16 can engage legally in lesbian and heterosexual sex. We must either increase the age of consent to 18 years or reduce it to 16 years. From my experience as a high school teacher it would be impossible to tell a young person aged 14, 15 or 16 years that they can get into a club, buy cigarettes and gamble at the age of 18 but they must also be 18 years before they can engage in sexual activity.

People will not be deterred from engaging in sexual activity before 18 years; they will do so when the time suits them and they will be committing a criminal act. We must consider an appropriate age and I believe 16 is the most appropriate. It is ridiculous that a man who is three or four times older than a 16-year-old girl can engage in consensual sexual relations with her. The man may be 60, 70 or even 80 years of age and, although society may not approve, it is still legal. We may have some moral qualms about it and could perhaps set a limit of 2, 3 or 10 years between their ages. Imagine the socialites who could not marry men 50 years older than them and pick up their inheritance! That is the irony of the present law. The Wood royal commission stated that an unequal age of consent could lead to the extortion of young gay men. As I have already stated, police are placed in the invidious position of either having to arrest young gay men if they are found in a sexual relationship, even with consent, or ignoring the fact. If they ignore it, they break the law and could be charged with not fulfilling the duties of police officers. In my view, it is not a crime and I hope that most honourable members agree with that view.

This bill has in-built protections. Honourable members have focused on the age of consent aspect of the bill, but it also provides additional powers to eliminate exploitation. Unfortunately, time does not permit me to go through all of those provisions. However, it is worth mentioning that the bill removes the existing defence of carnal knowledge, where an accused could claim that he or she thought the girl was 16 and that it was legal to engage in consensual sex. That defence was often used in the past. For example, a girl aged 15¾ years could be in a hotel or club having a drink and playing the poker machines and be chatted up by a man, who could then engage her in consensual sexual activity. His defence could be that he thought she was 18 because she was in a

club, drinking alcohol and gambling. The accused could plead mistaken age and, on that evidence, most likely would be acquitted. That defence will no longer be available under this bill. The fact that a boy or a girl was thought to be 16 years of age when they were in fact younger will no longer be a defence. I do not believe that the age will gradually be reduced to 15 or 14 years. It will remain at 16 years without exemption.

I support also the measure in the bill that deals with trust. Teachers, doctors, lawyers, sporting coaches, et cetera, are all in a position of trust. Checks and balances are now in place to ensure that they are suitable to take young people away on a camp or a holiday. That aspect is covered in the bill. A list of the proposed changes also indicates that in virtually every case in which there is the difference between the offences, the penalties for those offences will be increased. Not one penalty will be decreased, which is an important aspect as well. There are anomalies in the bill. For example, the maximum penalty for sexual intercourse with a child between 10 and 16—clearly it is impossible for consent to be given; it simply cannot be given between those ages—is eight years in gaol. However, if consensual homosexual intercourse takes place and one partner is a few days short of 18, the sentence is a potential 10-year gaol term.

Last year when the Government was looking at standardised sentences, guideline judgements for judges, it sought the advice of the Crown Advocate about what it could do about the anomalies in legislation. The Crown Advocate said that it could not issue the Government with guidelines until it did something about the inconsistency in the age of consent laws. I have heard some excellent speakers on this bill. I know that it is a conscience vote. I do not expect that I have convinced any members to change their minds and, as I said, no-one will change my mind on it. The honourable members representing the electorates of Camden, Canterbury and Orange spoke very well. I simply leave it to the Parliament to make a decision, but I will be voting in favour of the bill. [*Time expired.*]

Mrs HOPWOOD (Hornsby) [11.20. a.m.]: I speak in favour of the Crimes Amendment (Sexual Offences) Bill, the object of which is to amend and repeal certain provisions of the Crimes Act 1900 to provide for the equal treatment of sexual offences, irrespective of whether the victim or the perpetrator is male or female. Therefore, the age of consent for all persons will be 16 years, and provisions are made for increased penalties for paedophilia and other acts. I am the parent of two teenage daughters. I have listened very carefully to all the contributions of other members, and I certainly respect all of the views presented. I have spoken to a number of people about this matter. As well, I have received correspondence from a variety of quarters, most of which has agreed with the new legislation.

I have been presented with the following reasons for supporting the bill: it will remove a distinction; it will reduce the social cost of discrimination, reduce youth suicide and promote health by promoting safer sex; it will not encourage sexual activity in itself; it will encourage the reporting of abuse; and it will create legislative consistency. The area I want to speak about mostly in my presentation is that of health promotion. Today I received a letter from Margaret Hansford, the Chief Executive Officer of FPA Health—formerly known as Family Planning NSW—which sets out the main reasons for my support. The letter states:

> FPA Health unequivocally supports lowering of the age of consent for homosexual males to the same age that applies to other members of the community. We strongly believe that this action would lead to significant social and legal benefits, both to same sex attracted young men and the community at large …
>
> FPA Health has been a leader in reproductive and sexual health in NSW since 1926. We provide a wide range of services to the women and men of NSW, focusing on regional, rural and remote areas. These services include a 1300-call centre, health promotion, professional education and clinical services as well as a nationally renowned research profile.
>
> **The existing legislation encourages stigmatisation and marginalisation**
>
> The existing legislation encourages the stigmatisation and marginalisation of young gay men and exacerbates many significant health issues. The law tells young gay men that they need protection from their sexuality, that it is criminal and that they will be treated more punitively than their heterosexual peers if they are "caught". To be considered a criminal while coming to terms with one's sexuality is a burden that no young person should have to bear. At a time when it is widely acknowledged that depression and suicide are increasing, and that young gay men are particularly susceptible to both, it is unconscionable that the law perpetrates stigmatisation and marginalisation.
>
> **All young people need easy access to accurate and up-to-date information**
>
> The key role for our community should be ensuring that young men and women have easy access to accurate and up-to-date information so that they know the choices available to them in their decision-making about healthy relationships and sexuality. For young gay men, this will only be possible if current legislation is changed so that service providers are free to operate under the law.

I know from many quarters that this is a big problem for service providers. The letter further states:

Young gay men experience reduced access to health and welfare services

Young people are an identified priority group for health information and education programs around sexuality and safer sex practices, and young gay men in particular are in need of specialised information and education. This includes addressing issues such as self-esteem, building relationships and negotiating safe sex. Unfortunately, service providers are often reluctant to provide this support to young men under 18 for a real or perceived fear of contributing to criminal behaviour. In 2003, young gay men should not have to bear this risk to their health …

There is no evidence that age of consent legislation influences young people when they make decisions about when they would like to begin sexual activity. Young men and women aged 16 and 17 years are able to, and do, make their own decisions about their sexuality. Furthermore, research shows that current age of consent legislation in NSW is out of step with the reality of most young gay men's lives, because repeated studies show that the average age of first homosexual activity for young men is well below 18 years.

Therefore, equalising the age of consent so that it is 16 for all people is long overdue. It is unjustifiable that a 16 or 17 year old man can have consensual sex with a girl without fear of retribution from authorities, but the same young man would be committing a criminal offence if he had consensual sex with another male. This reflects an inherent discrepancy, the result of discomfort with homosexuality which we, as a community, should strive to move on from.

Raising the age of consent will only serve to criminalise already occurring sexual activity

In addition, as a response to this issue, there has been a proposal that the age of consent for heterosexual sex needs to be increased to 17 or 18, which FPA Health believes to be totally unrealistic. This view is supported by the 2003 Australian Research Centre in Sex, Health and Society (ARCSHS) study that indicated that the average age that people in Australia become sexually active is 16. Increasing the age of consent for heterosexual sex will only make it harder for young women and men to get the information they need, and criminalise already-occurring sexual activity. Increasing the age of consent to 18 will also restrict health service providers and teachers from providing comprehensive information about human relationships and sexuality, including safer sex messages.

The bill as a whole contains amendments that will protect children from sexual assault. As the Attorney General has already indicated, the bill contains numerous safeguards to protect children from sexual assault, which is a very serious problem with complex solutions. Increasing the age of consent for heterosexual sex will not give increased protection to non-consenting victims of child sexual assault; nor will decreasing the current age of consent for homosexual sex exacerbate it. Homosexuality is emphatically not the same as paedophilia. The current differential age of consent is a discriminatory accident of history. The current legislation was not informed by any piece of sound public policy; nor was it informed by evidence relating to an optimal age of consent. If anything, its existence completely undermines antidiscrimination legislation, and its existence is an embarrassment to New South Wales. I refer to Australia's international human rights obligations that require it to take all necessary measures to eliminate discrimination, including discrimination on the grounds of sexual orientation. In conclusion, I refer to two letters I have received: one is from a constituent and the other is from the parents of a homosexual young man. The letter states:

Please put yourself in the shoes of a parent of a gay 16-17 year old son; you love your son very much. Would you see any benefit in the current law, which is so discriminatory and oppressive …

There is absolutely no reason why the law should treat 16 and 17 year old gay men any differently from 16 and 17 year old heterosexual men, women and lesbians.

One of my constituents states:

I can give you endless statistics to show you how that gay males aged 16 and 17 are having sex in NSW, that the equalisation of the age of consent will not encourage paedophilia (most paedophilic behaviour is not gay related and in fact more often than not perpetrated by a male adult onto a female child—usually from within the family) and how the change in laws will only benefit young people in this state. Let alone the statistics showing the incredible rate of youth suicide that is related to sexuality, especially by young males.

He also states:

I can only dream at this stage of a society in which being gay is not frowned upon and dearly hope that this society will exist for the young people of today. It didn't exist in my teens and it would have made an incredible positive difference to myself and my peers should we have had the privilege of being like everyone else in societies and firstly the laws eyes.

This is 2003 and we must face reality. Harm might be caused by the current legislation. We must reject discrimination and always seek to improve the health of our population.

Mr COLLIER (Miranda) [11.30 a.m.]: As an elected representative given the responsibility of a conscience vote on such an important issue, I believe I have a duty to my constituents to place on record my reasons for voting as I will. I will vote in favour of the bill and in favour of reducing the age of consent for males engaged in homosexual activity from 18 to 16 years. I vote this way in the knowledge that I will not

please all my constituents, but that is the price of public life. I intend to vote in favour of the bill and in favour of lowering the age of consent, after carefully weighing the competing arguments for and against put to me by constituents young and old, male and female. I have done so with an open mind, and I have also taken into account my experience as a legal practitioner and my reading on the subject.

It is a fundamental principle of modern civilised societies that all human beings should stand equal before the law regardless of colour, race, sex or sexual preference. In New South Wales—alone among the Australian States—males and females between the ages of 16 and 18 are subject to different laws relating to homosexuality. That is in spite of the fact that homosexuality is not unlawful in this State. Homosexuality takes place between females as well as between males, yet the Crimes Act is silent when it comes to lesbian activity. There is no prohibition on sexual acts between consenting females where one or more of the participants are between 16 and 18 years of age. A female of 17 can lawfully consent to sexual activity with another female, but under the Crimes Act as it presently stands, a male between 16 and 18 cannot lawfully consent to a homosexual act. He is deemed incapable of so consenting. In a State where homosexuality is lawful, that is not just an anomaly, it is plain discriminatory.

That discrimination is compounded by the fact that males and females between 16 and 18 can lawfully consent to heterosexual activity. Their acts are not the subject of criminal sanctions. The sexual preference of young gay men between 16 and 18 makes them unequal before the law. That is not just discriminatory, it is plain wrong. That is not my view alone. As recently as last week I met with a group of 20 young men and women from the Sutherland shire at the Sutherland District Trade Union Club. They were aged between 18 and 25. Although this issue was not on the agenda I took the opportunity to canvass their views. I was unaware and am still unaware of the sexual preferences of any of the group. To a person—male and female—these young people under the age of 25 supported the equalisation of the age of consent. They saw this not so much as an issue of sexuality but as a fundamental issue of human rights, of equal treatment by society and of equality before the law. They support the reduction in the age of consent as proposed by this bill, as I do. I support the leave of the bill: equal treatment of sexual offences regardless of whether the victim or the perpetrator is male or female.

The bill will increase penalties, and in some cases standardise present penalties, for sexual offences. It contains new circumstances of aggravation and higher penalties for these. It seeks to bring greater consistency to penalties for the most abhorrent crime of all—child sexual assault. Having an equal age of consent does not detract from any of these provisions. I am of the view that any sexual act that takes place without consent—at any age and whatever sex—should be prosecuted to the full extent of the law. I believe the penalties should be higher and for that reason I support the bill. I support the view that persons under 16 cannot legally be capable of consenting to sexual activity. I support the provisions that impose penalties on both males and females in positions of trust and that amend the Crimes Act accordingly—for example, sections 73 to 75, which apply carnal knowledge provisions to both male and female teachers, or section 78, which applies incest provisions to any member of the family.

A view commonly put by those who oppose the equal age of consent is that males mature more slowly than females. In many senses, maturity is a vague term. One can talk of physical maturity, emotional maturity, intellectual maturity or behavioural maturity. By and large girls mature physically at a faster rate than boys, but the law as it currently stands suggests that males are either not aware of or have not decided upon their sexual preferences or their orientation until they are aged 18. In this high-tech, media-driven world of the twenty-first century I do not think that is correct. The world has changed since the 1960s, when I was growing up.

Yesterday I spoke to two homosexual men aged 18. They told me they were acutely aware of their sexuality well before they were 18. They admitted having had consensual homosexual experience at the age of 17. That is the reality. Young males below the age of 18 engage in consensual homosexual acts at the age of 16 and 17. Given that that is the case, it is reasonable to expect that police in the course of their work come across young men between 16 and 18 engaged in or having engaged in homosexuality. Of course the police have, but I am told there has been no criminal prosecution by the Director of Public Prosecutions of young men in these circumstances for more than 20 years. One may ask why. Are these young men not breaking the law? Of course they are, yet there are no prosecutions. Clearly the police are showing compassion to these young men, and this law is redundant in the sense that it is not being enforced when it comes to consenting males between 16 and 18 engaging in sexual activity.

It is this same redundant law that prevents young gay men from seeking advice from counsellors and health professionals. It is the same law that makes it so difficult for these men to deal with the constant struggle

between acknowledging their sexuality and sexual preferences and the guilt they must surely feel because they know they are breaking the law. This fear of breaking the law has another consequence, and I am convinced that this consequence was unforeseen when the legislation to make homosexual activity between consenting males between the ages of 16 and 18 an offence was introduced. This is the health issue. Young men are fearful of going to doctors because they might be reported to authorities despite the fact that they are engaging in consensual sex. They are not getting the advice they need about HIV, about sexually transmitted diseases or about safe sexual practices. They are not getting the advice they need for their physical, emotional or spiritual health.

I have also spoken to young heterosexuals from the Sutherland shire who have homosexual friends. They confirm that these young men are fearful of going to counsellors, doctors or health professionals lest they be reported to the appropriate authorities, lest their behaviour—which is at this stage criminal—be exposed and they be the subject of ridicule. It is not just an issue for the young men themselves; it is an issue for the health professionals as well. They are giving young men advice about their emotional, physical or spiritual health, perhaps trying to prevent them from engaging in practices that are, from society's point of view, of grave concern.

Yet by doing so these health professionals are in fact, and can be seen to be, aiding and abetting what is in effect a criminal offence. So it is not just an issue of equality; it is also an issue of health, which is of grave concern to me. In letters I have received from constituents raising their concerns about the impact of lowering the age of consent from 18 to 16 it has been stated that by doing so we will be exposing more children to paedophile activity. I understand and accept that that is a concern for the people who express this view. After three years of extensive community consultation by the Wood royal commission in 1997 Justice Wood said this:

> … the commission is able to state that it sees no reason … to suppose that legislative change to achieve uniformity in this area would bring about any behavioural shift or that it would, in real terms, expose any more children to the risk of paedophile activity than are presently exposed to the risk.

That is contained in volume IV of the report of the Royal Commission into the New South Wales Police Service. I am sure that it has been canvassed by other members but it is interesting that, according to the research of the Bureau of Crime Statistics and Research, the vast majority—some 80 per cent, I believe—of sexual offences against children involve girls. The Wood royal commission also went on to say that an unequal age of consent can encourage corrupt law enforcement practices and possible extortion of gay men. Consistent laws would be easier for the police to enforce and more transparent for the public to understand. From the legal point of view there are also some difficulties in having an unequal age of consent. In 2001 the Government sought advice from the Crown Advocate about the possibility of a guideline judgment for sexual assault offences. A guideline judgment basically is a judgment handed down by the Court of Criminal Appeal in an appropriate case to give guidance to the courts below—the District Court, the Supreme Court in its criminal jurisdiction and the Local Court—as to the kinds of penalties they should be imposing in particular cases. [*Extension of time agreed to*.]

The Crown Advocate, who is a Crown Prosecutor, advised that there were obstacles in the way of producing a guideline judgment until the inequality in the age of consent was resolved. He said that the Court of Criminal Appeal would be unlikely to hand down a guideline judgment recommending consistent punishment for child sexual assault offences when the law itself was so inconsistent. As I have said, I have examined my conscience, read the letters written to me and spoken to young gay males and to males and females in my electorate, both young and old. I have come to the conclusion that I must support the lowering of the age of consent and I must support the bill. I do so based on issues of equality and on issues of health, which are of grave concern to me, based on the conclusions of the Wood royal commission and based on the need to reform the law in this most critical of areas. I support the bill.

Mr PEARCE (Coogee) [11.44 a.m.]: I support the bill. Equality before the law is a fundamental tenet of our legal system and a basic Australian value. The current law does not enshrine equality before the law for young gay men between the ages of 16 and 18. Initially I did not intend to speak on the bill. I would have thought that in 2003 any question of removing institutionalised discrimination would not be an issue in this place. The bill advocates a uniform age of consent. It removes the defence of "I am sorry, Your Honour, I thought she was 16." It deals with the circumstance of aggravation, increasing and rationalising the existing penalties for sexual exploitation of children. The basic effect of the bill is to increase the penalties for heterosexual offences to the higher levels that exist for homosexual offences and to provide for a logical increase in maximum penalties for child sex offences in the age brackets 14 to 16, 10 to 14 and under 10.

The bill is drawn on advice from the Crown Advocate, as I understand it. The bill should be viewed in totality. Proposals to separate the various provisions would be counterproductive and, if successful, would probably lead to some fairly perverse results. To cut to the contentious issue, the uniform age of consent, there is a uniformity in the age of consent, albeit at different ages, through most of the jurisdictions in Australia. The only other area where there is an inconsistency is in the Northern Territory, which has a similar situation as in New South Wales with the ages being 16 and 18. In all other jurisdictions there is a commonality of age of consent although it varies between 16-16 and 17-17, but the average is 16-16. The report of the Wood royal commission has been referred to previously in the debate. The commission could not find a rational basis for a continued distinction between the age of consent for heterosexual and homosexual acts. New South Wales law as it currently exists directly discriminates on the basis of sexuality as there is a higher age of consent for those engaging in homosexual as opposed to heterosexual sex. Such discrimination is inconsistent with the philosophy of antidiscrimination legislation in New South Wales and I believe is inconsistent with the beliefs of the overwhelming majority of fair-thinking people in New South Wales.

The higher age of consent has an adverse affect on public health and education policies as health professionals and social workers are restricted in the services they can provide to homosexual males under the age of 18 for fear of prosecution. Sexually active adolescent male homosexuals are stigmatised. Research has shown that gay youths are 3.7 times more likely than their peers to attempt suicide. Gay youths are the most likely to attempt suicide between the ages of 15 and 17, when many are realising their sexual identity. The effect of the discrimination within the law reinforces homophobia and creates a stereotype that older homosexual males are likely to behave in a predatory manner towards adolescent males. In fact, all the statistical evidence would indicate that sexual assault is more likely to involve older males and young females. Existing laws legitimise sexual harassment and assault within schools of gay students.

The Model Criminal Code Officers Committee of the Standing Committee of Attorneys General released a report in 1999 regarding sexual offences to the person. The report found that the age of consent effectively amounts to a determination about when young people should be allowed to exercise autonomy and freedom of choice in sexual relations. Like most honourable members, I have received a great deal of correspondence on this issue and I am not unaware of the public debate that has been generated, notwithstanding the somewhat hysterical headline on the front page of the *Daily Telegraph* this morning. I believe that most honourable members have received a letter from FPA Health calling for reform of this law. The letter states:

> The existing legislation encourages stigmatisation and marginalisation of young gay men and exacerbates many significant health issues. The law tells young gay men that they need protection from their sexuality, that it is criminal and that they will be treated more punitively than their heterosexual peers if they are 'caught'.

FPA Health also identifies the fact that young gay men experience reduced access to health and welfare services. The letter states:

> Young people are an identified priority group for health information and education programs around sexuality and safe sex practices, and young gay men in particular are in need of specialised information and education. This includes addressing issues such as self-esteem, building relationships and negotiating safe sex. Unfortunately, service providers are often reluctant to provide this support to younger men under 18 for a real or perceived fear of contributing to criminal behaviour. In 2003, young gay men should not have to bear this risk to their health.

The AIDS Council of New South Wales states:

> The recently completed 'Australian Sex Survey' tells us that the majority of young people will experiment with sex between the age of 16 and 18 …

Certainly in the eastern suburbs they might be a little younger. The AIDS Council continues

> ... and that most will do that with people of their own age …
>
> The unequal age of consent:
>
> - creates an environment in which young gay men are less likely to come forward for information about sexual health including STIs and HIV/AIDS for fear of prosecution
> - reinforces the prejudices of those who perpetrate discrimination and anti-gay violence—particularly between peers in a school environment, and
> - contributes to low self-esteem among young gay men, with resultant homelessness, drug, alcohol and tobacco use and a rate of suicide 300% higher than that of young heterosexual men.

The Gay and Lesbian Rights Lobby Inc. provided the following quote from the AIDS Council:

> AIDS Council of NSW (ACON) chief executive Stevie Clayton said current laws meant gay males were reluctant to come forward for health, education, and welfare services and were 300 times more likely to commit suicide than their heterosexual peers.
>
> "This means they don't get information on HIV/AIDS and other sexually transmitted infections until in some cases it is too late."

The existing laws are putting young gay males under the age of 18 at risk and we cannot allow that to continue. The unequal age of consent in New South Wales is discriminatory and directly contributes to detrimental health outcomes for young gay men. It prevents thorough sex and health education in high schools in which safe sex messages are conveyed. It also excludes 16-year-old and 17-year-old gay men from supportive friendship networks and social contacts with slightly older gay peers who fear innuendo and possible ramifications. I am sure a number of honourable members have received correspondence from the Anglican Archbishop Peter Jensen. It is fair to say that he is not renowned for his progressive views. He states:

> The Anglican Diocese of Sydney welcomes and supports the bill's attempts to increase penalties for those who sexually abuse children…
>
> We also agree that it is desirable to have consistency in age of consent legislation.

In fairness to the archbishop, he indicates that the age should be 18 rather than 16. However, in conceding that the age of consent should be consistent he is conceding the core argument of the bill. His letter also states:

> When you are called upon to make your vote, please consider the best interests of our children.

I believe that those interests are best served by providing access to support and health services and by keeping them out of the criminal system. Imprisonment is now a possibility for young gay men. There is confusion about the elements of the bill. I mention as an example comments made by the Advocates for Survivors of Child Abuse, a support and advocacy group for which I have enormous respect, and reported in an article in the *Daily Telegraph* of 9 May which states:

> …lowering the age of consent for homosexuals could leave the way for sex offenders to argue that children as young as 12 looked 16.
>
> "We see cases of child abuse thrown out of court because the man says, 'but the boy looked older than 14 or 15'."

That is incorrect. The legislation specifically removes the existing defence of mistaken age in carnal knowledge cases. Whatever may be the current law, young men have sex with each other. Statistics indicate that approximately 45 per cent have their first sexual experience before the age of 18. Therefore, 45 per cent of young men in that age group are committing a criminal offence under the existing law. That is not good enough. Male sexual activity is not dependent on sexual preference. There is no sound basis for retaining different treatment of girls and boys dependent only upon the boys' sexual preference. This bill deserves to be supported in its entirety.

Debate adjourned on motion by Mr Debus.

HUMAN CLONING AND OTHER PROHIBITED PRACTICES BILL

RESEARCH INVOLVING HUMAN EMBRYOS (NEW SOUTH WALES) BILL

Bills introduced and read a first time.

Second Reading

Mr SARTOR (Rockdale—Minister for Energy and Utilities, Minister for Science and Medical Research, Minister Assisting the Minister for Health (Cancer), and Minister Assisting the Premier on the Arts) [11.59 a.m.]: I move:

> That these bills be now read a second time.

I am pleased to introduce the Human Cloning and Other Prohibited Practices Bill and the Research Involving Human Embryos (New South Wales) Bill. These bills are the New South Wales component of the nationally consistent scheme to regulate research involving excess human embryos and to prohibit human cloning agreed

to at the Council of Australian Governments meeting on 5 April 2002. New South Wales does not have a legislative framework governing this morally and ethically complex field of scientific endeavour. These bills create one. This is important because medical technology is bringing us closer to techniques and discoveries that were previously in the realm of science fiction. These bills draw the line at what is acceptable scientific practice and what is not.

Most honourable members would be aware of the Premier's strong commitment to ensuring that research which may lead to the discovery of treatment and cures for diseases and other degenerative illnesses such as diabetes, Alzheimer's, cystic fibrosis, spinal cord injuries, burns and certain cancers can continue in this State. The Premier has also stated that, wherever possible, governments have the responsibility to act to alleviate human suffering and to preserve human dignity. To this end, New South Wales has taken a leadership role among the States to ensure that important medical research can be carried out within an appropriate and considered framework of regulation.

The Government's commitment to the nationally consistent scheme for the regulation of research involving human embryos and the prohibition of human cloning, agreed to at the COAG meeting on 5 April 2002, has been informed by close analysis of the central ethical, social, legal and moral issues that are relevant to this matter. The Government consulted key stakeholders in the scientific community to properly canvas the challenging issues associated with this rapidly developing area of science. In March 2002 the Premier met with leading New South Wales scientists, many of whom were conducting research in fields other than stem cell science. He found that their conviction in the potential of embryonic stem cell research, the need to keep all research pathways open, and their concern and commitment to helping the community was compelling. Equally compelling was the view that a nationally consistent regime had the potential to foster the sharing of ideas and generate research collaborations, and possibly hasten the day when new therapies and cures would be available to combat life-threatening diseases.

Many parents and families in New South Wales support our commitment to introduce this legislation. They also believe in the potential of this research to bring significant health benefits to their loved ones. The regulatory framework agreed to at the COAG meeting, and to be implemented in New South Wales by these bills, balances the need to enable potentially life-saving research with the oversight and sanctions necessary to address concerns in our community. That is why the New South Wales Government agreed to the scheme. The Commonwealth Prohibition of Human Cloning Act 2002 and the Research Involving Human Embryos Act 2002, which provide the framework for the national scheme, were assented to on 19 December 2002. The New South Wales Government and other States and Territories were involved in extensive consultation on the Commonwealth bills, providing input into the examination of issues affecting the development and implementation of a national scheme and how this can best be facilitated.

A key concern in this process was to ensure that the resulting legislation maintained fidelity to the principles agreed to at the COAG meeting. These principles were that human cloning and other unacceptable practices associated with the use of assisted reproductive technologies [ART] must be prohibited, but research using early stage excess ART embryos, which would otherwise be discarded, must be allowed to continue within a rigorous regulatory framework. Currently in New South Wales, ART is conducted under a self-regulatory framework through the Reproductive Technology Accreditation Committee and the National Health and Medical Research Council ethical guidelines. The two New South Wales bills being introduced today will add a legislative dimension to this scheme. They will also ensure national consistency in accordance with the COAG principles. The bills are consistent with the Commonwealth legislation. Notably, the New South Wales bills mirror the split format of the Commonwealth legislation.

The Research Involving Human Embryos (New South Wales) Bill applies the Commonwealth embryo research laws as laws of this State, and implements a scheme that is to be administered, enforced and monitored by the Commonwealth. This means that the Commonwealth Research Act is treated as an Act of this State and any amendments made to that Act automatically become law in New South Wales. Specifically, this means that the National Health and Medical Research Council Licensing Committee established under the Commonwealth Act has powers and functions in New South Wales law and will be the only body issuing licences for the use of excess ART embryos in New South Wales.

Once the research bill comes into operation it will be an offence under New South Wales law to use an excess ART embryo if the use is not authorised by a licence or if the use is not an exempt use. The legislation also provides that until 5 April 2005, or unless the COAG agrees to an earlier date, only embryos created prior to 5 April 2002, and deemed excess, will be available for research purposes. The only activities to be allowed

without a licence in relation to excess embryos are storage, removal from storage, or transport of an excess embryo; observation of an excess embryo; allowing the excess embryo to succumb; and certain diagnostic investigations using embryos not suitable for implantation. The types of research to be allowed by the legislation include derivation of embryonic stem cells and associated research activities, and research designed to increase the possibility of creating a viable pregnancy for an infertile woman. Offences, including breach of a licence, will attract penalties of up to five years imprisonment.

The New South Wales Human Cloning and Other Prohibited Practices Bill does not apply the Commonwealth Cloning Act in the manner of the New South Wales Research Bill, because it contains a large number of serious criminal offences that require detailed articulation as laws of this State. Instead, it enacts its own offences that mirror the offences in the Commonwealth Act, thereby adopting in this State a uniform Australian approach to the prohibition of human cloning and certain other practices associated with reproductive technologies. The New South Wales Government, like most members of our community, is strongly opposed to human cloning. Accordingly, the bill makes human cloning an offence and provides a maximum prison term of 15 years for any person who creates a human embryo clone.

Serious penalties are also imposed for a number of other activities that are considered scientifically or ethically unacceptable. They include intentionally creating a chimeric and/or hybrid embryo. By way of explanation, this includes activities such as introducing a cell from an animal into a human embryo or combining a human egg and animal sperm, or vice versa. Other activities include developing a human embryo outside the body of a woman for more than 14 days, and intentionally altering the genome of a human cell so that the alteration is heritable. These offences incur a penalty of up to 10 years imprisonment. Together, the Human Cloning and Other Prohibited Practices Bill and the Research Involving Human Embryos (New South Wales) Bill provide a clear message of the Government's commitment to enacting a rigorous legislative framework. Further, this legislation remains faithful to our strong commitment to medical research and to ensuring that its potential benefit to all members of our community can be realised.

Law makes sense of social complexity; it communicates what is unacceptable behaviour and what is not; it gives us certainty. This legislation does precisely that. It ensures that the community's interests and values are being wisely safeguarded and fairly served through the provisions in these bills. In summary, it is necessary to introduce New South Wales complementary legislation to prohibit unacceptable activities such as human cloning; to respond to community concerns that we regulate scientific research, and the use of excess ART human embryos; to maximise our chances of finding cures and therapies for diseases by allowing potentially life-saving research involving excess human embryos which would otherwise be discarded to continue; and to ensure a nationally consistent approach to these important matters, as agreed in April last year.

It is important to emphasise that although the Commonwealth legislation covers the greater part of research activities in Australia, New South Wales legislation is required to cover constitutional gaps, provide uniform regulation, and avoid uncertainty about the application of the regulatory scheme. The proposed legislation provides a balance. It protects community standards, acknowledges the ethical dimension of this debate, and allows innovations that preserve human dignity. It also keeps open an important research pathway to therapies and cures for debilitating and life-threatening diseases and conditions such as diabetes, Alzheimer's disease and Parkinson's disease. In my view New South Wales has a clear and compelling obligation to support the national scheme to regulate research involving embryos and prohibit human cloning. To do otherwise would be counter to the political, economic, social and scientific interests of this State. I commend the bills to the House.

Date adjourned on motion by Mr Maguire.

VICTIMS LEGISLATION AMENDMENT BILL

Second Reading

Debate resumed from 7 May.

Ms JUDGE (Strathfield) [12.09 p.m.]: The Victims Legislation Amendment Bill will amend three separate pieces of legislation with respect to the rights of victims. In summary, the proposed amendments will allow victims of crime to read victim impact statements aloud to the court. A victim impact statement is written by the victim and contains the particulars of any harm suffered, particularly a psychological or emotional injury, even if the victim is a child. The second part of this bill ensures that victims are kept informed and consulted in

relation to key aspects of the prosecution process. The third part removes the anomaly whereby members of the immediate family of homicide victims involving a motor vehicle are not eligible for counselling.

In essence, this legislation is about humanising our system of justice so that we include victims as part of the equation. It is about healing, it is about compassion, it is about inclusion, it is about rehabilitating or rebuilding lives affected by crime, it is about starting to rebuild lives and fix broken communities. The Government already provides a range of services that are accessible to victims of crime, but this bill will build on those services and be a very welcome addition to them. When researching for this bill I was surprised to read in a Law Reform Commission discussion paper that in practice the role of victims in criminal prosecutions is usually limited to reporting the offence and acting as a witness at the trial of the offender, if required. Victims are often relegated to an essentially passive role in the criminal justice system. Currently a victims impact statement [VIS] can be tendered in court under certain circumstances, but it seems that many victims believe they are too easily overlooked.

In recent discussions with Martha Jabour, the Executive Director of the Homicide Victims Support Group, it became clear that the level of victim—my personal view is that they should be called "survivors", a more positive term, rather than "victims"—involvement in court proceedings is not in line with the expectations of many families of survivors. Obviously the public interest, rather than any notion of revenge, is the paramount factor influencing the State in the management of criminal prosecutions. But surely the public interest is not served by alienating individuals, members of the community, who are already suffering. In other words, the interests of victims form part of the public interest and should not be ignored.

There are three parties to this bill—the victim, the criminal and the community—and the aim of the bill is to connect all three. Everything we do in life has an effect. For example, a crime in a small country town, particularly a serious or violent crime, has a flow-on effect: it affects the family, the relatives, the local doctor, the hairdresser, the school. Its rippling effect flows and indeed touches everyone; no-one is left unscathed. The General Assembly of the United Nations has adopted a Declaration on the Basic Principles of Justice for Victims of Crime and Abuse of Power. The declaration sets out basic standards for the treatment of victims by attempting to guarantee and strengthen four key areas: access to justice and fair treatment, restitution, compensation, and assistance.

Thus, one of the key provisions that the United Nations recognises as vital to strengthening the position of victims is, indeed, restitution: the United Nations recognises that, where possible, offenders should make fair restitution to their victims, their families, or their dependants. This may involve the return of stolen property, the reimbursement of expenses incurred as a result of victimisation, or the restoration of rights. However, there is always the risk that the crime's full impact on the victim may not be known at the point of sentencing. That point was recently stressed by Chief Justice Miles of the Supreme Court of the Australian Capital Territory, who wrote extra curially:

> The assumption may be too lightly made that the sentencing court will be in possession of all relevant information about the effect on the victim, sufficient to enable the court to impose a just and appropriate sentence. This became particularly obvious to me over a number of years when I was required often to sentence on the basis that the offence had little effect if any on the victim, only to be required later, sometimes years later, to hear an application for compensation by the victim which clearly established that the effect had been almost catastrophic.

This bill is in the same spirit as the United Nations declaration: it acknowledges that there is an advantage—not only for the victims but for the offenders and indeed for the wider community—in offenders facing the consequence of their actions. Perhaps the presentation of a VIS that confronts the offender with the consequences of the offence may prompt the offender to take responsibility for the consequences.

Martha Jabour told me that victims' names are often not used in court. Even court lists show the offender's name, but not the victim's name. These administrative matters all contribute to the powerlessness felt by victims and their families and friends. I believe that part 1 of the bill will prove to be a tremendous step towards overcoming this alienation, and I am very proud to be part of a government that is taking this step. For every action there is a reaction: a crime is not just physical, it is written into the minds and emotions of the victims, and that, in turn, affects their lives, the way they think, the way they live. It is all-encompassing. Parliament should not be part of the process that causes victims to feel this sense of alienation.

To give members a glimpse of what is happening in people's lives, I will read a few extracts from victims impact statements. With enormous generosity of heart and soul, these people have honoured me with their permission to read some of their statements in this Chamber. I will always treasure that. They are very very

moving. I have about seven statements and I have selected two sections to share with you. Wayne and Heather McNally tragically lost their son and his partner in 2000, and there was also an attempt to murder their three grandchildren. I have Mr and Mrs McNally's permission to read this extract from their statement:

> The first weekend after the murders we had David and Dee's three children for the weekend. They were absolutely terrified to the stage they would not leave our sides. When we retired for the night we all had to sleep together and when we wanted to go to the toilet we all went together. This was so heart-wrenching to see such fear in these children's faces and to know that they would not see their parents ever again. To be made orphans by this malicious act is beyond description.

The next statement was written by Mr Loui Soravia, the husband of Mrs Toula Soravia, who was shot dead in her car while delivering some of the takings from their business to the local bank. The business, a BP service station, was operated by herself and her husband in Summer Hill, in my electorate of Strathfield. The murderer held the muzzle of a.25 semi-automatic pistol firmly against her face and pulled the trigger. Toula died while her youngest son looked on. The murderer then escaped on foot with the takings. Loui Soravia, who had been married to Toula for 28 years, submitted a victims impact statement to the judge, Justice Grove, that also contained messages from his three sons. Loui wrote:

> Life goes on for me, there is no sun, no moon, just an existence, one day following another, where life has no meaning, no substance, nothing. The laughter and love we had are but memories and I agonise over every day of our lives, to love so deeply is a privilege not given to many, but who cares of the privilege, I want the warm, loving woman I knew all my life, I want the soul mate, the other half of my being.

He continued:

> I have never been able to sleep or eat properly ever since the incident and my family of three sons will never be the same again. We are one with anger and grief every waking hour of our lives, we have been consumed with trauma, and severe depression has overcome us. Never an hour passes with our family of friends that we do not recount this tragedy that befell us.
>
> My sons and I grieve for a loving Mother and on my part I have lost my best friend and companion of 31 years.
>
> Immediately after the event there was a lot of media publicity and hype and voices of recrimination from several well-meaning people in the community, but within a short period of time the whole matter paled into insignificance and apathy and general in difference took over.

—well, not anymore, not with this bill, which will assist others who may have suffered similarly—

> Thenceforward the problem rests only with the victims of crime and is no longer the concern of the community at large.

These are the real accounts of two families who have suffered and continue to suffer because of the acts of convicted criminals. The Government already has programs in place to help them rebuild their lives, but it often seems that the trial of the accused is a focal point on their journey to acceptance. Every time we exclude these people from court proceedings we create a gulf between them and the judicial system.

Loui Soravia specifically asked for his victim impact statement to be read out in court. Of course, it cannot be denied that all loss of life is tragic and all murder is terrible. Although I would not advocate the reading of victim impact statements prior to conviction, there can be no denying the pain and suffering of victims of serious crime, particularly homicide, and the damage occasioned to their families. They cannot and should not be ignored. They cannot and must not be left out. They deserve to have their pain and suffering acknowledged on the public record. They cannot be left on the margins, as Albert Camus said in his novel *L'Etranger*, as strangers on the outside looking in, stunned and silenced. I believe strongly that offenders should be made aware of the repercussions of the crimes they have committed. They also need to be thus drawn into the wake of the victim.

Having said this, I do not believe that the involvement of victims of families should simply end here. This brings me to be second part of the bill. At present a victim should, on request, be informed about certain aspects of criminal proceedings against the accused person, such as the charges laid against the accused, any decision to modify or not proceed with the charges, the date and place of the hearing of any charges laid against the accused, the outcome of any criminal proceedings and the sentence, if any, imposed. Under this bill a victim does not need to make a request to be given this information. Indeed, as a matter of course the victim should be informed of these aspects in a timely manner.

The bill also provides that if the accused has been charged with a serious crime that involves sexual violence or results in actual bodily harm, mental illness or shock to the victim, the victim should be consulted before any decision is made by the prosecution to modify or not proceed with the charges, including any

decision to accept a plea of guilty by the accused to a less serious charge in return for a full discharge with respect to the other charges. The victim need not be consulted if he or she does not wish to be consulted or if the whereabouts of the victim cannot be ascertained after reasonable inquiry. I welcome these measures and wholeheartedly commend the Attorney General for introducing the bill.

I am proud and honoured to speak in support of such legislation, and I am sure all honourable members would agree that by doing so we are making a difference, which is one of the reasons we became members of Parliament. It seems only fair that, after the lives of an entire family have been devastated by the actions of another person, they are kept up to date about the prosecution of the accused. The bill further refines the operation of the many ways in which this Government provides assistance to victims of crime in New South Wales. The Government is committed to ensuring that the range of services provided by government agencies to victims of crime remains relevant and appropriate to the contemporary society in which we live. I commend the bill to the House.

Mr TINK (Epping) [12.23 p.m.]: I listened with interest to the contribution of the honourable member for Strathfield. She referred to the terrible tragedy of Toula Soravia and to the fact that Loui Soravia has been fighting for years in the most extraordinary way to gain justice for his family and for the memory of his wife. It is my understanding that although Mr Soravia is allowed by law to make an victim impact statement, which can be read onto the record in court, that statement cannot be taken into account on sentencing, even in the case of murder. That is a serious flaw in the legislation. Although the Opposition supports the bill, it is unfortunate that the bill does not address this aspect. I shall revisit this matter in detail later.

The honourable member for Strathfield is correct when she said that, as next of kin, Loui Soravia is a significant victim of crime and the fact that his statement cannot be taken into account on sentencing is a serious flaw. With an amendment, this flaw could be rectified. I shall deal shortly with the decision by Justice Hunt. Typically, the Premier said, during an estimates hearing, that it was outrageous for the judge to question government policy. Despite the Premier's diatribe, the Court of Criminal Appeal did not overturn the decision; indeed, it said that the law is fundamentally flawed. Although there has been considerable reference to victim impact statements there has been nothing about the use of such statements, particularly if the victim is deceased.

The Opposition supports the view that victims of crime should be able to read out victim impact statements in court and, in the case of a deceased victim, the next of kin should be able to do so on behalf of the deceased. The Opposition also supports the Charter of Victims Rights under the Victims Rights Act. Justice Samuels made further recommendations following the hue and cry of a plea bargain entered into by the Director of Public Prosecutions [DPP] about which the victim or next of kin was not advised. Quite rightly, that omission resulted in a storm of protest and this bill seeks to address that problem. I do not believe that consideration of matters regarding the DPP should be left solely to judges and former judges. The quality of recent debates in the Parliament gives me more confidence than ever that Parliament is capable of dealing with these matters, perhaps through a parliamentary committee that oversights the role of the DPP, without canvassing specific cases.

The third object of the bill is to amend the Victims Support and Rehabilitation Act to enable the immediate family of a person who is killed in a motor accident to apply for payment for approved counselling services under the Act if the person's death apparently occurred in the course of the commission of an offence of murder or manslaughter. I sought advice on this matter, and in a letter dated 16 May, Martha Jabour of the Victims Homicide Support Group expressed concern about the use of the word "accident". I did not believe that this is an issue, although I understand the argument that the use of the word "accident" might demean a criminal act. However, the words "motor accidents" are used throughout criminal law and I am not sure of the unintended consequences of removing such wording. Although I sympathise with the views of the Victims Homicide Sport Group, I do not believe that changing the wording would have the desired result. However, I ask the Attorney General to address that matter in his reply. In its letter of 16 May the Victims Homicide Support Group stated:

> As discussed with you yesterday about the word "accident" I did speak with the Attorney General's Office about the use of this word as you suggested and they have undertaken to expand on the interpretation further next week in Parliament. The wording is important because the word "accident" denotes no criminal intent, act or omission by an accused person which is in contradiction to a charge of murder or manslaughter. Victims would perceive the interpretation of the word "accident" to absolve any person so charged from any blame.

I understand the sensitivity about the word "accident", because criminal matters by definition are not accidents. However, the words "motor accident" are well known to the criminal law and I am not sure that we should be changing them without very good reason as there will be unintended consequences. I simply ask the Attorney to address that matter. I turn now to the use of victim impact statements. I believe it is well within the leave of the

bill to talk about this matter. The bill rightly refers to an expansion of the way statements can be used, and therefore it is relevant to consider their fundamental efficacy in cases in which there has been a death occasioned by a criminal act. Section 28 of the Crimes (Sentencing Procedures) Act states:

> If it considers it appropriate to do so, the Supreme Court, Industrial Relations Commission or District Court may receive and consider a victim impact statement at any time after it convicts, but before it sentences, an offender.

Originally I took those words to mean that a court could consider a victim impact statement in relation to sentencing. Indeed, I would say that all members of this Parliament, up to and including the Premier, probably thought that as well. However, I refer to the decision of the Chief Justice at Common Law, Justice Hunt, handed down in May 1997 in the case of *Regina v Salvatore Previtera*. In that decision the chief justice was scathing about the legislation, even as it currently continues to be worded with this amending bill. Justice Hunt said:

> A victim impact statement was provided by the deceased's son—

In that case the victim died and a victim impact statement was provided by the next of kin. It is the same as in the case of Loui Soravia, to which the honourable member for Strathfield referred. Justice Hunt said:

> I acknowledge its receipt, and I sympathise with him (and with his sister) for their tragic and senseless loss. He describes his own and his sister's reactions to the murder in moderate and compassionate terms, and I note what he has to say. S23C(3) of the Criminal Procedure Act 1986 provides, however, that I must not consider that statement in connection with the punishment to be imposed upon the prisoner unless I consider that it is appropriate to do so.
>
> The legislation—which is poorly drafted—is nevertheless clearly wide enough to apply to the present case, where the offence involves the death of the victim but where the impact statement deals only with the effect of the death upon the victim's family. In my opinion, however, it could never be appropriate to take a statement of that nature into account in sentencing the offender in such a case. I must explain why.
>
> There is a fundamental difference—both in law and in common sense—between punishing the offender for his crime and compensating the victim and the others affected by that crime for their loss or injury suffered as a result of that crime. The task of the criminal court in imposing a sentence is to punish; it is not to compensate. It is, in general terms, the task of the Victims Compensation Tribunal to award compensation to the victim...
>
> In cases where the victim is still alive—that is, the victim directly injured by the offender's criminal act—victim impact statements will no doubt serve the useful purpose in the criminal courts of establishing the consequences of the crime upon that victim. A problem arises, however, in those cases—such as the present—where the crime involves the death of the victim. The consequences of that crime upon the victim (death) has already been proved (or admitted) by the time the offender comes to be sentenced. It may be that, in the case of a slow lingering and painful death, information from the family would be relevant, but that would be a very rare case.

I have been trying to think of such a case. If I understand the judge correctly, it might be a case in which someone is slowly poisoned over a long period and the family can see it happening. I am not sure whether that is what Justice Hunt had in mind, but he is plainly saying that it is the law of this State that victim impact statements cannot be used in connection with the sentence of a person convicted of a crime of killing except in the rarest circumstances and certainly not in the Soravia case or in this case. Justice Hunt further said:

> The law already recognises, without specific evidence, the value which the community places upon human life, that is why unlawful homicide is recognised by the law as the most serious crime, one of the most dreadful crimes in the criminal calendar. It is regarded by all thinking persons as offensive to fundamental concepts of equality and justice for criminal courts to value one life as greater than another. It would therefore be wholly inappropriate to impose a harsher sentence upon an offender because the value of the life lost is perceived to be greater in the one case than it is in the other.

According to the judge, that is why Mr Soravia's victim impact statement cannot be used in the sentencing of his wife's murderers. So that was the law as it stood; that was Hunt at common law. I turn now to a question asked during an estimates hearing on 3 June 1997—so it follows on the back of the judgment of Justice Hunt, which I remember received some publicity at the time. During the estimates hearing Mr Primrose asked the following question:

> I am aware of the Premier's longstanding concern for the victims of crime, but can he advise the Committee what support is provided from his budget allocation to assist families and close friends of homicide victims?

In other words, Mr Primrose asked a dorothy dixer. After some preliminary comments, the Premier said:

> I take this opportunity to strongly endorse what the Government has done in respect of victim impact statements. I know there has been criticism from some quarters. Indeed, some have seen fit to comment on government policy from the bench.

That is a swipe at Justice Hunt. The Premier continued:

> I believe victim impact statements provide a voice to victims of crime. They provide victims with a chance, if they choose, to tell of how they have been affected.
>
> The judge must accept the statement, but of course sentencing is ultimately a matter for the judge.

That is one of those statements the Premier is often wont to make; in a sense, the words are right to fit the judgment, but nevertheless there is a damn big sting just the same. And the sting plainly is the Premier's comment about judges making government policy from the bench. Justice Hunt's comment that "the legislation is poorly drafted" is evidence that the Premier was on notice of a major problem with the legislation. I accept that the Premier may disagree with the judge. However, he is able to change or clarify matters. The most senior common law judge, one of the most respected criminal judges in this State, said that the legislation is poorly drafted. The Premier chose to acknowledge that comment in a roundabout back-hander to the judge. However, a number of years later the Government is still talking about victim impact statements and the right of Parliament to concentrate on that but it has made no effort whatsoever to deal with this judgment. What makes it worse is that in the meantime the courts have not been silent on this issue. It has arisen on a number of occasions since then.

I refer to the judgment in *Regina v Bollen* in 1998, which is just after the Premier made his comments in the estimates hearing. I trust that the Premier gets appropriate advice on what the courts are doing, particularly in matters that are of personal interest to him. I presume he would have been briefed about *Regina v Bollen* or someone would have made it their business to let him know. That case went to the Court of Criminal Appeal, the highest criminal court in this State. The court comprised Mr Justice Hunt, Mr Justice Hulme and Acting Justice Graham. At trial the appellant was charged with murder but convicted of manslaughter. The judge at the trial was Acting Justice Temby. Mr Justice Hunt stated in his judgment:

> In Regina v Salvatore Previtera, I held that, where the crime involves the death of the victim, a victim impact statement by a member of the family of the deceased which deals only with the effect of the death upon the family can never be relevant to the sentence to be imposed. As that decision is in the course of being reported, it is unnecessary to rehearse here the reasons why I did so. It was hardly a ground breaking rule. The NSW Law Reform Commission had already drawn attention to difficulties with the proposal, and has since confirmed its view. The Attorney General accepted my interpretation as correct. In my view, it remains the only valid interpretation of [the section].

I shall read this judgment because I could not understand what Temby did wrong in this instance. Mr Justice Hunt continued:

> When referring to the victim impact statements, the judge said that the consequence of the crime committed by the appellant was that the community had lost one of its number and the Groves family had lost a loving member—one who was a husband, father, son and brother.

That is the same sort of statement that the honourable member for Strathfield rightly referred to a moment ago. Mr Justice Hunt continued:

> I see nothing wrong with that statement. It does no more than recognise the value which the community places upon human life. However, the judge then said that he had "borne in mind" the seven statements filed, the material which they contained about the deceased and the reaction of the respective authors of those statements to his death. He went on to describe the statements as useful because of the involvement which they permitted the family "in the criminal justice process" and also because "they help to remind the sentencing judges that the loss of any individual has real effects upon others".

These are important words, because that is as far as Acting Justice Temby got. As a result of those things being said, there was a new trial because that went beyond the use a judge could make of victim impact statements. Temby was saying that the involvement of the family in the criminal justice process helped to remind the sentencing judge that the loss of any individual has a real effect upon others. That was enough to have this verdict overruled. Mr Justice Hunt's judgment continued:

> He referred to the counselling and medical attention which each had received, and continued:

—this is Hunt quoting Temby—

> Naturally, the seven statements were written at a time when the authors anticipated the verdict would be murder.

None of this was relevant to the jury because the statements do not come into play until the verdict has been delivered. The jury delivered a verdict of manslaughter, not murder. Obviously, the statements were prepared before the verdict, so the verdict was possibly different from that anticipated by the victim's next of kin when they wrote the statements. Even though it was simply the judge considering the statements and even though the judge specifically acknowledged what Mr Justice Hunt had said in the case of Previtera and knew he could not use them in sentencing, these words were enough to restart the trial. The words were:

> Naturally, the seven statements were written at a time when the authors anticipated the verdict would be murder. They will, of course, understand that the prisoner must be dealt with consistently with the jury's verdict, and also that I must proceed dispassionately no matter how strongly they feel.

Assuming that Mr Justice Hunt is right and a judge cannot use the statements for sentencing purposes, I cannot imagine a more benign statement about the sentence than that by a judge at first instance, paying what I think is appropriate and due regard to the rights and interests of the next of kin of the deceased victim in this case. Yet, it caused it to go off. Mr Justice Hunt then went on:

> I am satisfied that, by bearing this material in mind and by having regard to the particular effects of the death of the deceased upon the members of his family, the judge has taken irrelevant material into account, and thus has fallen into error.

That sort of thing should be reviewed by the Government in the bill. I am disappointed that we have not seen any attempts to come to grips with this issue. It may be impossible to come to grips with the issue from the point of view of the next of kin of a murder victim being able to put in a statement that affects sentencing. That may be beyond the capacity of the law of this State—either through Parliament or the judiciary—to deliver, but I would like to think that before that decision is made, and I do not intend to give up on it, a lot more work will be done on the possibility of having another go at this legislation to deal with the issues raised in the case of Previtera. If that cannot be done, if the Government or the Attorney General decided that it cannot be done—I would like an acknowledgement from the Premier and the Attorney that as far as they are concerned we have heard the last word from them in relation to victim impact statements being taken into account in the sentencing of people who commit murder or manslaughter—they should tell us.

The victims of crime need to know that and we need to know that. I would like to have another go at the legislation. Even if the Government has given up—considering the case of Bollen—when it comes to the next of kin of victims of murderers and such like we have to do better than knocking out a statement. In this case it would have given great comfort to the next of kin of the murder victim. Even if the Government has given up on the direct Previtera issue, it might see its way clear to allowing judges a little more latitude of the type that Acting Justice Temby took when he made what I think were perfectly reasonable and appropriate comments recognising the next of kin of the victim. Of course, the Opposition supports this bill. However, it is a damn shame that after the judgment in 1997, followed by the Premier's immediate sledging of the judge—which, I am afraid to say, is becoming commonplace as far as he is concerned; he had a go at Mr Justice Grove the other day—

Mr Debus: Are you giving me an undertaking that you will not do that?

Mr TINK: As far as I possibly can I will talk about principles rather than individuals. I cannot rule out on every conceivable occasion not talking about a judge. I hope it is never necessary. You will not catch me tackling individual judges if I can possibly avoid it. It is not right. My approach to the matter the other day was to talk about the manifest inadequacies in the bail legislation, which the Attorney General has been forced, kicking and screaming, by the Premier's office to follow up. We await that bill with interest. The Government and the Premier have to do better or they have to be honest enough to concede that they cannot or are not prepared to do better. Then we will have a go.

Mr KERR (Cronulla) [12.49 p.m.]: As the honourable member for Epping said, the Opposition will support the bill. I was interested in the remarks by the honourable member for Strathfield. Seeking to have a role for victims in what is called the criminal justice system, although some people would remove the word "justice" before "system", has a long history. Much credit goes to Ken Marslew, the head of Enough Is Enough, who brought these matters before the public. As honourable members would be aware, his son was murdered. The reason that victims are ignored was set out best by the review of the New South Wales Director of Public Prosecutions policy and guidelines for charge bargaining and tendering of agreed facts. I am not sure whether the honourable member for Strathfield has read the document. It was mentioned in the second reading speech of the Attorney General. I am not sure why it was not tabled in Parliament, but it was not. In paragraph 5.2 it states that in the system that exists in New South Wales, and for that matter in Australia generally, a criminal trial is an adversarial procedure between the Crown—that is, the State—and an accused. They are the only parties to the proceeding.

The victim of a crime, where there is one, as in the case of a violent crime against the person, is not a party to the proceeding and is not entitled to be represented. The focus and the issue is the guilt of the accused, which is considered at the trial. As I said, the honourable member for Strathfield should get a copy of the document and read it. She seems to have a genuine interest in the area. She has entered the debate well intentioned but not well briefed. I say that because from her speech one would have thought that Acting Justice

Temby was entitled to make the remarks that he did. Another error of law by Temby resulted in a new trial being occasioned. A great deal of suffering and anguish was occasioned to the victims of the crime. The State lost a considerable amount of taxpayer revenue. As the honourable member for Strathfield knows, having a trial for a major crime is not a cheap exercise, and it is best that it should occur once and not be repeated due to error.

The honourable member for Strathfield should also read the judgment by Mr Justice Hunt that the honourable member for Epping referred to. The honourable member for Strathfield is right: victims should have a meaningful role in these proceedings. There is a public interest in that. The honourable member for Strathfield has fallen into error. Whatever she says in this House does not constitute judge-made law. Temby was an acting judge; she is a permanent Judge. Victims will continue to be shortchanged despite this bill. Honourable members would be well advised to read the prosecutions policy I referred to and the decisions of the Court of Criminal Appeal in relation to the effect of victims' statements. Justice is not administered in accordance with the criteria set out why the honourable member for Strathfield in her speech to this House. I can understand the honourable member for Strathfield welcoming this piece of legislation.

Mr Debus: So can I.

Mr KERR: So can we all. Nobody could dispute the sentiments that were attached. Unfortunately, she cannot take any pride of workmanship in what has been provided by the Government, because it does not meet the objectives set out in her speech. That will continue to be the case, and that is a great tragedy.

Mr HUMPHERSON (Davidson) [12.55 p.m.]: As has been indicated, the Opposition will support any sensible legislative reforms to give victims greater recognition in the criminal justice system. In recent years the Parliament has increasingly recognised victims in the fullest sense in ensuring that justice is done. It involves more than just apprehending those who have committed crime, sentencing them and ensuring that punishment is dispensed. As far as possible we should allow victims, as part of coming to terms with a crime, sometimes with a very tragic loss, to cope with the loss and gain comfort in a situation in which there is not much opportunity for comfort. The honourable member for Cronulla acknowledged Ken Marslew and his organisation Enough Is Enough, and the Victims of Crime Assistance League, both of which I have had contact with over recent years. In many respects they have been trailblazers in this State.

In other States and jurisdictions overseas victims have been given more recognition than they are currently given in New South Wales. This is an area of justice in which we need to do more. Three aspects of the bill are particularly welcome but there is scope for far more to be done. As the honourable member for Epping indicated, the debate should progress and we should look at more and expanded ways of ensuring that the needs of victims are addressed in every respect. The bill in part meets a commitment made as part of the Government's policy during the election campaign. But in any policy that recognises victims there is scope to do a lot more. It would not be within the leave of this bill, I understand, to propose substantial amendments but I would hope that public debate on the issue will move forward. I will identify a couple of areas where I think there is scope to explore meeting the needs of victims more comprehensively.

First, giving victims or their representatives the ability to read out a written statement is one of the welcome changes in the bill. It will give greater comfort to victims than simply tendering a written document. It is a shame that we as a Parliament and a State did not recognise the need for that some time ago. Second, providing victims of crime with more information about the prosecution of accused persons is very much welcomed. Victims will no longer have to ask for information; it will be provided as a right and as a matter of course. A third change involves counselling benefits for members of the immediate family of any person killed in a homicide involving the use of a motor vehicle. Anything we can do to provide information to victims and their families and other interested parties is critical. They should not have to apply for it.

We should look at means of streamlining their ability to gain information. For example, I recall well a case that I dealt with a year or two ago. Yolanda Michaels was murdered by Danny Miles, who now, fortunately, will die in the State prison system. When Danny Miles escaped from prison on the first occasion Yolanda or a relative of hers saw him and was concerned about whether he had been paroled or otherwise released and rang the gaol to check on his status. She was not given any advice. She had no way of finding out whether he had been paroled, as he later asserted to her father, or whether he had escaped—and 24 hours later he murdered her. She feared for her life and if she had known that he was due to be paroled she could have taken measures to protect herself. Unfortunately, she trusted the system and as a result she was killed. That example highlights the need to ensure that victims or their relatives are able to gain prompt access to information.

Many reforms do not fall within the ambit of the bill. However, reforms relating to parole, the provision of information about offenders applying for parole and victims being able to access information from and make submissions to the Parole Board should be addressed. I am referring not only to victims but also to other parties who have a stake in the outcome. Affected neighbours or close friends of victims should be kept informed and given greater standing before the board. Much could be done in that area.

Being a former Minister for Corrective Services, the Attorney General may know whether interested parties in serious criminal cases that were heard many years ago can now be registered as victims of crime and whether they are notified of changes to the law. I am unsure about that. A couple of weeks ago I cited the case of Barry Whiteoak, who killed Noreen Hannon about 20 years ago. Members of her family were unaware that he was eligible to apply for parole, even though he had been sentenced to life imprisonment, was never to be released and was subject to stringent conditions. They were also unaware that they could be registered as victims of crime. As time goes by, laws are changed. Are there other victims of crime and their families who should be notified of their right to be registered and informed of the progress of an offender through the system?

This bill introduces welcome changes, but to some degree those changes are merely tinkering at the margins. We need to do a lot more to support victims and to provide them, their relatives and other relevant parties with information, not only at the time of sentencing and conviction but throughout the offender's progress through the criminal justice system—and even beyond that in some cases. Victims, their families and friends must live forever with the consequences of crime, be it as a result of the loss of a loved one or for some other reason. That must be acknowledged. It is a difficult matter for victims to deal with and the circumstances relating to the loss of a loved one, particularly as a result of homicide, are traumatic. It is a difficult situation to manage but we must and can do a great deal more than has been done in the past.

Mr HAZZARD (Wakehurst) [1.05 p.m.]: I will say only a few words because most of what should be said has been said by the shadow Attorney General. This legislation purports to do good things, but I am not sure that it does what the community believes it does. The legislation that was introduced in 1996 did not do what the Premier claimed it would. The right of the victims of crime and the families of victims in cases of homicide to speak in court is a serious issue. When I was chairman of Staysafe the senior Labor member on the committee was John Newman. Other long-serving members would know that I had a close relationship with him. He was extremely concerned, as I and other members of the committee were, about victims having the right to put their case—having the opportunity to get it off their chest. On coming to government in 1996, the Premier said that the legislation would be amended. That was after John Newman had been murdered. A few of us believed it was a good step to take. Unfortunately, the Premier accepted that it was not appropriate to empower victims to make such statements. This legislation perpetuates that acceptance.

I agree with the analysis by Mr Justice Hunt of the value of victim statements and the weight that can be given to them in the sentencing process, that is, the punishment versus compensation argument. Similar issues were debated in the Court of Criminal Appeal. However, it is time that the Premier stopped acting superficially on these serious problems. The families of victims are almost duped by this legislation. As the shadow Attorney General pointed out, the introduction to the bill uses the words:

> … considered by a court in sentencing proceedings …

That is the purpose of victim impact statements. The Attorney General, the shadow Attorney General and I are all lawyers and well understand that deep and intricate arguments can be mounted from a technical and legal perspective about whether victim impact statements should be taken into account in sentencing. The reality is that they are not considered. We need a public debate about whether it is time to move on and to allow such statements to be considered in the sentencing process. During the Staysafe inquiry into culpable driving John Newman and I discussed whom we should invite to give evidence. We agreed that we would invite evidence from a number of families who had lost loved ones in horrific motor accidents that involved manslaughter and possibly murder charges. We believed it could be a therapeutic exercise. The evidence was terrible. However, we could see that it helped and the parties thanked us for allowing them to get their concerns off their chest. They said that we were the first "officials" who had taken the time to listen. We must seriously debate whether we can do more. The bill does not do much more than was being done without legislation in 1995.

Debate adjourned on motion by Mr Debus.

BILL RETURNED

The following bill was returned from the Legislative Council with amendments:

Consumer Credit Administration Amendment (Finance Brokers) Bill.

Consideration of amendments deferred.

[*Madam Acting-Speaker (Ms Saliba) left the chair at 1.09 p.m. The House resumed at 2.15 p.m.*]

PETITIONS

Cudgen Creek Seaway

Petition requesting that the Cudgen Creek seaway at Kingscliff be cleared of silt, received from **Mr Cansdell** and **Mr George**.

Dunoon Dam

Petition requesting the fast-tracking of plans to build a dam at Dunoon, received from **Mr George**.

National Accident Scheme

Petition praying that a national accident scheme be established to cover all injured patients, received from **Mr Barr**.

Manly Traffic Arrangements

Petition requesting improvements to the design of the Seaforth roundabout in Sydney Road, Manly, received from **Mr Barr**.

La Mancha Cara-park Site Redevelopment

Petition requesting that La Mancha Cara-park residents be placed at the top of the public housing priority list, received from **Mrs Hopwood**.

Harbord Bus Services

Petition requesting the retention of the 136 and 139 bus routes in Harbord, received from **Mr Barr**.

Manly Electorate Bus Services

Petition requesting the establishment of a regular bus service from Balgowlah shops to Warringah Mall, received from **Mr Barr**.

BUSINESS OF THE HOUSE

Reordering of General Business

Mrs HOPWOOD (Hornsby) [2.22 p.m.]: I move:

That General Business Notice of Motion (General Notice) No. 38 [Hornsby Ku-ring-gai Health Service] have precedence on Thursday 22 May 2003.

A recent decision has resulted in Hornsby hospital currently performing no thoracic surgery; all cases are going to Royal North Shore Hospital. To remove thoracic surgery from available services at the hospital casts a long shadow over the care provided to people who require this specialty. It is essential to maintain a broad multidisciplinary approach to critical illness as well as a necessary baseline of subspecialty services at Hornsby hospital. A number of doctors have brought this issue to my attention because they have either not been able to have their concerns heard at a hospital decision-making level or they have not been included in the decision-making process at all. The director of intensive care, as well as respiratory physicians, was not consulted in

relation to the matter. The clinicians blame the decision to remove thoracic surgery on the need to meet dollar requirements rather than providing good patient care. They state that rationalisation has occurred inappropriately or that it—

Mr Scully: Point of order: The Government agrees with the motion.

Mr Tink: To the point of order: Standing order 118 (1) (d) provides:

> On a motion for re-ordering, the Member in charge of the bill or Notice of Motion shall be permitted to make a statement of up to three minutes …

It does not matter that the Leader of the House wants the honourable member for Hornsby to stop speaking. Under the Standing Order the honourable member is entitled to make a statement for three minutes.

Mr Scully: Further to the point of order: The honourable member is entitled to make a case for up to three minutes, if there is a case. The Government agrees with the motion. Therefore there is no need to put a case.

Mr SPEAKER: Order! As the Leader of the House has indicated that the Government agrees to reorder the motion of the honourable member for Hornsby, there is nothing more to be said at this stage. She had made out her case.

Motion agreed to.

[*Interruption*]

Mr SPEAKER: Order! I call the Deputy Leader of the Opposition to order.

[*Interruption*]

Mr SPEAKER: Order! I call the Deputy Leader of the Opposition to order for the second time.

[*Interruption*]

Mr SPEAKER: Order! I call the Deputy Leader of the Opposition to order for the third time.

Mr O'Farrell: What is the point of standing orders?

Mr SPEAKER: Order! The standing orders have been complied with.

QUESTIONS WITHOUT NOTICE

CANNABIS MEDICAL USE

Mr BROGDEN: My question without notice is to the Premier. Considering that last night on the ABC's *Lateline* the Premier admitted that he had not thought about excluding people with a history of psychotic illness from the cannabis trial and he failed to rule out personal cultivation, will he now categorically rule out personal cultivation of cannabis plants as part of the trial?

Mr CARR: The intention to release a draft exposure bill to allow a four-year trial of the medicinal use of cannabis announced yesterday has drawn widespread community support.

Mrs Skinner: Not with smoking.

Mr CARR: I am going to come to that. Legislation will be placed before the Parliament.

Mr Brogden: When?

Mr CARR: I answered that question yesterday. The House will have plenty of time to debate the Government's proposals. I make it very clear that there is no way this Government would propose, in any form, the decriminalisation or legalisation of cannabis. We are simply not doing it. It is a position I have argued consistently since I was elected party leader. The latest evidence strengthens the case, not weakens the case, against legalisation of cannabis.

Mr Brogden: Point of order—

Mr SPEAKER: Order! I warn the Leader of the Opposition that his point of order should be relevant to the Premier's answer.

Mr Brogden: I am pleased to see your bias continues. I wish you would listen to the point of order before making a judgment.

Mr SPEAKER: Order! The Leader of the Opposition will come to order.

Mr Brogden: My point of order relates to relevance. I directly asked the Premier a question relating to cultivation and he has not yet answered that question.

Mr SPEAKER: Order! The Premier has only started his answer to the question.

Mr CARR: That leads to the dangers of a regime, no matter how closely controlled, that incorporates cultivation of plants by users, even if they are carers for people who belong in these categories of illness. There are very real dangers. For example, the danger that a carer who, under the Canadian model for example, would be permitted to cultivate a number of plants could end up selling surplus material into the market. That is a real danger, which leads me and the Minister to say that the Government is most unlikely to veer in that direction.

Mr Brogden: Yes or no? That is a yes.

Mr CARR: It is not a yes at all. Further, two international reports on this matter that are important sources of information for the Government as it drafts its legislation raise this issue—the House of Lords Select Committee on Science and Technology and the report of the United States Institute of Medicine. They and our own working party report highlight this recent development. They highlight the fact that the chemical in cannabis that produces the medical effect is THC, the same substance that causes a cannabis high. There are two synthetic forms that have been developed in the United States and the United Kingdom. They are both in tablet form, which means that they are very slowly absorbed in the patient's body.

Mr SPEAKER: Order! I call the honourable member for North Shore to order.

Mr CARR: There is now research taking place on ways to get this material more quickly into the bloodstream and to deliver an accurately measured dose. Scientific advice suggests vaporisers or sprays would be the best way to achieve this. As I said in the House yesterday, a pharmaceutical product is, on the best advice, said to become available from early next year in the United Kingdom. This would eliminate any need to even consider personal cultivation of plants by carers. Our proposals will fully consider these scientific and law enforcement issues. I repeat that this Government will not decriminalise, let alone legalise, marijuana. In fact, we are funding a very successful poster campaign directed at young people, which has young people themselves describing cannabis-using peers as losers. Our "Family Matters" information kit has gone to the parents of all secondary school students in New South Wales warning them of the dangers of cannabis. Young people in schools are being made aware of the links between cannabis use and health problems under our $1.5 million cannabis education plan.

We are trialling early intervention counselling for cannabis users through our schools. We are spending $2.7 million to develop four specialist clinics to treat dependent cannabis users. The second phase of our youth anti-cannabis campaign is coming up, including radio advertisements with young people describing their cannabis using friends in terms that you, Mr Speaker, would describe as unparliamentary and which I will not repeat in the House. It will be launched mid-year. I was very gratified to see that responsible stakeholder organisations are supportive of the Government's intention. Dr Choon-Siew, President of the Australian Medical Association (NSW) , was reported as saying that there is strong evidence that cannabis eased the symptoms of sufferers. This is the essence of the argument.

Mrs Skinner: Point of order: The Premier should be honest in this House and rule out that the President of the AMA has said "no smoking". The question is about cultivation.

Mr SPEAKER: Order! I call the honourable member for North Shore to order for the second time.

Mr CARR: Paul Dillon of the National Drug and Alcohol Research Centre is reported as saying that there is anecdotal and research evidence supporting the use of cannabis. Anita Tang of the Cancer Council said:

> Marijuana may help relieve the pain and nausea associated with cancer and cancer treatments … making patients more comfortable.

More important, this is what ordinary Australians are saying. One talkback caller on ABC radio this morning congratulated the Government. She is a woman with a terminally ill husband and we should treat her comments with respect. She said that marijuana made the world of difference to her terminally ill husband. We are talking about terminally ill people here, so let us have a debate with maturity and respect. I am told that another caller on radio 2UE said that her 42-year-old sister was told by her oncologist to use marijuana to treat the pain. Only for the last month of her life, with the help of cannabis, was she pain-free. These are people who are dying, who are seeking relief from pain, and they are saying this brings it. We are in a position to make a difference to people when they need help most. Of course, we do not want them to smoke it, and pharmaceuticals are becoming available. We do not want a compassionate regime that involves any risk. Our overwhelming priority is to reach out to people in pain and suffering, and say to them, "Here's a break." The people I quoted in the House yesterday were reported, as I recall accurately, as consuming, not smoking it.

Another caller this morning was a 75-year-old woman who said she had seen seven aunts and uncles, her husband and a cousin die from cancer. She said, "If anything can relieve the intense pain then it should be used. Morphine and pethidine stop working." These people, and thousands like them, deserve to have access to the compassionate but tightly regulated regime we are talking about. That is why we are putting this on the table of the House. Coincidentally, this process began during the Drug Summit in 1999. The idea that it was stashed away to get it out of the election is nonsense. I stood up in this House on three occasions and addressed the issue. Indeed, I did an interview on *Stateline* on 15 June 2001 in which I declared my support for it.

Mr Hartcher: Point of order: Relying on your ruling earlier today that when those who have sought the advice—

Mr SPEAKER: Order! There is no point of order.

Mr Hartcher: I have not finished. We asked a question. We have heard enough of the answer; we do not need to hear any more. According to your ruling earlier today, we are entitled to say "enough", and we are saying enough now.

Mr SPEAKER: Order! The honourable member for Gosford is trifling with the Chair. I call him to order.

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Gosford to order for the second time. The honourable member knows only too well that the Chair is not able to direct the Premier or any Minister how to answer a question.

Mr CARR: Honourable members will recall that on no fewer than three occasions I stood here and spoke about this issue. It was the subject of a working party group, and I stood here and released the working party's report. At that time there was no question about smoking or cultivation from the Opposition.

Mr Brogden: Because there was no legislation then.

Mr CARR: There was a working party report this high, and it was discussed in the House. On 15 June 2001 I went on *Stateline* and emphatically defended the principle. There is one overriding concern: our fellow Australians. One day it might be a member of our own family or a colleague in this House who might be seeking relief from excruciating and racking pain. We have the chance—overwhelmingly likely to occur from a non-smoke source—to offer them some relief from that pain. Should we not do the right thing?

HOSPITAL EMERGENCY DEPARTMENTS SERVICES

Mr PEARCE: My question without notice is to the Minister for Health. How is the Government responding to an expected increased demand for emergency department services this winter?

Mr IEMMA: Last winter the New South Wales health system was the busiest of any recorded in Australian history. In New South Wales we had more than two million attendances for treatment in our emergency departments. This was up from 1.78 million the year before. That is an increase of 200,000 or 550 attendances a day. The causes of this increase include a progressive decline in the number of people bulk-billed, meningococcal disease and the inevitable ageing of our population. The system is busy and getting busier. It copes with these increases, but it is worth noting that the efforts of our nurses and doctors are critical to the system managing this increased demand. We have examined the patterns that emerged from last winter and identified the measures that were most successful in dealing with the increased load. Last year 537 additional beds were opened in the Sydney metropolitan area to deal with the pressures of winter, and that will happen again this year.

Mr SPEAKER: Order! The Leader of the Opposition will cease interjecting.

Mr IEMMA: We found that placing an emphasis on in-home care and referrals to out-of-hospital medical care when appropriate can reduce hospital admissions. The strategic placement of advanced clinical nurses and senior medical staff inside emergency departments also resulted in improved patient management. These initiatives worked at the local level last winter to relieve pressure, and they will be used again right across the health system to try to cope with the pressures this time round.

This winter will see increased pressure on our emergency departments. At present only 68 per cent of GP services are bulk-billed. The figures released last Friday show that the figure is not only declining but is now in free fall, and as the figure declines so too does the pressure on our public hospitals. The only option left for patients who either have their GP services withdrawn or face increased costs resulting from the decline in bulk-billing is to attend our emergency departments. That is where they go to get free treatment as bulk-billing declines and they face increased basic costs for medical services. Some 730,000 emergency department services were provided in New South Wales hospitals last financial year, and 59 per cent of them were in the triage four and five categories. They are the services that are generally accepted as being dispensed by GPs.

Last year alone up to 60 per cent of our emergency department services dispensed by our hospitals were in the triage four and five categories. That is overwhelming evidence that as the Federal Government withdraws support for Medicare and bulk-billing goes down, so the pressure increases on our public hospitals. The ageing of our population is also having a significant effect on our emergency departments. Emergency department attendances by patients over 80 years of age have increased by 8 per cent per annum over the past 6 years. That means that the number of visits by older Australians to our hospitals has increased by 8 per cent every year, and this adds to the stress and pressure. Yet, even in this area the Commonwealth Government refuses to accept its responsibility and to provide more nursing home care. This category causes the greatest blocks in access to public hospital beds outside the emergency department beds.

The only correct thing the shadow Minister for Health did yesterday in the media was to highlight the fact that one of the major problems in our hospitals is that people who are classified or assessed as requiring a nursing home bed are being warehoused in a public hospital. That occurs because the Federal Government will not fund the appropriate number of nursing home beds to move these people out of a public hospital and into nursing home care, which is the appropriate level of care they deserve and should expect to get from the Commonwealth Government. As Professor John Dwyer, the leader of the National Clinicians Task Force, who has been agitating for national reform in this area, correctly said yesterday:

> There are answers to these things... for example, at any given moment in Australia there are about fifteen to eighteen hundred patients lying in acute public hospital beds simply because they can't be placed in a nursing home...

In New South Wales that figure is between 800 and 900. Aged care licences are the responsibility of the Federal Government. Its failure in this critical area is one of the single greatest pressure points on our public hospitals. In addition to the measures used last year, we are implementing three new approaches to deal with busy emergency departments. The first of these initiatives is known as emergency medical units [EMUs], and an additional 129 beds will be provided through the EMUs over and above the extra beds I spoke of earlier. Each emergency medical unit aims to improve the emergency department waiting times through the provision of short-term treatment beds to avoid overloading the acute emergency department beds. I am pleased to advise the House that currently 12 EMUs are operating in our hospitals to get those hospitals ready for the pressures they will face this winter.

The second key element of our plan to deal with the busy winter period is the establishment of rapid emergency assessment teams. I am also pleased to advise that we have made provision for funding for 19 of these rapid emergency assessment teams across our system. The teams consist of doctors and nurses, 16 in metropolitan areas and 3 in rural areas, who can assist waiting patients and start minor treatment prior to a full medical assessment. This can include measures such as x-rays, blood tests or relief of pain. The capacity to fast track less urgent cases through the triage process means that waiting times can be reduced and any stay shortened. I am further pleased to advise that the area where this was piloted—St George hospital—saw a 20 per cent reduction in some triage waiting times.

The third element I wish to draw to the attention of the House is the provision of 36 aged care service emergency teams across the metropolitan and rural hospital system. These teams undertake an assessment to deal with all medical conditions a patient may suffer, not just the condition that initiated the hospital visit. This helps to reduce the number of repeated visits to our hospitals by older patients. This is critical, because these aged care service emergency teams are being used directly to deal with the problem occurring in our public hospitals of the increasing number of people aged 80-plus who are presenting to public hospitals and who are not necessarily suffering from an illness but are aged and infirm. In a lot of cases they have no option other than to turn up to the emergency department at the local public hospital because of the sheer lack of nursing home beds and care available to them in the community. It is increasingly important that we have these kinds of assessment and service teams in our public hospitals to assist these aged people.

Mr SPEAKER: Order! There is far too much audible conversation in the Chamber.

Mr IEMMA: Despite the difficulties of last winter, the system coped well. Again I pay tribute to all the nurses and doctors who worked so hard to make this happen. We will not pretend that emergency departments are not busy places, unlike the Federal health Minister, who has the gall to bring down a draft health care agreement based on a funding formula that says our public hospitals are not the busy places we all know them to be. Our public hospitals are busy places and are under pressure. We are doing what we can to help doctors and nurses in our public hospitals cope with those pressures. It is time that the Commonwealth Government put on the table a health care agreement that sees it live up to its responsibility to protect bulk billing and prevent the decline in basic medical services to people, who are presenting to our emergency departments. It is time also, most importantly, that it lived up to its responsibility to provide nursing home care for those 800 to 900 people who are currently being warehoused in public hospitals and who should be in nursing home care beds.

GOVERNMENT SOCIAL ISSUES AGENDA

Mr STONER: My question is directed to the Premier. Why did the Premier cover up his legislative agenda on controversial social issues by failing to seek a mandate for it at the March State election?

Mr CARR: I am delighted to answer the question, which I preface by acknowledging the crime prevention and drug reduction strategy released on 18 February by the Leader of the National Party in his guise as shadow sports Minister. He said the great answer to juvenile crime and drug use in our society is the promotion of lawn bowls. It was a lawn bowls policy. He said this was the answer to juvenile crime and drug abuse among young people. He said, "Where young people are learning self-discipline they are learning respect for older people, as happens in bowls. If they have something to do with their spare time you are likely to have less juvenile crime." There is no more emphatic supporter of lawn bowls than I, but this is a sad apology for a crime prevention policy.

Mr SPEAKER: Order! I call the honourable member for Epping to order.

Mr CARR: To answer the question, in the last session of Parliament, after the election of the current Leader of the Opposition, the honourable member for Bligh asked me a question about reform of the age of consent. I said in this Parliament that if a satisfactory bill could be drafted, with protection for people and no defence to the age of 14, it would have my support. I said that in Parliament so it is on the public record, as indeed the position of the Leader of the Opposition on the same issue is on the public record.

Mr SPEAKER: Order! The Leader of the Opposition will cease interjecting.

Mr CARR: I addressed the other measure not once but three times in this Parliament and then went on *Stateline* and gave my emphatic support for the principle that people racked with pain ought to have resort to this additional option. On the public record, in the public media, that is my position, clearly stated.

TEACHERS PROFESSIONAL STANDARDS

Mr MORRIS: My question without notice is addressed to the Minister for Education and Training. How is the Government improving teaching standards?

Dr REFSHAUGE: I thank the honourable member for his ongoing interest in schools and education. Quality teaching is one of the most effective ways to secure our children's future and to lay the foundation for lifelong learning.

Mr SPEAKER: Order! I call the honourable member for Baulkham Hills to order.

Dr REFSHAUGE: That is why the former Minister for Education and Training, the Hon. John Watkins, established an interim committee, which has been ably chaired by Professor Alan Hayes, to advise on the development of an institute of teachers. Through this committee, once again New South Wales is leading the way. Our work to set professional standards that are linked to four career stages for a teacher's entire career is a world first. It has not been done elsewhere. Since August the committee has been working with teachers, principals and with parents. I recognise Sharryn Brownlee, the president of the Parents and Citizens Associations of New South Wales, who is here with us today. They have been working with people across the State to develop ideas on how to improve teacher education courses; the best ways to support new teachers in their crucial early years; how to ensure professional development is relevant to teachers and their professional needs; and what are the attributes and practices that exemplify quality teaching in New South Wales schools. I am pleased to announce that the committee's work is coming to fruition.

Today I am releasing an information package for broader consultation. It includes, for the first time, proposed new standards to ensure graduate teachers are better placed in the classroom. We want to know what teachers, parents and other groups interested in school education think about the proposals. The package I am releasing covers six areas related to the institute's role. The first area is the structure of an institute of teachers, which was a key recommendation of the Ramsay review of teacher education and the teacher education review task force. The goal of the institute is to raise the status and standing of teachers and teaching. It would set out professional standards that recognise quality teaching and support career-long development of teachers. Secondly, the committee is proposing a new regulatory framework for the endorsement of university courses for teachers. It believes a more systematic approach is needed to ensure that graduates of teacher education programs are adequately prepared for working in schools.

The committee is advocating the establishment of graduate teacher standards, which clearly set out what the profession believes beginning teachers should know, should understand and should be able to do. It is proposed that, to be endorsed, university courses will have to demonstrate that new teachers graduate with the necessary knowledge and abilities: for example, a knowledge of syllabus content, an ability to manage a classroom, and an ability to communicate clearly with students and their parents. Further, it would be mandatory that teacher education courses equip graduates for teaching Aboriginal and Torres Strait Islander students, for teaching students with special education needs, for teaching students from a non-English-speaking background, for behaviour management, and for literacy education.

Following on from that is the area of induction and professional development. The committee recommends four career stages: graduate teacher, professional competence, professional accomplishment, and professional leadership. As I mentioned, all teachers will graduate with specific competencies. The professional competence level is the standard expected of all new teachers, and it will usually be achieved within two years. Professional accomplishment would be for outstanding teachers, and professional leadership would be for those who want to be senior leaders in their profession. Accreditation of those professional standards can be valued, supported and publicly recognised.

The committee suggests that all teachers entering the profession achieve a standard of professional competence. This would represent a minimum standard that all teachers should be able to demonstrate. Most beginning teachers would have that two-year period of induction and support before they are accredited. During those two years the new teachers would be supported through mentoring and professional development courses. The work of the interim committee is built on the idea of professional teaching standards. These standards have been developed by teachers and describe teachers' work and the demands of a modern classroom.

The draft standards are designed to ensure that teachers, at progressive levels, know their subject content and how to teach it to students, know their students and how they learn, plan and assess and report for

effective learning, communicate effectively with their students, create and maintain safe and challenging learning environments through the use of classroom management skills, continually improve their professional knowledge and practice, and are actively engaged members of the profession and the wider community. The committee will consult on the draft professional standards and processes for meeting the standards.

Copies of the discussion package will be sent to every school in the State and to every key organisation interested in school education and teaching, including parents and community organisations. In all, some 50,000 copies of the consultation material will be distributed throughout the State. The package will also be on the web. Teachers, parents and students will be able to provide feedback on key issues through the interactive Internet web site as well as by email or telephone. Each teacher in New South Wales will have an opportunity to have input into the consultation process. In addition, 7,000 teachers will be invited to participate in a scientific validation of the draft professional teaching standards. Teachers will be surveyed to ensure that standards are useful and interpreted consistently by teachers in all contexts and locations. This psychometric validation will be conducted by Professor John Pegg of the University of New England.

Further, public forums have been scheduled in metropolitan, regional and rural New South Wales to discuss issues relating to an institute, particularly with teachers and other community key members. These forums will provide an opportunity for teachers and parents to be brought up to date on the work of the interim committee, to ask questions, to clarify issues, and to have their say. Our goal is to find the best ways to enhance the status and standing of the teaching profession. These proposed changes have been designed to reflect the challenges of modern teaching and to ensure that our children get the best education possible.

HORNSBY AND KU-RING-GAI HOSPITAL RADIOLOGY SERVICES

Mrs HOPWOOD: My question is to the Minister for Health. Given the imminent closure of X-ray facilities at Hornsby and Ku-ring-gai Hospital, will the Minister urgently allocate funds to the Northern Sydney Area Health Service to purchase a new radiology system for patients and the local community?

Mr IEMMA: The honourable member for Hornsby fools no-one with her claims about the downgrading of services at the hospital. Let us look at the facts. During this year alone Hornsby and Ku-ring-gai Hospital has established a 10-bed emergency medical unit, a rapid emergency assessment team, a dedicated space for the management of hospital-in-the-home patients, and a triage transit lounge for patients leaving the hospital. These initiatives have resulted in an increase in available care, enabling more local residents to be seen and treated locally. I can also advise that plans for Hornsby and Ku-ring-gai Hospital's new emergency obstetric and paediatric department announced last year, with funding of $16.4 million, is continuing.

Mr SPEAKER: Order! I call the honourable member for Hornsby to order.

Mr IEMMA: Building is to commence later this year. That is an interesting point. When it comes to looking after the infrastructure and providing the services for those on the North Shore and in the region covered by the Northern Sydney Area Health Service it is a Labor Government that actually does it.

Mr SPEAKER: Order! The Leader of the Opposition will cease interjecting.

Mr IEMMA: Only last week I was at Royal North Shore Hospital to open the $50 million clinical services building.

Mrs Hopwood: Point of order: The answer must be relevant to the question.

Mr SPEAKER: Order! There is no point of order.

Mr IEMMA: The Northern Sydney Area Health Service has a budget allocation of $541 million, an increase of 5.9 per cent. We are delivering not only improvement to the physical infrastructure there but also improved services for the North Sydney Area Health Service.

MOUNT HOPE COPPER MINE REHABILITATION

Mr BLACK: My question is to the Minister for Mineral Resources. What is the latest information on the rehabilitation of the Mount Hope copper mine in western New South Wales?

Mr SPEAKER: Order! Before the Minister answers the question I remind members of the Opposition that several of them are on three calls to order. Although there is only a short time remaining for question time, they may not be in the Chamber for the conclusion of it. Members of the Opposition have been particularly rowdy during question time today. Members who have been called to order twice are now deemed to be on three calls. Any member on three calls who is called to order again will be removed from the Chamber. The Minister will be heard in silence.

Mr HICKEY: I thank the honourable member for Murray-Darling for his question and his continued interest in this State's mineral wealth. The New South Wales Government has an outstanding record when it comes to the rehabilitation of mine sites. Funding for the New South Wales Derelict Mines Program now stands at $1.6 million a year. That is more than 10 times the annual funding provided by the Coalition back in 1994. This statewide program restores old mine sites. By doing so it improves public safety and our environment. Regional companies play an important role in getting this job done. The rehabilitation of the Boppy Copper Mine at Mount Hope is a great example of how this program boosts local jobs and economies. Mount Hope is a small town on the Kidman Way some 160 kilometres south of Cobar. Copper mining began in 1881 and continued through the early part of the twentieth century. In its heyday, the mine supported a population of 3,000 people.

All operations ceased in 1965 and Mt Hope's permanent population now stands at about 12 people. No matter how large or small the local community is, the Carr Labor Government is making old mines safe and secure. The Government recently spent $173,000 on stage two of the Mt Hope project. A Nyngan firm, Neill Earthmoving, was contracted to do the work. It included the sealing of mineshafts next to the town of Mt Hope, erosion works, and fencing off items of heritage value. I am sure all honourable members will appreciate the value of this work. Our outback mining towns are a valuable tourist drawcard and I am sure that Mt Hope will reap the rewards for years. A safe and secure mine encourages more visitors. More visitors going to the Royal Hotel for a beer and a meal means more tourists dollars for Mt Hope. This project has also had a direct impact on local jobs. Neill Earthmoving based four employees, one excavator and three truck drivers, at Mt Hope. They played a critical role in making the old mine safe and secure for locals, tourists and the environment. I am sure all honourable members will join me in congratulating the managing director, Glen Neill, and his team on a job well done.

PUBLIC HOUSING RENT INCREASE

Mr PAGE: I direct my question to the Minister for Housing. What were the findings of the external inquiry into the so-called unauthorised memo that instructed Department of Housing officials to delay notice of rent increases until after the State election, and will the Minister table that report today?

Mr SCULLY: The external report found that they should not have done what they did, and they were appropriately counselled. I am happy to consider whether it should be tabled.

LICENSED VENUES PATRONS WATER AVAILABILITY

Mr HUNTER: I direct my question to the Minister for Gaming and Racing. What is the latest information on serving water in pubs?

Mr McBRIDE: Two weeks ago I issued new guidelines for the provision of water in pubs, clubs, nightclubs and other event venues in New South Wales. The action was taken in spite of the fact that legislation came into effect in January this year requiring the State's 12,000 liquor outlets to provide free or reasonably priced water. Despite the new laws and the significant publicity surrounding them, it was clear that several businesses were still not doing the right thing. The Department of Gaming and Racing received dozens of complaints about water prices in just a few months.

Mr SPEAKER: Order! I call the honourable member for Upper Hunter to order.

Mr McBRIDE: This is a serious issue.

Mr SPEAKER: Order! I call the honourable member for Coffs Harbour to order.

Mr McBRIDE: Some venues were charging up to $8 for a small bottle of water and others were limiting the supply of water. Alarmingly, reports were received of bathroom taps being disconnected to force

patrons to purchase water at the bar. In some cases, outlets were making a profit of more than 300 per cent on wholesale prices. I am sure all honourable members agree that that is totally unacceptable and, more importantly, socially irresponsible. In response to the complaints, I issued new pricing guidelines providing that bottled water must be cheaper than any alcoholic beverage sold at the premises and that tap water should be provided free or for not more than $1. At some outlets, beer and wine were cheaper than water. That situation had to change.

The guidelines remove any confusion about the sale of bottled water and give the community and the industry a clear message that water must be easy to access in all premises. The guidelines are the product of consultation with the industry and I expect them to be broadly adopted. Water clearly reduces the effect of heat, dehydration and alcohol. I hope that pub, club and event venue operators in New South Wales will place the safety of their patrons ahead of profits. This is a very important health issue and I expect the operators of all liquor outlets to act in a socially responsible way.

I have also issued a warning to the industry that if it continues to flout the law, licences and livelihoods will be at stake. If operators refuse to comply with the new guidelines they will be risking their business. It is as simple as that. It is also important to point out that the operators who are doing the wrong thing are hurting themselves and the industry. The majority of pub, club and event operators are acting responsibly and have done so for many years.

A check of some outlets in my electorate of The Entrance indicates that operators are complying with the regulations. The Bateau Bay Hotel, the Chittaway Bay Hotel and The Entrance Hotel all provide water free of charge. They fully support the provision of free water and believe that it is simply part of the service they offer to patrons. That situation is mirrored in clubs in my electorate, with the Tuggerah Lakes Memorial Club, for instance, happy to provide water free of charge. I encourage every operator in the State to follow suit. I also encourage honourable members to contact the pubs and clubs in their electorate to ensure they are complying with the new guidelines.

I have spoken to the operators of many pubs and clubs in metropolitan and regional areas in recent weeks and have been impressed by their professionalism. They have shown a commitment to their communities, and many of them invest large amounts of money in a variety of community services. It is concerning to see these efforts undermined by some operators who are placing profits ahead of public safety. I fully endorse the new guidelines for the provision of water in pubs, clubs and event venues and I look forward to 100 per cent compliance.

I have been approached by many people since the guidelines were introduced and they have expressed their gratitude for this initiative. I recently spoke to a serving police officer who said that these guidelines will be a major initiative in reducing the problems associated with pubs and clubs. It is clearly an important issue that affects many in the community. I am pleased to have played a part in implementing these important changes. I urge honourable members to check their local pubs, clubs and event venues to ascertain whether the operators are complying with the regulations.

RAIL BRIDGE SAFETY

Mr DEBNAM: I direct my question to the Minister for Infrastructure and Planning, representing the Minister for Transport Services. The State Rail Authority has asked a freedom of information applicant to clarify the phrase "safety of rail bridges". Does the Minister understand what it means and will he inform the State Rail Authority?

Mr KNOWLES: I am sure the Minister for Transport Services will be delighted to respond to the question.

MINORS FALSE IDENTIFICATION

Mr MARTIN: My question is directed to the Minister for Gaming and Racing. What is the latest information on the State Government's efforts to curb the use of illegal identification?

Mr McBRIDE: As many honourable members know, under-age drinking is not a new problem confronting the Government, the community or, for that matter, Presidents of the United States. Over the years, young people have found different ways to get their hands on alcohol. Some people will try almost anything to

get a drink when they are under age. What starts out as a couple of harmless drinks with friends can often have devastating consequences that can ruin young people's lives. All too frequently minors who have been drinking become victims or perpetrators of serious crime or engage in dangerous, risk-taking activities. Barely a week goes by without a media report of some young person being involved in a serious incident involving the consumption of alcohol.

Put simply, minors and alcohol can be a dangerous combination, given alcohol's effect on young people. That is why this State has some of the toughest under-age drinking laws in Australia. Those laws extend to everyone in the community, from adults involved in second-party sales, to minors using fake identification to purchase alcohol, and to staff of licensed premises serving alcohol to minors. Penalties of up to $5,500 apply to these offences, and police also have the option of issuing on-the-spot penalty notices. If the court believes there are aggravating circumstances in relation to liquor supplied to a minor, the penalty can be doubled to $11,000.

Mr SPEAKER: Order! I call the honourable member for Blacktown to order. I call the honourable member for Fairfield to order.

Mr McBRIDE: What many people do not realise is that these Liquor Act offences are recorded as criminal matters by the police and the courts.

Mr SPEAKER: Order! I call the honourable member for Murrumbidgee to order.

Mr McBRIDE: Over recent months there have been disturbing reports of an Internet company in the United Kingdom selling so-called novelty identifications [IDs] from its web site.

Mr Fraser: Point of order—

Mr SPEAKER: Order! I remind the honourable member for Coffs Harbour that he has already been called to order.

Mr Fraser: My point of order is that members opposite are holding such loud conversations that we cannot hear the Minister's answer. I ask you to direct members opposite to keep their conversations down and the Minister to speak up.

Mr SPEAKER: Order! The Minister may continue.

Mr McBRIDE: For the price of a slab of beer, young people can receive an official-looking ID card, complete with their own personal details. In a dimly lit nightclub where IDs are not properly checked, these cards could be confused with legitimate documents issued by government agencies.

Mr SPEAKER: Order! I call the honourable member for Davidson to order.

Mr McBRIDE: The danger with this scheme is obvious. Young people can falsify their date of birth and other particulars to suit their own purposes. The makers of the card claim on their web site that it has only novelty value and no official status. But, obviously, the only reason a minor would be interested in purchasing this card in Australia would be for an illegal activity. There has already been a reported case. Earlier this year in Sydney a minor was caught by police using the card to purchase alcohol from a liquor store. As with any scam, it is important that these activities are nipped in the bud, and that is what the Department of Gaming and Racing is seeking to do.

Through its recent liquor and gaming bulletin, the department has issued an alert to the industry, warning staff to be on the lookout for these Internet IDs. As part of our responsible serving laws, staff are made aware of the types of ID that can be accepted from young people. This includes a drivers licence, a passport, and, of course, the proof-of-age card issued through Roads and Traffic Authority registries. These are all government-issued documents, each with their own security features, which can be used by young people to verify their age.

The industry has also been reminded to properly check all IDs, and not to simply accept them at face value. Experience has shown that once word gets around high schools and other places that IDs are not properly checked at a particular venue, it quickly becomes a magnet for under-age kids. The problem increases when young people switch to party mode, for example, during school formal time and end-of-school-year

celebrations. With this heightened level of awareness surrounding these Internet IDs, I would now expect licensees and their staff to be more vigilant when checking young people's bona fides. The simple message for people working in a bar is this: Unless you are certain the person is over 18, refuse service.

My portfolio has also been proactive in trying to close the overseas loophole. Through my Ministerial Advisory Council this issue has been brought to the attention of the Home Office in the United Kingdom, with a view to tightening that country's identification laws. Feedback from the Home Office indicates that consideration will be given to making it illegal to sell so-called novelty cards in the United Kingdom. I am awaiting advice on any further developments that may occur on the United Kingdom front. I believe it is also timely to issue a warning to the State's young people who may be thinking about participating in this type of scam. Apart from the legal ramifications, buying one of these ID cards over the Internet is a waste of money. With the industry now being put on the alert, it will be even more difficult to use a fake ID. The Government will continue to look for ways to address the under-age drinking issue in the community and close any loopholes that may arise.

Under-age drinking will also be high on the agenda of the Premier's Alcohol Summit to be held later this year. However, it is an issue not just for the Government but also for the community. People need to realise that it is not acceptable for people under the age of 18 to be out drinking. No responsible parents want to see their children harmed, but that is what can happen when alcohol is consumed by people who are not physically equipped to handle it, and that is why the Government has taken this action on the fake IDs being used by young people.

HORNSBY AND KU-RING-GAI HOSPITAL RADIOLOGY SERVICES

Mr IEMMA: I wish to provide a supplementary answer to the question asked by the honourable member for Hornsby regarding radiology services at Hornsby and Ku-ring-gai Hospital. There is no imminent closure of X-ray services at that hospital. I am advised that one of the film processing units at Hornsby hospital is in need of replacement, a replacement unit is currently being sourced, and it is expected that its purchase and installation will be completed this financial year.

Questions without notice concluded.

BUSINESS OF THE HOUSE

Notice of Motion for Urgent Consideration

Reordering of General Business

Mr SPEAKER: Order! Before calling on the honourable member for Kiama to argue the case for his urgent motion to be given priority, I will deal with the notice of motion for urgent consideration given earlier today by the honourable member for Gosford, which related to a motion of censure of the Speaker for failing to uphold the standing orders. As the honourable member for Gosford well knows, the notice is out of order and cannot be entertained, as Standing Order 120 provides for the giving of two such notices only.

Earlier, when the House was considering whether the General Business Notice of Motion (General Notice) given by the honourable member for Hornsby should be reordered to have precedence tomorrow, the question arose as to whether she was entitled to continue speaking to the motion after the Leader of the House had indicated that the Government agreed to the motion. It has been a longstanding practice of the House, when such an indication is given, that the matter be put to a vote immediately to save the time of the House. The member who has moved the motion need not then further convince the House of the validity of the argument. I propose to continue that practice, In support of that ruling I refer the House to a decision of former Speaker Rozzoli given on 29 November 1990. On that occasion the Government agreed to suspend standing orders to allow debate on a censure motion, and the Chair immediately put the question.

CONSIDERATION OF URGENT MOTIONS

Federal Government Regional University Funding

Mr BROWN (Kiama) [3.26 p.m.]: My motion is urgent and deserves priority because currently a lot of negotiations are taking place between both State and Federal members representing the electorates of the

Illawarra and Newcastle regarding Federal Government funding for the University of Wollongong and the University of Newcastle. Federal members, including the Federal member for Gilmore, Joanna Gash, are trying to convince the Howard Government that those universities deserve funding. My motion supports that argument, and I urge the House to give it priority.

Council Amalgamations

Mr FRASER (Coffs Harbour) [3.27 p.m.]: My motion should have priority because the Government, the former Minister for Local Government and the Premier went to an election advising the general public that there would be no forced amalgamation of councils. The Premier and the former Minister said that no council would be pressured to amalgamate, or otherwise. Yet, the new Minister, under the Premier's instructions, has issued letters to 18 councils throughout New South Wales asking them to provide him with proposed boundary changes to be considered by him. We want to know why only 18 councils have been issued with letters, what other councils are on the Minister's hit list, and whether the Minister has another list of councils which he will ask to amalgamate or alter their boundaries. We would also like to know how the Minister proposes, in shires such as Hume—

Mr Gaudry: Point of order: The standing orders clearly provide that the member must establish why his motion should be given priority. Rather, the honourable member for Coffs Harbour is addressing the subject matter of the motion.

Mr SPEAKER: Order! I want to hear the honourable member for Coffs Harbour further before I rule on the point of order.

Mr FRASER: The debate is urgent, and priority is the issue here. The reason the motion should be given priority today is that the mayors of many regional and rural shires, including the Mayor of the Murrurundi shire, Councillor Kelaher, who is in the gallery today, would like to know what is in store for their shires and whether their councils will be usurped by boundary changes from surrounding councils. Hume shire, which increased its rates by 2.5 per cent in the past week, is now being eyed greedily by Albury shire, which would gain higher rates if it took over a part of Hume shire. The people of Hume shire need to know whether their rates will rise to the same level as those in Albury shire, the third highest rating shire in New South Wales. We need to know whether Hume shire will be viable.

Mr SPEAKER: Order! I call the honourable member for Bathurst to order. I call the honourable member for Upper Hunter to order.

Mr Brown: Point of order: My point of order arises from the comments made by the honourable member for Coffs Harbour concerning elements in the Hume area. He is going straight to the substance of the debate; he is not giving reasons why his motion should be given priority.

Mr SPEAKER: Order! The honourable member for Coffs Harbour may continue to explain why his motion should receive priority.

Mr FRASER: I am trying to establish priority. This motion is urgent because the people of regional and rural New South Wales need to know what their future is with regard to their local councils. We need to discuss Justice Talbot's comments with regard to the Boundaries Commission. He stated:

> It defies credulity to ask the Court to believe that what survived four drafts by PKF, of the so-called examination by members of the BC and, finally, three departmental officers, with Ms Carnegie, was not what it purported to be …

The Minister said that the Boundaries Commission would decide on the amendment of boundaries and amalgamations. The Boundaries Commission has been taken apart by Justice Talbot in the Land and Environment Court. The Coalition wants to know whether the Minister will refer these amendments to the Boundaries Commission, as he has indicated. The Coalition wants to know whether we will get the same result Justice Talbot indicated with regard to South Sydney Council and Sydney City Council—that was nothing but a farce. We want to know what is in store for our councils in regional and rural New South Wales.

Question—That the motion for urgent consideration of the honourable member for Kiama be proceeded with—put.

The House divided.

Ayes, 49

Ms Allan	Mr Greene	Mr Pearce
Mr Amery	Ms Hay	Mrs Perry
Ms Andrews	Mr Hickey	Mr Price
Ms Beamer	Mr Hunter	Dr Refshauge
Mr Black	Ms Judge	Ms Saliba
Mr Brown	Ms Keneally	Mr Sartor
Ms Burney	Mr Lynch	Mr Scully
Miss Burton	Mr McBride	Mr Stewart
Mr Campbell	Mr McLeay	Mr Tripodi
Mr Collier	Ms Meagher	Mr Watkins
Mr Corrigan	Ms Megarrity	Mr West
Mr Crittenden	Mr Mills	Mr Whan
Ms D'Amore	Mr Morris	Mr Yeadon
Mr Debus	Mr Newell	
Ms Gadiel	Ms Nori	*Tellers,*
Mr Gaudry	Mr Orkopoulos	Mr Ashton
Mr Gibson	Mrs Paluzzano	Mr Martin

Noes, 34

Mr Aplin	Mr Humpherson	Ms Seaton
Mr Barr	Mr Kerr	Mrs Skinner
Ms Berejiklian	Mr McGrane	Mr Slack-Smith
Mr Cansdell	Mr Merton	Mr Souris
Mr Constance	Ms Moore	Mr Stoner
Mr Debnam	Mr Oakeshott	Mr Tink
Mr Draper	Mr O'Farrell	Mr Torbay
Mr Fraser	Mr Page	Mr R. W. Turner
Mrs Hancock	Mr Piccoli	
Mr Hartcher	Mr Pringle	*Tellers,*
Mr Hazzard	Mr Richardson	Mr George
Mrs Hopwood	Mr Roberts	Mr Maguire

Pairs

Mr Armstrong	Mr Bartlett
Ms Hodgkinson	Mr Carr
Mr J. H. Turner	Mr Iemma

Question resolved in the affirmative.

FEDERAL GOVERNMENT REGIONAL UNIVERSITY FUNDING

Urgent Motion

Mr BROWN (Kiama) [3.41 p.m.]: I move:

That this House:

(1) condemns the Federal Government for denying the University of Wollongong and the University of Newcastle their share of the $122 million of regional funding;

(2) notes that regional campuses of the University of Wollongong, including Nowra, Moss Vale and Bega, are also being denied much-needed funding; and

(3) supports efforts by Vice-Chancellor Professor Gerard Sutton and Vice-Chancellor Professor Roger Holmes in their efforts to have this decision reversed.

I declare an interest in this debate: I am a very proud graduate of the University of Wollongong. I graduated from that university with an honours degree in law and a bachelor of mathematics. That university helped

promote my job prospects, and those of thousands of others, as a person growing up in the Illawarra. The University of Wollongong is one of the most successful regional universities in Australia, but it faces serious challenges in the Federal Government's latest higher education budget. Basically, the University of Wollongong has been denied any chance of accessing the $122.6 million of funding specifically designed to help regional universities and campuses. The University of Wollongong is not the only university to be hurt; the University of Newcastle is also affected.

Three years in a row the University of Wollongong was recognised by the *Good Universities Guide* as Australia's most successful university for the two pivotal categories of educational experience and graduate outcomes for students. It was named University of the Year in 1999 and 2000. The university has remained committed to providing educational opportunities and pathways for students in its local region, and this is reflected in its mission statement. However, as with other regional and rural universities, the local community—in this case the Illawarra—has very different characteristics to neighbouring Sydney, a fact that the Federal Government has failed to recognise. Of the half a million people the university serves, many are from disadvantaged communities. The unemployment rate in the Illawarra in April 2003 was 8.8 per cent, compared to 5.9 per cent for New South Wales generally. The 1996 Census revealed that 14.8 per cent of people in Wollongong had bachelor degrees, compared with 18 per cent of people in New South Wales generally.

The Illawarra is different to the rest of New South Wales. In 2001 24 per cent of students in the Illawarra who attained their Higher School Certificate enrolled at university the following year. Of these, 85 per cent enrolled at the University of Wollongong. Contrast that figure with the 50 per cent of students on the lower North Shore of Sydney who went on to enrol at university. Of that 50 per cent, 57 per cent enrolled at a sandstone university. When one takes into account the significant downsizing of the Illawarra's major employer, BHP, it is clear that the region is facing particular challenges as it moves away from its industrial and traditional engineering, manufacturing and mining base. The university has a critical role to play in skilling and supporting its regional community as the Illawarra seeks to reinvent itself. Last year, in its submission to the higher education review, the New South Wales Government argued that regional universities, including the University of Wollongong, should be recognised and properly funded for their role in raising the skills and educational aspirations of their regions.

The Government highlighted the greater operating costs, such as transportation and telecommunications, which are associated with dispersed campuses on which regional universities increasingly depend to reach their communities. I have already noted the fact that a number of campuses are attached to the University of Wollongong. It takes a number of hours for many students to travel to campuses at Bega in the far south, Nowra in the Shoalhaven, Batemans Bay, and Moss Vale in the Southern Highlands. The Government argued strongly that regional universities, including the University of Wollongong, should receive special funding to meet the particular needs of their local students, many of whom are underrepresented in higher education. These students have more intensive learning needs. They could be the first generation of their families to attend university, which is the case with many of my constituents. They could be from a low-income background, indigenous or mature-age students returning to study after work force restructuring, as was the case with BHP.

The Federal Government has distorted these arguments. I welcome the new regional financial loading that acknowledges the special needs of regional universities. That part of the Federal Government's plan has considerable merit. I am not one to simply say that every decision of the Howard Government is wrong. However, I do not support the exclusion of the University of Wollongong and other regional universities from this benefit. The grounds for exclusion relied on by the Federal Minister for Education, Science and Training are spurious. He suggests that the University of Wollongong does not warrant the extra funding because it is within 300 kilometres of Sydney and has more than 10,000 students. This completely ignores the university's crucial role in providing higher educational opportunities for the Illawarra's most disadvantaged students. It also ignores the fact that the Illawarra region is vast and includes the campuses I referred to earlier.

It is flawed logic to include some of the wealthiest metropolitan universities in Australia in the new regional funding while leaving out a university whose main campus is squarely located in a regional area. It is absurd that the University of Wollongong and the University of Newcastle have missed out, but the universities of Queensland, Melbourne and Sydney have made the eligibility list because they each have regional campuses—and no-one would deny those regional campuses the right to that funding. The Federal Government apparently considers that the best way to help the citizens of Wollongong is not to give the university any special funding but to allow it to charge high Higher Education Contribution Scheme [HECS] fees and student fees. That is shameful. These are the very students who are least likely to take on higher debts. Debt is a major

deterrent to people entering higher education, given there are no guarantees of a high-paying job at graduation. The fact that this debt can now incur an interest rate higher than that for a home mortgage is another barrier to study.

The Illawarra's mature-age students who are seeking to upgrade their qualifications or embark on new careers could be the most affected as they do not have a lifetime to repay such debts, which will now compound over time. To make matters worse, they will now have a five-year time frame in which to complete their studies, irrespective of any hardship they may face in juggling work, family life and study. Should the many disadvantaged students in the Illawarra choose to press ahead with further study, they will be tempted to accept cheaper courses in a narrower range of disciplines, while students from wealthier families monopolise the higher cost and prestigious courses such as law. The new scholarships for regional students will not be of much help. The accommodation scholarships of $4,000 each are unlikely to pay the cost of a room for a year.

The people of the Illawarra rely on their local university to provide them with educational opportunities. The University of Wollongong has so far abstained from charging full fees to domestic undergraduate students, for which it should be congratulated. In fact, only three New South Wales universities have taken up this option, and two of them are metropolitan universities. I would hate to see the university forced down this path. I would hate to see it raise its HECS charges, thus narrowing the educational choices for its most disadvantaged local students, because of the Commonwealth Government's unfair user-pays agenda.

The New South Wales Government urged the Commonwealth Minister to conduct an assessment of the impact of any outcomes of the review on regional students, but that has not happened. The exclusion of the University of Wollongong from any regional funding sends a clear message to the people of the Illawarra: The Commonwealth Government thinks they should pay up or forget about higher education for themselves and their families. I am pleased that the Vice-Chancellor of Wollongong university is trying to fight this all the way. The Vice-Chancellor, Professor Gerard Sutton, was reported in the *Illawarra Mercury* of 16 May as saying that the loss of funding by the main campus not being included will be about $2 million annually. All the university would get for the smaller campuses would be about $50,000 annually—that is if the smaller campuses are assessed as regional campuses—which is a fraction of the amount to which the university is entitled.

What makes a regional university a regional university? A spokesman for the Federal Department of Education, Science and Training said that eligible campuses had to be located outside a mainland State capital city, which Wollongong is, and with fewer than 250,000 people in the region. The Illawarra region has a population of 257,000, so we are right on the cut-off mark. I suggest that the Federal Government review its decision, as requested by Professor Gerard Sutton and others who are prominent in the Illawarra community, including the Minister for the Illawarra and my parliamentary colleagues, and ensure that university education continues to be accessible to all.

Mrs SKINNER (North Shore) [3.51 p.m.]: The Federal Government should be congratulated on its support for higher education institutions. The Federal Minister for Education, Science and Training has been applauded by many in the academic world, in universities and in the education sector for his foresight in investing so much extra money into higher education. It has been said that he has enabled higher education to compete internationally.

Mr SPEAKER: Order! The honourable member for Kiama was heard in silence. The honourable member for North Shore will also be heard in silence.

Mrs SKINNER: The Federal Minister for Education, Science and Training has been applauded for investing money into the higher education sector that will at long last enable Australian universities to compete internationally. Funding of $1,059 million will be provided over four years for a range of initiatives to support our tertiary institutions. A new Commonwealth grants scheme will replace the current system of block operating grants to each university and, despite all the misinformation in the community, more students will be able to access university places. Another thing the Commonwealth Government has done—and the honourable member for Kiama alluded to this—is to establish special arrangements for regional universities. They will be significant beneficiaries under these new arrangements, which include a regional loading in core funding for institutions with regional campuses—

Ms Saliba: How much money?

Mrs SKINNER: I will come to that. The honourable member for Illawarra should be quiet.

Mr SPEAKER: Order! The honourable member for Illawarra will have an opportunity to participate in the debate at a later stage.

Mrs SKINNER: Additional funding will be provided to institutions with large numbers of students from designated equity groups, including those from rural and isolated areas. Some $20 million over three years will be provided to support collaboration, particularly with regional business and communities. A new learning and teaching performance fund will allow institutions to compete for funds for excellent teaching and learning outcomes. Students from regional settings studying away from home will benefit from the new Commonwealth learning scholarships; 5,000 new scholarships per year, worth $2,000 each, will be provided to help students cover their education costs, commencing with 2,500 in 2004. Another 2,030 new scholarships per year, valued at $4,000 each, will be offered to assist rural and regional students who move away from home with accommodation costs. These will commence in 2004, with an initial 1,500 scholarships awarded.

The Federal Minister for Education, Science and Training noted that the main campuses of the University of Wollongong and the University of Newcastle are both located in large population centres, but the Government will be asking both institutions, along with others, to nominate their regional campuses and provide information about those campuses in the latter half of this year to determine allocations under the initiatives. The current list is indicative only. There will be every opportunity for these institutions to put their case. The honourable member for Kiama knows that the Federal Government is currently negotiating with those universities. I move:

That the question be amended by leaving out all the words after "That" with a view to inserting instead the following

(1) congratulates the Federal Government on its substantial support for higher education;

(2) notes that regional universities will benefit from a regional loading to core funding;

(3) congratulates the Federal Government on its leadership in creating campuses of Wollongong university at Moss Vale, Nowra and Batemans Bay; and

(4) noting the negative impact of payroll tax on regional funding, calls on the Carr Government to reduce this taxation burden on regional institutions.

Mr SPEAKER: Order! I call the honourable member for Kogarah to order.

Mrs SKINNER: The honourable member for Kogarah does not want to listen to this because she knows that there has been tremendous praise for the Federal Minister for the huge boost in funding for tertiary institutions in this country. The honourable member for Kiama should hang his head in shame as he is interfering in the negotiating process currently taking place in relation to funding for the universities to which he referred. The fact that the Federal Government established those campuses in southern New South Wales has been totally ignored by Labor members. They do not want to acknowledge that. They do not want to give any credit to the Commonwealth Government for creating those rural campuses. The Coalition has extended university education to people in Western Sydney and in regional and country New South Wales. The honourable member for Kiama should hang his head in shame.

Ms Seaton: Point of order: I ask you to call the honourable member for Kogarah to order. If she has nothing sensible to contribute she should remain silent. We cannot hear the honourable member for North Shore.

Mr SPEAKER: Order! There is no point of order. The honourable member for Kogarah has been called to order. The honourable member for North Shore will resume her contribution.

Mrs SKINNER: I simply draw your attention to the fact that if a Coalition member of Parliament had made that kind of comment your ruling would have been different.

Mr SPEAKER: Order! The honourable member for North Shore will resume her contribution to the debate.

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Kogarah to order for the second time.

Mrs SKINNER: I am prepared to stay here and let members on the Government side make fools of themselves with interjections, except it does no credit to the people of this State who will benefit from these Federal initiatives.

Mr SPEAKER: Order! Does the honourable member for North Shore wish to continue her speech?

Mrs SKINNER: I have three minutes and 23 seconds to complete my contribution to debate on this urgent motion. I do wish to continue my speech. The Federal Government should be applauded not only for the tremendous investment it has made to universities across the country but for the special initiatives it has provided for regional universities. I shall run through some of those benefits.

Mr SPEAKER: Order! The honourable member for Kiama will have the opportunity to reply to the debate.

Mrs SKINNER: Those benefits include $400 million in additional funding to institutions based operations; 31,500 Commonwealth-supported university places, including new places for teaching and nursing—the State Government has done nothing to address that—an additional $188 million for a range of teaching and learning initiatives to reward quality teaching; additional funding to assist institutions in their support of students from equity groups and students with disabilities; 25,000 new scholarships for students from rural, regional and low-income backgrounds over the next four years; raising the Higher Education Contribution Scheme [HECS] repayment threshold from $24,065 to $30,000; and new loan schemes to support students through their study. The honourable member for Kiama talked about the opportunities provided to him as a result of his university education in Wollongong. He knows full well that his increased capacity to earn money and lead a better lifestyle was gained through university qualifications. He would deny others that opportunity by criticising the increased number of places provided by the Federal Government.

[*Interruption*]

No-one will pay upfront fees. Additional loans will be provided by the Government, including a reduction in HECS fees for key professions such as teaching and nursing and an increase in the HECS threshold to $30,000. The *Australian* newspaper has written some extremely good articles in relation to the Commonwealth Government's higher education initiatives. I reject entirely the motion moved by the honourable member for Kiama. It is disgraceful that he is interfering in the negotiation process between Wollongong and Newcastle universities and the Commonwealth in relation to the status of those country-based campuses. As the Federal Minister for Education, Science and Training has said, those universities may put a case for the recognition of those campuses and it will be considered favourably in the latter part of this year.

[*Interruption*]

Mr Speaker, I ask you to direct the honourable member for Kogarah, who has no interest in this matter, to be silent and listen. This is a disgrace. The Coalition rejects the motion and supports the amendment with pleasure.

Ms SALIBA (Illawarra) [4.01 p.m.]: I support the urgent motion. Like the honourable member for Kiama, I do so as a former student of the University of Wollongong, having studied education there from 1995 to 1999. For several years running, the University of Wollongong has been declared the best university in Australia. The Vice-Chancellor, Gerard Sutton, is committed to promoting the university and is working hard to make sure that the Wollongong region gets everything it can. I have never heard so much garbage in my life as I heard from the Opposition benches this afternoon. John Howard's package for young people, to get them started in life, is to give them a lifetime of debt. They start studying, and he hopes they get a job when they leave university so they can start paying back the debt to the Federal Government.

What a joke! Many young people in my area will miss the opportunity of going to university because they will not have the money to afford it. They will not be able to afford the opportunity that people with money will have. The way the Federal Government is treating the people of the Illawarra region is absolutely disgusting. To claim that the Illawarra is not entitled to receive additional funding even though we have 7,000 more people is an absolute disgrace. The Illawarra is one of the fastest-growing areas in New South Wales.

Mr SPEAKER: Order! I call the honourable member for Lismore to order.

Ms SALIBA: The area should be provided with all the services and facilities the people need, particularly a good university. Young people in the Illawarra who are struggling and whose families are struggling to gain experience, should be provided with an opportunity for higher education. They will not have that opportunity if the Federal Government continues to cut funding for universities in areas like the Illawarra.

Where is the honourable member for Bega? Does he not support his local campus? Every member in New South Wales should be in the Chamber debating this issue.

[*Interruption*]

That is a shame. So he cannot be here to listen to what the Federal Government is doing to the campus at Bega, and how the Federal Government is withholding funding from the University of Wollongong.

Mr SPEAKER: Order! I call the honourable member for Lismore to order for the second time.

Mr Humpherson: Point of order: The honourable member has referred adversely to the honourable member for Bega for not being present in the Chamber and for not speaking on this matter. As honourable members will know, the honourable member for Bega has not yet made his maiden speech and, therefore, cannot take part in the debate.

Mr SPEAKER: Order! There is no point of order.

Ms SALIBA: I did not know that not having made your inaugural speech prevents you from sitting in the Chamber. Most of the other new members have made their inaugural speeches. Perhaps it is time the honourable member for Bega made his inaugural speech and joined in this debate. He is denying his community the opportunity of being heard in this Chamber.

Mr Humpherson: Point of order: The honourable member continues to refer to the honourable member for Bega. As I made clear in my comments, the honourable member has not had a chance—

Mr SPEAKER: Order! There is no point of order. The Chair has already ruled on the point of order. The honourable member for Davidson will resume his seat.

Ms SALIBA: The Federal Government deserves to be condemned for denying the University of Wollongong and the University of Newcastle their share of the $122 million in regional funding. There are good campuses in both those areas and a lot of families need these educational opportunities. It is an absolute disgrace that the Federal Government would deny them that opportunity and claim that with 7,000 additional people we are not entitled to that funding. The Federal Government should be ashamed of itself. It is burying its head in the sand by denying the people of the Illawarra region that opportunity.

Ms SEATON (Southern Highlands) [4.05 p.m.]: I draw the attention of the House to the fact that the Minister for the Illawarra is not in the Chamber at a time when we are debating one of the most important educational facilities in the Illawarra. I also draw attention to the fact that the honourable member for Wollongong is not in the Chamber at this moment. Much has been said to me in the Illawarra about the extent to which local people feel the Labor Party always takes them for granted. The fact that the Minister for the Illawarra is not participating in or listening to this debate and that the honourable member for Wollongong is nowhere to be seen reinforces that point.

The University of Western Sydney was an initiative of the Greiner Government. The Coalition Government has a great record in establishing university campuses, not only in metropolitan Sydney but around regional New South Wales. I support the amendment moved by the honourable member for North Shore, which congratulates the Federal Government and notes the special role that university campuses at Moss Vale and other regional centres in the Illawarra and southern New South Wales play in our communities.

I remind the honourable member for Kiama how the university campus at Moss Vale came to be established. The Australian Labor Party had little, if anything, to do with it. The campus began as a result of discussions between Joanna Gash, Professor Gerard Sutton and David Fuller. That culminated in a meeting at my Bowral office at which all four of us decided how we could progress this vision to establish a campus at Moss Vale. Having done that, we decided the best way to make the case would be to survey the local community to find out the level of interest in a local university campus. We did that with the co-operation of the Wingecarribee council. We discovered that the number of people who would use such a campus was considerable and that the groups of people who would use that campus were young people who would otherwise not be able to access university because travelling would be difficult for them. The other group of people who expressed an interest were mature-age people, particularly—

Miss Burton: Point of order: The honourable member for Southern Highlands is talking about the establishment of a campus. The urgent motion is about regional funding that the Wollongong university campus is not getting.

Mr SPEAKER: Order! The Opposition has moved an amendment to the motion, and the honourable member for Southern Highlands is speaking to the amendment.

Ms SEATON: The results of this survey showed overwhelming interest in this proposal from young people and from mature-age people, particularly teachers, health professionals, nurses who wanted to rebuild their skills or take advantage of doing a tertiary course after having raised the family and then being able to go back to the work force. This provided an enormous opportunity. We then went to see John Fahey, the Federal member, who was so enthusiastic about this proposal that he, with the support of the member for Gilmore, Joanna Gash, pushed the proposal in Cabinet and was successful. I am pleased to say that in Moss Vale we now have a campus of the University of Wollongong. It is extremely successful. We are building courses—

Mr Brown: Point of order: The honourable member for Kogarah raised a point of order only a moment ago in relation to the main motion. The honourable member for Southern Highlands obviously was not speaking in favour of that. I do not know how the establishment of the campus at Moss Vale has anything to do with the payroll tax point of the honourable member for North Shore.

Mr SPEAKER: Order! There is no point of order.

Ms SEATON: Unlike the honourable member for Kiama, I am proud to say that Moss Vale is now a university town. The university campus at Moss Vale joins other excellent facilities and landmarks at Moss Vale that will attract more and more people. The campus deserves the support of this Chamber, and the Federal Government deserves to be congratulated. It also deserves to be congratulated on the package that will provide more places for university students as well as more funding. I will do whatever I can to support the continued development of Moss Vale campus because it is one of the most important and visionary things to be achieved in Moss Vale and something that will put our community in good stead for years to come. [*Time expired*.]

Mr GAUDRY (Newcastle—Parliamentary Secretary) [4.12 p.m.]: I take it that the latest statements of the honourable member for Southern Highlands were in support of the Government's motion, because if the Moss Vale campus is an outlier of the University of Wollongong surely the Opposition would be arguing for increased regional funding for the university, not ruling it out. The University of Newcastle has also been ruled out from the $122 million of regional funding. The Vice-Chancellor of the University of Newcastle, Professor Roger Holmes, and the Vice-Chancellor of the University of Wollongong, Professor Gerard Sutton, now have to continue to build a case for regional funding. They should not have to do that.

Since 1996 the Federal Government has cut almost $120 million from the funding for the University of Newcastle. It has forfeited some 607 government-funded places. And 31 per cent of the students come from families from the lowest socioeconomic background, a different situation from the Sydney universities. Eighty per cent of students at the University of Newcastle come from the Newcastle region. Wollongong has gone through a protracted period of structural change in its industries. It has an unemployment level much higher than the national average. The proportion of people in the lower socioeconomic areas is much higher than the national average. What we are saying to people in those areas is that they can now bid to be a university student.

The increase in Higher Education Contribution Scheme [HECS] fees will increase by potentially 30 per cent in the higher degree areas, and universities will be able to open up courses so that up to 50 per cent of students will be paying the full fees. The pressure on universities is to give less and less access to students from lower socioeconomic backgrounds. High HECS fees will cripple graduates for years. Professor Brian English, the Deputy Vice-Chancellor, is saying that fees for students entering law may be between $60,000 and $100,000. Confronted with that situation, a person from a lower socioeconomic background may not undertake the course.

The thrust in Newcastle, and probably in Wollongong as well, will be to push the university away from its community service areas. Universities put a lot of effort into providing what I would call community access to build up the capacity of students to enter and complete a university degree. There will not be continued funding in those areas because the university will have to make cuts in some areas. Already the University of Newcastle, in order to increase access for students, has had to over-enrol. The Federal Government has made it

clear that if universities over-enrol they will receive lower funding for any students over the quota. So in every way students at the University of Newcastle are being blocked from access to tertiary education. The Federal Government should realise that this is an important region for the country. It is a great producer for Australia. We should acknowledge that.

As I said, 80 per cent of students at the university and its outliers come from the region, and 31 per cent of them come from lower socioeconomic backgrounds. The Federal Government should recognise that by way of funding. We should not have to go through a protracted debate in the community. Professors should not have to redirect courses towards full fee-paying students and towards what I call academic areas that are very much tied to industry rather than to students who would very much benefit the community by graduating in courses such as social welfare. I am also talking about teaching courses, but the Federal Government's recognition of such courses is long overdue. [*Time expired*.]

Mr BROWN (Kiama) [4.17 p.m.], in reply: I thank the honourable member for Illawarra and the honourable member for Newcastle for their contributions to the debate. I also thank the honourable member for Southern Highlands, who made some good points in support of the Government's motion. The honourable member for North Shore has put up the scrappiest-looking amendment I have ever seen in this House. It is hard to understand what the amendment has to say about the matter. It is a disgrace, and it just shows the Opposition's complete contempt for this subject. Having the honourable member North Shore lead the Opposition attack was probably the worst tactic that could be employed. Our motion is about funding being slashed from regional universities. Professor Gerard Sutton from the University of Wollongong says that $2 million a year will be cut from his university.

And what does the honourable member for North Shore want to do? She wants to congratulate the Federal Government on its substantial support for higher education. It is outrageous. How can there be substantial support for higher education when $2 million is cut out of it? She also claims that regional universities will benefit from the regional loading. That is not what Professor Sutton is saying. He is saying that $2 million is cut out of it. He is not saying that our region is going to benefit. We have just heard in the excellent contribution by the honourable member for Newcastle that the Hunter Valley will not benefit one bit from the cutting of funds for regional universities. If we try to analyse point 3-crossed-out-4 somewhere in this interesting piece of writing—the amendment—we see that the honourable member for North Shore talks about payroll tax.

Mr Campbell: It was 8 per cent under them and it is 6 per cent under us.

Mr BROWN: I thank the Minister for Regional Development for his continued support of education and his interest in this debate, and for pointing out a simple fact: payroll tax under the Coalition was 8 per cent whereas we have reduced it to 6 per cent.

[*Interruption*]

I am trying to work out the amendment. It is extraordinarily sloppy.

Mr SPEAKER: Order! The Chair is having difficulty hearing the honourable member in reply.

Mr BROWN: Going through this amendment point by point shows up the Opposition's shallow approach to this issue. Dr Brendan Nelson should be condemned. His higher education review is nothing short of shameful. More students will be unable to access universities. I know the member for North Shore claims that students will be able to go to university, but they will be able to do so only if they pay full fees. An excellent article in the *Sydney Morning Herald* points out that what the member has said is not true. Is. It states:

> Just 9,000 of Australia's 600,000 domestic students are currently on the books as full-fee payers.

Mr Humpherson: Point of order: In reply the honourable member should respond to matters raised in the debate. He is introducing new material that should be the subject of debate.

Mr SPEAKER: Order! There is no point of order. The Chair will listen further to the reply from the honourable member for Kiama.

Mr BROWN: Students will be able to enrol in courses at selected universities with an entrance score up to five points lower than that achieved by other students who are prepared to pay the full cost of the course

up front. The Labor Party rejects that concept. We are trying to make the system equitable. The honourable member for Bega is still not in the Chamber to participate in this important debate. Raising the HECS threshold will not get more students into universities. The honourable member for North Shore claimed the *Australian* supported her argument. It does not; it supports the simple fact that Wollongong and Newcastle are regions and deserve regional funding. [*Time expired.*]

Question—That the words stand—put.

The House divided.

Ayes, 56

Ms Allan	Mr Greene	Mr Orkopoulos
Mr Amery	Ms Hay	Mrs Paluzzano
Ms Andrews	Mr Hickey	Mr Pearce
Mr Barr	Mr Hunter	Mrs Perry
Ms Beamer	Ms Judge	Mr Price
Mr Black	Ms Keneally	Dr Refshauge
Mr Brown	Mr Knowles	Ms Saliba
Ms Burney	Mr Lynch	Mr Sartor
Miss Burton	Mr McBride	Mr Scully
Mr Campbell	Mr McGrane	Mr Stewart
Mr Collier	Mr McLeay	Mr Torbay
Mr Corrigan	Ms Meagher	Mr Tripodi
Mr Crittenden	Ms Megarrity	Mr Watkins
Ms D'Amore	Mr Mills	Mr West
Mr Debus	Ms Moore	Mr Whan
Mr Draper	Mr Morris	Mr Yeadon
Ms Gadiel	Mr Newell	*Tellers,*
Mr Gaudry	Ms Nori	Mr Ashton
Mr Gibson	Mr Oakeshott	Mr Martin

Noes, 25

Mr Aplin	Mr Humpherson	Mrs Skinner
Ms Berejiklian	Mr Kerr	Mr Slack-Smith
Mr Cansdell	Mr Merton	Mr Souris
Mr Constance	Mr O'Farrell	Mr Stoner
Mr Debnam	Mr Page	Mr Tink
Mr Fraser	Mr Pringle	
Mrs Hancock	Mr Richardson	*Tellers,*
Mr Hartcher	Mr Roberts	Mr George
Mrs Hopwood	Ms Seaton	Mr Maguire

Pairs

Mr Bartlett	Mr Armstrong
Mr Carr	Ms Hodgkinson
Mr Iemma	Mr J. H. Turner

Question resolved in the affirmative.

Amendment negatived.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 56

Ms Allan	Mr Greene	Mr Orkopoulos
Mr Amery	Ms Hay	Mrs Paluzzano
Ms Andrews	Mr Hickey	Mr Pearce
Mr Barr	Mr Hunter	Mrs Perry
Ms Beamer	Ms Judge	Mr Price
Mr Black	Ms Keneally	Dr Refshauge
Mr Brown	Mr Knowles	Ms Saliba
Ms Burney	Mr Lynch	Mr Sartor
Miss Burton	Mr McBride	Mr Scully
Mr Campbell	Mr McGrane	Mr Stewart
Mr Collier	Mr McLeay	Mr Torbay
Mr Corrigan	Ms Meagher	Mr Tripodi
Mr Crittenden	Ms Megarrity	Mr Watkins
Ms D'Amore	Mr Mills	Mr West
Mr Debus	Ms Moore	Mr Whan
Mr Draper	Mr Morris	Mr Yeadon
Ms Gadiel	Mr Newell	*Tellers,*
Mr Gaudry	Ms Nori	Mr Ashton
Mr Gibson	Mr Oakeshott	Mr Martin

Noes, 27

Mr Aplin	Mr Kerr	Mr Slack-Smith
Ms Berejiklian	Mr Merton	Mr Souris
Mr Cansdell	Mr O'Farrell	Mr Stoner
Mr Constance	Mr Page	Mr Tink
Mr Debnam	Mr Piccoli	Mr R. W. Turner
Mr Fraser	Mr Pringle	
Mrs Hancock	Mr Richardson	
Mr Hartcher	Mr Roberts	*Tellers,*
Mrs Hopwood	Ms Seaton	Mr George
Mr Humpherson	Mrs Skinner	Mr Maguire

Pairs

Mr Bartlett	Mr Armstrong
Mr Carr	Ms Hodgkinson
Mr Iemma	Mr J. H. Turner

Question resolved in the affirmative.

Motion agreed to.

NORTHSIDE STORAGE TUNNEL SEWAGE OVERFLOWS

Matter of Public Importance

Mr RICHARDSON (The Hills) [4.38 p.m.]: During most of last week, when we had extremely heavy rainfall in Sydney, hundreds of millions of litres of untreated sewage flowed not only into Sydney Harbour but into every waterway around Sydney. It flowed into the Georges River, the Cooks River, and the Hawkesbury-Nepean River system. This raises serious questions about the effectiveness of the Government's expensive program to address sewage overflows in Sydney. It is only just a little over two years since the $460 million northside storage tunnel was commissioned. That tunnel was supposed to capture diluted sewage and stop it from running into Sydney Harbour. Well, it certainly failed to do that last week. From the four main overflow points into the harbour—Quakers Hat Bay near Mosman, Scotts Creek in Castle Cove, Tunks Park in Cammeray, and Lane Cove—more than 500 megalitres, equivalent to more than 500 Olympic-size swimming pools, of untreated sewage flowed into the harbour. The Sydney Water web site details where these overflows are occurring and it shows that there were more than 300 sites around Sydney where untreated sewage was flowing into our waterways.

Had the Government not led the people of New South Wales to the unreasonable belief that the northside storage tunnel and its $2 billion 20-year SewerFix program were going to fix the problem of raw sewage flowing into our waterways, there might have been some excuse for what happened last week. Before the tunnel was commissioned the then Minister responsible for Sydney Water, Kim Yeadon, told the media that the northside storage tunnel would reduce visible pollution and odour in and around lower Sydney Harbour for residents and visitors alike. He said that phosphorus discharge would drop by two-thirds, making algal bloom a thing of the past. Mr Yeadon went on to say:

> This is the most single important project the Government is pursuing in its work to clean up Sydney Harbour. The tunnel will capture up to 90 per cent of all the overflows into Sydney Harbour and in turn bring about the most dramatic improvement to water quality ever seen in the harbour.

We saw that dramatic improvement in water quality in the harbour last week. Honourable members would have seen on television and in the newspapers dramatic pictures of megalitres of untreated sewage flowing into Sydney Harbour. I was on the Sydney Water Board committee in 1993-94, and I understand that there are occasions when rain events may cause sewage overflows, but not on the scale that we saw last week. Indeed, the Government should never have led the people of New South Wales to believe that these projects would solve the problem. That is what the Government did, and it is dishonest. We know this is a dishonest Government; we know it is prone not only to exaggeration but to bending the truth so far as its achievements are concerned.

The Coalition believes that this $2 billion SewerFix program may be fatally flawed. We believe that the northside storage tunnel will not live up to the performance target that the Government set for it, because there has been a significant number of overflows into the harbour—not necessarily recorded on the Sydney Water web site—since the storage tunnel was commissioned. Over the past couple of years New South Wales has been in the grip of one of the most ferocious droughts since white settlement began in this country.

If the northside storage tunnel cannot cope with rain events during one of the most ferocious droughts we have seen in Australia's history, it does not bode well now that it looks as though El Nino has finished and we are back to a normal pattern of rainfall. I believe that many more megalitres of untreated sewage will flow into Sydney Harbour on a comparatively regular basis. That is appalling, because it means there will be faecal coliforms and enterococci, the harbour beaches will be unsafe for swimming, there will be the potential—despite what Mr Yeadon said—for algal blooms to establish in the harbour, and there will be a deleterious environmental effect on marine organisms in the harbour.

When all that is put together that is an appalling indictment of this Government's mismanagement of this important environmental issue. That is why I have written to the Auditor- General of New South Wales, Mr Bob Sendt, and asked him to investigate the effectiveness of the northside storage tunnel and the SewerFix program. The SewerFix program is supposed to fix all the leaking pipes that are not only allowing raw sewage to flow out into the environment but allowing the ingress of rainwater during storm events. This may be caused by cracked pipes, tree roots blocking the pipes, or a problem with grouting between the pipes.

From my time on the Water Board committee in 1993-94 I understand that this is an important part of maintaining the State's infrastructure. But it is a bit like saying, as the Government has done, "We are maintaining the railway system because we are replacing tracks. We are maintaining the railway system because we are replacing sleepers. We are maintaining the railway system because we are replacing rolling stock, such as bogies, as they wear out."

As we know from recent events, the Government's record on railway maintenance is appalling. I believe that the Government's record on maintaining—it has to be said—our fairly old sewerage system is also appalling. That is the central issue: Has the Government done enough to look after infrastructure in this State? We believe not, and the signs are everywhere: they are on the railways and the hospitals, and they are certainly in the sewerage system. I am very hopeful that the Auditor-General will accede to my request to look at this issue because we need to make sure that taxpayers' money is being used wisely.

The first five years of the SewerFix program were supposed to be specifically aimed at fixing overflows into Sydney Harbour and the Blue Mountains. The program began in 2000 and we are now 2½ years into it. Manifestly the program has failed to make a difference. I know that the Minister is going to say that 1,800 megalitres of sewage did not go into the harbour as a consequence of the program, but it was this Government that claimed that this program was the panacea to all ills; it was going to solve the problem. But just as the northside storage tunnel has not solved that problem—500 megalitres of sewage has overflowed into the harbour—so, indeed, we believe that the SewerFix program is flawed. The Auditor-General will examine

these matters, and he may well come up with a better solution and a better use of taxpayers' money—a solution that actually makes a difference to the environment, and one that shows that every dollar of taxpayers' money has been spent wisely. [*Time expired.*]

Mr SARTOR (Rockdale—Minister for Energy and Utilities, Minister for Science and Medical Research, Minister Assisting the Minister for Health (Cancer), and Minister Assisting the Premier on the Arts) [4.48 p.m.]: The honourable member for The Hills has made a number of assertions that simply do not reflect the facts. He started by criticising my predecessor but then, at the same time, admitted that my predecessor asserted that the catchment of the northside storage tunnel would deal with 90 per cent of overflows into Sydney Harbour. The facts are very simple. Since the northside storage tunnel was completed—it was commissioned in July last year but completed just before the Olympics—it has prevented 10 billion litres of diluted effluent from going into Sydney Harbour.

Despite the record rainfall last week, the tunnel prevented 2.37 billion litres of effluent going into Sydney Harbour. By any standard that is a significant achievement, demonstrating that the tunnel is achieving what it was designed to achieve. The 90 per cent figure alluded to by my predecessor, the Hon. Kim Yeadon, is borne out by the fact that of the 40 events in which effluent overflowed into the northside storage tunnel since the Olympics, on 36 of those occasions not one drop flowed into Sydney Harbour.

One eminent person in this city has done more than anyone else to clean up our waterways and harbour. I refer to Ian Kiernan, the Chairman and Founder of Clean Up Australia and a member of the New South Wales Government's expert water advisory panel. This week he said:

> Prior to the building of the Northside Storage Tunnel sewage seeped into our harbour in dry times and flooded into our stormwater during the wet.

Ian Kiernan went on to acknowledge that the northside storage tunnel was not designed to cope with the extreme volume of stormwater experienced last week. In the past week we have experienced the highest rainfall in a six-day period since 1964, almost 40 years ago. During those six days, 225 millimetres of rain fell. There was overflow into the harbour but that is consistent with the design intent of the northside storage tunnel. My colleague the Minister for the Environment has advised me that the Environment Protection Authority [EPA] licence for Sydney Water provides support for an overflow as a result of extreme events beyond the design capacity. I am advised that the EPA does not anticipate any breach of licence requirements, given the extreme nature of the recent rains, but that it will investigate the full circumstances of the event.

The honourable member for The Hills asserted that the SewerFix Program has failed. I will illustrate the task at hand to prevent wet-weather overflows into the harbour. Wet-weather overflows are caused by stormwater getting into the sewers. The region covered by Sydney Water has 44,000 kilometres of sewer pipes. Of that, 22,000 kilometres are in private ownership, in people's backyards, and connected to the sewer system. The other 22,000 kilometres are under the control of Sydney Water. The SewerFix Program, which has been allocated $2 billion over 20 years, is designed to systematically address pipes throughout the entire network. Its aim is to achieve no dry-weather overflows at sewage pumping stations and to reduce wet-weather overflows. The SewerFix Program also aims to reduce the frequency of chokes to less than 60 per 100 kilometres of pipe per year and to reduce the frequency of wet-weather overflows by an average of 80 per cent to 90 per cent.

To date, 149 sewage pumping stations have been upgraded and another 214 have had their electrical, monitoring and control capabilities upgraded. Also, 1,535 kilometres of sewer pipe have been cleaned and 1,000 kilometres have been relined. This is a big task, involving 22,000 kilometres of sewer pipes under the control of Sydney Water. The honourable member for The Hills referred to the quality of water in Sydney Harbour, and particularly its effect on marine life. I refer him to an article in the *Daily Telegraph* of 11 March 2002, which stated:

> In recent years northern and southern bluefin have both been taken between the heads, which is something that has not been seen for many years.
>
> This year's phenomenal run of spotted mackerel in Sydney Harbour will go down in fishing history.
>
> Anecdotal evidence of more fish, sharks, dolphins and whales in the Harbour is being tested by scientific studies which will report at the end of the year.

Without doubt Sydney Harbour is cleaner than ever. To underline that fact, honourable members should remember the wonderful event of last year when three whales used Sydney Harbour as a playground. I would

trust the judgment of the whales well ahead of that of my colleague the honourable member for The Hills. If the whales regarded Sydney Harbour as clean enough to play in, I am happy to accept that.

The task is even more involved. The northside storage tunnel was designed to quickly remove considerable bulk and it has achieved that goal. The SewerFix Program is designed to prevent stormwater getting into the sewer system and that is being achieved. Moreover, gross pollutant traps have been installed in our waterways. Sydney Water has gross pollutant traps at Bondi Beach, Cooks River, the Botany wetlands, Rouse Hill and Guildford. There are four booms on Sydney Harbour, one on the Georges River, and one on the Botany wetlands. Only last year two new traps were constructed, at Matraville and Mill Pond Creek. Over the past 10 years these gross pollutant traps have prevented more than 15,000 tonnes of rubbish and sediment from entering our waterways.

These traps have caught amazing things such as shopping trolleys, car engines, tyres, a fashion mannequin, number plates, a rifle, bikes, and tonnes of soil. A house could be furnished with some of the rubbish retrieved from these traps. The traps have caught television sets, washing machines, furniture and fridges. The Government's It's a Living Thing Program is getting across the message that litter does not belong in our waterways. Over the past two years there has been an 18 per cent reduction in the amount of litter collected. In addition, it is important to consider the relationship of stormwater to the quality of our harbour. One must also understand that Sydney Water owns only 486 kilometres of stormwater drains, which represents about 5 per cent of all stormwater drains. Local councils own the rest. By 2003 the Government will have spent $101 million under its urban stormwater and Blue Mountains urban run-off control programs. The benefits of the programs are considerable in that councils have received $66 million in stormwater grants and they have contributed an additional $40 million.

The $7 million Stormwater Education Program has really made a difference. An independent evaluation has shown that the behaviour of people has altered, and many tonnes of rubbish have been prevented from entering the harbour. It is all very well for the honourable member for The Hills to call for the Auditor-General to become an expert on managing specific engineering systems. Many years ago when I was the director of the Public Accounts Committee I understood that the Auditor-General's role was to look at government spending. Of course, the brief may be brought up, and I have no problem with that because the facts speak for themselves. The northside storage tunnel has done its job and the SewerFix Program is proceeding well. The Independent Pricing and Regulatory Tribunal constantly reviews the performance of Sydney Water, and issues will arise from those reviews.

I have no problem with the suggestion but I fear it is a waste of time because the facts are quite clear and a current regulatory regime tests these sorts of issues. It is incredible that despite the preaching of the Opposition, it proposes upstream sewage treatment plants on the North Shore to deal with peak volumes we have experienced recently, which amounts to five times the normal volume of sewage. Opposition members may have a much better grassroots knowledge but I cannot imagine the residents of Mosman wanting a sewage treatment plant in their area or the residents of Cammeray wanting one at Tunks Park. Massive sewage treatment plants that supposedly use recycled water for other purposes that require tertiary treatment and massive structures of sewage treatment plants throughout the suburbs are not the way to go. It could be called the Opposition's sewage for suburbs scheme and it will be rejected as a silly idea. It shows that the Opposition does not have the answers, and that this is nothing more than a political charade. [*Time expired*.]

Mr HUMPHERSON (Davidson) [4.58 p.m.]: The Opposition seeks to highlight the fact that much of what was promised has not been delivered by the Government. Although Sydney has experienced heavy rain in recent times this is not an isolated circumstance. People should not swim in Sydney Harbour, largely because the sewerage system, which is the responsibility of Sydney Water, is not up to scratch. In 1990 the Clean Waterways Program was initiated by the then Minister for the Environment, Tim Moore, and Premier Nick Greiner. Under that program capital works expenditure for sewerage systems in Sydney were substantially increased. Sewer systems were relined and smoke testing was undertaken for illegal domestic and commercial connections to the system. Indeed, the then Leader of the Opposition, Bob Carr, committed to enshrining that program in legislation as a 20-year, $7 billion program. Interestingly, eight years ago when the Premier took office he not only broke that commitment but cut back the rate of capital works and maintenance on the sewerage system in Sydney.

Eventually, in the lead-up to the 2000 Olympics, the Government proposed a grand plan for the northside storage tunnel: $460 million of Sydney Water ratepayer funds would be used to clean up Sydney Harbour. Not much play was made of the various caveats: it would not work in heavy rain, it would not deliver everything, and it would not clean up the entire harbour. The plan was sold off the back of Ian Kiernan lending

his name to it as the grand solution that had to be delivered before the 2000 Olympics. Many experts in the private sector and the public sector said that the proposal would not deliver what was promised and that there were other ways to clean up the harbour using more modern technology. If there were a preparedness to embrace some of the innovative options available, much more could be achieved by spending the money in a different way. However, the Government was committed to spending that money before the 2000 Olympics.

This has not been highlighted earlier because we have had a substantial period of relatively low rainfall, but it has now been shown that the system cannot cope with heavy rainfall in Sydney. Not only does the northside storage tunnel not deliver what was promised, but the wider system cannot cope. For at least three days after heavy rain people are told not to swim in the beaches and not to have contact with the water in the harbour. It is a disgrace that the money was not spent effectively. I strongly support the honourable member for The Hills asking the Auditor-General to look at the matter because the effective and efficient use of taxpayers' money, and what the outcomes could have been, should be tested. The Auditor-General should examine whether we could have got a better outcome from the expenditure of $460 million. Could the design have been better? Could alternative technologies have been embraced? Indeed, could some of the programs wound back by this Government have been maintained in order to provide a more resilient system that could cope better with substantial rainfall?

Members of the public expect their water rates to provide services as well as sustainable infrastructure. Over the past eight years the Government has taken some $1.6 billion from Sydney Water in special dividends and tax equivalents. That is about $200 million a year which otherwise would have been available to improve and upgrade the infrastructure and, indeed, to undertake better maintenance programs. If the Government was committed to having no stormwater and heavy rain problems in Sydney Harbour—and, for that matter, on the beaches around Sydney—the money could have been spent on infrastructure. We will see more events such as what we saw over the past week or so. Inevitably there will be heavy rain events, and inevitably there will be failings in the system. We must spend the money available effectively and efficiently. However, once and for all, let us aim collectively to tackle the problems that face Sydney Harbour and our beaches so that people can enjoy them without having concerns after heavy rainfall. [*Time expired*.]

Mr RICHARDSON (The Hills) [5.03 p.m.], in reply: The comments of the Minister for Energy and Utilities in defending the Government over the events of the past week were completely and utterly predictable. I think he ignored some of the material that was provided, for example, to the upper House inquiry into the northside storage tunnel of November 2000. In that report the Government stated that the tunnel would reduce the extent of wet-weather sewage entering the harbour from a forecasted average of 6,145 megalitres per year to 955 megalitres per year. One does not need to be a mathematical genius to work out that if 500 or 600 megalitres of sewage have flowed into the harbour in a single event in a single week, over a 52-week period significantly more than 955 megalitres will flow into the harbour.

Mr Sartor: But it may happen only once a year.

The ACTING-SPEAKER (Mr Lynch): Order! The Minister for Energy and Utilities has had an opportunity to participate in the debate.

Mr RICHARDSON: Now that the weather patterns have returned to fairly normal, the northside storage tunnel will clearly be shown to be a failure.

The ACTING-SPEAKER: Order! The Minister for Energy and Utilities will come to order.

Mr RICHARDSON: The Minister talked about the amount of sewage that did not go into the harbour as a consequence of the northside storage tunnel being constructed, but the real issue is the amount that did flow into the harbour. I served on the 1993-94 Water Board committee, which was very interesting. The Labor Party members of the committee included the Minister for Infrastructure and Planning, and Minister for Natural Resources, and the honourable member for Wentworthville, among others. The Labor members wrote their own comments, which were appended to the committee's report. They said that for too long the board had maintained a management system that simply extended pipes, supported massive cross-subsidisation, failed to properly train staff to allow them to be commercially competitive, had little understanding of the concept of sustainability, and had no clear understanding of its core activities or the needs of its customers.

They were highly critical of what they described as the $200 million raid—that is, the $200 million special dividend payment that was made at the time. They claimed it was an attack on the Government's

environmental programs. Yet this Government is taking more than $100 million a year in dividends from Sydney Water. One wonders whether that money would not be better used to try to fix some of the massive problems that clearly still exist with regard to our sewerage infrastructure. Interestingly, the Minister for Energy and Utilities said that he did not think it was the role of the Auditor-General to examine the expenditure of $2.5 billion of public money. That expenditure is probably off budget. The honourable member for Lismore understands what "off budget" means. It means something that is preferably out of sight, out of mind. Why would the Government prefer it to be out of sight, out of mind? Because what the Auditor-General is likely to discover will be too painful for the Government and the Minister to ever want to be brought to light.

We understand that there are 44,000 kilometres of sewer pipe in Sydney, including 22,000 kilometres in backyards. According to Sydney Water's web site, some 86 per cent of those backyard pipes have now been smoke tested. That clearly indicates that the problems do not relate to pipes on private land. If the smoke testing program is successful—we may want the Auditor-General to look at that—the problem relates to Sydney Water's sewer pipes and sewage treatment plants. The Minister also said that the Opposition wants sewage treatment plants located on the shores of Sydney Harbour. Of course, Sydney Water acquired land at Camellia to locate a sewage tertiary treatment plant to clean up the waterways. Coalition members feel very strongly about that. We want the waterways cleaned up. We want that $2.5 billion to be appropriately spent. [*Time expired*.]

Discussion concluded.

Mr ACTING SPEAKER (Mr Lynch): Order! It being almost 5.15 p.m., business is interrupted for the taking of private members' statements.

PRIVATE MEMBERS' STATEMENTS

CONSTRUCTION SITE DEVELOPMENT APPLICATION COMPLIANCE

Mr O'FARRELL (Ku-ring-gai—Deputy Leader of the Opposition) [5.10 p.m.]: I raise an issue that would be laughable if it were not so serious. On 16 May two of my constituents received the following letter on Ashworth Corporation Pty Ltd letterhead:

> Dear Neighbour
>
> **RE: 121 - 125 MONA VALE ROAD, ST IVES**
>
> We are in receipt of a number of correspondence and requests from various peoples and bodies to respond to a number of allegations you are making.
>
> We wish to advise that due to the nature of your allegations and the amount of time it is consuming from our Staff, we hereby enclose our schedule of rates to attend to any other matter in relation to the above property:
>
> | | |
> |---|---|
> | Letters and Faxes | $50 per page |
> | Phone calls | $100 for the first 10 minutes and $25 per minute thereafter |
> | Attending Meetings | $250 call out fee and $250 per half hour thereafter |
>
> Having fully disclosed our rates to you, we will from today's date commence billing you accordingly without further notice.
>
> Please note that our terms are seven (7) days from issue of tax invoice. Please note that additional fees will be charged for collection of unpaid invoices after nine (9) days of issue.
>
> Making any further attempts to contact us or any member of our group, will result in you accepting our terms.
>
> Yours faithfully
> Peter Yassa
> Business & Property Development Manager

The company is Ashworth, whose motto is growth, stability and strength. The letter was in response to repeated attempts to get a neighbouring development to comply with development application [DA] conditions. Mr Yassa's letter is nothing short of disgraceful. He should be condemned for it. It speaks volumes about the business approach of the two developers of the site in question—Ashworth Corporation and Pacific Constructions. At the outset I should note that I have preliminary legal advice that there is no basis for such charges being applied. In other words, money is being demanded for no legitimate reason.

On 5 May the neighbours of the construction site, Garth Harris and Elisabeth Longhurst, wrote to me detailing the run-around they were getting in having DA conditions for a neighbouring State environmental planning policy [SEPP] 5 development enforced. Their letter and attachments showed repeated attempts to have matters remedied and a stonewall attitude by the developers. The development was privately certified, a system of certification introduced by this Government and one that probably all members of this Chamber have found fault with since its inception. To be fair, from the correspondence I have seen, the private certifier has tried. In a fax he said:

> In response to the other matters raised in your correspondence we have made exhaustive attempts to have Pacific Constructions (NSW) Pty Ltd satisfy your concerns however unfortunately it is evident they have also elected to ignore BMA in this instance.
>
> We respect the fact that our role as the PCA must also take into account the best interests of the public during a development and in this regard we have elected to forward the matter to Council requesting that appropriate Orders be issued in relation to the breach of conditions of the DA consent.

That is another point—the apparent powerlessness of authorities to require adherence to development consent conditions. As my constituents state, "It seems that DA conditions mean nothing and that nobody actually enforces them and, worse, human life and safety seem to be of no priority" and, "Why bother having DA conditions if they are not policed and enforced?" Garth and Liz have documented the DA conditions breached. They include breaches of section 22, materials handling; section 23, maintenance of access, traffic and stockpiling of material; section 37, hours of work; sections 47 to 49, excavation works and protection of property; section 84, building inspection, nuisance; section 199, site traffic movement; and sections 200 and 202, traffic conditions on Mona Vale Road.

One of the reasons I am so sensitive to this issue is that last year I raised the circumstances relating to the death of Mrs Lola Dorothy Welch. It is clear that failure to adhere to DA conditions, including those relating to vehicular access and working hours on another SEPP 5 building site on Mona Vale Road, St Ives, resulted in Mrs Welch's death. Her husband and I have tried in vain to have an appropriate coronial inquiry into her death, an inquiry we both sought to ensure that similar problems did not arise again. We hoped that the inquiry would result in better policing and adherence to DA conditions. A year later I am raising the same issue—thankfully no injury or death has eventuated in this case—and we are still waiting for that coronial inquiry.

I have raised the matter with the Minister for Infrastructure and Planning. As yet we are still waiting for a reply. I urge that greater priority be given to this matter, and that urgent attention be given to improve the private certification process and to ensure better policing and enforcement of DA conditions at these sorts of developments. Mediation has been attempted in this case, but at Monday's meeting with Ku-ring-gai council the private certifier sent apologies and the developers simply failed to turn up. In the end, council can do little to enforce the DA conditions except to issue a maximum fine of $600. This development is worth millions. It involves 14 SEPP 5 units in one of Sydney's premium suburbs.

The current level of fine is simply a pimple on the backside of the Neanderthal developers who are deaf to the concerns of neighbouring residents and who seriously demand payment for responding to the reasonable concerns of residents and local government. I urge both the Minister for Infrastructure and Planning and the Minister for Fair Trading to look at these companies and their approach to development in this State and this effort to inappropriately silence criticism of, amongst other matters, safe working at this development site. On Monday my constituents got a bill from Ashworth Corporation for $495 simply because they were trying to ensure consultation and adequate building standards for the replacement driveway Ashworth is required to build for them. The fax said:

> We confirm that you made a telephone call to the Construction Supervisor of Pacific Constructions in a manner that was quite rude and abusive—

issues my constituents deny—

> In the call you suggested that if we were to pour the remainder of the Driveway into your property, you would and I quote "rip out the formwork".
>
> We would like to set the record straight that it was the intention of Pacific Constructions to pour the remainder of the driveway tomorrow, giving you access into your property, but against better judgment and in accordance with your instructions, we will refrain from doing so.
>
> Please note that you will now be charged to place the concrete at a later date.
>
> Please find enclosed a Tax Invoice as per our terms and conditions in dealing with this matter. Please note our trading terms.
>
> Yours faithfully
>
> Peter Yassa
>
> Business & Property Development Manager

The invoice particulars are:

Phone call to Ross Glen by Garth Harris	$100.00
Phone call Ross Glen to Peter Yassa	$100.00
Phone call Peter Yassa to Jim Soong	$100.00
Phone call Peter Yassa to Ross Glen	$100.00
Typing fax	$50.00
SUB-TOTAL	$450.00
GST	$45.00
TOTAL	$495.00

The invoice goes on:

> Please note that our Trading terms are seven (7) days. Any enforcement or recovery action that is taken will be charged to you.

This is an atrocious attempt to extort money from people who are simply trying to have their rights protected, rights that Ku-ring-gai council has endeavoured to have protected on their behalf. I do not know Ashworth Corporation—I have no beef with that company or with Pacific Constructions. I have legitimate concerns about SEPP 5 construction sites along Mona Vale Road. They are concerns that relate to the death of Lola Welch last year and the stress that the family has gone through since her death. We have had a year of no action from the Government, a year of no action from the coronial inquiry and a year of inaction in relation to the fault of private certifying in this city. As I said before, it would be farcical if it were not so serious. I encourage the Minister for Fair Trading to look closely at the practices of this company. If this were another set of circumstances this would be either demanding money with menaces or extortion, both of which would be subject to criminal charges. There is no legal basis for these charges. This is sheer, straight-out harassment, and it ought to end. I ask the Minister for Fair Trading to put an end to this sort of nonsense.

KIAMA SHOW SOCIETY

Mr BROWN (Kiama) [5.15 p.m.]: I speak tonight about the Kiama Show Society. The society was established in 1848 and has been providing entertainment for the Kiama area. I have benefited a lot from the Kiama Show Society, having attended many of its shows and show balls. I now have the pleasure of taking my son to the show each year. Last Saturday the Kiama Show Society had its annual general meeting. Elections took place at that meeting. I congratulate last year's office holders, who all stood again this year, and wish them all the best for another fantastic and successful year. I particularly thank the president, David Chittick; the senior vice-president, Sandy Rendel; junior vice-president, Greg Chittick; secretary, Nancy Waters; and treasurer, Vic East. This executive took control a year ago from an executive led by Michael Brennan. Michael Brennan and his wife, Kay, did a fantastic job in keeping the show society moving forward, to modernise it and to lay the foundations for the successful year it had last year.

Even though the show society and the show culture is steeped in history, the Kiama Show Society is moving with the times. This year it has taken on a new computer program called Show-Pro. Despite having a few early setbacks, that system is now in place and is helping everybody to get a top-quality show. The society has purchased a photocopier to enable it to go about its business and it also has a web site—*www.kiama.net/kiamashow*. It is terrific that the society, made up predominantly of farmers, is making sure that its show is always contemporary while retaining so many traditional elements. This year the show was recognised in the *Lake Times* and the *Kiama Independent* Tourism Awards and won the tourism event. I congratulate the society on that achievement. The show ball was also a great success this year. People not only from Kiama but also from surrounding areas and from far afield come to the show ball. This year it attracted in excess of 650 people.

The show ball committee should be congratulated on its excellent work. President David Chittick made special mention in his report of Rory and Shirley Sebastian. The show maintained its commitment and its winning formula of having two bands. One of the real stalwarts of the Kiama show is its secretary, Nancy Waters. She is a bundle of energy and a terrific organiser, and is always ably assisted by Brenda. Because of the efforts of Nancy Waters with the Kiama show and her other involvement in the community, she was awarded the Kiama municipality citizen of the year award this year. That is a terrific achievement and a well-earned

reward, which I congratulate her on. David Chittick and his wife, Margaret, also deserve much thanks for continuing the show and providing such strong leadership. The show was a terrific success this year. Considering that many farmers were experiencing severe drought, it was an amazing feat that all the people concerned could donate so much of their time and energy to provide an important cultural and economic stimulus in the area of Kiama. It was interesting to see a former Federal member winning prizes in the show. I congratulate Colin Hollis on his achievement. Congratulations Kiama show, you are doing a great job. [*Time expired*.]

ERINA GARDENS AND KARALTA COURT MANUFACTURED HOME PARKS REZONING

Mr HARTCHER (Gosford) [5.20 p.m.]: Erina Gardens and Karalta Court are two manufactured home parks at Karalta Road, Erina, in my electorate of Gosford. Some 400 residents, overwhelmingly retired people on the age pension, live in the parks. I have had many dealings with the residents over the years, especially during the time of the former owners, the Smith family. In those years I was pleased to attend the residents' Christmas party each year. One of my first acts on becoming the member for Gosford was to work for the construction of a footpath for the residents from their manufactured home villages to Erina Fair shopping centre. Recently the parks were taken over by Paul and Karen Craig. The zoning of the area is residential. Accordingly, the parks are worth millions if vacant for redevelopment. The only way to redevelop for residential purposes is to clear away the existing residents.

In years past, and up until recently, the owners, including Paul and Karen Craig, acted as agents when the residents wished to sell their homes. And homes they are—beautiful homes of two or three bedrooms with lounge, kitchen, laundry and carport. They are manufactured on site and are worth $200,000 or more in some cases. In accordance with the principle I have always argued, the residents are homeowners. The parks are co-ownerships of the landowner and the homeowner. Both sides have property rights. In February 2003 Paul and Karen Craig notified the homeowners that they no longer wished to act as agents for the sale of homes, the implication being that Paul and Karen Craig wished to redevelop the land on which the homeowners live for residential purposes. Since then Paul Craig, in a further letter dated 9 May 2003, has indicated that he has lodged a development application with Gosford City Council "for future redevelopment of the two parks for a combination of villas, townhouses and units".

This is a declaration of war. This is Paul Craig attempting psychological warfare to force 400 people out of their homes so that he can redevelop the land upon which their homes are located for residential purposes for his own profit. This must be stopped, and it will be stopped. I have pledged to the residents that I will stand with them to oppose this development application, to oppose Paul Craig and to secure for the residents their proper rights as homeowners. Gosford City Council has unanimously voted to rezone the land special purposes—caravan park from its existing zoning of residential to protect the tenants.

The Premier, Mr Carr, wrote to the tenants on 20 March 2003 pledging "if re-elected, my Government will support a rezoning by Gosford City Council of residential Parks from residential to Special Use". I now call upon the Premier, who is represented in the Chamber tonight by the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration), to immediately honour this promise. There is no reason for delay. Gosford council wants the rezoning, the residents want the rezoning, I as member for Gosford want the rezoning, and the Premier has promised the rezoning. If action is not taken quickly Mr Craig's development application will have to be dealt with by Gosford City Council and, if not successful, he will be entitled to appeal to the Land and Environment Court. Accordingly, he will have legal rights which a rezoning would not affect, because his existing rights would be protected. Accordingly, it is important that rezoning take place and take place now. I urge the Government, the Minister who is present in this Chamber and the Premier to act now to ensure that the rights of these homeowners, these 400 good people of Gosford, are protected and that they are secure in their homes.

Ms BEAMER (Mulgoa—Minister for Juvenile Justice, Minister for Western Sydney, and Minister Assisting the Minister for Infrastructure and Planning (Planning Administration)) [5.25 p.m.]: Last week I met with residents of the parks mentioned by the honourable member for Gosford and other parks on the Central Coast. About 4,000 residents of the Central Coast live in parks. I am well aware of the compelling case made to me about their plight in relation to the development application before Gosford City Council. The council has exhibited a plan and it will be voted on in the future before coming to PlanningNSW. We will consider that plan in view of the compelling case that was put to me by residents, their representatives and the honourable member for Gosford. It is a sorrowful story. In one case more than 90 per cent of the residents are over 65. These people invested in the parks but now have very little asset. As one resident put it to me, even if they want to move they

are locked into not selling at this time. I will consider the issues very carefully. I am aware of the view of Gosford City Council. I will be mindful of the things said to me and mindful of council's point of view in this case. We will look at the way residents in the areas zoned residential are treated by the Government and by the owners of the park. Some balancing has to be done but I am very mindful of those things. I thank the honourable member for Gosford for drawing the matter to my attention.

BLACKTOWN RAILWAY STATION

Mr GIBSON (Blacktown) [5.27 p.m.]: Tonight I speak about an issue involving the city of Blacktown, the area I represent in this Chamber. The present population of this very fast growing city is in the vicinity of 265,000. Blacktown City Council is led by a very good and able mayor, Alan Pendleton. The council does a wonderful job. Blacktown has a number of problems—they are only small problems but they can amount to big problems in the end—involving Blacktown railway station. Some time ago all the seating was removed from the station because in the view of CityRail it was becoming a menace; young people would sit on the seats and then do things such as grab handbags from old ladies. The vandalism problem was cured by the removal of seating from the railway station, which means that old or unhealthy people have nowhere to sit.

The station also had no toilets. The former Minister for Transport corrected that problem. We now have toilets at the station, but they are locked most of the time. People who want to use them must go to the stationmaster or the office to get a key. That is demeaning and should not happen. Since I have been the local member, escalators have been installed and a new platform has been built. On the one hand we have done well, but on the other hand we have not done well at all. On a number of Monday mornings I have observed people wishing to buy weekly tickets standing in long queues and waiting an eternity. On the Monday after Anzac Day hundreds of people queued to buy tickets. Luisa Cogno reported in the *Blacktown Advocate* that:

> Hundreds of peak hour train travellers were forced to queue for more than an hour to buy tickets at Blacktown railway station on Monday morning.
>
> Commuter Lisa Srsa arrived at 7.50am to see one line stretch hundreds of metres from a ticket window past two sets of stairs and escalators and around two corners.
>
> She normally leaves 21 minutes to buy her daily ticket and catch the 8.11am train to work in Parramatta four mornings a week.

Unfortunately, she had to wait more than an hour to buy her ticket, which meant she was extremely late for work. That level of service is not good enough. The article also mentions an argument at the ticket window because a staff member ran out of change. In addition, the automatic ticket machine had a note jammed in it, which meant it was out of action for the entire morning. Monday morning is the busiest time of the week at the station. Surely we can overcome these mundane problems. I do not know whether monthly or fortnightly tickets have been contemplated. However, it stands to reason that if passengers could buy fortnightly or monthly tickets they would have to line up only once every two weeks or once a month.

Surely in this day and age we can afford to install more automatic ticket machines at busy stations. Within the next 12 or 18 months Blacktown railway station will become the busiest morning station in the network. We should be able to overcome the problems involved in buying tickets. We could institute a system for people to buy tickets on trains. These ideas must be considered. That would be a simple way to fix a major problem that is turning passengers away from public transport. We must urge as many people as possible to use public transport to relieve congestion on our roads and to make it easier for people to move around the city.

TREELANDS DRIVE COMMUNITY CENTRE

Mr CANSDELL (Clarence) [5.32 p.m.]: On 30 June this year a four-year funding grant for an information and referral worker at the Treelands Drive Community Centre at Yamba will expire. Unless ongoing funding can be arranged, the aged, the frail and the disadvantaged will suffer the loss of a vital community service. The centre was officially opened in August 1999 and was funded by the Department of Ageing, Disability and Home Care in conjunction with Maclean Shire Council to provide a multipurpose community facility for the increasing Lower Clarence population. The centre was established to cater for the changing demographics of the shire.

Yamba is a growth area that has attracted retirees and younger families. Many of the younger families are on low wages and seek seasonal work to supplement their incomes. The centre provides a venue for outreach services in the Lower Clarence and complements the information and referral service. That service responds to

the needs of a growing and under-resourced community by dealing with issues relating to affordable and safe housing, transport, high unemployment, family fragmentation, allied health services, and youth and family services. In 1999 the area assistance scheme provided a four-year set-up grant to employ an information referral worker. The funding was provided to facilitate the development of an information and referral service to operate out of the new Treelands Drive Community Centre at Yamba.

The worker has since developed strong partnerships in the local community and with government and non-government departments. As a result various outreach, welfare and health services have been established, along with an information database with a focus on providing appropriate information, support and referrals to individuals and families that require these services, especially in situations of crisis and change-of-life circumstances. In addition, the worker has maintained statistics or data about the information and services being sought and unmet needs. The information and referral service offers a one-stop shop for other service providers and individuals throughout the Clarence area by providing information, advocacy, community forums and workshops. The primary aims are to provide accurate information, to avoid duplication of information and referrals and to minimise frustration when people seek community information and support.

The service has also minimised the number of inappropriate referrals, protected confidentiality and avoided the release of personal information. By identifying service gaps, the information referral worker has successfully obtained submissions or grants and worked closely with other service providers and communities to set up outreach services. They also provide information forums and workshops, and facilitate services in the following areas: recruitment, training and supervision of volunteers to assist in maintaining the information exchange database; Yamba Seniors Expo; Seniors Week activities and seniors computer lessons; tax help; volunteer home visiting services for special needs groups; kids clubs; assistance to disadvantaged and isolated families with children; drug prevention for young Aboriginal adolescents—the area has a large Aboriginal population; crisis accommodation; Christmas food hampers and presents for disadvantaged families and individuals; a community car boot market; community centre based meals, which break down social and geographic isolation and promote community belonging; face-to-face information and referral; men's groups; support and information sharing; and co-ordinating the centre's activities in promoting community harmony.

If the information referral worker is lost to the community because funding ceases, these services will disappear. Treelands Drive Community Centre will become nothing more than a hall for hire through the Maclean Shire Council. The meaning of community will disappear. I call on the Minister for Community Services and the New South Wales Government to support this community, which is already living with high unemployment, low incomes and limited support services. I urge the Minister to respond to Yamba's plea for help with compassion and a commitment to ensure ongoing funding.

ST GEORGE LITTLE ATHLETICS CENTRE ANNUAL GENERAL MEETING

Mr GREENE (Georges River) [5.37 p.m.]: Last Wednesday evening I had the pleasure of attending the thirty-second annual general meeting of the St George Little Athletics Centre. I was welcomed to the function by the president, Mrs Lynne Whatman. She took the opportunity when presenting her report to outline many of the great successes that the club continues to enjoy as it promotes sport within the district. It is fortunate to have the support of Hurstville City Council, which allows the club to use Olds Park. It has proven over many years to be an excellent club venue on Friday evenings. Lynne's report also highlighted the outstanding individual performance of the centre's champion boy athlete, Shannon Delaney. He was the State under-15 champion in the 800 metre, 1,500 metre and 3,000 metre events last year. I am sure all honourable members would agree that that is a magnificent performance. It is undoubtedly one of the reasons that he has been selected to enter the New South Wales Institute of Sport elite sports program. We wish him all the best as he continues his athletics career.

While referring to outstanding athletes, I must inform the House that the President of the St George District Athletic Club Inc., Mr Albie Thomas, also attended the meeting. Many honourable members know that he was a world record holder in many events during the 1950s and 1960s. He was one of Australia's great long-distance athletes. Of course, he added his congratulations to St George Little Athletics Centre on the work it is doing and urged the club to continue encouraging its members to further their athletics careers with the St George District Athletic Club.

On the evening I noted with great pleasure the awarding of life membership of St George Little Athletics to Mrs Glenda McLoughlin, a Lugarno resident who is a great worker in the St George district. Glenda's sterling service with St George Little Athletics commenced in the 1992-93 season when her two eldest

children, Daniel and Matthew, commenced their Little Athletics careers, later to be joined by her two daughters, Briannon and Courtney. Glenda first began her involvement with St George Little Athletics by working in the canteen and assisting with long jump events. In 1993-94 she became an age manager, and she continued in that role until 1996-97, when she took on the very responsible position of registrar. Glenda continues to hold that position today.

Glenda has also been heavily involved in the annual St George-Preston challenge. Biannually, teams from St George Little Athletics and Preston Little Athletics in Victoria visit each other's centres for the challenge. She has made four trips to Preston with the St George teams and has also been one of the main organisers of the program. She has also been the manager of State relay teams for St George, and currently she is the zone treasurer of Little Athletics. She was certainly humbled by receiving the award of life membership, and it was extremely fitting that she should be acknowledged by St George Little Athletics for her major contribution to that organisation. I also congratulate Glenda's husband, Tom, who is the president of Lugarno Soccer Club, one of the largest soccer clubs in the St George area. Previously Tom has also served as Secretary of Lugarno Sports Cricket Club. Clearly, these two extremely active parents have made great contributions to sport and to many other activities in the St George district, particularly the Lugarno area.

It was also pleasing to note on the evening that Mr Ray Horton, another longstanding member of St George Little Athletics, was last year recognised by the Little Athletics Association of New South Wales by being awarded the association's inaugural Volunteer of the Year Award. Receiving such an auspicious award was fitting recognition of Ray's efforts. He has been a volunteer in the St George centre for 27 years. Ray is now 80 years of age, but he still turns up every Friday night to assist at the St George centre. It was also pleasing to see Fred Scott, the inaugural president of St George Little Athletics and life member. It was great to see many other life members on the evening. Most importantly, it was great to know that all positions on next year's executive were filled.

LISMORE ELECTORATE PEDESTRIAN SAFETY

Mr GEORGE (Lismore) [5.42 p.m.]: As a member of the local traffic committee that meets with the respective councils in the three major towns in my electorate—Lismore, Casino and Kyogle—and as the member of Parliament attending meetings of the Police Accountability Community Team [PACT] in Lismore and Casino, I express my concern about the problem of bicycles being ridden on footpaths in my electorate, an issue that is raised at each of those meetings. I am sure all members of this House have a similar problem in their electorates. The problem relates not only to bicycles but also to skateboards and scooters that are being ridden in the main shopping areas of these towns, with no respect being shown to the public. The concern raised with me is that people are powerless to take action against the riders. I raise the matter out of frustration, to alert the Minister for Local Government. I realise that he is a member of the other place, but I trust that the Minister in the chair may be able to assist in bringing the matter to his attention.

The riding of bicycles, scooters and skateboards on footpaths in the Casino central business district has escalated in recent times and has become a hazard to public safety. As a result, I have received numerous complaints about this issue, as have council and other members of the local traffic committee. Richmond Valley Council has taken a number of steps to address the problem, including the painting of pavement signs in various locations around the central business district that identify areas where bicycles are prohibited; the publishing of articles in local newspapers, as well as the posting to schools of memorandums that detail the problem, and advice of council's intention to police the situation; and undertaking regular foot patrols of prohibition areas, issuing warning and infringement notices to offenders.

Amendments to section 632 of the Local Government Act in March 2001 prohibit Richmond Valley Council from directing signage to prohibit bicycles being ridden on footpaths. The council has received advice that although this was not the intention of the change to section 632 (2A) (b), the amendment now renders council's use of this section to prohibit bicycles on the footpath null and void. Section 632 (2A) (b) of the Local Government Act provides that a notice must not prohibit or regulate the taking of a vehicle into, or the driving, parking or use of any vehicle in, any public place that is a road or road-related area within the meaning of the Road Transport (General) Act 1999.

We need to find a solution to this problem. At present police officers are authorised officers under Australian road rules and would be able to take the appropriate action. However, they believe that children under the age of 12 who are riding with their parents cannot be dealt with. Given the uncertain nature of current legislation under the Local Government Act, I urge the Minister for Local Government to work with the

Minister for Police to ensure that the problem is addressed. The matter is of great concern to shoppers in the central business districts of the three towns I have referred to, and, as I said, I would be surprised if other members of this House do not have similar problems in their electorates. I urge the Minister for Local Government to examine section 632 (2A) (b) of the Local Government Act, address the issue, and give police and councils the power to control this problem that exists throughout the central business districts of regional and rural New South Wales.

Ms BEAMER (Mulgoa—Minister for Juvenile Justice, Minister for Western Sydney, and Minister Assisting the Minister for Infrastructure and Planning (Planning Administration)) [5.47 p.m.]: I undertake to ensure that the concerns raised by the honourable member for Lismore are brought to the attention of the Minister for Local Government, and that the Minister responds to his concerns and those of his community and the local councils in his electorate.

TIMORESE ASYLUM SEEKERS

Mr LYNCH (Liverpool) [5.48 p.m.]: I draw to the attention of the House the issue of Timorese asylum seekers in Australia, which is a matter of concern for the constituents of my electorate. This results not only from humanitarian concerns on the part of my constituents generally, but also from the fact that many, if not the majority, of the approximately 800 Timorese asylum seekers in New South Wales live in south-western Sydney, particularly in the electorate of Liverpool. There are about 1,700 Timorese asylum seekers Australia-wide. This group of people fled the brutal and repressive regime established in East Timor by the Indonesians after their invasion in 1975. Many of them were traumatised by their experiences in East Timor; many have been scarred both physically and psychologically by torture. Some have been in Australia since 1992. They were denied refugee status in Australia because of an absurd Australian Government position taken in the 1990s by the then Labor Government that they were entitled to be citizens of Portugal, the colonial power whose de facto control of East Timor ended in 1975, and as refugees they should not be here but in Portugal.

With respect, that was a silly and offensive argument and it has been the subject of a number of appeals and disputes. The argument that is now being pursued by government authorities is different. The Federal authorities say that the position now is that East Timor has been liberated, the Indonesian forces evacuated and that, accordingly, all the Timorese asylum seekers in Australia should just go back to Timor. In my view that is not an adequate response. This group of people arrived after the Santa Cruz massacre in Dili in December 1991. In 2002 they started receiving letters from the immigration authorities. Those letters started the process of removing them from Australia all these years later. They received a second letter rejecting their claims for permanent refugee status. Their claims then proceeded to the Refugee Review Tribunal. Rejection at that tribunal leaves open only a direct appeal to the humanitarian conscience and milk of human kindness of Minister Phillip Ruddock.

In many cases sending these people back to Timor must be wrong. They are in many senses more Australian now than they are Timorese. Some of them came here as young children. Some were born here. The Federal Government is proposing to send back to Timor schoolchildren on a permanent basis to live there even though they have lived all, or virtually all, of their lives in Australia. There are many quite serious cases in this category. I will refer to several of them where I know the people involved personally and in relation to whom I have made written representations. Xisto Deolindo Da Silva and his family arrived in Australia in 1994 seeking protection from the oppression in East Timor. The youngest daughter was then aged five. She now speaks mainly English. She has grown up and been educated here and she is now doing her Higher School Certificate. That family has nothing to return to in East Timor. All of their emotional and family ties are here. They have integrated well with the community and Mr Da Silva does lots of voluntary work.

Afonso Cham arrived here with his wife and his younger children in 1999. His three older children came to Australia in 1995. The second child, Pedro, now aged 17, is the school captain of James Busby High School in my local area. As would be evident from that, the children have adapted extraordinarily well to Australia and to the education system here. This family has no home to go back to and their relatives are no longer in East Timor. Their village was at Suai, which is right on the border and is still a place of some difficulty. There seems no good merit and no good public policy in people like Pedro Cham and his parents being forced back to East Timor. Jose Dos Remedios and his family arrived in October 1994. Jose came with his wife and two children then aged 12 and 4. One child has just finished the Higher School Certificate in Australia. The children, frankly, have little memory of East Timor. They are quite fluent in English but not at all fluent in the languages that are spoken commonly in East Timor. It seems an absurd proposition to send those people back when the only home those children know is Australia. They also have no relatives left in East Timor.

Another case I have been involved in is that of Ana Paula Mok. She arrived here in 1994 when she was 23 years of age. Her extended family, all her relatives and all her emotional and family ties are in this country, not in Timor. She has undertaken a child care course in Australia; she has worked as an interpreter with the Service for the Treatment and Rehabilitation of Torture and Trauma Survivors, and with South Western Sydney Area Health Service. She has made a significant and productive contribution to life in Australia. To send her back to East Timor would be not only unfair to her but a loss to us.

There are significant bodies that have supported the proposition that these people should be allowed to remain in Australia. The Australian East Timor Association, for example, has approached me and presented a cogent case for these people to remain in Australia. Catholic Archbishop Carroll has recently publicly released a letter he sent to Minister Ruddock supporting the proposition. Josephine Mitchell and Susan Connelly from the Mary MacKillop Institute of East Timorese Studies have put forward a powerful case. The Christian Brothers in New South Wales have recently also adopted that position. I believe it is only reasonable that we support the proposition of Julia Gillard to allow a special visa class to be made available to these individuals to allow them to remain in Australia.

Ms BEAMER (Mulgoa—Minister for Juvenile Justice, Minister for Western Sydney, and Minister Assisting the Minister for Infrastructure and Planning (Planning Administration)) [5.53 p.m.]: I commend the honourable member for Liverpool, who again highlights the plight of those members of the Timorese community he has met in his electorate. He often brings to the House issues of humanitarian concern and the House is greatly enlightened by his contributions on these issues. We certainly share with him the concern for the citizens he has met. His reason for highlighting them is well-known to the House: his deep compassion for and his commitment to the Timorese people in his electorate. I commend him for that.

ST PATRICK'S COLLEGE, STRATHFIELD, SEVENTY-FIFTH ANNIVERSARY

Mr BROGDEN (Pittwater—Leader of the Opposition) [5.54 p.m.]: In 1928 that great Irish fraternity of religious men, the Christian Brothers, chose a site in Edgar Street, Strathfield, to establish St Patrick's College, Strathfield. I am an old boy of St Patrick's College, Strathfield, as is the previous speaker, the honourable member for Liverpool. This year St Patrick's celebrates its seventy-fifth anniversary. The Christian Brothers chose for that school not the name of the patron saint of their order but the patron saint of their native home, Ireland. They arrived in Australia some 30 years before that and established schools across a broad network. Waverley College celebrates its one-hundredth anniversary this year. My uncles attended the Christian Brothers College at Balmain, the first Christian Brothers school established in Australia, which has now closed. For many years my mother was the secretary at that school. I attended St Patrick's College, Strathfield, between 1979 and 1986.

I have had an opportunity to visit the school recently, and I can say that I would not be a member of Parliament, the leader of my party or the man I am today had it not been for the opportunities, love and care given to me by the brothers and the teachers at St Patrick's College. The same opportunities, love and care were extended to countless thousands of other young men who attended the school. Four old boys of St Patrick's College, Strathfield, are presently members of this Parliament. In all there have been seven: Richard (Dick) Healey, the Liberal member for Wakehurst from 1962 to 1971, the member for Davidson from 1971 to 1981, the Minister for Youth and Community Services between 1973 at 1975 in the Askin Government, and the Minister for Health between 1975 to 1976 in the Lewis and Willis governments; Ralph Clough—or Mick, as he was known—the member for Blue Mountains from 1976 to 1981, and the member for Bathurst from 1981 to 1988 and again from 1991 to 1995; Laurie Ferguson, the member for Granville from 1984 to 1990 and now the Federal member for Reid; the previous speaker in this debate, Paul Lynch, the member for Liverpool since 1995; myself; Mr Paul McLeay, the recently elected Labor member for Heathcote; and Tony Burke, MLC, who was also elected this year for the Labor Party in the other place.

In their time schools achieve many milestones. Whilst I am a proud old boy I am by no means one of the better-known old boys. Indeed, I would contemplate that the better-known, if not best-known, old boy from St Patrick's College, Strathfield, would be Australia's eminent author, Thomas Keneally. Indeed, Tom and I often joke, as residents of Bilgola on the northern beaches, that the reason he votes Labor is because when he went to St Patrick's College, Strathfield, they played rugby league and the reason I am a Liberal man is because they played rugby union when I was at St Patrick's College, Strathfield. Today, Tom and I share a role: I am the patron of Bilgola Surf Club, and he is the vice-patron. My wife, Lucy, who is in the gallery, is an active member of the club.

One humble brother, a man who died the year before I left the school, Brother John Crichton, is probably best known among the old boys. He was a World War I digger, and who for all but one of his years of teaching in the Christian Brothers taught at St Patrick's College, Strathfield. Other great men, many of whom I knew, were Brother Dynes, a great Latin scholar who I had the benefit of knowing; those who continue to teach at the school today such as Brother James McGlade, former headmaster and former provincial of the Christian Brothers, and Brother John O'Shea, my headmaster, a man for whom I have enormous respect and whom I know well. Many great lay teachers have also graced St Patrick's College, Strathfield, in particular Michael Robson, my former general studies and modern history teacher who is in the gallery. I believe he votes Labor so I believe I am one of his great failures. He is here with Glen Byrnes, my former maths teacher and now a senior administrator of the school, and Mr Grahame Smollett, the current headmaster.

Today St Patrick's educates 1,400 young men. When the Christian Brothers started the school 75 years ago in a dusty road in the middle of Strathfield they probably never thought that it would reach those heights. Today the college does one great thing: it continues in the outstanding tradition of the Christian Brothers of providing young men not only with the opportunity for education but with opportunities for self advancement, in a caring and loving manner and on behalf of a broad and respectful community. In weeks to come the college will celebrate its seventy-fifth anniversary. I thank the House for indulging me, as an old boy, to note the great achievements of that school and what I believe will be a magnificent year of celebration.

NORTHERN TABLELANDS AIR SERVICES

Mr TORBAY (Northern Tablelands) [5.59 p.m.]: Honourable members representing country electorates would be very aware that air services in New South Wales have continued to decline over recent years since the reduced competition of air services in regional communities. A whole range of factors has led to that decline, including international events and the fall-out that impacted very negatively on regional communities. I acknowledge the Minister for Transport Services for his recent visit to my electorate during which he discussed air services for the communities of Inverell, Glen Innes, Gunnedah and Scone. The Minister met with a delegation that included the honourable member for Tamworth, the Mayor of Inverell, Barry Johnston, and the Mayor of Gunnedah, Gae Swain, other representatives and me. It was very clear that the meeting was not keen to apportion blame as to why regional air services have been removed.

Following the rationalisation of services that produced Qantas as a monopoly player, many centres lost all air services. I am on record as saying that I was very disappointed with the manner in which Qantas conducted itself in that regard, and that remains the case today. In the discussions the Minister acknowledged that other airline providers, one in particular, have put forward a proposition to return air services to some areas within my electorate and in the electorate of Tamworth. The Minister has agreed to consider the feasibility study that has been put forward. Other levels of government will need to make a contribution if air services are to be returned to regional areas. It is a basic right of people to have air services, it is not a luxury. Air services are needed not only to transport people for holidays but to access services and to ensure regional development and the flow-on effects to our communities.

I congratulate Inverell Shire Council on stating that it is prepared to waive landing fees at its airport as an incentive to attract an operator for the benefit of the community. The council has indicated that it is prepared to make a further contribution; obviously that contribution will result from further discussions with the Minister, the department and other stakeholders. Inverell Shire Council has not said, "Let's just get the Government to assist us, but we are not prepared to do anything." The council is stepping up to the plate to make a contribution in this process. I hope that the Federal Government will do what it can to assist us in this project. It seems to me that in a reduced competition environment all governments have to design their policies in a very different way from those made when choices existed.

I cannot emphasise enough the difficulties regional communities face to access transport when air services are withdrawn. The strategic plan of Qantas seems to be that it will provide a service to the largest centre, that is Armidale in my electorate. However, as Qantas has the monopoly it will provide a service but at a much increased rate—it will cost approximately $550 for the return fare from Sydney to Armidale. Qantas no longer provides services to any other area in my electorate and that is totally unsatisfactory. It may suit Qantas but it does not suit the communities. Throughout that difficult period other operations set up were, in my opinion, specifically designed by Qantas to fail. Therefore, people were obliged to drive to the larger centres, and obviously that suited Qantas. I am delighted that the Minister for Transport Services has indicated that he will do what he can. Further meetings are to take place this week. I look forward to constructive negotiations with stakeholders in a bid to return air services to the Northern Tablelands.

PORT MACQUARIE ELECTORATE SURF-LIFESAVING CLUBS LIQUOR LICENCES

Mr OAKESHOTT (Port Macquarie) [6.04 p.m.]: Up and down the New South Wales coast there are many surf clubs, and in the Port Macquarie electorate there are five. Prior to the recent election the former Minister for Gaming and Racing, the Hon. Richard Face, in one of his last acts as Minister, came to my electorate and talked with members of surf clubs from the mid North Coast and the North Coast. The Minister put to them a proposal for what has come to be known as the 74A liquor licence, with limited conditions, to hold functions. All clubs are in desperate need of funding and a resolution of the 74A liquor licence requirements. That need is a reflection of what is happening at surf clubs right along the coast, and the 74A licence is actually an extension of the current permanent functions licence, more properly described as a de facto caterers licence, and nothing more than that. I am disappointed that since the election there has been opposition to the 74A licences by the Australian Hotels Association.

The association has tried to demonise this process and said that the licences would create de facto pubs on every beach. Clearly that is not the intention; nor is it the thin end of the wedge in an attempt to provide surf clubs with fully blown club licences. That was not the intention of the surf clubs or of the former Minister for Racing and Gaming during discussions and when agreements were reached. I hope that the new Minister is supportive of the process agreed to prior to the recent election. It is disappointing that surf clubs do not have a regular and better funding stream from government. As we all know, surf clubs are non-profit, committee-based organisations made up of volunteers. They are icons throughout Australia. The services provided by surf clubs deserve greater recognition and support, especially funding, so that they can continue their activities. I say that not only as a member of this House but also as a fundraising officer of a surf club.

Ms Beamer: Do you declare an interest?

Mr OAKESHOTT: Yes, I do declare an interest in the Port Macquarie Surf Life Saving Club. I know at firsthand how difficult it is to raise funds and the budget restraints under which surf clubs operate. Clubs in regional coastal areas operate on the smell of an oily rag. I ask the Government to recognise that and allow the 74A licences to go ahead, as agreed to by former Minister Richard Face. I ask the Government to consider opportunities for funding the clubs. Anyone who lives in regional or rural New South Wales would recognise that the sports budget is desperately inadequate to fund all sporting clubs, especially surf clubs.

Every year less than $5 million is budgeted for capital infrastructure and for clubs based in regional and rural areas. That amount does not go anywhere near meeting the demand. I make a general plea for more funding for sporting activities in regional and rural areas. I particularly ask for funding for surf clubs on the coast, especially on the mid North Coast. I ask especially for the Government to support the 74A liquor licence applications; they were agreed to by the former Minister for Racing and Gaming. I certainly hope that there is bipartisan support in recognising the good work that surf clubs continue to do in saving lives throughout Australia.

Private members' statements noted.

[*Madam Acting-Speaker (Ms Andrews) left the chair at 6.09 p.m. The House resumed at 6.45 p.m.*]

CRIMES AMENDMENT (SEXUAL OFFENCES) BILL

Second Reading

Debate resumed from an earlier hour.

Mr DEBUS (Blue Mountains—Attorney General, and Minister for the Environment) [6.45 p.m.], in reply: I thank honourable members for their contributions to debate on this bill. I submit that the debate has demonstrated many cogent and forceful reasons for supporting the bill. An unequal age of consent sends the wrong message to society, the opposite message to what our laws should stand for—fairness, equality and consistency. An unequal age of consent tacitly says to the community that it is right to discriminate against a person on the basis of his or her sexual orientation. The present law stigmatises young people and makes them criminals. It denies them help when they need it most—when they need advice about safe sex and HIV-AIDS, when they need to be protected against violence and homophobia, and when they need counselling and support.

There can be no rational objection to an equal age of consent provided that adequate safeguards are put in place to protect young people against sexual exploitation. Equalising the age of consent to 16 is just one of

the many objectives of the bill. The law should not provide different penalties for sexual offences depending upon whether the perpetrator is male or female. Certainly, the law should not regard the offence of assaulting a little girl as less serious than the offence of sexually assaulting a little boy. Both are equally abhorrent. Therefore, the bill removes gender-specific offences and amends the Crimes Act to ensure the consistent use of non-gender specific language.

The result will be that sexual assault offences against children will be dealt with by the same set of provisions, irrespective of whether the victim or the perpetrator is male or female. Previous attempts to bring about equality in this area have failed, mainly due to arguments about adequate safeguards. This bill contains several crucial differences to the private members' bills previously introduced into the other place. The safeguards now include the removal of the express defence of carnal knowledge based on reasonable mistake of age, establishment of new aggravated child sexual assault offences and the rationalisation of offences to bring greater rigour and consistency to penalties involving child sexual assault.

The bill addresses inconsistencies and anomalies in the present law. For example, the penalty for sexual intercourse with a child under 10 is now 25 years whereas the penalty for sexual intercourse with a child aged 11 years is 8 years imprisonment. This bill doubles that maximum penalty to 16 years imprisonment. The offence of aggravated sexual intercourse without consent, the aggravation being that the person is under 16 years of age, will continue to attract a penalty of 20 years imprisonment. Sexual intercourse with a child under 10 years will continue to attract a penalty of 25 years imprisonment.

The bill rationalises and widens incest laws by using non-gender specific language and provides that any person who has sexual intercourse with a close family member of or above 16 years will be guilty of an offence. The bill also ensures the equal treatment of child prostitution offences irrespective of the gender of the child. It repeals a number of obsolete offences that are covered by the revised provisions.

I shall address some issues raised by honourable members during the course of debate. The shadow Attorney General, the honourable member for Epping, asked me two specific questions: first, in relation to why the bill cannot be split; and, second, in relation to the creation of a defence for previous consensual homosexual acts. I will deal with the second issue first because it is clear that the honourable member has misunderstood the effect of the section at many levels. The claim has been made that the bill retrospectively decriminalises homosexual abuse of young men between the ages of 16 and 18. It is wholly appropriate that discriminatory laws against gay men should be removed, not only for the future but also for past sexual contact when both parties were over 16, they consented and when the conduct would not otherwise have been unlawful. There are precedents, both in the United Kingdom and in Australia, for this kind of provision.

Mr Tink: Why are you moving the amendment?

Mr DEBUS: I will explain. Nevertheless, the Director of Public Prosecutions [DPP] has a standing practice not to prosecute any past activities that have since become lawful. In effect, this provision will have no real practical effect. Past consensual acts will not be prosecuted in any event. At the same time some honourable members and media commentators have been heavily misrepresenting this provision in the bill as one that would somehow protect instances of child abuse that have occurred in the past. Honourable members and others must understand that any abuse that is non-consensual sexual activity is sexual assault. Sexual assault crimes are not affected adversely in any way by this bill. In fact, the bill increases the penalties for non-consensual sexual activity. The police will, of course, continue to investigate all allegations of sexual abuse and the Director of Public Prosecutions will continue to prosecute them.

However, as I have indicated, the transitional provisions of the bill are largely symbolic. Whether or not they exist, past consensual homosexual acts between people aged 16 years or over will not be prosecuted. Accordingly, the Government intends to move an amendment in Committee to remove this position rather than to allow those who have made uninformed and prejudiced comments to continue to make mischief by misrepresenting the effect of this transitional provision.

The honourable member for Epping also suggested that the Government should undertake elaborate consultation with NSW Police and various integrity bodies on the number of investigations on foot concerning homosexual activity involving 16-year-old to 18-year-old people. Such consultation is entirely unnecessary because all cases of sexual abuse will continue to be investigated and prosecuted. The honourable member for Epping, on behalf of a number of honourable members, also asked me why the bill could not be split. The suggestion is that the Government has unfairly joined two issues in this bill—the age of consent, and increased penalties for child sex offences.

Some honourable members have argued that the bill should be split to allow them to agree with one issue and disagree with the other. In my view, such an approach to law reform would be quite irresponsible. That approach is the very reason for the present anomalous and inconsistent state of the law. Previous piecemeal reform has left us with laws that discriminate for no justifiable reason and that provide that a person who sexually assaults a 10-year-old child will get 25 years imprisonment, but a person who waits until the child is 11 will get only 8 years imprisonment. At present we have a law that states it is more criminal to sexually assault a little boy than it is to do the same to a little girl.

On 21 December 2001 the Crown Advocate provided me with an advice on child sexual assault offence, to the effect that they were inconsistent in the penalties they imposed. The Crown Advocate went on to make a number of recommendations about the reform and rationalisation of child sexual assault offences. The present bill is a package designed to eliminate well-recognised inconsistencies and discrimination, some that I have just described and others that were identified by the Crown Advocate. As such, the bill cannot be split into separate issues because that will perpetuate the practice that caused these inconsistencies in the first place.

Penalty increases without a change in the age of consent would only further criminalise the actions of young gay men between the ages of 16 and 18—that is, an increased penalty for sexual assault alone would apply to consensual homosexual sex under the age of 18, whereas the intention of the changes should clearly be to focus on those committing a genuine sexual assault. If the rationalisation proposal were to pass and an equal age of consent fail, the practical result would be to provide even higher penalties for consensual homosexual activity among young men over 16 while sanctioning heterosexual activity among young people in the same age group. Any proposal to split the age of consent from the rationalisation of the offences that I have described would be entirely contrary to the intention of the proposal. It is worth reminding honourable members that the proposal is to provide for the equal treatment of sexual offences against males and females.

One important matter that must be clarified concerns the conclusions and recommendations of the Wood royal commission. It must be made clear that the Wood royal commission consulted widely on the matters we are debating tonight. The report sets out arguments for and arguments against equalising the age of consent. A number of honourable members have read selective parts of the commission's final report— volume 5—and, specifically, from a short section entitled "The Arguments against Change". However, honourable members must have regard to the conclusion of Justice Wood, who, after having considered the arguments against change—and indeed a rather longer list of arguments in favour of change—drew the conclusions that are set out at page 1,079 of volume 5 of his report.

I remind all honourable members that Justice Wood is the most senior criminal law judge in New South Wales. Recognised universally as a man of the highest integrity and intellectual capacity, he spent years presiding over the royal commission, producing a massive volume on paedophilia and police corruption. His conclusions, therefore, must be seen to have profound weight. It is amazing to me that a few honourable members, at least, have chosen to so thoroughly misrepresent the conclusions in Justice Woods' report. His report states:

> **Conclusion**
>
> 14.32 The question whether there should be any change in the age of consent is uniquely a matter for the community, rather than for this Commission to determine. However, upon the material available, the Commission is able to state that it sees no reason:
>
> - to perpetuate a distinction between consensual homosexual and heterosexual activity; or
> - to suppose that legislative change to achieve uniformity in this area would bring about any behavioural shift, or that it would, in real terms, expose any more children to the risk of paedophile activity than are presently exposed to that risk (that is, so long as the age of consent does not go below 16 years).

This is a remarkably clearly expressed opinion. Justice Wood further said:

> Accordingly, it considers it appropriate for the relevant legislation to be the subject of further review in the light of community opinion, and in the light of matters identified in this Report.
>
> 14.33 In coming to this view, the Commission has had regard to:
>
> - the circumstances that the present legislation is, on any view, discriminatory and anomalous in its application;
> - the need for the law to recognise current social mores and practices, and the circumstance that most adolescents are today sexually active by the age of 16 years; and are very much better informed about sexual matters through education, films, magazines, television, radio and otherwise than past generations;

- the fact that legislative proscription of consensual conduct moves into shaky territory when it is based upon purely moral or religious ground, particularly where they are the subject of genuinely divergent opinions. In such circumstances, the Commission agrees—

Justice Wood then quotes from another famous report on corruption, the Fitzgerald royal commission into corruption in Queensland in 1989. The Fitzgerald report said:

> … the legislature should interfere only to the extent necessary to protect the community, or any individuals with special needs. Generally speaking, those who take part voluntarily in activities some consider morally repugnant should not be the concern of the legislature, unless they are so young or defenceless that their involvement is not truly voluntary.

Returning to his own words, Justice Wood spoke about:

- the desirability of ensuring that the needs of young persons for advice on safe sex, support and education are not denied to them because of the illegality attaching to their conduct;

- the interest of removing an opportunity which is ripe for selective policing, extortion and corruption; and that

- irrespective of legislative provision, freedom remains for parents and religious bodies to teach their children according to their own religious and moral values, as it does for those children to accept or reject them.

That is a rather long quote, but I have read it onto the record because we need to be clear about the result of the royal commission's seminal inquiry. I have also done it because I have rarely seen such a clear and fair account of the issue as Justice Wood gave at the conclusion of his inquiry. I turn to the question of sexual maturity. It has often been suggested in the debate that boys develop sexually later than girls, and that this might be a policy basis for the differing age of consent. This argument is, of course, inherently inconsistent because the age of consent for heterosexual males is also 16 years. So to be logically consistent, the argument would have to be that the age of consent for girls should be 16 and the age of consent for all boys, both heterosexual and homosexual, should be 18. Of course, that is not the argument we are hearing. It is just about impossible to conceive of a valid policy explanation for having a different age of consent as between heterosexual males and homosexual males that does not have its roots firmly in prejudice.

There is no argument but that masses of medical research show that children today are maturing physically at a younger age, possibly due to better nutrition, and that in turn means that children are becoming sexually active at a younger age. Putting these arguments aside, it is widely agreed that for the majority of young people, sexual orientation is determined before the onset of puberty and is usually fixed by the age of 16. The study conducted by Associate Professor Margaret Rosario of the City University of New York in 1996 was one of the largest ever studies of the psychosexual development of gay, lesbian and bisexual youth. The study found that the average age for initial sexual awareness of sexual orientation was 11 years, the average age for active consideration of gay-lesbian identity was 12.5 years, and the average age at which participants became certain of their sexual identity as gay or lesbian was 14.6 years. Those findings have been confirmed by numerous other studies.

Against this sort of result, it is unrealistic to think that a substantial proportion of adolescents will not have sex of some sort until some arbitrary age of consent is reached. It is even more outlandish to think that a young gay male will refrain from exploring his sexuality until the age of 18 when his heterosexual peers are legally having sex of some sort from the age of 16. What possible policy arguments can there be for criminalising a consensual sexual relationship between two 17-year-old males while at the same time a consensual relationship between a 16-year-old male and a 16-year-old female is perfectly legal? If honourable members would like to know how many young gay men in this community we are turning into criminals I refer them to the obviously relevant research of P. M. Davies which was conducted in the United Kingdom in 1992 and remains the largest study of the sexual behaviour of young gay men in the world.

That study had more than 1,000 participants, of whom half had engaged in homosexual sex by the age of 16, and 90 per cent had done so by the age of 18 years. The study also found that 98 per cent said that their first homosexual experience was consensual and that about 93 per cent said that their first sexual experience was with a partner of a similar age or older. I instantly concede that human behaviour can never be entirely quantified, but neither can this kind of result from such a large sample be dismissed. Clearly it is reasonable to assume at the very least that a high proportion of young gay men are turned into criminals by the present law. I also refer honourable members to the British Medical Association [BMA] report on the age of consent prepared in 1994. I quote from the part of the report directly relating to the BMA's opinion on the slower biological development of boys:

> Previously the BMA proposed that the age of consent for homosexual men should be set at 18 to reflect their slower rate of biological development. However, most researchers now believe that adult sexual orientation is usually established before the age of puberty in both boys and girls.

The British Medical Association concluded:

> The purpose of the age of consent legislation is to protect vulnerable people from sexual exploitation and abuse, but there is no clear justification for a differential age for homosexual male activity and other sexual activity. Although homosexual experimentation may be quite common among adolescent boys (despite the present law [in Britain]), extensive research DOES NOT indicate that men aged 16-21 are in need of special protection because they may be "recruited" into homosexuality. Unwelcome sexual attentions of a seriousness warranting criminal prosecution are equally offensive whether the victim is a man or a woman: the same law should therefore apply to all.

The argument that some honourable members have put forward is that the age of consent for heterosexuals should be raised to 18. At least this argument recognises that there must be an equal age of consent for all people regardless of sexual orientation or gender. However, such an argument is fatally flawed. First, we do not help young people by making them criminals. Teenagers are exploring their sexuality—hopefully with the guidance of their family, church and others—and setting an arbitrary age of consent will not stop that. Raising the age of consent to 18 for everyone will only widen the problem that is currently afflicting young gay men. Teenagers need to be educated and advised about safe sex, they need to be told about protection from HIV-AIDS, and they need to be counselled about coming to terms with their sexuality. They do not need a term of imprisonment.

Secondly, there are more effective ways to protect children from sexual exploitation, and they are our child sexual assault laws, which are strengthened by the bill. I acknowledge that the desire to protect children is at the heart of the best motives of those calling for the age of consent to be raised. But this bill will better protect children, especially those who are vulnerable. To say that we do not let children smoke or drink until they are 18 is an extremely simplistic argument that is not at all convincing for obvious reasons: Smoking and drinking are age restricted because they are harmful activities, they are proven to be addictive, and they are not natural functions of the human body.

Neither is 18 years a magical age for many other purposes. Young people can get a learner drivers licence at 16 and a provisional licence at 17. They can get a gun licence at 14. They can legally leave school at 15 and be out working and paying taxes. Young people can marry at the age of 16. Arbitrary ages are chosen for a range of reasons that reflect the human condition. We are never going to hit upon an age that is appropriate to all people in all circumstances. Margaret Hansford from FPA Health, formerly the Family Planning Association, was asked to comment on the proposal to raise the age of consent to 18 for everyone, and she said:

> We believe that's a totally unrealistic proposal and it would be ridiculous if it weren't such a serious issue. We know from a recent Sex in Australia Survey that young people begin sexual activity at about the age of 16 years. That sexual activity is already occurring and what would happen … is that it would criminalise those young people as well.

There has been criticism that there was no consultation on this issue and that the bill was sprung unexpectedly on the Parliament. However, I believe that honourable members ought to acknowledge that this has been a live issue from the moment in 1984 that this Parliament voted to decriminalise homosexuality but compromised by setting an age of consent different from that for heterosexual sex.

Since that time the issue has been the subject of a multitude of government inquiries and royal commissions, including the Wood royal commission, which received a large number of submissions on this topic from individual members of the community, churches, academics, medical practitioners, and various boards, associations and agencies representing the widest cross-spectrum of views and interests. Lobby groups have constantly brought the disparity in the law to Parliament's attention. For example, for some time the Gay and Lesbian Rights Lobby has been running a campaign called "New South Wales—the last State" on this issue. Most recently the age of consent has been the subject of two private members' bills and an inquiry by the Legislative Council Standing Committee on Social Issues, to which I understand there were more than 100 submissions.

The Premier and I have publicly endorsed an equal age of consent supported by strong and effective child protection measures. The Leader of the Opposition has said that he supports an equal age of consent. On top of all that, both the Labor Party and the Liberal Party have allowed members a conscience vote on this matter, permitting all views to be aired fully. In the face of all this, to claim that the matter was a surprise that was sprung on Parliament is tantamount to people saying that they have been walking around with their eyes shut. We have had 19 years in which to consider the matter, with some frequency.

I believe it is appropriate to cover one other topic. This debate ought not to be clouded by the mistaken belief that paedophilia is an offence committed only by gay men. Of course it is committed by gay men, but some honourable members have focused on the idea of predatory paedophiles preying on young boys as though that were the only issue. The true facts of paedophilia are that it is an offence overwhelmingly committed against girls, not boys, it is an offence committed by heterosexual men, and it is an offence committed overwhelmingly within the family.

The protection of young people from predatory offenders is clearly an extraordinarily important issue, but a discriminatory age of consent seems to say either that young men need greater protection or that young females warrant less protection than their male peers. Logically neither argument can be maintained. Some honourable members have said that young men aged from 16 to 18 need to be protected from being sexually exploited by predatory paedophiles. They have not emphasised so much the need to protect females of the same age, despite evidence that females are statistically far more at risk.

The fact is that the purpose of sexual assault laws is to protect people from sexual assault—which involves a non-consensual sexual act—and from situations in which vulnerable persons might be coerced into sexual activity. Consent is often the central question in sexual assault matters before the courts. If a power imbalance is created between two parties, regardless of age, an argument can be made that consent has been vitiated. Consent obtained under duress would of course not be a legal defence against a charge of sexual assault. It is worth emphasising that the main purpose of most of the laws concerning sexuality in the Crimes Act is to protect people from predatory sexual attack.

In addition, there is a specific offence in section 65A of the Crimes Act of "Sexual intercourse procured by intimidation, coercion and other non-violent threats". This offence occurs when a person uses non-violent intimidatory conduct or coercion to make a person have sexual intercourse. The maximum penalty for this offence is six years imprisonment. Special protection is also given under section 66F of the Crimes Act to people of all ages with an intellectual disability. This makes it an offence for a person to take advantage of and sexually exploit a person with an intellectual disability. The penalty for this offence is 8 years imprisonment or 10 years if the person was in a position of authority. All these provisions exist and are, at least in significant part, about protecting children from paedophiles.

I turn to child prostitution. Following consultation with child protection groups, the Government will move an amendment to the Crimes Amendment (Sexual Offences) Bill that is intended to further strengthen the safeguards that protect children against sexual exploitation. Under section 91D of the Crimes Act 1900 there is presently a "mistake of age" defence in relation to child prostitution. The Government intends to remove this statutory defence entirely. However, due to a drafting oversight, that defence remains in the bill.

By removing section 91D (2) we intend to make it absolutely clear that there will be no defence to the current minimum age of 18 that applies to child prostitution. I emphasise that there is a drafting error in the bill that will be overcome by an amendment that makes it crystal clear that there will be no defence to the current minimum age of 18 that applies to child prostitution. The Parliamentary Counsel has advised me that at this stage it would be more practicable to move this amendment in the Legislative Council, so I am happy to indicate that the Government intends to do that.

New South Wales prides itself on being an innovative and modern society, but in this area of the law we fall far behind other jurisdictions. All other jurisdictions in Australia have an equal age of consent except the Northern Territory. Other countries like the United Kingdom, France, Germany, Spain and Italy all have equal ages of consent, some lower than 16 years. The repeal of current laws that discriminate purely on the ground of sexual orientation will serve to provide a more just, equitable and tolerant society. I commend the bill.

Question—That this bill be now read a second time—put.

The House divided.

Ayes, 54

Ms Allan	Mr Hickey	Mrs Paluzzano
Mr Barr	Mrs Hopwood	Mr Pearce
Ms Beamer	Mr Humpherson	Mrs Perry
Ms Berejiklian	Mr Hunter	Mr Price
Mr Brogden	Mr Iemma	Dr Refshauge
Mr Brown	Ms Judge	Mr Sartor
Ms Burney	Ms Keneally	Mr Scully
Miss Burton	Mr Knowles	Ms Seaton
Mr Campbell	Mr Lynch	Mrs Skinner
Mr Carr	Mr McLeay	Mr R. W. Turner
Mr Collier	Ms Meagher	Mr Watkins
Mr Corrigan	Ms Megarrity	Mr West
Mr Crittenden	Mr Mills	Mr Whan
Ms D'Amore	Ms Moore	Mr Yeadon
Mr Debus	Mr Morris	
Ms Gadiel	Mr Newell	
Mr Gaudry	Ms Nori	*Tellers,*
Mrs Hancock	Mr Oakeshott	Mr Ashton
Mr Hazzard	Mr Orkopoulos	Mr Martin

Noes, 32

Mr Amery	Ms Hay	Ms Saliba
Ms Andrews	Mr Kerr	Mr Slack-Smith
Mr Aplin	Mr McBride	Mr Souris
Mr Cansdell	Mr McGrane	Mr Stewart
Mr Constance	Mr Merton	Mr Stoner
Mr Debnam	Mr O'Farrell	Mr Tink
Mr Draper	Mr Page	Mr Torbay
Mr Fraser	Mr Piccoli	Mr Tripodi
Mr Gibson	Mr Pringle	*Tellers,*
Mr Greene	Mr Richardson	Mr George
Mr Hartcher	Mr Roberts	Mr Maguire

Question resolved in the affirmative.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 4 agreed to.

Schedule 1

Mr STONER (Oxley) [7.37 p.m.], by leave: I move National Party amendments Nos 1, 2, 4, 5 and 6 in globo:

No. 1 Page 7, schedule 1 [18], lines 1 and 2. Omit all words on those lines.

No. 2 Page 7, schedule 1 [20], lines 11-15. Omit all words on those lines.

No. 4 Page 9, schedule 2.1 [1], line 5. Omit ", 78K, 78L".

No. 5 Page 9, schedule 2.1 [2], line 8. Omit "78N, 78O, 78Q,".

No. 6 Page 9, schedule 2.2, lines 10-12. Omit all words on those lines.

I have moved these amendments separately because they seek to remove the controversial age of consent provisions. By grouping together these two related but separate issues the Government has placed undue pressure on members to support the bill in toto. Consequently, if a member opposes the bill in toto, he or she will also oppose tougher penalties for child sex offenders. The Government has placed honourable members under some pressure in that regard. From the outset, the Opposition has argued that the proposed legislation should be put in the form of two separate bills. I do not accept the reason given recently by the Premier in this Chamber for refusing to split the bill.

The new members of this Chamber have been put under a deal of pressure by being forced to vote for both propositions or neither. That is why we have moved the amendments to remove the provisions dealing with the age of consent. Should the amendments be passed, the Government has the prerogative of bringing that issue back in a separate bill. That would allow for a true conscience vote. It would allow members to consider that fairly controversial part of the bill separately, and it would allow bipartisan support for the other provisions of the bill dealing with tougher penalties for child sex offenders.

The other amendment I have foreshadowed, which will be moved separately, deals with the retrospectivity provision contained in new section 49, which has generated a fair amount of controversy. I have referred to the provision as being potentially a get-out-of-gaol-free card. It is extraordinary in this State or in any jurisdiction for legislation to enshrine retrospectivity. The effect of the provision could be that people who previously had broken the law could be let off scot-free. The honourable member for Epping stated yesterday in the second reading debate that the Government would need to provide members with information on any outstanding matters known to police, joint investigation response teams and child protection squad matters in regard to offences as the law currently stands. People may have been identified as having allegedly broken the law and may not yet have been prosecuted but the matters may be still outstanding. The Government would need to satisfy members on that issue.

The Wood royal commission identified a number of people as having broken the law as it stood in relation to the age of consent. Matters arising out of the royal commission should be fully dealt with before a decision on the age of consent is taken. In the second reading debate I raised the potential for people to claim compensation after having been convicted under a law that is about to be changed so that they become eligible for immunity. I asked whether these people could have a case for compensation against the State. The Attorney General did not address my question in this regard during his reply to the second reading debate.

The Government has foreshadowed its intention to move an amendment concerning new section 49 that is similar to that circulated by the Opposition. I welcome the Government's change of heart on this matter. It may well have been to avoid a bit of embarrassment from the mass crossing of the floor by its members. I am aware that members from both sides of politics had serious concern about that provision. In summary, the amendments I have moved in globo would remove the age of consent provisions from the bill and allow the provisions concerning penalties for child sex offenders to be passed without opposition.

Mr DEBUS (Blue Mountains—Attorney General, and Minister for the Environment) [7.44 p.m.]: I addressed the so-called splitting of the bill, the issue addressed by Opposition amendments Nos 1, 2, 4, 5 and 6, in reply to the second reading debate. It is fair to say that I spent some time explaining why the Government regarded the age of consent and the need to increase penalties for sex offences and otherwise overcome various anomalies as inseparable. I spelt it out at considerable length. I explained that it was exactly the kind of approach that is proposed in these splitting amendments that brought about the inconsistencies and anomalies that presently afflict the entire law dealing with child sexual assault. For the reasons that I have given previously, the Government will not accept the Opposition's amendments. But, as I have already also indicated in the second reading debate, the Government will move an identical amendment to Opposition amendment No. 3.

Ms MOORE (Bligh) [7.46 p.m.]: I oppose the amendments moved by the Leader of the National Party because his amendments would emasculate the bill and defeat its very purpose. The object of the bill is to amend and repeal certain provisions of the Crimes Act 1900 to provide for the equal treatment of sexual offences irrespective of whether the victim or perpetrator is male or female. In particular, the bill repeals certain provisions that apply solely to male homosexual acts. The result will be that in future certain types of sexual offences by any person, whether male or female, against any other person, whether male or female, will be dealt with on the same basis, including as to the age of the victim, the defences available to the accused and penalties for the offence. The age of consent for all persons will be 16. That is an absolutely crucial part of the bill. The amendments moved by the Leader of the National Party would remove those parts of the bill, emasculate it and defeat its purpose. I therefore oppose the amendments.

Question—That the words stand—put.

The Committee divided.

Ayes, 54

Ms Allan	Mr Hazzard	Mr Orkopoulos
Mr Aquilina	Mr Hickey	Mrs Paluzzano
Mr Barr	Mrs Hopwood	Mr Pearce
Ms Beamer	Mr Humpherson	Mrs Perry
Ms Berejiklian	Mr Hunter	Mr Price
Mr Brogden	Mr Iemma	Dr Refshauge
Mr Brown	Ms Judge	Mr Sartor
Ms Burney	Ms Keneally	Mr Scully
Miss Burton	Mr Knowles	Ms Seaton
Mr Campbell	Mr Lynch	Mrs Skinner
Mr Carr	Mr McLeay	Mr Watkins
Mr Collier	Ms Meagher	Mr West
Mr Corrigan	Ms Megarrity	Mr Whan
Mr Crittenden	Mr Mills	Mr Yeadon
Ms D'Amore	Ms Moore	
Mr Debus	Mr Morris	
Ms Gadiel	Mr Newell	*Tellers,*
Mr Gaudry	Ms Nori	Mr Ashton
Mrs Hancock	Mr Oakeshott	Mr Martin

Noes, 32

Mr Amery	Mr Kerr	Mr Slack-Smith
Mr Aplin	Mr McBride	Mr Souris
Mr Cansdell	Mr McGrane	Mr Stewart
Mr Constance	Mr Merton	Mr Stoner
Mr Debnam	Mr O'Farrell	Mr Tink
Mr Draper	Mr Page	Mr Torbay
Mr Fraser	Mr Piccoli	Mr Tripodi
Mr Gibson	Mr Pringle	Mr R. W. Turner
Mr Greene	Mr Richardson	*Tellers,*
Mr Hartcher	Mr Roberts	Mr George
Ms Hay	Ms Saliba	Mr Maguire

Question resolved in the affirmative.

Amendments negatived.

Mr DEBUS (Blue Mountains—Attorney General, and Minister for the Environment) [7.55 p.m.]: I move:

Page 7, schedule 1 [21], lines 20-30. Omit all words on those lines.

This amendment is identical to another that has been circulated by the National Party. For efficiency of debate, I should point out that I gave my reasons for moving this amendment earlier. The Government has not accepted the criticism of the original transitional arrangements. However, it is not prepared to allow the misunderstanding that has been spread about the provision to continue given that, in reality, the Director of Public Prosecutions does not prosecute in the circumstances described.

Mr TINK (Epping) [7.56 p.m.]: This amendment should not be necessary, because the retrospective provisions should not have been in the legislation in the first place. Last night I challenged the Attorney General to provide one precedent over the past 156 years.

Mr Debus: We can.

Mr TINK: The Attorney General has not done so yet. In the past 156 years the Parliament has never retrospectively wiped the criminal law. The Government has not responded to that point. The retrospective provision was wrong in principle and practice, and should never have been included in the legislation. When that was pointed out, the potential revolt on the Government benches was such that the Attorney General had to back off. It is either that or rank, ongoing incompetence on the Attorney General's part. As the honourable member for Bligh said, one way or another this measure has been on the legislative agenda since 1984. It has taken almost 20 years to get it right. The amendment circulated by the Government has a time stamp of 11.35 a.m. It took until then for the penny to drop.

The Attorney General said in his second reading speech that the Hon. Jan Burnswoods introduced similar legislation in 1999. That was the first opportunity to address the issue. However, only at the death knock is the Attorney General pulling back on retrospective legislation. He also referred to advice obtained from the Crown Advocate on 21 December 2001. Despite that, the Government has introduced legislation containing a retrospective provision the like of which I have never seen. I challenge the Attorney General to find a precedent from past 156 years.

We challenged the Minister for Police last night to undertake an audit of the local area commands, the joint investigation response teams and the sexual assault units. I suspect that, on reflection and thinking that it had a duty to do that before changing the law to nullify what would otherwise be criminal acts, the penny finally dropped and the Government could not bring itself to do it. Therefore, it is backing out at 1,000 miles an hour. It is not lost on me that the Minister for Police has not spoken in this debate. He should have spoken last night or this morning. This amendment is an accommodation to shield the Minister for Police because he has not fulfilled his duty to seek advice from every police station in the State. He did not, would not and could not. Perhaps we should continue to ask why. I bet he will not speak before this debate is concluded.

I do not oppose the amendment, but it should not have been necessary. If the Director of Public Prosecutions does not prosecute in these circumstances, why does the legislation include these provisions? How many other pieces of legislation are weighed down with similar provisions? We were exposed to nonsense in the debate on the Victims Legislation Amendment Bill today. Honourable members opposite talk about principles, but when it comes to cutting the mustard about whether victim impact statements can be used by a relative in a sentencing hearing in a murder case, we find that that will not occur. Has this Government tried to change that law? Has it introduced any decent law reform that really counts? We are talking about the next of kin of a murder victim being able to make a victim impact statement that will be taken into account in the sentencing process. It cannot be done. That is the standard of legislation introduced by this Attorney General. It is yet another example of his pathetic drafting.

Mr Debus: Point of order: It is obvious that the honourable member is now ranging far outside the leave of the bill. We can put up with his irrational rants when they appear to address matters within the leave of a bill, but it is going a little too far when he chooses to do it outside that leave.

Mr TINK: To the point of order: I was simply illustrating the Attorney General's incompetence by reference to another act of incompetence. I have concluded my speech.

Mr STONER (Oxley—Leader of the National Party) [8.07 p.m.]: The Government came up with this amendment at 11.53 a.m. The National Party welcomes it; in fact, it mirrors the amendment foreshadowed by the party and time stamped 4.40 p.m. yesterday. Why has the Government suddenly come up with an amendment to its own legislation? This provision is extraordinary and could be described as scandalous, because it gives immunity to people who have broken the law. This legislation provides that anyone alleged to have committed an offence and due to be prosecuted but as yet not dealt with by the court will have immunity. The honourable member for Epping has referred to the various investigation forces in the State. I understand matters are still outstanding from the Wood royal commission. As a result of the National Party and those opposed to this provision raising this issue the Government has backed down. It has done so for the simple reason that many Government members would have crossed the floor because they agree that this provision is scandalous. I am pleased that the Government has picked up the amendment circulated by the National Party. This is a victory for commonsense. It is a disgrace that the provision was included in the legislation in the first instance. It should not have been presented to Parliament and it is only fitting that the Government has backed down.

Ms MOORE (Bligh) [8.09 p.m.]: I oppose the amendment and will vote against it. In doing so, I also reject the misrepresentations of members of the National Party, other members of the Coalition and the tabloid press.

[*Interruption*]

The homophobes are out of their cages. This is typical behaviour of homophobic, misogynist, arch-conservative members of this Parliament. I will tell the House why I oppose the Government amendment. On radio this morning the Attorney General said that this clause was largely symbolic—the clause that is causing so much concern for the National Party and the tabloid press. The Attorney General further said that he was not aware of any prosecutions in the pipeline relating to consensual homosexual sex involving males aged 16 or older. He also said that the Director of Public Prosecutions had a policy of not pursuing prosecutions of people engaged in consensual homosexual sex before such activity was decriminalised. My advice is that the removal of this clause should be resisted at all costs. Simply arguing that it is symbolic is not enough.

Mr Stoner: Who are you protecting?

Ms MOORE: It is a pity that members of this House cannot control themselves and listen to the argument. I repeat: The removal of this clause should be resisted at all cost. Simply arguing that it is symbolic is not enough. A recent case in the New South Wales Court of Criminal Appeal demonstrates why. In that case, *Regina v Stringer*, the defendant was charged with having homosexual sex with a person aged 17 prior to 1984. The other person admitted that he had consented to having sex with the defendant. The defendant admitted to having consensual sex but claimed that this only took place after the other person had turned 18. The District Court granted a permanent stay of the proceedings. This did not acquit the defendant, but it stopped the trial proceeding and the defendant being at risk of conviction. The case was appealed to the Court of Criminal Appeal, and that court overturned the permanent stay by a majority of two to one. In his judgment Justice Grove said:

> The Court was informed … that there was a policy of prosecution authorities … to refrain from charging offences … occurring before June 1984 where … the activity had ceased to constitute an offence after that date.

Justice Grove further said:

> The Court raised the question whether the District Court was being asked to try a false issue in respect of the offences charged and the time spans particularised in the indictment …
>
> The implementation of policy cannot alter the law. Undoubtedly prosecutorial discretion may be exercised to refrain from charging in accordance with some adopted policy but once a matter is brought before a court it must be determined according to applicable law which, I repeat, could not involve acquittal of an offence of relevant type committed at any time before June 1984 simply because of the attainment of age by the participants.

Justice Smart said:

> In amending the Crimes Act 1900 and decriminalising sexual intercourse between consenting adult males, the legislature did not do so retrospectively. It is not for the Crown or the accused to endeavour to step around the terms of the legislation and to involve the Court in such endeavours. It is against the public interest for false issues to be presented and fought. I could understand the prosecution decided not to prosecute or a Court, if the jury convicted imposing a nominal penalty or exercising its powers under s. 556A of the Crimes Act.
>
> It is incorrect for a Court to grant a permanent stay when it appears to be the defence that the sexual activity alleged took place a year later than alleged but when it was still an offence or a number of offences.

In summary the judges said:

> If a person is brought to trial for a criminal offence, the Court must try the matter according to the law relating to the offence at the time the offence was committed.
>
> Parliament did not retrospectively decriminalise homosexual sex in 1984.

In effect, these judges are telling us that a risk remains that individuals may find themselves on trial for consensual homosexual sex that is no longer unlawful, and that if Parliament does not intend this to happen it should explicitly says so and leave the clause as part of the bill to create good law.

Mr DEBUS (Blue Mountains—Attorney General, and Minister for the Environment) [8.15 p.m.]: The shadow Attorney General asked for a precedent for the kind of legislative clause which the Government now withdraws, and I now provide two such precedents. In 2000 the United Kingdom passed legislation very similar to this. It was called the Sexual Offences (Amendment) Act—

[*Interruption*]

The United Kingdom passed legislation that equalised the age of consent in that country to 16 for all people. Effectively, the United Kingdom passed legislation exactly the same as this legislation.

[*Interruption*]

I suggest that when the honourable member for Gosford leaves the Chamber he reads section 8 (5) of the Criminal Records Act 1991, which makes provision for exactly these circumstances. Where an offence ceases to be an offence, through the operation of law—for example, by Parliament repealing a section—it is possible to have that kind of offence removed from a person's criminal record. That is a local example of the legislation passed in the United Kingdom. Despite the Opposition's best endeavours to suggest otherwise, the provision that the Government is withdrawing has only ever referred to acts of consensual sex. Members opposite attempt to suggest that we were referring to sexual assault. Sexual assault will always be investigated by the police, now and in the future, and there will be no need for us to conduct any of the silly audits that the honourable member for Epping spoke about.

Question—That the amendment be agreed to—put.

Division called for. Standing Order 191 applied.

Noes, 1

Ms Moore

Question resolved in the affirmative.

Amendment agreed to.

Schedule 1 as amended agreed to.

Schedule 2 agreed to.

Bill reported from Committee with an amendment and passed through remaining stages.

SPECIAL ADJOURNMENT

Motion by Mr Scully agreed to:

That the House at its rising this day do adjourn until Thursday 22 May 2003 at 10.00 a.m.

BUSINESS OF THE HOUSE

Inaugural Speeches

Motion by Mr Scully agreed to:

That the business of the House be interrupted to permit the honourable member for Wollongong, the honourable member for Albury, the honourable member for Drummoyne, the honourable member for Bega and the honourable member for Hawkesbury to make their inaugural speeches forthwith.

INAUGURAL SPEECHES

Ms HAY (Wollongong) [8.24 p.m.] (Inaugural Speech): I am pleased to speak as a member of this the Fifty-third Parliament of New South Wales, as the first female representative of the people of Wollongong and as a member of this historic third-term Carr Labor Government. Congratulations to you, Mr Speaker, on your elevation to the esteemed position of guardian of the traditions and values of this historic Chamber. I am sure that you will carry out the duties of office with fair and even-handed distinction. May I say for the record that I am overwhelmed with a sense of pride and privilege by the opportunity that I have been given to stand in this historic building and add my voice to the civil and political drama and theatre of our time. I am grateful to the people of Wollongong for the faith they have placed in me, and I understand only too well the heavy responsibility that is attached to that faith.

I know that the people of Wollongong have entrusted to me the task of advocating for Government programs, infrastructure development and service delivery improvements within the confines of a fiscally responsible government. I note the similar act of faith placed in Bob Carr and the Australian Labor Party by the people of the greater Illawarra, having returned Labor members from Helensburgh in the North to Kiama in the South. I assure our constituents that my parliamentary colleagues and I understand and share the unique wants, needs and aspirations of the region for our homes, our jobs, our natural environment and the future we are creating for our children. It is for this reason that I applaud the Government for creating the new Illawarra portfolio and congratulate its new Minister, David Campbell. I look forward to working with the Minister and the other Illawarra members—Marianne Saliba, Matt Brown and Paul McLeay—for the promotion of a strong and viable region, thereby attracting increased investment for greater jobs, better jobs, tomorrow's jobs.

May I take this opportunity to again pledge myself to repaying that trust with every ounce of commitment and dedication I possess for the duration of my time as a member of this distinguished House. I trust that the service to my community through the pursuit of those policy objectives, which I shall shortly state, will be the benchmark against which my time in this House will be judged. But I also feel that the people who elected me are entitled to know something of who I am and thus why these policy objectives are so important to me. Like all members from both sides of this House my passion for policy is driven by the experiences I have collected on the twists and turns of life's journey, the things I have witnessed and the people I have met. After all, are not the highs, the lows, the good and the bad in each of our lives the primary source of our passions, our interests and our desires for family, community and for this great State that we share? It is certainly these things that have driven me towards this period of public service that I now embark upon.

What then brings me to this place? My history, though as humble as may be imagined, has set my life on a course that I could never have predicted might one day lead to the floor of this House. It was after all 52 years ago that I was born to Irish migrant parents, Nora and Tadg Herlihy from Cork in the south of Ireland. They had five children—William, myself, Eileen, Marion and Kevin— living in a two-bedroom basement flat in south-west London at a time when things were tough for the working classes. Life was certainly not easy for my parents, who toiled away at menial, boring and low-paid jobs to ensure that my brothers and sisters and I were clothed, housed and fed. There were no luxuries enjoyed by them, no creature comforts, and certainly no opportunities for their own promotion and advancement.

They were simply honest toilers who may well have contributed to all manner of human endeavour had chance been a little kinder to them. For me they were and remain honest working-class heroes who have contributed more to the development of my values and principles than any other single factor. They taught me the value of an honest day's work and the satisfaction that is to be enjoyed from a job well done. They taught me the basic tenets of the Christian faith and demonstrated them daily through their deeds. Most of all they taught me the importance of family and the notion of community as family.

I understand through their example that my neighbours are my family and that their children are my children. People like my parents looked out for each other and did not simply clamber over one another to get ahead. My early years were also influenced by living but a stone's throw from the wealth and affluence of the Kings Road, Chelsea. In that time I saw first-hand the massive divide that existed between the wealthy few and the desperately poor masses that included my dear mum and dad. Having heard so many times since academics speaking of the poverty gap, I can honestly say that I witnessed that gap first-hand. Britain was then, as it is now, a land of class distinction, wealth and privilege where your lot in life was dictated not by merit or effort but by the genetic lottery that underpins the class system to this day.

So for me, and millions of young people like me, there was no Whitlam revolution. There was no access to quality education, and university was simply not an option. The only option for kids from backgrounds such as mine was to leave school and find a job—not that finding a job in those days was difficult. In fact, unlike the plight of our young people today, finding a job in my youth was simple. They were not glamorous, they were not interesting and they were certainly not well paying, but they were jobs. On my family's arrival in Wollongong all those years ago it was natural that I gravitated towards the many migrant communities located there. As a migrant I experienced the isolation and loneliness of leaving one's family and loved ones so far away. However, I was fortunate enough not to also have the challenge of being from a non-English speaking background, though some might argue that I did. I have a great deal of respect and admiration for those migrants with the additional adversity associated with the language barriers they faced. I am honoured that I have maintained many of those relationships to this day.

I enrolled in the New Opportunities for Women course at Wollongong TAFE and worked part time for the Home Care Service at a time when there was no award coverage. During a brief period of work experience

with the Migrant Resource Centre I met a woman who would ultimately change my life. Peggy Errey was at that time an executive member of the Miscellaneous Workers Union [MWU]. Peggy and I had much in common, including that she came originally from Cork, and through her sponsorship I became first a delegate, then official and finally sub-branch secretary of the MWU in Wollongong. These experiences naturally attracted me to the ALP, which shares a commitment to eliminating poverty, to protecting the rights of workers and to improving the opportunities of our children regardless of the cards life has dealt to them. As a member of the party that has given us Lang, Wran and Ferguson, I am proud to stand here as a member of the parliamentary Labor Party to promote these same goals.

During my time as a member of the trade union movement and the Australian Labor Party I have had the privilege to know the support of true friends such as Jan and Peter Primrose, my campaign manager, Peter Holz, Gregory Harris, Neville and Jane O'Connor, Sue Suchy, Georgina Whalin, Geoff Lawler, Trevor De Costa, Helen Young, Bryan and Robin Smith, Irene and Neville Arrowsmith, Monica Chalmers, John Papacosmos, Leo Tobin, Clorine and Jack Stolk, Nina Gana, Carol Lymbery, Pauline and Arthur Crow, Ilce and Raynor Musarevski, Boris and Lenna Dimevski, Bill and Drage Dragarski, Tony and Lencha Ristevski, Georgina Skinner, Marianne and Geoff O'Brien, Frank and Gina Gigliotti, Borg and Nolene Rasmussen, Terry, Peter and Elaine Flynn, Tony Casoria, Vic, Gai, Morris and Enza Iera, Linda and Alan Groome, Betty and John Stone, Naomi Arrowsmith, Ron Watt, Vania Harrison, Nick Manias, the Crittenden family, Glen and Bill Dwarte, Lylea McMahon, Monica and Toby Graham, Ken Vaughn, my two sons-in-law, Craig and David, and my daughter-in-law, Heather, my grand-daughter Ellie, Terry and Diane Davis, John and Elizabeth Brierly, Alex and Diane McLeod, Tony and Helen Kent, George Harrison all the staff at Australian Labor Party head office, Gerry Sullivan and my many thanks to all of the members—although there are too many to name—from Dapto, Berkley, Port Kembla, Warrawong, Mt Keira, Coniston, Wollongong, Figtree and Balgownie branches, to name but a few. I am able to honestly say that without the friendship of these great people I could not possibly have found myself on the floor of this House this evening, and I thank them for that. No-one worked harder or under greater pressure than my husband, Lee Lawler, who worked above and beyond the call of duty to help me realise my ambition.

Let me turn now to the electorate of Wollongong. As members would know, the seat of Wollongong is located 80 kilometres south of Sydney. The electorate runs from Towradgi in the north to Kanahooka in the south and is nestled very comfortably between the Pacific Ocean to the east and the Great Dividing Range to the west. Wollongong is home to the University of Wollongong, Port Kembla port, the Illawarra Regional Hospital, BHP Steelworks, the Hawks Basketball team and the Wolves Soccer and St George Illawarra Dragons football teams. My electorate, therefore, forms the hub of the Illawarra region.

As a centre of excellence in the pursuit of academic, commercial, technological and medical endeavour the Illawarra strives to be a world leader. But the Illawarra needs the assistance of government to ensure that all those who want to work have the opportunity to do so. As at December 2002, Wollongong still had an unemployment rate of 12.9 per cent. This is an unacceptably high figure that the Federal Coalition Government ought not be allowed to forget. I look forward to promoting the Illawarra as an outstanding location for the investment of job-creating projects. I am often asked, facetiously, by those who do not understand the Wollongong spirit, whether something is added to the water. I can assure members that whilst our water is of the highest quality, we are certainly different. [*Extension of time agreed to.*]

Blessed with an environment of unchallenged natural beauty we are a unique people, understanding of the aspirations of the working class, appreciative of our blessings, but demanding the best of our governments. In my opinion the three pillars of government policy upon which our children's futures are to be built are public education, public health and the preservation of our natural environment. Each of these public policy areas is a priority for me and none is more important than the other in the future we create for our children and our children's children. Each of my four children—Mark, Leah, Alison and Daniel—from whom I have drawn so much strength and support, were educated both in the private and public education systems. I am so proud of the mature, intelligent and independent-minded young adults my children have become and I am confident that the potential in each of them was fostered and developed by caring, interested and dedicated teachers and support staff.

It is true, of course, that after parents teachers are the earliest influences upon our children at a time when they are most impressionable. Therefore, I believe that our public schools and those who teach within them must be encouraged and supported in their work. Of course, there is always room for some improvement but on the whole it is world-class education that we provide for our children. However, to ensure that this remains true we must raise the respect and esteem with which our teachers are regarded so that we might

encourage the best and the brightest to that most noble of professions. We must learn to respect and revere our teachers in the same way that we respect and revere our great sportsmen and sportswomen. As a Government we must accommodate and encourage the need for learning that exists in each of us from the cradle to the grave by continuing to provide fully funded, fully equipped and fully staffed schools, technical colleges and other centres of further education and learning. Let us strive then to ensure that our legacy to our children is an education system available to all and envied by the world.

At a time when the Federal Government seeks to tear the heart out of Medicare, it is fitting I tell this House that it is only by virtue of the public health system that I have in the public gallery this evening both my son Daniel and my beautiful grandson Ronan. Daniel had a heart valve replacement at St Vincent's Hospital three years ago. He is a big man with a big heart and I owe his being here to the surgeons and staff at a world-class hospital that is St Vincent's. Ronan serves as even more remarkable testimony to the skill and dedication of those within our public health system. Ronan was not expected to live past his first night. Yet, thanks to the dedication and skill of the medical and nursing staff at King George V Hospital, he sits with my family in the public gallery. Our children deserve then that we insist that universal access to public health remains untouched by a Federal Government committed to destroying the Medicare system as we know it. The Coalition would do well to recommit its recent piddling tax cuts to the preservation and improvement of Medicare.

Finally, we must ensure that we preserve our natural environment for all future generations. We must ensure that no further species of flora or fauna are lost to our children. We must learn to cherish our beaches, our rainforests and our waterways rather than pay mere lip-service to the environment. We must use and not abuse these areas and ultimately understand that we are granted access to them by future generations for whom we act as custodians.

For me the most daunting, challenging and yet rewarding decision of my life was the decision to emigrate to Australia 21 years ago. My late husband, Christopher Martin Hay, and I sold our home and most of our worldly possessions, took our children and began a journey to the other side of the world. Unlike many of my constituents, however, our decision to emigrate was not motivated by political, social or religious persecution and oppression. Our decision was motivated by the limitless opportunities promised by this young and exciting country on the other side of the world. I was moved by the desire to see the potential of my four children fully realised, to have their strengths, skills and attributes recognised and utilised, and their dreams set free of any limits of class and privilege. The promise that the realisation of their dreams was limited only by the strength of their desires and their commitment to take with both hands the opportunities presented to them was a promise too good for this mother to ignore.

May I say then that in some small way I understand the strength of will and determination in those people wishing to escape civil war, despotic governments, poverty and hunger in leaky, overcrowded boats on the long and dangerous journey to our shores. It is a national disgrace that we lock those people up in sub-human conditions and treat them, in many cases, worse than criminals. I look forward to the election of the Labor Party at the Federal level so that this wrong may soon be addressed. For all of the dreams I held for my children it never entered my mind 21 years ago that the Australian promise extended to me. Who would dare to think that coming from a humble background such as my own, I would rise one day to sit in this majestic old House? Who would dare to dream that my small contribution would be recorded in *Hansard* for the consideration and judgment of future generations. Yet here I stand, on the floor of the oldest Parliament in Australia, a proud member of the Carr Labor Government and the first woman to represent the people of Wollongong.

My hope is that no matter how long or short a time I hold this privileged position I may stand as an example to all those who have forgotten that the Australian promise extends to them. I ask those people to never forget that it is the Australian Labor Party that governs to ensure that you fully realise your potential and to ensure that your potential is fully realised. As I committed myself 21 years ago to working for the betterment, advancement and improvement of my four children, I stand today before this House and commit myself to working with the same level of energy, tenacity and effort to the betterment, advancement and improvement of the children of Wollongong and, through my membership of this Government, to each and every child of New South Wales.

Mr SPEAKER: I congratulate the honourable member for Wollongong on her inaugural speech. I acknowledge the presence in the gallery of a very large number of her family, friends and constituents.

Mr CONSTANCE (Bega) [8.46 p.m.] (Inaugural Speech): Mr Speaker, fellow members, the people of Bega and New South Wales: It is an honour and privilege to serve in this place at this time. I do not believe that

any other people or any other generation has faced the mix of challenges and opportunities with the same energy and hope that we do today. For me to serve as the member for Bega was made possible by the effort of so many who honoured and privileged me with their dedication and faith. In the tradition of this House and regardless of one's faith, the Lord's message of love and tolerance, to do unto others as you would have them do unto you, sets for us, in my view, an excellent guiding principle for those of us who aspire to govern for all people.

To the people and my friends in the Bega electorate who—to use that great Australian saying—took a punt on a young bloke and never looked back, I say thanks: Veronica and Robyn Owen, Neville and Joy Hughes, Margaret and Tim Collins, and Maggie and Harry Havu. I also thank Morag Heffernan, Jenny Pike, Margaret Saker, Jim Rogers, the Speechleys, the Blomfields, the Barmans, the Haslems, and all the campaign volunteers. I owe you much. To my friends and community leaders—Robert and Gayle Hayson, Merv and Robyn Innes, Patricia White, Mary Reeves, Paul Gilligan and Dot Carlton—I will never forget that I am here to represent your interests and the interest of your communities. These are the modest but important interests of diligent, hardworking people who go about their lives with a good heart and a quiet dignity.

I also acknowledge and thank my friends who have supported me: Marise Payne, Patricia Forsythe, Brian and Chris Pezzutti, John Fahey, Garry Nairn, Bruce Baird, Bill Heffernan, Shelley Hancock, Jason Fitts, Georgina Inwood, Jason Falinski, Adam Schofield, Melanie Gibbons, Kate Forsythe and Sam Witheridge. In different ways, at different times, always, you were there. To others who supported me without notice or noise, many of whom I may never meet, I hope to help you many times and in many ways. Those members of my family who some would say have endured the most, I thank you. Your guidance and lessons, your unyielding faith and love, have assisted me throughout my life. To my parents, Jim and Sue, brothers Sam and Ben and sister Eliza, grandparents Patricia and Hugh Marshall, Cec Constance and the late Enid, I say thanks. To Ainslie Thomas, whose support, guidance and love has been so special, I also say thank you. It will never be truly possible for me to repay all the help, faith and work that all of you have done on my behalf. It is a debt I feel keenly and one that I will always work to repay.

My family association with the Bega Valley stems back to the 1860s when my great-great-grandfather, James Constance, in the early days drove a team of bullocks through the valley. His obituary in a local newspaper in 1912 outlined the life of an early pioneer in south-east New South Wales. It is with great honour that I, too, hope to pioneer a new way forward for the provision of better government to the region's communities. I stand here this evening as the sixth member for Bega and the first in my family to hold office in Parliament. Thomas Rawlinson first held the electorate of Bega from July 1894 to July 1895. Since then, each successive member has represented the area with dedication and rigour—a high standard that I will seek to uphold. I note the presence tonight of one of my predecessors, the Hon. Dr Jack Beale, who as the member for South Coast from 1942 to 1973—the year I was born—represented the communities that now form part of the Bega electorate. I am honoured to have Dr Beale here tonight. Some come here to be great orators and others dream of being great leaders. Of me I would like it said when I have left this place that the electorate of Bega and the New South Wales Parliament is a better place than when I arrived and that I, too, played my part.

This State needs an innovative approach to public policy development so that the regions flourish. It is a time for change. State government needs to be innovative and must harness the true intellectual capital of all the people, not just some of the people. It has been said that the tiny tots of today will work in jobs that have not even been invented yet. In the electorate of Bega and across country New South Wales we need to ensure that innovation policy and technology provide real opportunities for people. The concepts of creating telecommuting corridors from Sydney to Melbourne along our coastline and centres of innovation excellence are a real possibility. Yet the necessary investment in broadband technology and telecommunications will not happen without leadership from government.

The role of State Government to impact change in regional New South Wales through an innovative policy approach cannot be underestimated. Education is but one area that would benefit. Education is the silver bullet. It lowers unemployment, improves economic growth and engenders social change for the better. It improves people's health, reduces poverty and crime and builds the esteem and values of our community. Too many decisions about education in the Bega electorate are made not by parents, teachers or the community in which the school operates. A one-size-fits-all approach from the State is failing our children badly. We need to understand that not all wisdom resides in one person. Good ideas exist everywhere, and should be taken account of when designing education policies.

As do all Liberals, I believe in ensuring that we deliver equality of opportunity when it comes to education, not equality of outcome. Government should not necessarily provide the service, but it should fund it

and allow for an ever more creative and flexible approach to public education. In the end all that matters is the quality of education that the children of New South Wales are getting, thereby setting an example for others to follow. Laurence Summers, the chancellor of Harvard, is fond of saying:

> … in the known history of the world, no person has ever washed a rented car.

You have to empower people and give them a sense of ownership for them to care about what they are doing. If all the direction and all the ideas on health and education come from the top down—from those who cannot even get maintenance of buildings right—how are we enthusing the people of New South Wales and the Bega electorate to play a role in improving the quality of their own education and health?

From Ulladulla to Bega high schools and from Pambula to Batemans Bay hospitals we need to provide better buildings and equipment. We live in a time when anything is possible. In the history of New South Wales no government has raised more money through taxes than this one. How can we make more for our people when our infrastructure is run down yet the money to fix it all has never been more plentiful? We should not have to talk about the state of buildings, roads and the like. It should be a given that our children are taught in state-of-the-art classrooms, that patients are cared for in world-class facilities and that our roads are properly upgraded and kept. It should not even be on the table for discussion; that is the easy part. And yet we cannot even get past it.

On roads, I am committed to making sure that the State Government provides in the next four years upgrades to the Princes Highway south of Ulladulla. For example, the Pambula Bridge, a rickety 110-year-old rotting wooden bridge—a highway version of the Menangle rail bridge—stops our school kids from attending class during floods, halts our businesses and is a black mark on the State's road system. If the people of Bega have one flaw it is that they are willing to endure so much without too much complaint. Their claims for better roads, hospitals and schools are legitimate and will be heard in this place.

I wrote this speech while sitting on the back porch of a farmhouse on a property known as the Oaks, some 500 kilometres from here near the townships of Candelo and Wolumla. This magnificent place, owned by Tim and Margaret Collins, provides a view of the rolling green hills in the Bega Valley. From it you can admire the magnificent Angus beef and dairy cattle that graze these hills. This spectacular farming country set along the far South Coast provides some of the best produce in the nation. The skills base that the electorate of Bega enjoys has produced powerful, laudable industries. Indeed, our agricultural produce is the stuff of legend. The Bega Cheese Factory is a textbook case of good produce combining with good craft to deliver a fine product. There is not an Australian who is unaware of it. We have good fisheries industries that feed a growing market for inbound tourism, from the co-operatives in Bermagui and Ulladulla to the Boatshed in Batemans Bay. My constituents take our natural gifts and turn them into some of the best consumable products in the country. One needs only to visit the country shows during the months of January and February to see this first hand.

The Bega electorate is not simply growing produce, it is growing smarter. We have a growing history of innovation. Our industry is diverse, inventive and hard working—it has had to be in order to survive. We have one of the highest unemployment rates in New South Wales at 11.3 per cent. The industries of the south-east, particularly forestry, have been greatly impacted by microeconomic and structural reform. Only 1,422 people now work in agriculture, fishing or timber industries compared with 1,600 only 5 years ago. Over-regulation by government suspicious of these industries and their ability to maintain and sustain the environment upon which they rely is rendering our local industries uncompetitive and no longer a viable option for people to enter into. It is a sad fact of life that the farm gate has imposed upon it 56 Acts and regulations of Parliament, making our primary producers' lives difficult—not that they are not already difficult given the drought and international market pressures. And on that front: Just because it has flooded in Sydney it does not mean the drought is over.

Everybody is concerned about the environment and the best approach to managing it. The Bega electorate has amongst the world's most pristine areas. We have the world's greatest national parks, including Mount Gulaga, the Deua and Murramarang. It must be remembered that 41 per cent of the electorate is national park. What concerns me though is that the State Government does not comprehend the need for better environmental management and practices. Environmental protection is not about closing off large sections of bushland by locking it up and throwing away the key. That to me is environmental vandalism. The proof in this is how we continue to manage our bushland to minimise the impact of fire. We have too many inaccessible fire trails and frustrated Rural Fire Service volunteers, who too often must deal with these problems in times of crisis.

Our beaches and waterways are the best in the world and we all must work hard to balance coastal development whilst protecting these areas. This will be the greatest challenge facing State and local governments in the next decade as we continue to see massive growth in the Bega electorate, particularly in Batemans Bay and Merimbula. We all deserve a different approach to the problems facing our environment. Too often public debate is forced inside the constraining paradigm of: development bad, protection good. These are incredibly complex issues that deserve more than simplistic, knee-jerk responses. Some people lack the attention span to care or understand them. It is sad that so many of our leaders come to this debate interested in it only if there are votes attached.

The degradation of our environment, the diminution of biodiversity, the salination of our land and the abuse of underpriced and precious resources are a disgrace. Poor planning in relation to water supply has led to constant restrictions for residents. We must bite the bullet and start to harness the water flow of our short coastal rivers in a more efficient and environmentally friendly way. We need two additional off-river water storage facilities immediately to meet the demand of our communities now and in the future. That said, we must continue to look closely at ways in which we can recycle water and utilise stormwater run-off and the like.

The broader policy questions about the environment mean surely it is time to dare our Government and citizens to consider every option—alternative energy, recycling of water, charging market price for the resources we use, and many other ideas. We do not face a crisis today, but we are creating one for tomorrow. All of us here will be judged harshly if our children look back at this moment and say: they understood well enough, and yet failed to act. Life is good on the far South Coast. The people in the Bega electorate communities are amongst the most proud in this State. It is not simply in the commercial field that the conscientious people of the Bega electorate come together to deliver results. When my constituents encounter a problem they work together. [*Extension of time agreed to.*]

Whether it is a fundraiser for a local school, a fight against inappropriately located development or a local hospital auxiliary fete, these community events demonstrate an unusual gift in my constituency—the gift of grace in the face of neglect. Even though the State Government refuses to recognise my electorate's profound public education and hospital problems, the people will still bond together to do the best they can. They are highly energetic and co-operative. In co-operation Bega presents another role model to the State—Bega's strong sense of community. Our volunteer organisations are flourishing and are to be celebrated. From the RSL clubs to Rotary, from the Country Women's Association to Quota and from Lions to Red Cross, from hospital auxilaries to various church groups and to our business chambers, our communities are strong. I must also single out an outstanding chamber—Bega, under the leadership of Robert Hayson, Chris Murphy and Anna Glover.

I also acknowledge the strength of our volunteer rescue associations. We have the bravest and most determined. Our Rural Fire Service volunteers, surf life savers, State Emergency Services, the Volunteer Rescue Association, and coastal patrol personnel risk their lives every day to protect property and people from the onslaught of the harsh elements that nature can throw at us. They are everyday people achieving extraordinary feats. Government is not best placed to provide these services, as these organisations are built on the back of great Australian volunteerism and spirit. That said, government has a duty to provide the necessary resources and funding to enable Australians to fulfil their important duties as safely as possible. I would like to see the State Government provide more support and resources to each of these organisations. Our surf lifesaving club houses, such as those in Pambula and Bermagui need building. More safety measures are required at Narooma Bar and we can never provide enough funding for our volunteer bush fire brigades.

I stand before this Parliament as a Country Liberal—as someone who reflects the values and ideals of the communities right across the Bega electorate. I am committed to ensuring that I am a member of integrity and I will always put the people of the Bega electorate first when deliberating in this place. We stand here at a moment in history when there is so much to hope for. Without the hope, optimism and energy of this State's youth the barriers to change are not lowered, the system fails to have dynamism, and we do not move forward with pace. Therefore, the youth wings of the political parties are critical to making the system better.

As a 29-year-old, and the youngest member of this Parliament, I was a member of the Young Liberal movement, and was elected to its State presidency. In doing so I join a less than exclusive club in this Parliament. I join other presidents, John Brogden, Catherine Cusack, Don Harwin and Gladys Berejiklian, and from New South Wales in Federal Parliament there is John Howard, Philip Ruddock, Joe Hockey and Marise Payne. If the Young Liberal movement has shown us anything it is that the journey is its own reward. I have learnt much from my political upbringing in the Liberal Party and I will always be a number one supporter of the people in this organisation who make it strong.

The people of Batemans Bay and Broken Hill, of Pambula and Penrith, deserve to have an equal chance in this life. No matter where you begin in this State, your opportunities should be just as great as any other person's. I come to this place believing that the role of any good Government is to empower the individual to make choices, and once empowered, those choices are best left to the individual. The political process touches the lives of everybody, every day. Arrogance and elitism should never characterise government. Politicians should never see themselves as above and beyond the people; rather, they must stand alongside and work with the communities they represent. Government departments should be partnering with the community and industry, not, as we are seeing, creating conflict. There is too much division in our society. Too many leaders in Parliament have taken an opportunity to divide in order to win support, rather than unite to build a stronger community.

Being singularly beholden to the media cycle can detract from good policy outcomes for the community. While the media must play an important role in the process of open and accountable government, we must always remember that as parliamentarians we are held accountable by the people, not the daily tabloid, broadsheet or talk-back debate. Political leaders should not be held captive to the press—the spin should never be prioritised above the substantive debate that is required to deliver good government in this State. I am often struck by the antipathy between those people living in the city versus those in the country. It is difficult to understand the perspective of another when you have so many of your own concerns to worry about. All problems are urgent, and all need solving. It strikes me that our community can achieve so much more working together, as opposed to working against each other. Difficult politics are involved here, but the leadership required to achieve it is not beyond us.

Max Weber said that politics is the slow boring through hard boards, that any good policy or idea takes time to work through the bureaucracy of government. This might be true, but there is only one way to find out, and that is by doing good things. I came here to serve the people of Bega, and that is what I am going to do. I feel proud and honoured to speak for the Bega electorate and to be a chapter in its story. I shall strive to meet this privilege.

Mr SPEAKER: I express my personal congratulations to the honourable member for Bega, and I acknowledge the presence in the gallery of a very large contingent of family, friends and constituents. I also note the presence in the gallery of the Hon. Bruce Baird, the honourable member for Cook and former Minister of this Chamber, as well as the presence of the honourable Senator Marise Payne.

Ms D'AMORE (Drummoyne) [9.08 p.m.]: (Inaugural Speech): It is a great honour today to deliver my inaugural speech to the New South Wales Parliament before my parliamentary colleagues, family and friends. Let me tell you something of my story, I have come from humble beginnings. My parents, Salvatore and Pina D'Amore, migrated from a town called Graniti in Sicily, Italy, to Sydney in 1964. As a newly married couple they came only with their suitcases and the clothes on their backs seeking employment and a better future but leaving behind family and friends and all that was familiar to them. It takes great courage to do this. They spoke no English and only had a few relatives to greet them when they arrived in Sydney.

My family's history with Australia began during the Second World War. My father's uncle, Antonio D'Amore, was captured as an Italian prisoner of war in Africa. He was sent out to a camp in Queensland and was later sent to work as a farmer with Australian landowners in 1944 and 1945. As a child he told me that he was treated well by his Australian mates, as he called them, even though he was a prisoner of war. When the war finished he was sent back to Italy and immediately came back with his family. So begins my family's history in Australia.

My father worked as a subcontractor in the building industry and my mother secured employment as a machinist and later became an outworker in the clothing industry. They came here because they had been told that Australia was the land of opportunity that was welcoming migrants from all around the world.

My earliest memories as a four-year-old were of my mother's workplace, a clothing factory on Liverpool Road, Ashfield. I remember that the factory employed mainly women from ethnic backgrounds: Italians, Greeks, Lebanese, Polish and Maltese. There were rows of women lined up in front of sewing machines, often working long shifts without leaving their chair, and with inadequate lighting. There was no childcare: we, the children of those migrant workers, grew up on a concrete floor next to the sewing machines and material scraps. My mother experienced a great deal of isolation due to the language barrier.

My parents taught me that obtaining an education was of the utmost importance. I was born in the inner west and educated at Bethlehem College, Ashfield, and obtained a degree from the University of Sydney. My

upbringing and studies gave me a passion for industrial relations and social justice. I was the first woman in my family to obtain a university degree. I joined the Australian Labor Party at age 21 and became a committed trade unionist.

I joined the Labor Party because I believed that it was the party that represented the interests and aspirations of people in our community. I did not come from a political family but through my youth I heard the names of Gough Whitlam, Bob Hawke and Paul Keating. Through them I learnt what the Labor Party was all about.

I have come to this Parliament from the union movement. I was employed as an officer of the Municipal Employees Union, which represented 25,000 blue and white collar employees. In the union movement I learnt firsthand the importance of fighting for social justice. I fought so that childcare workers got the wage increases they were entitled to. I fought so that outdoor workers had a safe working environment. One of the greatest fears I faced as a workers' representative was the prospect of telling a family that their mother, father, daughter or son had been killed at work. Safety at the workplace must always be paramount for a government, along with securing good wages and working conditions. It is a sign of a fair and decent society.

In 1997 I helped secure the community language allowance under the Local Government (State) Award. I recall as a child having to accompany my mother so I could translate for her and fill out papers The community language allowance recognizes the contribution of council employees who use their foreign language to help the ratepayers. It was a small achievement but, as I say, important to the non-English speaking background local government workers whose contribution to the community was recognized, and a sign of a fair and decent society.

Later I became an industrial officer with the New South Wales Nurses' Association. The Nurses' Association represents the professional and legal needs of 50,000 registered nurses, enrolled nurses and assistants in nursing in public and private hospitals and nursing homes throughout New South Wales. As an officer of the association I saw first hand the dedication, commitment and professionalism our nurses provide when we are vulnerable and ill. Nurses often work long and difficult shifts taking care of our loved ones, the mentally ill, our mothers and babies in maternity wards, and the aged in our community. Last year I marched proudly with 5,000 nurses through the streets of the Sydney's central business district to call on the Government to assist in attracting and retaining more nurses in the public hospital system by improving their wages and conditions of employment. I am happy to say the Carr Government is doing just that.

The Government has delivered a 15 per cent wage increase, tripled the number of childcare placements, and doubled work-based allowances available to nurses. The Government has also introduced the position of nurse practitioner and provided an additional 151 nurse practitioner positions in much needed public hospitals, particularly in rural and remote areas. On 12 May 2003 International Nursing Day, the Carr Government announced a $1.2 million study into the workloads and responsibilities of nurses. This study will look primarily at how patient care is affected by the nursing workload, the skills mix of nurses, models of care, and the important issue of nurse-to-patient ratios.

Tomorrow, 22 May 2003, is Australia's Biggest Morning Tea Day, which will raise funds for cancer research. Cancer now accounts for almost a third of all deaths in Australia. It raises another reason why I am proud to be part of the Carr Labor Government that will see the creation of a NSW Cancer Institute and establish a new Radiotherapy Funding Scheme to help cancer prevention, survival and recovery. The NSW Cancer Institute will be responsible for the allocation of $205 million to new initiatives to fight cancer in New South Wales over the next four years. That's the policy level, but at a human level, cancer touches everyone—we all have someone close to us who has been affected by cancer.

My mother died of breast cancer when I was 14 and my brother was 9. I became her principal carer at the age of 13, one year after she had been diagnosed with this terminal disease. I understand and remember what it meant to sit in a ward for hours while we both waited for her to receive radiotherapy treatment and how ill she felt afterwards. I commend the Carr Government for this initiative.

My job as an industrial officer of the Nurses Association was to secure an environment that supported nurses and provided conditions that allowed nurses to feel valued as health professionals. I am passionate about their welfare and I will never forget the nursing care they provided my mother and the support they showed my family through the many long days and nights of her illness.

My proudest achievements as an officer of the Nurses Association were to help secure nine weeks paid maternity and paternity leave—a provision that recognized that parenting is a dual responsibility in the home and community—and lactation provisions that allowed nursing staff 30 minutes per shift to breastfeed their

babies rather than sit in their vehicles in a hospital car park breastfeeding. I can only hope that these provisions will soon become a norm in workplaces throughout New South Wales. I want all nurses of New South Wales to know that they will have a powerful voice in Parliament—and they should not be surprised if they see me walking through a ward on a night shift just to make sure I do not lose touch with the realities faced by working nurses.

I want to thank all the nurses working at Concord Hospital and the various nursing homes in the electorate of Drummoyne for their dedication and excellent nursing practice. A special thanks to my colleagues at the Nurses Association, particularly Sandra Moait for her guidance and mentoring over the years. I extend my gratitude to the union movement, which taught me strength, loyalty and ultimately how to represent people in the community. The union movement also taught me to listen rather than impose a view, to be unbiased rather than judgmental, and to listen and act rather than dictate.

A strong union movement is a sign that social justice exists in the community. Why? Because strong unions help ensure the equitable distribution of wealth in our community—a fair day's work for a fair day's pay and in a safe environment. Thank you to the thousands of union members whom I had the honor to represent throughout my 10 years service. I acknowledge Paul McLeay, Tanya Gadiel, Noreen Hay and Tony Burke from the union movement, who stand with me this evening as new parliamentary colleagues. We have shared many industrial battles together in order to progress what is morally and ethically right for workers. We must never forget where we have come from and what we have learnt at the grassroots.

I now turn to the State seat of Drummoyne, where I have lived the majority of my life. The seat of Drummoyne is located in inner western Sydney, with the principal suburbs being Abbotsford, Concord, Concord West, Drummoyne, Five Dock, Flemington, Haberfield, Homebush West, North Strathfield, Liberty Grove and Rhodes. The seat also includes the newly developed areas of Cabarita, Mortlake and Breakfast Point. May I share with the House some of the features of the electorate. The seat of Drummoyne is beautiful. It boasts an impressive foreshore and green parklands. It has a family-friendly environment with a distinctly European look and flavour. It is an electorate with a rich historical setting, beginning with the Aboriginal inhabitants that fished the waterways. Plaques dedicated to that history record their steps along the now famous seven-kilometre bay run. The electorate was heavily industrialised in the fifties and sixties, but as the industry has moved on, many areas of the electorate have been developed to provide housing for the ever-expanding population of Sydney, welcoming many new families and thriving small businesses to the area. [*Extension of time agreed to*.]

However, this brings with it certain responsibilities in relation to the environment and public services, responsibilities that over time must be addressed by developers and the Government. The seat of Drummoyne has one of the largest Italo-Australian communities in New South Wales. I am proud to represent the people of that community as a fellow Italian speaker and I thank them for their support. You can always be guaranteed to be greeted with a good coffee and a great selection of pastry shops, cafes, restaurants and delicatessens in the shopping districts of Ramsey Road Haberfield, Great North Road Five Dock, and Majors Bay Road Concord.

I must say to this Parliament that one of the duties I have enjoyed since being elected as the member for Drummoyne is attending citizenship ceremonies to present residents with the honour of Australian citizenship. Our country has a rich diversity with an understanding and appreciation of the community's diverse cultural groups, along with their cuisines, customs, religions and languages. After one citizenship ceremony in April this year a resident whose place of origin was Syria and who was a Muslim asked me to introduce him to a fellow resident who was born in Israel and was Jewish. At first I did not think anything of the request but then he went on to say that he felt it was important that he shake the hand of a fellow Australian who in another part of the world would be considered an enemy but in Australia was not. This is a great democratic and harmonious country we live in. Let us not forget that in the background of world events as they unfold.

Another wonderful feature of the electorate is the Kokoda Track Memorial Walkway linking Concord Hospital with Rhodes railway station, covering a distance of approximately 800 metres. The concept for this living memorial was launched in 1994 under the Australia Remembers Program. Initiated by Concord Hospital, it not only provides a lasting memorial to all veterans who served in World War II, with a particular focus on the Asia-Pacific area, but is also an excellent educational experience with regard to this vital part of our Australian heritage for current and future generations.

Concord Hospital is a 550-bed teaching hospital. Centred in the heart of the electorate, it is one of the State's great hospitals. The hospital has a long tradition of providing care to the veterans community. More recently the staff in the burns unit provided outstanding care for our Bali bombing victims. It also provides

3,000 jobs to the local community. The Carr Government has delivered a $121-million upgrade of the hospital, another source of pride for me as a local resident and member of Parliament.

Another great asset in the electorate is the Sydney Markets, based at Flemington. It is Australia's major centre for the marketing of fresh fruit, vegetables and flowers and it employs 5,000 people. The Sydney Markets environment supports competitive trade and the effective distribution of produce. Growers from all over Australia and from overseas send one million tonnes of fresh produce each year, worth $1.6 billion, to the markets for sale to thousands of market buyers. The Sydney Flower Market, located within the Sydney Markets site, is the largest flower market in Australia, with an annual turnover of more than $100 million. While the city still sleeps the dedicated business people of the Sydney Markets have been awake for hours.

I am proud to be one of the 23 women in this House. I note that women have had a difficult struggle to be recognised in political life. Women could still not stand for the Legislative Assembly in New South Wales in 1918, and admittance to the Legislative Council was not possible until 1926. The first Labor woman to enter the Legislative Assembly was Mary Quirk, who in 1939 won the seat of Balmain. By 1988 only seven women had been elected to the Legislative Assembly. Today this House has 23 women members: 16 Labor, five Liberal, one National Party and one Independent—but still only 24 per cent of the total membership. There is still work to be done. Political, parliamentary and feminist history will record our presence in this Chamber. How the community will judge us and how the media and history choose to depict us are yet to be seen. All I ask for is the opportunity to be judged on my merits and on how I represent and serve my community.

I now acknowledge my family, friends and Labor Party colleagues for the support and encouragement they showed me during the six-month campaign that saw me elected to this Parliament. To my father: thank you for teaching me the value of discipline and how to be encouraged by a hard day's work rather than being discouraged. Thank you for always encouraging me to speak my mind as a child and a young woman and forcing me always to justify why I held particular views. You made me a good debater.

To my late mother, who I can feel is looking down on me in this Chamber: you taught me in the few short years we had together how to be graceful and to take pride in being a woman. To my brother Giuseppe: you have always stood by my side. I tried my best to be a good sister and a friend and, having watched you grow up into a handsome, intelligent, sensitive and sensible man, I am proud of you. I thank John Murphy, the Federal member for Lowe, and his wife, Adriana, for their support throughout the campaign. John Murphy's knowledge and experience in grassroots campaigning assisted me to keep focused on the campaign trail.

Special thanks go to Neville Wran, who opened my campaign office at Five Dock, for his kind words of wisdom. I thank the Premier, Ministers and parliamentary colleagues for extending their encouragement and support. I thank Michael Maher and John Murray, the State members for Drummoyne from 1973 to 2003, for their invaluable help during the campaign. I also thank the New South Wales Australian Labor Party officers for their support: Eric Roozendaal, Mark Arbib, Karl Bitar and of course the fabulous Joanna Woods. I thank the Nurses Association, the Municipal Employees Union, the Australian Workers Union, the Construction, Forestry, Mining and Energy Union, the Public Service Association, the National Union of Workers and in particular the Labor Council for always standing by my side during the campaign.

To my campaign team, Lucille Mckenna, Mary Yaager, James Woodcock, Melinda Leow, Sam Dastyari, Adrian Boothman, Gerard Gilchrist, Kelli Field and Seija Wolk, what can I say but thank you for being the strongest foundation that any Labor candidate could wish for. Particular thanks go to my fellow party members Peter Zangari, Bruce Milligan, Linda Latham, Joe Di Giacomo, Tony Fasanella and Don Salmon. To my campaign manager Mark Morey, a union colleague and a good friend: thank you for your tremendous support and skills during the campaign. I know I drove you crazy but it was worth it.

To Robert Ingui, my campaign director: thank you for always being level headed and always giving me good advice. To the local branch and Young Labor members who door knocked, letterboxed, staffed the weekend stalls and the booths on our victorious election day and assisted the campaign in many ways, I say thank you, as I do to the hundreds of local residents who put up posters and made me one of the most visible candidates in the electorate. My victory is also their victory. Without them we would not have achieved the result we did.

Finally, I thank my husband, Richard, who supported me from the start and throughout a difficult campaign kept me focused and sane through a great deal of love, loyalty and attention. Mr Speaker, I conclude my inaugural speech tonight by thanking the people of the State seat of Drummoyne for the warmth and support

they have shown me on the campaign trail as the Labor candidate and now as the newly elected member. I thank them for giving me the honour of representing them as their State member in this Parliament. I will represent them with passion and commitment. Their aspirations and needs have now become mine. They have bestowed a great honour on me tonight and I will not let them down. [*Time expired.*]

Mr SPEAKER: I congratulate the member for Drummoyne on her inaugural speech, and I note the presence in the gallery of a large contingent of her family and friends.

Mr APLIN (Albury) [9.30 p.m.] (Inaugural Speech): I rise tonight to speak in this historic institution fully conscious of the responsibility entrusted to me by the residents of the Albury electorate. Their history and aspirations are now part of my life, and will be for all the time that I am fortunate enough to be the proud member for this wonderful region in our great State of New South Wales. You will have noted, Mr Speaker, that I refer to a region. It is a region that desires greater recognition. It is a region whose residents are more familiar with Victorian politics and football teams than with those in New South Wales. It is also a region that is yet to be convinced that "NSW" does not stand for Newcastle, Sydney and Wollongong. Yes, we are far from Sydney but we are the birthplace of Federation, we were the gateway to two Olympic Games, and we are the river crossing on the Hume Highway. This area has been Australia's national growth centre, it is the sporting capital of regional Australia and it is home to some of the best environmentalists in the nation.

It is a dynamic and progressive electorate and, despite the devastating drought and the high cost of feed and water, our farmers and country businesses will pull through, but they need a hand. Our dams are dry. The magnificent Lake Hume was down to only 4 per cent capacity at one stage and pasture and breeding stock have been destroyed. The men and women on the land are doing it tough. I was at a family day at Wymah on Mother's Day. In the past, local producers have donated fat lambs for the barbecue. This year, there are no fat lambs, but those same producers donated the value of a fat lamb to help purchase meat. That is the spirit of country Australia.

My great grandfather, the Hon. William Aplin, was one of the pioneers in North Queensland. He played an important role in the development of Townsville, becoming mayor and being elected to the Legislative Council in 1880. He ran a business and also a station with 15,000 head of cattle. However, drought conditions, low beef prices and tick fever all combined to result eventually in the bank selling off the property. It is a situation all too familiar to many of us in rural Australia. It was said of Mr Aplin that his persistent and influential advocacy in Parliament resulted in many splendid services being established in the north. Well, Mr Speaker, I can do no less than my great grandfather, so I shall aim to emulate him in the south.

I pay tribute to my parents, Russell and Joan, who are both present in the gallery tonight. Thank you for your guidance, support and values. My father was born in Brisbane, but lived most of his life in the countries now known as Zambia and Zimbabwe. He was involved in African agriculture, teaching indigenous tribal people how to move from subsistence farming to the cash economy. As a young boy, I accompanied him to remote areas on bush tracks, slept in thatched huts, heard the sound of tom toms late into the night and found the footprints of hyenas round the hut next morning. There were pests and venomous snakes to contend with, and there still are. No, I do not mean in this place, but I did encounter a couple on the campaign trail.

I observed the basics of farming practices, crop rotation, land care and marketing at first hand. I was exposed to different languages, colours, affiliations and cultures, and I learnt to accept people on merit and to have respect for others. Some of the elements that held true then remain constant for people in rural areas today: identification of resources, the need to add value to primary products, a good transport system, effective marketing, and trustworthy representatives.

We have a thriving mix of cultures and a pride in our Wiradjuri history in our electorate. We celebrate the Ngan Girra Festival annually. We also revel in the International Fair, which provides a colourful showcase for our diverse ethnic communities who contribute so much to our region. We have assimilated recent arrivals along with those who chose to stay in the area after coming to Australia's largest migrant reception center at Bonegilla in Wodonga, which was established after the Second World War. Both of my parents served in the Second World War: my father with the ground staff of the Royal Air Force in various theatres and my mother with the Women's Royal Australian Navy in Sydney. They met and married in Africa and my mother can recall being taken to a new home by crossing the swollen Zambezi River in a dugout canoe with hippopotami and crocodiles paying close attention.

I grew up in Central Africa, won a scholarship and bursary to study at the University of Cape Town—a three-day train journey from home—and after completing a postgraduate degree I was set for a career in foreign

affairs. Back then, national service was compulsory, so I was soon doing basic training followed by duties in a paramilitary police force, gaining valuable experience in a wide range of police work, along with bush patrols in operational areas and plain old guard duty. I mention this because of its relevance to 2003: country residents are calling strongly for an increased police presence on the streets and sufficient numbers to cover sick leave and maternity leave. The increase in vandalism and juvenile crime points to problems in society and the failure to accept responsibility. The police need assistance from the Legislature in reacting to these issues.

My career as a diplomat looked assured when I was seconded to Information and posted to Sydney for three years. They were interesting times, and included contact with colourful characters like the member for North Sydney, Bruce Graham, an ex-fighter pilot with a wooden leg, Senators Peter Rae from Tasmania and John Wheeldon from Western Australia, Gordon Bryant from Melbourne and Don Dobie, the Member for Cook. I had to shut down the office in 1980 and return to the new Zimbabwe, where I worked on State visits and development conferences.

I had served three governments and experienced dramatic changes, and I made the decision to return to Australia with my young family. That was the start of 20 years in regional television. My wife, Jill, and I raised four children, moving to Wollongong, then Orange, and finally to Albury. Like so many other wives and mothers, Jill has been involved in children's, school, and church activities. She has also participated in wildlife surveys, taught basic English to new migrants, and assisted old people to record and publish their family histories.

I am thrilled that my family is here tonight. I thank them for their love and support, particularly over the gruelling election campaign. Scott is an accomplished musician with a band in Sydney and Richard returned yesterday from deployment with our forces in the Gulf. We are so glad that you and your mates are back safely and we are proud of you all. Douglas is a student at our fine Riverina Institute of TAFE in Albury, and Kathryn is in secondary school.

My work in regional New South Wales will be relevant in this place and in my new role. Regional media can have a profound impact on the life and destiny of their consumers. The various branches can choose to be involved in and stimulate their communities and I have worked with and alongside companies that have adopted this approach. But technology and market forces are resulting in the increased centralisation of all manner of services, and the effects in regional areas are more severe because the per capita impact is higher when a mill, an abbatoir, a bank or, even more drastic, a council is closed down.

My philosophy as a regional manager for television was simple: what was good for the region was good for the station. I learnt this in Wollongong from Allan Hoy during those dark days of the downturn in the steel industry, when diversification became a necessity rather than an option; when I joined the board of the newly formed Leisure Coast Tourist Association and promoted the city; when I was tasked with producing a motivational campaign to encourage business and development by focussing on success stories in the midst of the gloom; and when that crusty and dogged Secretary of the South Coast Trades and Labor Council, Merv Nixon, said to me, "Greg, you're a great humanitarian." My time in Orange introduced me to agricultural and machinery field days on a large scale, and I have memories of advertising agency executives returning home to Sydney on the small planes with souvenir cattle prodders to presumably perform disciplinary acts in the office or boardroom! Whatever, the lesson is that familiarisation is essential; that the city-country divide will not disappear, and that both sides need to make the effort to understand what is necessary to guarantee the viability of farming, industry, commerce, education, services and so on in country areas.

Let me pick up on one point: air travel. We have been through turbulent times in recent years. The pilots dispute, the withdrawal of regional operators and the Ansett fallout have all had a massive effect on business and tourism in the regions. Air connections are vital. I applaud the initiatives of Regional Express in servicing my electorate of Albury. I wish the operators of Brindabella Airlines success in their new venture linking Albury to Canberra. I commend Qantas Link for its service which maintained the link to Sydney through the Ansett crisis when our local Kendell Airlines service disappeared. But governments at all levels need to look at the situation. Eighteen regional centres in New South Wales have lost their regular air services. Airport taxes are a major burden on travellers; on some sectors they account for almost 50 per cent of the lowest fare. Any further reductions in traffic may well jeopardise the viability of the services and therefore impact heavily on regional economies. If Queensland can sustain country air links without the imposition of head taxes at small airports, so should we—if we value the connection. I call on the Government to consider this opportunity for action.

In 1988 I moved to Albury to take up the role of station manager of the commercial television station AMV4, and I needed to adjust to a Victorian football code, Safeway instead of Woolies, Victorian beer labels and even product packaging that was different. Many of those differences are no longer evident; they have adapted with the times and we will one day see the Swans win the AFL Grand Final. But while sporting and commercial operators have forged ahead, governments have been slower in recognising the need to address border anomalies. They are not just anomalies that affect our electorate—they present opportunities for the advancement of the whole State. Parents complain of the high preschool fees compared to the situation across the river. Do we not recognise the measurable benefits of preschool education? Why is there not a greater financial commitment to this sector? This is an opportunity to make a real difference to the next generation of New South Wales adults, and to value the experience and dedication of our preschool teachers.

Where anomalies disadvantage us in attracting or retaining business and investment it is only logical that our Government should react. I call on the Government to activate a cross-border commission and to stimulate industry investment. The potential is evident, the policies are required policies which actively encourage industry outside the axis of Newcastle, Sydney and Wollongong—policies of affirmative action for decentralisation such as payroll tax rebates. We read of a planned city of 300,000 on the outskirts of Sydney, yet there are opportunities and better lifestyle prospects in regional electorates and we are well placed to attract a portion of this development.

Many people will be aware that there has been controversy over the building of a highway through Albury. A decision was made by the Federal Government last December and the recent budget provided funding. The Roads and Traffic Authority has carriage of construction, and I will work to ensure that we get a state-of-the-art road which provides the infrastructure and safety we desperately need. I will also work to see that upgrades on our regional roads are forthcoming. It was good to meet the Minster for Regional Development in Albury last week. He knows about the plans for industrial estates in the Hume shire and the city of Albury: he learnt of the initial commitment to Albury's Regional Museum and library and he will hear more of our desire for Government commitment to a vibrant cultural precinct, to the development of a port of Albury and the establishment of the Murray Recreational Trail. [*Extension of time agreed to.*]

The history of the region has been intrinsically linked to the mighty Murray River. This is our State's southern border, although it could well have been otherwise. Back in 1851, when separation was achieved between northern and southern New South Wales, the border was proposed as the Murrumbidgee River. Due to a clerical error the boundary was fixed at the Murray River and Albury became a frontier border town. Let us make no mistake: The Albury electorate is a vital gateway to New South Wales and it is well and truly open for business—the business of attracting investment, developing infrastructure, expanding education and research facilities, creating innovative ecotourism attractions, tackling salinity and restoring healthy river systems. I am fortunate to represent this electorate on the edge of the Australian alps and the Riverina plains, where the mountains meet the Murray. It is home to 62,000 people in the city of Albury and the shires of Corowa, Culcairn and Hume, an area of 5,779 square kilometres. Our major employment categories are professional occupations followed by trades and labour, manufacturing, and then health and community services.

In relation to health, we are working towards a cross-border health area to link Albury Base Hospital and Wodonga Hospital so that we never again have to experience the closure of the Intensive Care Unit in Albury as we did for a month last year. Nor, I trust, will we hear of specialists being asked to cut their surgery lists, as is the case at present. A reduction of waiting lists should be the aim, as should the attraction of doctors and specialists to our regional and rural areas. In Culcairn shire there is no ambulance service, despite the promise of a first-response ambulance unit to be located at the Culcairn Multipurpose Health Service. This results in an unacceptable delay of up to 45 minutes for an ambulance to arrive. Is this to be tolerated in places such as Culcairn and Henty, on a major road such as the Olympic Way?

The solution is to establish a first-response unit based at the multipurpose health service, crewed through multiskilling of staff within the service. Just as hospitals have become multipurpose services in some country towns, so we should consider adapting other services to take account of our needs. And if this is unpalatable to some unions, consider the case of an 84-year-old lady I met in Henty who had a serious fall late at night and had to wait more than half an hour for an ambulance to arrive from Holbrook, take her to Culcairn for initial treatment to a fracture and lacerations, and then wait for another ambulance to collect her to take her to Albury. Country people deserve better.

We have in the Albury region a concentration of medical activities that is unique in regional Australia. This provides an excellent platform for the delivery of rural health programs. Post secondary education must be

expanded to meet the educational aspirations of our young people; it must provide the skills, knowledge, infrastructure and creativity to stimulate local industry and new business ventures which sustain the local population. We need a critical mass of researchers contributing scientific knowledge relevant to our region. There is no State funding to build upon local expertise and infrastructure—it should be part of the vision, creating synergies between education and local industry. It is worth noting that two in every three regional students who study at Charles Sturt University choose to work in regional Australia. The tertiary institutions make a significant contribution to reducing the drift of population from rural and regional Australia to the metropolitan cities.

I have touched on some of the issues which concern us, and I will build on the foundations laid by our strong representatives, such as Gordon Mackie, Harold Mair, and my immediate predecessor, Mr Ian Glachan, who is so well respected in this place and throughout the Albury electorate. Ian was strongly supported by his wife, Helen, in his commitment to our region over the past 15 years, and I am grateful for their advice and guidance. To my campaign team and the local branches throughout the Albury electorate, I say thank you for all your hard work and inspiration. I also extend thanks to my campaign manager, Howard Hinde, who is here tonight with his wife, Deborah, John Knobel, Bruce Holmes, Karin Wilcox, Moira Stewart, Bert Eastoe, Eric Turner, Derek Beveridge, Sheena McLeod, Daryl West and so many others who made this possible.

To John Brogden and all the shadow Ministers who visited during the campaign, to Philip Ruddock who opened my campaign office way back in February, and to all of you who supported and advised, thank you. But, most of all, thank you to the people of the Albury electorate. People like the shift worker in Mulwala who did not appreciate his lunchtime being interrupted by this doorknocking candidate, who said there was a cat chasing an angry brown snake in the garden. He rang me that night to say the cat was alive, the snake was dead and he was going to vote for me. Well, mate, I am here for you.

Mr SPEAKER: I extend my personal congratulations to the honourable member for Albury. I wish him well in his future parliamentary career. I recognise the presence in the gallery of a substantial contingent of family, friends and constituents of the honourable member for Albury.

Mr PRINGLE (Hawkesbury) [9.53 p.m.] (Inaugural Speech): Tonight I stand in this Chamber with a sense of history, an attitude of humility and a feeling of honour in representing the electorate of Hawkesbury. It is a humbling experience to become a representative in Australia's oldest Parliament. The Legislative Assembly is the foundation of our system of responsible, democratic government. I am deeply conscious of the contributions made by members in this place for 147 years. I trust that my service to the electorate and to the Parliament will be as a member of integrity, energy and passion. I also promise my colleagues that I will not follow in the footsteps of J. C. Neild, who, in the 1885 session, spoke for more than eight hours to get his message across. The walls of this Chamber resonate with history. The plaques around the Chamber remind us of many dedicated parliamentarians. The first Speaker was Daniel Cooper. Sir Edmund Barton, the founder of our great Federation and Australia's first Prime Minister, was the youngest Speaker. My predecessor, the Hon. Kevin Rozzoli, was one of the most distinguished Speakers of the modern political era. Kevin made his mark in this place with admirable impartiality. I pay tribute to his service to the people of Hawkesbury, the Liberal Party and this Parliament.

Tonight I stand in this place with profound gratitude. I am here by the grace of God, who has placed me in this position. To my family—my wife, Elizabeth, my children, Andrew, Stefanie, Sally, Emily and Lucy, my parents, Hazel and Bruce, and the other members of our wider family—I thank you for your support, encouragement and sacrifice over many years. To the Liberal Party members in the Hawkesbury branches—Berowra Waters, Dural, Dural Business, Galston, Glenorie, Kenthurst, Kurrajong, North Richmond and Windsor—thank you for your work in promoting our political cause with untiring effort, determination and commitment. To my campaign team, thank you for your professionalism and dedication. In particular, I mention the work of individuals who underpinned the campaign: Rick Forbes, Justin Taunton, James Whelan, Katherine Jeffrey, Michael Waight, Vic Batten, John Millar, Jim and Norma Mottram, and Cliff and Wendy Hoare. I also mention Betty Grant, who has been a great friend of mine for many years. Thank you, Betty.

I thank my State parliamentary colleagues, especially the honourable member for Hornsby, for their on-the-ground support and their experience. Federal members whose electorates overlap the Hawkesbury electorate gave me valuable support and advice: the Hon. Philip Ruddock, member for Berowra; the Hon. Alan Cadman, member for Mitchell; and Mr Kerry Bartlett, the popular member for Macquarie. I also appreciated the support from councillors in the three local government areas that cover my electorate: Hawkesbury City, Baulkham Hills Shire and Hornsby Shire. I acknowledge those councillors in the gallery tonight, representing these local government areas.

Since 1859 the electorate of Hawkesbury has been a part of the Legislative Assembly. Throughout its history constituents in the Hawkesbury electorate have traditionally elected members with a Liberal persuasion. In March this year the people of the Hawkesbury again saw that their lifestyle, businesses and children's future would be best served by a local representative of that Liberal tradition. They are the main reason why I stand before all of you tonight. The Hawkesbury is an electorate at the crossroads of urban and regional New South Wales. Set between city and country, the Hawkesbury is one of the largest and fastest-growing electorates in the greater Sydney Basin. From Buckety and Berowra Waters in the east, to Bilpin in the west, to Wollomi and Yengo in the north, to Dural and Kenthurst in the south, the Hawkesbury is an electorate of distinct communities. At its centre are three of the five Macquarie towns: Windsor, Wilberforce and Pitt Town. There are also the new development areas around Rouse Hill. The picturesque Hawkesbury River weaves its way from the lower mountains to Pittwater. The river, its tributaries and catchment link our communities across a wide geography.

The Hawkesbury is of great historical, economic and environmental significance. It has Australia's third mainland settlement after Sydney and Parramatta. It is the proud home of the Ebenezer Uniting Church, built in 1809, and the oldest church of any denomination still operating in Australia. St Matthews Primary School in Windsor is the oldest Catholic primary school in Australia. Dozens of buildings, churches and historic sites are preserved for the community to appreciate. I acknowledge the traditional owners of the Hawkesbury, the Darug Aboriginal people, who cared for this land for many thousands of years. Governor Phillip was welcomed in friendship by their leader, Gombeeree and his son, Yarramundi. The Hawkesbury recognises its history and traditions but today it is a modern, vital and vibrant part of Sydney.

From the early colonial years the stoic first settlers in the Hawkesbury Valley created the food bowl for Sydney. In the late eighteenth and early nineteenth centuries this agricultural production virtually saved Sydney from starvation. The Hawkesbury continues to feed Sydney with a rich smorgasbord of fresh produce today. I thank you, Mr Speaker, for giving leave to display the fruits of the Hawkesbury in the foyer for members to sample before and after my speech. The Hawkesbury people lead through innovation. The Hawkesbury Harvest uniquely combines agribusiness with tourism and is still expanding. This is a network of farm-gate sales of local produce from Bilpin to Dural. It is a community-based project to improve the economic sustainability of local agriculture. It increases consumer access to nutritious, safe and fresh foods.

The Hawkesbury's mushroom farms lead the State's mushroom industry. Its turf carpets the front and back yards of homes throughout Sydney. The electorate boasts the highest concentration of nurseries in the country. Australia's largest quail farm is located in Galston and Australia's best apples come from Bilpin. Not only is the Hawkesbury a gourmet experience for the taste buds, it is a visual beauty of extraordinary dimensions. The parks, bushland and scenic waterways of the Hawkesbury attract more than a quarter of a million tourists each year. The Hawkesbury generates more than $670 million each year for the State's economy. The area and its people are productive and proud. We deserve good government that responds to the needs of our region. Yet the Carr Labor Government has failed to address the many challenges this electorate faces. To meet these challenges we need government that has a clear vision and delivers with purpose and action.

My underlying theme tonight is investing in our future. For me this represents key priorities that are relevant not only to the people of the Hawkesbury but also to the wider Sydney and New South Wales community as a whole. Investing in our future means responding to people's needs and aspirations; providing programs and services that meet community expectations in road infrastructure, transport and health facilities; delivering those services for people who are disadvantaged or elderly; and ensuring the streets and neighbourhoods are safe from crime. Investing in our future means encouraging economic development and promoting employment and prosperity within the local community. Investing in our future means fostering a sustainable environment; ensuring that planning, development and services are matched to the needs of quality amenity for residents; and protecting and preserving the natural resources of our water and land. Investing in our future means putting our children first, not only through a quality lifestyle and strong economy but also with educational opportunities required to meet the skills and knowledge of the twenty-first century.

Let me share some specific local examples of issues that highlight the approach needed for investing in our future. Last November and December saw the worst ever bushfire season in our area, adversely affecting hundreds of homes. I pay tribute to the men and women of the Rural Fire Service who not only courageously battled those bushfires but also sacrifice their time to participate in training and preparation each week. However, some of our bushfire units have been let down by a Government that lacks a strategic hazard reduction program. They are also left wearing the same overalls and boots for days on end because basic

resources are rationed. Another quality of life challenge is sewerage. Within 50 minutes of the central business district—if one ignores the traffic—there are a number of areas in the Hawkesbury that are not connected to sewerage. As a Galston resident I know the burden of paying more than $100 a week on a suburban block for pump out. Like many other cities, Sydney has an increasing population with demands for mobility of people and commerce. Sydney's housing, employment and facilities are dispersed across the metropolitan region. [*Extension of time agreed to*.]

The traditional structure of the city does not fit this profile. The reality is more travel in more directions for more people. The effects also include air pollution, noise and traffic accidents, estimated to cost the city $2 billion per year—more than $2,000 a household. Anyone travelling through the Hawkesbury will attest to the gridlock of peak hour traffic. It is not just Windsor Road—Old Northern Road, Newline Road, Annangrove Road, Grose Vale Road and Bells Line of Road are crawling zones, not thoroughfares. Reduced productivity for industry and its work force combines with increasing safety concerns. The Richmond railway line is the poor cousin of the Sydney system. There is only a half hourly peak service and an hourly off-peak service. These trains operate on a single track for most of the way in the electorate to Windsor and Richmond. On a hot summer's day, with some of Sydney's highest temperatures, the Hawkesbury has Sydney's "sauna on rails". We like our history but the current standards of local rail belong in a museum, not the daily commute.

Infrastructure neglect is also contributing to unemployment in the Hawkesbury. Despite its high economic yield the region's poor quality infrastructure means some businesses choose not to locate here. Existing businesses such as Hanna Match, Speedo, Airlite Windows and Rural Press are hampered in attempts to expand because of the time it takes to battle Sydney traffic in getting their products to the market or to the port. The Hawkesbury-Nepean River system, so vital to the economy and tourism, has been neglected for too long. The Government abolished the Hawkesbury-Nepean Catchment Management Trust, the only body solely dedicated to restoring the health of the Hawkesbury in a collaborative partnership between business, government and the community. It may be difficult to appreciate now while Warragamba Dam levels are low, but the potential overflow in normal rainfall years poses grave dangers to the people and businesses of the Hawkesbury. Much of our area is a flood plain. Whilst the recent spillway does much to protect the dam wall and an ultimate disaster, it does almost nothing to protect the people.

My electorate has many fine institutions dedicated to people with special needs, such as McCall Gardens at Box Hill, which cares for the intellectually disabled, and the Guide Dog Training School at Glossodia. However, let me share a situation that underscores the alarming lack of appropriate disability services for young adults in this electorate. I think of Jesse, a 15-year-old girl with severe disabilities and complex care needs. At the moment she attends a school where she receives good care, but when she turns 18 there will be no comparative place for her. For far too long there has been a cart-before-the-horse approach to planning in New South Wales. I have serious concerns about sustainable and long-term planning. The Hawkesbury is a mixture of rural and semi-rural environments that are feeling the pressure of urban encroachment.

Earlier I mentioned the debt I owe to my parents. They are honest, hardworking small business people. Working in their hardware store as a boy, I learnt the important lessons of hard work, enterprise, responsibility, openness, customer care and service to the community. Sir Robert Menzies articulated these in the values of individual freedom, choice, diversity, opportunity, and strong families and communities. I believe that the Brogden-led Coalition reflects these values in policies that would provide real benefits to the community. These include expanding access to State services for self-funded retirees; improving hospitals by offering real support to nurses, whose profession deserves better recognition than it has received under Labor; returning city and town centres to the people so that they feel safe from crime and intimidation; restoring local police and putting more police on the beat; and delivering compulsory minimum sentences.

No more important priority exists than investing in our children's future, investing in education by reducing primary class sizes, especially in the crucial earliest years. We must treat education as a priority. After the press release, the Government should actually deliver on its announcements. Consider the plight of parents and students of the new Rouse Hill school. Despite the Federal Government investing $1.2 million in construction of Rouse Hill Public School, the Carr Government could not complete the project on time for the beginning of the school year or even fully aircondition the school. That incompetence should not happen again on any future new developments.

The people of the Hawkesbury elected me as part of the Brogden Coalition team because it was clear that the current Government does not care enough about them. They heard the Government talking about basic

services but knew that it was not delivering. Quality services need to be planned and built in advance of development. Infrastructure needs to reflect a growing community. A government that listens and responds with actions is required, not simply inquiries and hollow promises. The Hawkesbury people voted for the Coalition team because we had a vision of lifestyle and amenity sympathetic to their needs.

In the Hawkesbury we have a heart for history but an eye for the future. Governor Lachlan Macquarie had a vision to plan and build New South Wales. He launched major infrastructure projects, such as the road across the mountains, to open opportunities for the regions. We need Macquarie's determination now to renew infrastructure that links city with country and people with jobs. We should take a long-term view on rebuilding economic opportunities with targeted programs to expand regional New South Wales and to ease the future burden on the Sydney Basin. The Opposition's concept of public-private partnerships would assist such infrastructure developing.

We need a government that provides uniforms to our dedicated firefighters and allows regular strategic hazard reduction; a government that brings sewerage to areas that need it and works to protect against floods; a government that recognises the economic, social and environmental imperatives of infrastructure, particularly roads; and a government that invests in schools, hospitals and public transport.

Honourable members may be aware that before entering this place I served as a commissioned naval officer for 21 years. I am proud to have served with many dedicated, loyal and hardworking colleagues in Australia's defence forces, to whom I pay a special tribute. In particular, this House, this State and this nation owe a debt of gratitude to the men and women of the Royal Australian Air Force base at Richmond who were crucially involved in the successful liberation of Iraq and the operations in East Timor. Many of their families are constituents of the Hawkesbury electorate. I commend the serving members and the support they receive from their families. I share their values: courage, team work and integrity. These values will underscore my role as a member of this Parliament in serving the people of Hawkesbury and in promoting policies that invest in our future. I thank members for their consideration.

Mr SPEAKER: I congratulate the honourable member for Hawkesbury on his inaugural speech, and I note the presence in the gallery of a very large contingent of his family, friends and constituents.

VICTIMS LEGISLATION AMENDMENT BILL

Second Reading

Debate resumed from an earlier hour.

Mr DEBUS (Blue Mountains—Attorney General, and Minister for the Environment) [10.16 p.m.], in reply: I thank honourable members for their contributions to this debate. I am pleased to note that all speakers supported the bill. The Victims Legislation Amendment Bill contains a package of amendments that is designed to further enhance the rights of victims of crime. The proposed amendments to the victim impact statement provisions of the Crimes (Sentencing Procedure) Act will provide a greater opportunity for victims to explain to the court how a crime has affected them. Victims, or their representatives, will be entitled to read to the court a victim impact statement, and that will occur after an offender has been convicted but before he or she is sentenced.

At present these statements are provided in written form only. Allowing them to be read out will give victims a stronger voice in the justice system, and is part of the Government's commitment to meeting the needs of victims of crime. Reading out a victim impact statement will also require offenders to face more directly the harm they have caused. I shall briefly respond to the contribution of the honourable member for Epping, especially as it involves the 1997 decision in the case of *Regina v Previtera*, in which Justice Hunt expressed the view that, when an offence involves the death of a victim, a victim impact statement by a member of the family of the deceased dealing with the effect of the death on the family should not be considered in the determination of the sentence to be imposed.

On the one hand, the Government supports the admissibility of victim impact statements by immediate family members, because that provides a forum for the victim's family to assist in their healing process in the aftermath of the crime that has affected them. On the other hand, the Government agrees with the views of then Justice Hunt to the extent that, to use his words, "It is … offensive to fundamental conceptions of equality and justice … to value one life as greater than another". That would be the result of a harsher sentence on the

accused made on the basis that, in some way, the death of a person who was, say, young and surrounded by a loving family and friends is more serious than, say, the death of a person who was alone, unhappy and elderly.

The victim impact statement presently serves two distinct purposes. In the case of family victims, where a family member has died as the result of an act of violence, it provides an opportunity for the family to express their feelings of grief and loss, and allows proper public respect to be paid to these feelings. In cases where there has not been a death, not only does the victim impact statement provide an opportunity for the victim to have proper public respect paid to their pain and suffering but it also has a role to play in the determination of the appropriate sentence to be imposed by the court. The statement will explain to the court the extent of the impact the crime has had on the victim's life.

In cases involving death, the impact is plain and clearly tragic. In practice, when a victim has died, the court acknowledges that a victim impact statement cannot affect the sentence. However, the court also acknowledges that the victim impact statement plays a broader role. It provides a public forum for family victims to have their pain and suffering acknowledged and put on the record. The presiding judge will often state this in open court or in his or her decision. I feel entitled to point out that this Government has done far more than any previous government to ensure that the rights of victims of crime are acknowledged by society and that victims are given a greater say. The Government set up the New South Wales Sentencing Council, which includes representatives of the three major victims support groups in this State. We introduced the Charter of Victims Rights and presently we are completing a review of legislation relating to victims.

As indicated by this bill today, we are constantly monitoring the operation of these laws and initiatives to ensure victims of crime are given an appropriate voice in the criminal justice system—and we will continue to do so. Honourable members will recall that one of the many initiatives introduced by this Government, and so eloquently justified by the honourable member for Strathfield today, is the Charter of Victims Rights. The Government's proposal to amend the Charter of Victims Rights through the bill is designed to ensure that victims of crime are kept informed about important aspects of the prosecution process. Victims of crime will be advised in a timely manner about such matters as the charges or any modifications to charges laid against an accused, hearing dates, and the outcome of criminal proceedings.

This bill introduces a new provision that makes it clear that victims of serous crimes involving sexual violence, actual bodily harm, mental illness or nervous shock should be consulted prior to any decision being taken by the prosecution to modify or not proceed with charges against the accused. The provision proposed in this bill recognises the emotional and physical distress experienced by some victims of crime and the importance of such victims having the opportunity to express their views about any charge negotiations. Under the proposed amendments, the family of deceased victims would also be able to nominate a representative for the purposes of receiving information and being consulted regarding charge negotiations.

The honourable member for Davidson mentioned the Parole Board and the right of persons to be kept informed and to make submissions regarding the granting of parole to a serious offender. Presently the Charter of Victims Rights sets out the principle that a victim, or in the case of a deceased victim, a member of the immediate family, should be kept informed of the offender's impending release or escape from custody, or of any change in security classification that results in the offender being eligible for unescorted absence from custody. A victim or a family member may also ask for the opportunity to make submissions concerning the granting of parole to a serious offender or any change in security classification. Registers of victims have been established to assist in co-ordinating the rights of victims in this regard.

It has been suggested that it may be appropriate to consider expanding the range of persons who may register as victims. This proposal raises issues of privacy and other concerns that need closer consideration. However, as I previously mentioned, at present the Government is well advanced in the review of victims legislation. I can advise that this issue has been included as part of that review. I expect the final report of the review in the near future. The proposed amendments to the Victims Support and Rehabilitation Act in this bill will extend the operation of the approved counselling scheme, which is funded by the Government. This scheme provides free face-to-face counselling to victims of violent crimes that have occurred in New South Wales. The bill provides that where a homicide involving a motor vehicle has resulted in the death of a person, members of the immediate family will be entitled to apply for counselling benefits under the approved counselling scheme. This continues the Government's commitment to providing early intervention counselling to help address the trauma and psychological impact often experienced by victims of violent crime. Early intervention in the form of professional counselling is considered to be the most important factor in the recovery from trauma.

The honourable member for Epping indicated that members of the community have expressed concern about the use of the word "accident" in describing these homicides. I myself have had representations from Ms Martha Jabour from the Homicide Victims Support Group. I acknowledge her legitimate concerns and assure her, and those families she represents, that this expression has been used merely for technical reasons. The word "accident" is used as a reflection of the technical language of the legislation and should be read in that context. While the Motor Accidents Compensation Act definition of "motor accident" includes both deliberate and negligent acts, and the Victims Support and Rehabilitation Act refers to that definition, it must be emphasised that the events we are talking about are not accidents as that word is generally understood.

We are talking about murder and manslaughter, crimes of the most serous nature, acts of violence that cannot be condoned by society. The proposals in the bill reflect this Government's ongoing commitment to victims of crime and the families of victims who have died as a result of a criminal acts. I trust I have been able sufficiently to demonstrate that the Government has a consistent attitude to these matters and not only is constantly keeping the interests of victims under review but also has a comprehensive understanding of those matters and of the law that has been developed to back them up. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

AUSTRALIAN CRIME COMMISSION (NEW SOUTH WALES) BILL

Bill introduced and read a first time.

Second Reading

Mr WATKINS (Ryde—Minister for Police) [10.30 p.m.]: I move:

That this bill be now read a second time.

This bill permits the full operation of the new Australian Crime Commission [ACC] in New South Wales. Other such legislation will be enacted in all State and Territory jurisdictions this year. The Australian Crime Commission was established on 1 January 2003 under the Commonwealth Australian Crime Commission Act 2002. The head of the ACC is former New South Wales police officer Alistair Milroy. The Australian Crime Commission amalgamates the National Crime Authority [NCA], the Australian Bureau of Criminal Intelligence [ABCI] and the Office of Strategic Crime Assessments [OSCA]. The NCA was a national agency with special powers tasked to investigate organised crime in Australia. The ABCI was an intelligence organisation supported by all jurisdictions that collected, analysed and disseminated intelligence information. The OSCA was a section of the Commonwealth Attorney-General's Department that produced strategic assessments of crime trends.

Following the terrorist attacks in America on 11 September 2001 a leaders summit of the heads of all Australian governments was held on 5 April 2002 to review Australia's national response to organised crime and terrorism. At the summit Commonwealth, State and Territory government leaders agreed that to improve the response to organised crime the NCA should be replaced with the ACC. All jurisdictions acknowledged the important role played by the NCA in fighting organised crime since it was established by national agreement in 1984. The NCA was effective in that it had special powers to summon persons before it to be questioned. Also, by virtue of complementary legislation at Commonwealth, State and Territory levels, the NCA was able to function as a truly national—as opposed to Commonwealth or State—law enforcement agency, establishing task forces of its own personnel, police and officers of other agencies such as the Australian Taxation Office or the immigration department. Nevertheless, it was accepted that the NCA system could be improved to make it more responsive. This led to the establishment of the ACC.

It was agreed that the ACC should have three main functions: firstly, to provide improved intelligence gathering, analysis and distribution services; secondly, to identify national law enforcement intelligence priorities, and; thirdly, to initiate, manage and participate in national investigative task forces. National leaders also agreed on a range of other matters relating to the ACC. Firstly, the ACC would retain the NCA's capacity to use special powers, including telecommunication interception and would have the power to summon persons to be questioned by the ACC. The chief executive officer [CEO] of the ACC would not exercise the power to summon persons or compulsorily question them; this would be done by specially appointed examiners. This change keeps the CEO focused on managing the ACC.

Secondly, the ACC would retain an in-house investigative capability, in addition to the capability provided by seconded police or under joint task forces. Thirdly, the process for obtaining authority to investigate

a matter through a reference would be streamlined. This was a key concern about the NCA. References were obtained through a complicated process of approval by Commonwealth, State and Territory Ministers. Instead of this process, control of the ACC would be vested in a board comprising State and Territory commissioners of police, the Commissioner of the Australian Federal Police, the CEOs of the Commonwealth Attorney-General's Department, Customs, the Australian Securities and Investments Commission, the Australian Security Intelligence Organisation and the CEO of the ACC.

This broader membership is appropriate given the complex nature of organised and transnational crime. The involvement of these agencies in guiding the ACC will assist with forming joint task forces and sharing intelligence. The board will give direction to the ACC and authorise its intelligence operations and investigations. The board will also determine the national criminal intelligence priorities and authorise dissemination of intelligence assessments made by the ACC. Ministerial oversight will be maintained via an intergovernmental committee comprising Commonwealth, State and Territory Ministers—in New South Wales, the Minister for Police. Finally, a joint committee of the Commonwealth Parliament will report to the Commonwealth Parliament on the ACC.

All the above functions are set out in the Commonwealth's Australian Crime Commission Act 2002. The purpose of this bill is to give full effect to the ACC in New South Wales in the terms set out in that Act. As I noted before, although the ACC is a Commonwealth agency, it investigates crime nationally, as did the NCA. This is essential when confronting sophisticated criminal groups that operate across domestic and international borders. To ensure this can occur to the fullest extent State and Territory legislation is required to support the operation of the ACC in each jurisdiction.

I will now describe the main features of the bill. Firstly, the bill is what is known as applied legislation. This means that it imports into New South Wales law the Commonwealth Act. This is achieved by clauses 5 and 7. In other words the law under which the ACC must operate in New South Wales is the text of the Commonwealth Act. This is a common approach with collaborative Commonwealth-Territory schemes. This does not mean that New South Wales surrenders control of the ACC's activities in New South Wales. Clause 6 makes it clear that New South Wales may make a regulation modifying or nullifying any aspect of the Commonwealth Act or regulations made under it. So if the Commonwealth amends the Commonwealth Act and we support that, we do not have to do anything: the ACC gains the benefit of the amendment instantly for the purposes of its investigations in New South Wales. If New South Wales wishes to alter or nullify the effect of the amendment this can be done very rapidly by making a regulation.

The alternative to the applied form approach is a long form, whereby the New South Wales Act would stand alone. This would mean that if the Commonwealth amended its Act a New South Wales response would require amending legislation to be passed, which inevitably takes time, and that is not always available in responding to organised criminal activity. The applied provisions approach taken in the bill maintains New South Wales control over the ACC in New South Wales and makes our reaction to any Commonwealth amendment as fast as possible. Division 2 permits the conferral of functions on the ACC by both Commonwealth and New South Wales legislation. Division 3 relates to offences in respect of the ACC. The offences are provided for in the Commonwealth Act and relate to such matters as providing false or misleading evidence to the ACC, threatening its staff or hindering its investigations.

Clauses 14, 15 and 16 mean that breaches of these offence provisions, when committed in New South Wales, are treated as offences against Commonwealth law. Clause 17 is a double-jeopardy provision making it clear that if the same act or omission by a person is an offence under both the Commonwealth ACC Act and the New South Wales imported version the person can be charged only with an offence against the Commonwealth Act. Part 3 contains miscellaneous provisions. Clause 18 permits the New South Wales Minister responsible for the ACC, the Minister for Police, to establish intelligence-sharing protocols with the Commonwealth Minister to facilitate the exchange of intelligence between Commonwealth and State agencies. Clause 19 permits arrangements to be made allowing officers of NSW Police or other State agencies to be made available to the ACC. Such co-operative activity in joint task forces is critical in modern law enforcement. Clause 20 permits judges of New South Wales courts to issue search or arrest warrants to the ACC. Clause 22 is a general regulation-making power. Clause 24 repeals the National Crime Authority (State Provisions) Act 1984, which was the equivalent of the bill under the NCA co-operative scheme. This Act is no longer required as the NCA has ceased operation.

Clause 26 provides for statutory review of the bill by the Minister for Police. The review is to commence as soon as possible after a period of five years from the date of assent of the bill. The report of the

review is to be tabled in Parliament within 12 months after the five-year period from the date of assent. Schedule 1 makes numerous machinery amendments to New South Wales legislation that refers to the NCA. These references are replaced with references to the ACC. An example is the New South Wales Crime Commission Act 1985. The bill will amend section 24 of that Act which deals with membership of the NSW Crime Commission Management Committee. The chair of the NCA was ex officio a member of that committee. This function will now be performed by the chair of the ACC board. This will facilitate intelligence sharing and task force co-operation between the ACC and the NSW Crime Commission. Schedule 2 contains various savings and transitional provisions which facilitate the transition of the NCA into the ACC in New South Wales.

Schedule 2 also contains important provisions to validate the actions of the NCA and ACC in light of the High Court decision in *R. v Hughes*. This decision endangered the validity of certain actions undertaken as part of co-operative Commonwealth-State legislative schemes such as the NCA and the ACC. Any exercise by the NCA, being a Commonwealth agency, of a power conferred by a State law where there was a duty on the NCA to exercise the power was vulnerable to challenge if there was no connection to a head of Commonwealth legislative power under the Commonwealth Constitution. The National Crime Authority Act 1984 was amended in consequence to validate the actions of the NCA in such a situation. In addition, the intergovernmental committee of the NCA tasked the Parliamentary Counsel's committee to draft model legislation to amend the NCA State provisions legislation to similarly validate the past and future actions of the NCA in light of this case. Clause 12 in schedule 2 of the bill incorporates this model to validate past action of the NCA in New South Wales. The past and future actions of the ACC are similarly validated by division 2 of part 2. I commend the bill to the House.

Debated adjourned on motion by Mr George.

FAIR TRADING AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

Ms MEAGHER (Cabramatta—Minister for Fair Trading, and Minister Assisting the Minister for Commerce) [10.32 p.m.]: I move:

That this bill be now read a second time.

The Fair Trading Act 1987 is the principal statute that protects New South Wales consumers from deceptive and dishonest commercial conduct, and this bill will update the Act to reflect changes in the way transactions are undertaken and address the increasing sophistication of the operation of con artists. The Fair Trading Act provides a statutory framework for the operation of the New South Wales consumer marketplace. The legislation exists in relation to a broad range of transactions of varying value and complexity. These range from everyday consumer purchases–including such basic items as a newspaper or morning cup of coffee–to transactions as important as purchasing a home, car or expensive manufactured item. The legislation applies to more than $70 billion in annual consumer trade.

Governments around the world look to the marketplace to ensure that goods and services are produced that are appropriate to the demands of consumers. The underlying principle is that well-informed consumers know best what goods and services will satisfy their needs and wants. In economic terms, the efficient allocation of productive resources in a market economy relies upon the informed choices made by consumers and the competitive behaviour of market participants. Legislation such as the Fair Trading Act and the Commonwealth Trade Practices Act play an important part in facilitating pro-competitive conduct and the efficient operation of the economy. The provisions of the Fair Trading Act can be grouped under five major themes or objectives. They are to require traders to provide consumers with truthful information so that consumers can make informed choices, to prescribe information and practice requirements that are not adequately addressed by market forces, to prohibit unfair practices, to provide for a means of redress for consumers and enforce the provisions of the Act, and to provide protection against unsafe goods.

The Door-to-Door Sales Act 1967, one of the earliest consumer protection statutes in New South Wales, regulates unsolicited door-to-door credit sales of goods and services. The aim of the Door-to-Door Sales Act is to deal with problems that can occur when transactions are conducted in settings which are not normally places of business and where the seller is physically present with the consumer. The Act provides for a 10-day

cooling off period during which consumers may terminate a contract that they may have entered into because of inadequate or misleading information or high-pressure sales tactics. The proposals in the bill are based on the recommendations of a National Competition Policy review of the Fair Trading Act and the Door-to-Door Sales Act.

The principal aim of National Competition Policy is to promote and maintain competition to increase economic efficiency and community welfare, while continuing to provide for consumer protection. While the steering committee that conducted the review was principally concerned to ensure that the State's fair trading legislation should not restrict competition unless it could be justified through a net public benefit analysis, it was also concerned about the potential impact of unfettered marketplaces.

The steering committee comprised representatives of State and Commonwealth government agencies, and business and consumer groups. Its task was made easier by a determination of the National Competition Council that where State Fair Trading Acts mirror the consumer protection provisions of the Commonwealth Trade Practices Act, a net public benefit analysis did not have to be undertaken. This is because the council found the provisions to be pro-competitive. Nevertheless, the steering committee took the opportunity to review the legislation to ensure that its operation and effect resulted in an efficient and/or effective marketplace. A comprehensive issues paper was publicly released and extensive consultation was undertaken with affected industry and consumer groups and individuals in Sydney and in rural and regional New South Wales.

During the review the steering committee tried, wherever practicable, to maintain parity with equivalent legislation from other States and Territories and particularly with the Commonwealth's Trade Practices Act. This is because interstate businesses operating within the New South Wales marketplace have the reasonable expectation that marketplace regulation will be largely similar, and the inconsistent regulation of business transactions may increase the cost of those transactions with flow-on effects for consumers. A final report produced by the steering committee identified the issues relevant to competition policy, uniformity and the effectiveness of the legislation, and potential areas of legislative reform.

The bill's provisions fall into seven categories: truthful information, product safety, direct commerce, conditions and warranties in consumer transactions, prohibited practices, consumer protection and redress, and penalties and enforcement. I will proceed to briefly outline the provisions of the bill under each of these areas. The requirements to provide truthful information are contained in part 5 of the Fair Trading Act and they mirror the provisions in the Trade Practices Act. The Act regulates both the conduct and representations of traders. Essentially, conduct must not be misleading and deceptive, or likely to mislead and deceive. It is an offence to make false or misleading representations about goods or services.

Provisions for truth in advertising were strengthened in April 2000, when the Act was amended to provide that the director general may issue a notice requiring a trader to substantiate claims made in advertising, such as get-rich-quick schemes and computerised gambling systems promising windfall profits, miracle health solutions for weight loss and baldness, mail order promotions, and unrealistic prices for goods and services, and special deals. A trader who failed to comply with the director general's notice or who knowingly provided false information committed an offence. However, it was not an offence to fail to substantiate the claim.

The bill creates an offence in the case where a trader, who has been notified by the director general to substantiate a claim or representation made by the trader, fails to provide proof sufficient to support the claim or representation. Section 44 (i) of the Fair Trading Act deals with false or misleading representations concerning the place of origin of goods. The Office of Fair Trading has had difficulty following up complaints about country of origin labelling because of legal uncertainties regarding the minimum requirements for country of origin claims. The Commonwealth addressed this issue by amending the Trade Practices Act to clarify the circumstances under which phrases such as "made in Australia" and "product of Australia" may be used.

The bill inserts a new provision to mirror the Trade Practices Act provisions in relation to country of origin representations. The new section provides a test for determining whether a representation about where goods come from contravenes section 42, which relates to misleading or deceptive conduct, or section 44 (i). For example, to claim that a good has been "made in Australia" the good must meet two standards: 50 per cent or more of the production costs must have been carried out in Australia; and the goods must have been substantially transformed in Australia. The test to determine whether a good is a "product of Australia" is stricter and requires meeting the following criteria: each significant component, or ingredient, of the good must originate from Australia; and all, or virtually all, of the production processes must take place in Australia.

I turn now to product safety. During the NCP review some concern was expressed that the provisions of the Fair Trading Act in relation to compulsory product recall are insufficiently flexible to allow products to be quickly withdrawn from sale where they pose an obvious danger to the public. At present the Products Safety Committee is responsible for recommending to the Minister for Fair Trading that there should be a compulsory product recall. However, before this can occur, the Office of Fair Trading must undertake an informal inquiry into a potentially dangerous product and compile substantiating material with which to seek a referral from the Minister to the Products Safety Committee.

In urgent circumstances, the need to follow this process may give rise to public safety concerns. The bill addresses this by allowing the director-general, by order published in the *Government Gazette*, to undertake the mandatory recall of products based on the advice of the department. The bill provides that the recall order ceases to have effect after 28 days unless the order is confirmed by the Minister by notice published in the *Government Gazette*. The bill provides also that the Minister or the supplier may, within 14 days of the mandatory recall order, request the Products Safety Committee, an independent body of safety experts, to review the director-general's order. These provisions ensure that consumer exposure to potentially dangerous or unsafe products is minimised, and at the same time protect the suppliers' interests by giving them the opportunity to appeal the recall order if they consider it to be unjustified.

I now turn to the matter of direct commerce. The Door-to-Door Sales Act was introduced 35 years ago at a time of different social and economic circumstances. During debate in the Legislative Council one honourable member argued:

> This bill is a protection to the working man and indeed any man whose wife is a lawful agent to enter into these contracts. He should be given an opportunity of ratifying the contract and discussing with his wife whether they can afford the purchase. There should be a proper place for repentance.

Today it might be said that consumers are more sophisticated and more aware of, and less sensitive to, high pressure sales tactics, whether in the home or otherwise. However, direct selling practices are also more sophisticated and widespread across a range of industries and products. It is also a growth area, as indicated by the marketing practices of pay television and telephone companies. Some of the most vulnerable groups in our society continue to be subjected to highly undesirable direct selling practices from disreputable traders. They include the elderly, especially older women living alone, consumers with a poor understanding of English, and the disadvantaged. Many direct selling firms will target particular suburbs or areas, including those with a high percentage of public housing.

There is also a particular and identifiable marketplace detriment—similar to unsolicited attendance at a person's home or workplace—in relation to unsolicited telephone contact with consumers. The inter-personal pressure exerted by sales people at a person's front door and on the phone is highly similar in nature. The NCP review found that modern telemarketing practices gave rise to sufficiently significant and widespread incidents of marketplace detriment and anti-competitive conduct to warrant regulation. The bill provides for the repeal of the Door-to-Door Sales Act and the inclusion of a new Direct Commerce division within the Fair Trading Act. The new provisions maintain the essence of the original Act and take into consideration the changing social, economic and technological environment of today's society. The aim is to ensure that the consumer is protected in circumstances where it is warranted, but that such protection is not unreasonably onerous for the trader and does not give rise to anti-competitive effects.

The new Direct Commerce division defines "direct commerce" to include both traditional door-to-door selling and telephone-based direct marketing, that is, telemarketing; applies to all unsolicited direct commerce contracts for the supply of goods and services to an individual where the total consideration payable by the consumer, in cash or credit, is more than $100; provides a cooling-off period of five clear business days during which a consumer may rescind a direct commerce contract; and requires dealers or suppliers to inform consumers in writing of their entitlements under the Act. Telemarketers must give consumers the information over the phone and follow up with written information.

The Direct Commerce division also prohibits a direct commerce supplier from collecting fees during the cooling-off period for services provided during this period; regulates the hours during which direct commerce may be carried out by providing that dealers or suppliers may not solicit business between the hours of 8.00 p.m. and 9.00 a.m. on any day of the week; requires that a telemarketer must immediately cease contact when requested to do so, and may not contact a consumer again by telephone for 30 days after a consumer has advised that he or she is not interested in the goods or services; requires that a dealer must leave the premises as soon as it is practicable when requested to do so by the consumer; and requires that a dealer must advise the

consumer of the purpose of the call and produce an identity card. The bill also prohibits contracting out, does not permit consumers to waive their rights under the division, and provides for the regulations to exclude specific kinds of direct commerce contracts from the operation of the Act.

I now turn to conditions and warranties in consumer transactions. The Trade Practices Act contains provisions relating to conditions and warranties for the supply of both goods and services in divisions 2 and 2A of part V. Similar provisions were not included in the Fair Trading Act as there was already legislative coverage under the Sale of Goods Act. However, these provisions are limited to goods, and with the growth in the market for consumer services there is a gap in coverage. Corporations and nationally operating traders already comply with the Trade Practices Act provisions. For the sake of consistency with Commonwealth law, the bill amends the Fair Trading Act to mirror the relevant provisions of divisions 2, 2A and 3 of part V with respect to consumer goods and services, that is, goods or services of a kind ordinarily acquired for personal, domestic or household use or consumption.

I turn now to deal with prohibited practices. Throughout the 1960s and early 1970s, mock auctions were a significant problem in the New South Wales consumer marketplace. Generally, consumers were enticed or tricked to pay more for goods than their real or near value by virtue of the conduct of mock auctioneers. The Mock Auctions Act was enacted in 1973 to prohibit persons from selling goods to bidders at a lower price than the highest bid and to prevent persons from crediting part of the price bid to the bidder for future use. While mock auctions are no longer considered to be a significant marketplace detriment, they should continue to be prohibited, consistent with legislation in other States. However, rather than prohibit them by stand-alone legislation, it is more appropriate that these provisions be incorporated in the Fair Trading Act, as is the case in several other States. Accordingly, the bill repeals the Mock Auctions Act and inserts a new section in part 5 of the Fair Trading Act, which prohibits the conduct of mock auctions.

Regarding consumer protection and redress, section 43 of the Fair Trading Act prohibits unconscionable conduct and lists several factors that may help in determining whether conduct is unconscionable. The list is not exhaustive, and a court may grant relief in any situation where unconscionable conduct is involved. Unconscionable conduct is conduct by which, in certain circumstances, one party acts to the detriment of another by unfairly taking advantage of a more powerful bargaining position. Section 43 is limited to conduct in connection with the supply, or possible supply, of goods or services normally purchased for personal, domestic or household use, or consumption. Goods or services acquired for re-supply or for use in commerce are not covered; hence small businesses are unable to use this provision in relation to unconscionable conduct arising from their dealings with suppliers. The exclusion also restricts the section's scope in relation to goods or services acquired for investment purposes.

Breaches of the unconscionable conduct provision do not attract criminal sanctions. Application may be made to the Supreme Court for civil remedies, including injunctions to stop the illegal conduct, monetary compensation, rescission or variation of a contract, refund or specific performance of a contract. Many small business operators are no better able to protect their interests than ordinary consumers and require protection from unconscionable conduct. Removing the restriction on section 43 applying to business transactions is also in keeping with the provisions of the Trade Practices Act. Consequently, the bill amends section 43 to extend and clarify its operation so that the remedies available to consumers affected by unconscionable conduct may also be accessed by small businesses in relation to their dealings with suppliers.

Section 68 currently provides that actions for damages arising out of conduct that is in contravention of the principal parts of the Act must be commenced within three years after the date that the cause of action accrued. However, the Commonwealth has extended the time limit to six years under the Trade Practices Act. To restore parity with Commonwealth legislation, the bill provides that action under section 68 must be commenced within six years after the date on which the cause of action which relates to the conduct accrues.

A similar amendment is made in section 72, which provides for an application for compensation to the Supreme Court by a person who has suffered loss or damage by conduct of another person in contravention of the Act. The bill provides that such application must be made within six years. The bill also extends to the Local Court—which is where most of the department's cases are heard—the authority, in conjunction with proceedings for an offence under the Act, to make a range of reparation orders to the person who suffered loss or damage as a result of the offence. The bill provides for more stringent enforcement provisions that better address problems and issues which arise in today's marketplace or trading environment.

The department commonly finds that disreputable traders who have taken orders and deposits for goods and services which have not been supplied become insolvent and leave many consumers out of pocket. These

traders may have a history of failed companies, often in the same type of business, and after each insolvency they start up again under another name, sometimes in another State or country, and repeat their dishonest practices. Moreover, consumers will have no recourse to compensation if traders arrange their personal affairs to minimise redress to creditors in the event that their business fails. In order to enhance the enforcement options available in this situation, the bill confers a statutory power on the director-general to require a person to show cause why he or she should be allowed to continue to trade. The intention is to enable the Department of Fair Trading to act before significant consumer detriment occurs, especially in relation to known disreputable individuals.

The bill inserts a new provision under which the director-general may issue a notice to a trader who has engaged in unlawful conduct on more than one occasion, whether in New South Wales or elsewhere, to show cause why he or she should not be banned from trading. "Unlawful conduct" is defined to include conduct that would be a contravention of the Fair Trading Act, whether or not proceedings have been brought in respect of the contravention. The bill also provides that the director-general may, after issuing the notice and taking account of any submissions made in relation to the matter, apply to the Supreme Court for an order prohibiting the person from carrying on business indefinitely or for a specified period.

The current provisions of the Act only provide for monetary penalties of $22,000 in the case of an individual and $110,000 for a body corporate. As described above, some traders have a history of dishonest and disreputable behaviour and are able to avoid any monetary penalties by structuring their affairs to minimise any redress. The Government believes that, in the face of what appears to be an habitually dishonest trader who deliberately avoids the possibility of redress for consumers, the court should have the option of sentencing such persons to a term in prison. In this respect, it is difficult to draw a meaningful distinction between offences involving obtaining benefit by deception, as set out in the Crimes Act 1900, and the circumstances of serious or repeat breaches of the Fair Trading Act whereby dishonest traders may deliberately, and sometimes systematically, deceive consumers with a view to obtaining financial benefit.

The relevant Crimes Act offences attract a penalty of imprisonment for five years. This bill allows the court to impose a three-year prison term for repeated breaches of part 5 of the Act, which deals with unfair practices, in addition to or instead of a monetary penalty. Currently the maximum penalty which may be imposed by the Local Court under the Act is 50 penalty units or $5,500. Other more recent fair trading legislation has set 100 penalty units or $11,000 as the maximum penalty that local courts can impose. The bill amends the Act to provide a maximum penalty of 100 units. This will enhance the capability of local courts to deal with more serious offences prosecuted by the department in local courts.

Part 7 of the Act currently provides for the preparation of codes of practice for a particular class of consumers, suppliers or persons. A code of practice is an agreed set of rules for members of a particular industry to follow to ensure integrity and fair trading in that industry or sector. Codes of practice can be created for adoption on a voluntary or mandatory basis. The key features of any code are strong disclosure provisions and an effective dispute resolution mechanism. The Act enables the prescription of mandatory codes of practice by regulation. The national competition policy review found that mandatory codes of practice have an impact on competition. Their obligatory nature means that restrictions within codes on how a trader may operate can be compared to restrictions within specific purpose legislation. Accordingly, a mandatory code that prevents certain practices or establishes minimum standards of trading will impact on competition by potentially restricting entry to the marketplace to those who can comply with the standards, and by limiting product innovation by the minimum standards imposed.

The review also noted that the legal standing of mandatory codes prescribed under the Fair Trading Act has been questioned in a 1998 judgment by the New South Wales Court of Appeal in respect of the case of *Murphy v Overton Investments* concerning the Retirement Village Industry Code of Practice. The judgment raised doubts about the effectiveness of prescribed codes of practice as regulatory mechanisms, due mainly to difficulties in enforcement. It highlighted the conflict between the adoption of an instrument set in a broad framework, employing a flexible format to set guidelines for good practice—in other words, a code—and the setting of rules that require mandatory compliance. The Court found that, in so far as the code had the effect of overriding express agreements between parties, it was ineffectual. In the result, the terms of the code were subsequently codified in the Retirement Villages Act 1999. Of the three mandatory codes once prescribed under the Fair Trading Act, all have been absorbed into specific purpose legislation.

As a matter of regulatory policy and practice, mandatory codes do not justify their anti-competitive effect. The bill therefore repeals part 7. The Government considers that any marketplace failure is best

addressed by relevant legislative prescription, rather than by the making of a potentially unenforceable code of conduct. This bill also amends the Fair Trading Act in line with the provisions of the Civil Liability Amendment (Personal Responsibility) Bill 2002 to prevent the recovery of damages under the Fair Trading Act for death or personal injury resulting from a contravention of relevant sections of part 5 of the Act; provide that a contract for the supply of recreational services will be able to exclude, restrict or modify liability for harm resulting from failure to exercise due care and skill; and provide that limitation periods under the Act do not apply to a cause of action to which division 6 of part 2 of the Limitation Act 1969 applies. In conclusion, the provisions of this bill add "teeth" to an Act that is already effective in ensuring consumer protection and trader honesty in the New South Wales marketplace. I commend the bill to the House.

Debate adjourned on motion by Mr Maguire.

ARCHITECTS BILL

Bill introduced and read a first time.

Second Reading

Ms MEAGHER (Cabramatta—Minister for Fair Trading, and Minister Assisting the Minister for Commerce) [11.10 p.m.]: I move:

That this bill be now read a second time.

Honourable members would be well aware of the Carr Government's record of both maintaining and enhancing consumer protection, and introducing policies to improve the standard of the built environment for all members of the community. As a major part of the Government's initiatives in both these areas, the Government has undertaken extensive review of legislation regulating the architectural profession. The Government sought to undertake reforms in 1998, but decided to hold them in abeyance pending the results of the work of the Productivity Commission, which undertook a review of legislation regulating the architectural profession. The review was handed down in late 2000.

Following the review State and Territory governments agreed to compile a joint response to the report. Under the leadership of New South Wales the joint response provided a framework that was adopted by State and Territory governments. It was also endorsed by the Australian Procurement and Construction Ministerial Council. I am introducing a bill to implement this nationally agreed framework into New South Wales. The bill will achieve greater consumer protection, more effective professional discipline and enable a renamed Architects Registration Board to take a more active role in promoting community discussion on the role of architects in the community. In addition, the new board will have a broader membership than the current board to reflect its redefined role under the legislation.

There has been extensive consultation with the profession over the past 18 months. Organisations consulted include the Royal Australian Institute of Architects, the Association of Consulting Architects of Australia, the Architects Accreditation Council of Australia and the current Board of Architects. There have also been representations from consumers of architectural services regarding deficiencies in the complaint process available under the current Act for unprofessional conduct by architects. The resulting proposals for reform are so extensive that the bill I am introducing repeals the Architects Act 1921 and starts afresh. Enhanced consumer protection is a major plank of the reform, with the legislation guarding the interests of consumers and supported by a board that draws its membership from a wider range of backgrounds and architecture alone.

Community members will predominate on the board and include persons with demonstrated public interest in architecture, representing consumers, local government, and legal and allied professions. Architect members will include two architects elected by all New South Wales registered architects, the past President of the Royal Australian Institute of Architects New South Wales Chapter, the New South Wales Government Architect, and an academic drawn from one of the schools of architecture in New South Wales. The Government wants the new board to be concerned with consumer issues, and broader public and industry interests in architecture, while at the same time ensuring a strong professional presence is maintained and professional architectural knowledge is applied to the board's activities.

The bill also creates a code of professional conduct for all registered architects and provides for the creation of a model client-architect agreement for use in home design. These will go through the normal process for the making of subordinate legislation, the code itself being in the form of a regulation. The code will define

the conduct required of architects; breaches will provide grounds for discipline. The client-architect agreement, when made, as advised by the board will balance the rights and responsibilities of the parties in a fair and equitable manner, and mandate a dispute resolution process. This process must be exhausted prior to more formal proceedings being commenced by either party. Such formal proceedings will also occur in the first instance in the Consumer Trader and Tenancy Tribunal.

The Government intends to take steps to co-ordinate these processes with amendments to home building legislation when they are finalised. Through this new legislation consumers will be provided with the strongest protection of any jurisdiction of which I am aware. It will also protect the interests of competent professional architects and the profession as a whole by creating a robust regime of disincentives to poor conduct, which will enhance public confidence in the profession. The major effect of the current legislation is to protect the use of the title "architect". This will continue in the legislation, but with some changes. Protection will be restricted to the use of the title in connection with building and construction, overcoming the awkwardness of the current Act in dealing with terms such as systems architect and software architect in use in the information technology industry.

Although only registered architects will be able to use the title "architect" and offer services provided by an architect, any corporation or firm that employs an architect may also use the title architect or its derivatives on notifying the board of its nominated architect. The nominated architect is an architect nominated by a corporation as the one who manages and directs the services provided by the corporation. The nominated architect must be normally on duty during business hours at the place at which the services are advertised as being provided. In addition, primary dealings with clients must be with the registered architects employed by the corporation or firm. These provisions of the proposed legislation replace the current requirement that one-third of directors of a company be architects to allow such a company to use the title "architect".

To ensure that the market is properly informed of the nominated architect, firms or corporations will be required to advise the board of the nominated architect, and advise the identity and business location of the nominated architect or architects. The intent is that this advertising would relate to normal business communications, including letterheads, and be prominently displayed in the place of business such that prospective clients would be able to read it. Any corporation, firms or person offering architectural services in the marketplace to be performed by an architect, or could be reasonably construed as such, will commit an offence if that person is not an architect or if a corporation or firm does not have a nominated architect. The intent is for the market to be clearly informed as to who is and who is not an architect so that prospective clients can make an informed commercial judgment as to whose services to use.

The Government does not want to prevent non-architects from engaging in the business of designing buildings, but it does not want anyone to mislead their market in any way as to their professional status. The legislation provides severe penalties for any such misleading. However, a person or company not an architect, who has clearly stated in an offering to the market the qualifications relied upon, obviously will not intend to mislead. If it is found that these provisions do not provide sufficient consumer protection, those terms found to be used in a misleading manner will be proscribed at a later date by a regulation under the new Act. The board will have as part of its role the responsibility of ensuring adequate communication to the market of what the term "architect" means in connection with building and construction. I also point out that the bill should be read in conjunction with the tort law reforms adopted by the previous Parliament.

The reforms introduced a proportionate liability for certain claims and profession-focused defences for professional negligence for professions, including architects. Other features of the legislation are the provision for two levels of misconduct with simpler matters able to be dealt with by the board and more significant matters taken to the Administrative Decisions Tribunal, which will sit with an architectural member. The board's role will be to investigate complaints and take matters to the tribunal where it considers a case can be made against an architect. Penalties for misconduct would be greatly increased, commensurate with the seriousness of misconduct and offences created by the legislation. The maximum penalty will be 100 penalty units or, currently, approximately $10,000 for an individual and double for corporations and firms.

Penalties of suspension or cancellation of registration will also exist. Greater flexibility in available penalties will be provided with orders possible to require architects to undergo further education and/or mentoring under an architect approved by the board. This brings the regulation of architects into line with the other regulated professions, as the community would expect. All findings against architects will be published to inform both possible clients and other architects. Because entry to registration is of great concern to the board it will be empowered to accredit courses that produce graduates suitable to seek registration. This replaces the

current fixed schedule of courses in the regulations under the current Act. It is important to note that the board will be required to provide a pathway to registration that recognises the demonstrated experience of non-architect building designers.

The current board has developed such a pathway in consultation with the Architects Accreditation Council of Australia, named the Built Work Program of Assessment, which is an examination of candidates' built work against published competency criteria. A number of people have already been successfully assessed under the program to meet the criteria established in State environmental planning policy 65. As honourable members know, the policy limits to architects the right to design certain classes of multiple unit residential buildings. The Built Work Program of Assessment ensures that experienced building designers of demonstrated capability will be able to register as architects without sitting theoretical examination of the knowledge of technical aspects of architectural practice. They will be able to continue designing these classes of multiple unit residential buildings, thus helping to achieve the Government's objective of improved urban built environments.

This will not remove the consumer protection requirement on all candidates seeking registration to pass an examination in professional aspects of architectural practice. One issue that has been of concern to architects who export their services has been the lack of a national register of architects. Of course, given the division of powers under the Australian Constitution it is not possible to legislate to create a national register. However, the legislation allows for the board to join with counterpart boards in other jurisdictions to administratively compile their registers to create a national registry of architects. The Architects Accreditation Council of Australia has undertaken to the Australian Procurement and Construction Ministerial Council to facilitate this.

The bill offers no impediment to the board to work with the Architects Accreditation Council of Australia to achieve national compilation of registers, but rather in its objectives encourage the board to work towards this and other national initiatives to achieve uniformity of administration of architects. The Carr Government committed itself to the finalisation of this legislation during this sitting of Parliament. In moving towards fulfilling this commitment on behalf of the Carr Government, I am pleased to note that consumers of architectural services, the market for building design as a whole, the community and architects who practice in a professional manner will all benefit from the introduction, passage and implementation of the legislation. I commend the bill to the House.

Debate adjourned on motion by Mr Maguire.

LOCAL GOVERNMENT AMENDMENT (ELECTIONS) BILL

Bill introduced and read a first time.

Second Reading

Mr NEWELL (Tweed—Parliamentary Secretary) on behalf of Mr Campbell, [11.22 p.m.]: I move:

That this bill be now read a second time.

This bill reflects the Government's continuing commitment to providing a transparent and effective legislative framework for the administration of local government in New South Wales. The Government is committed to ensuring that local government is able to properly deliver its services to the community that it represents. The amendments contained in this bill will ensure continuing support for reform to enable local councils to deliver efficient, timely and quality services to ratepayers, and ensure that the Government's focus on the proper functioning of local government is maintained. The bill amends the Local Government Act 1993 in relation to the timing of the conduct of local council ordinary elections and makes consequential amendments.

Currently, ordinary elections are held every four years in September in the year in which State elections are held. The proposal is to move ordinary elections to, in the first instance, 27 March 2004, and then every four years thereafter in the year following a State election. This change follows representations on the issue to the Government from the Local Government Association of New South Wales [LGOV NSW], and is consistent with our policy of continuing to maintain a close dialogue with the local government industry, particularly through industry peak bodies like LGOV NSW.

This change will remove the current unsatisfactory situation where newly elected councils are bound, from September in the year of their election until the next strategic planning process is settled in June of the

following year, by the budgetary and policy decisions made by the outgoing council. This Government is moving quickly to address the situation. Changing the date of ordinary elections to March will mean that newly elected councils will be immediately able to commence work on budgetary and strategic planning for the year ahead. Newly elected councils will have greater financial responsibility, greater control over budgets and be more accountable to ratepayers.

Now that councils' financial years run from 1 July to 30 June, it makes good sense to have council elections in March so they can prepare and settle their budgets for the next financial year. It may also provide the opportunity for important issues such as council budgets and strategic planning to become more relevant to the election process, particularly as the March election date would fall squarely within the period when councils are developing their budgets and strategic planning for the future. Councils will continue to have fixed four-year terms.

The change in dates will also mean that local government ordinary elections will not be held in the same year as the State election, easing the workload of the State Electoral Office and ensuring that the voters of New South Wales do not have to go to the polls for State-based elections twice in one year. Current councillors, mayors, deputy mayors, chairpersons and deputy chairpersons of county councils will continue to hold office until the elections in March 2004. This will also apply to councillors who are members of the State's 20 county councils.

The bill also amends the Local Government Act to allow for an increase in the period prior to ordinary elections during which a council can make application to the Minister to seek an order that a casual vacancy in the office of a councillor not be filled or that, in the alternative, a by-election be held. Currently that period is nine months and the bill proposes to increase that to 12 months. This extended period provides councils with a reasonable extension of time within which they can, where a casual vacancy occurs, apply for an order that the vacancy not be filled. This option allows councils to save ratepayers money by not having to conduct a by-election. The Minister retains the power, where necessary or desirable, to order that a by-election be held to fill a casual vacancy.

The bill also provides a one-off opportunity allowing councils to make application, following the making of a resolution, to reduce the numbers of councillors on that council. Councils making such an application will be required to give notice of the proposed resolution and the public will have 21 days within which to make submissions concerning the proposal. At the end of the 21 days notice period, and if the council decides to proceed, it will be required to provide a summary of, and council comments on, all submissions received. If the council's application is approved the number of councillor positions available for nomination at the March 2004 ordinary elections will be the number referred to in council's application. This option of voluntary councillor reductions will be available to councils for a limited time up to 31 December of this year, and will allow councils to avoid the costs associated with the conduct of a constitutional referendum. This option was previously extended to councils in 1993 and will again provide an opportunity for communities to shape the future direction of the reform process at the local level.

The bill also contains consequential amendments of a minor nature to the timetable for the phasing in of the new membership requirements for the registration of local government political parties that were introduced by the Local Government Amendment Act 2000. The changes to the Local Government Act proposed in this bill are consistent with the Government's policies of ensuring that the local government sector remains financially accountable and is better equipped to deliver efficient and effective services to ratepayers. I commend the bill to the House.

Debate adjourned on motion by Mr Maguire.

HUMAN TISSUE AND ANATOMY LEGISLATION AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

Miss BURTON (Kogarah—Parliamentary Secretary), on behalf of Mr Iemma [11.30 p.m.]: I move:

That this bill be now read a second time.

During the spring sitting of Parliament last year the Government introduced the Human Tissue and Anatomy Amendment Bill 2002, which passed through this House with unanimous support but, owing to the pressures of

last session's legislative program, did not proceed in the other place and, consequently, lapsed. That bill was the outcome of a lengthy consultation process as the legislation deals with matters of great sensitivity and concern to the community. As part of the consultation process the 2002 bill's predecessor, the Human Tissue Amendment Bill, was introduced into Parliament in 2001 and was allowed to lie on the table in order to provide a full opportunity for public comment. Shortly afterwards the report on the inquiry into matters arising from the post-mortem and anatomical examination practices of the NSW Institute of Forensic Medicine at Glebe was published.

The report, prepared by Mr Bret Walker, SC, contained a number of recommendations relating to the legislation that currently governs the use of human tissue and the conduct of anatomical examinations. Consequent upon the submissions received on the Human Tissue Amendment Bill and the recommendations in the Walker report, the Government prepared revised legislation in the form of the Human Tissue and Anatomy Legislation Amendment Bill 2002. The Human Tissue and Anatomy Amendment Bill 2003, which I now introduce, is substantively the same as the lapsed 2002 bill. The underlying purpose of the proposed legislation is to ensure that public confidence in the conduct of post-mortem examinations and use of human tissue in New South Wales is maintained. To this end, the bill provides for amendments to the Human Tissue Act 1983, the Anatomy Act 1977 and the Coroners Act 1980.

The main features of the proposed legislation are: tissue removed during medical, surgical or dental procedures, or for the purposes of a post-mortem examination, is not to be used for other purposes without written consent; all non-coronial post-mortem examinations are to be carried out in accordance with the wishes of the deceased or their senior available next of kin; it will be unlawful to use tissue removed from a body during a non-coronial post-mortem examination for any other purpose without written consent; the purpose for which a coronial post-mortem examination may be conducted is to be clarified; in the conduct of any post-mortem or anatomical examination, regard must be had to the dignity of the deceased person; more effective provisions covering the prohibition in the trade in human tissue and the enforcement of this and other provisions under the Human Tissue Act generally; and the making of regulations to deal with human tissue collections in an accountable manner.

For the information of honourable members I will provide some further background to the legislation and discuss the amendments in greater detail. The law in New South Wales allows for two kinds of post-mortem examinations. A post-mortem examination may be ordered under the Coroners Act to assist a coroner in investigating a death. Because of the nature of the Coroner's jurisdiction, the consent of the next of kin to perform the post-mortem is not required. Nevertheless, there are provisions in the Coroners Act that allow next of kin to object to a coronial post-mortem examination. The majority of post-mortem examinations undertaken in New South Wales are ordered by a coroner.

The second kind of post-mortem examination is one that is authorised under the Human Tissue Act. Such a post-mortem examination can be authorised where the deceased expressed a wish or consented to such a procedure during their lifetime. Where the deceased did not express any views, the Act sets out two different sets of rules as to when a non-coronial post-mortem examination may take place. If the body of the deceased is not at a hospital, a post-mortem examination can be authorised only by the senior available next of kin. If there is no next of kin to consent to the procedure, no post-mortem may be undertaken. On the other hand, if the body is at a hospital and no next of kin can be located, a post-mortem examination can be authorised by a designated officer of the hospital.

These two sets of rules are inconsistent with each other. The bill amends these rules to ensure that, where the deceased expressed no views about a post-mortem examination during his or her lifetime, a senior next of kin must be consulted. Where there is no next of kin available, a post-mortem examination will not be able to take place. The amendment ensures that consent is always obtained for a non-coronial post-mortem examination, regardless of whether or not the body is at a hospital. A similar anomaly exists under the Act in respect of human tissue donation. The bill amends the relevant provisions so that human tissue may be removed for donation only according to the written consent of the deceased, given whilst alive, or where a senior next of kin gives consent in writing or by other prescribed means, irrespective of whether the deceased's body is at a hospital or elsewhere.

Another area of reform introduced by the bill relates to how tissue that is removed during a post-mortem examination may be used. At present, section 31 of the Human Tissue Act allows tissue that is removed during any post-mortem examination to be used for other therapeutic, medical or scientific purposes. The consent of the deceased or their next of kin is not required for these other uses. "Tissue" is defined in the Act as

an organ or any part of the human body. In the past, this provision has led to tissue, such as hearts and lungs removed as part of a post-mortem examination, being used for research. In some cases, such organs and tissue have been kept in hospital tissue collections. Families often have been unaware that bodies released to them after post-mortem examination have had organs or tissue removed from them.

This practice has caused great distress for some families, especially for those whose cultural or religious beliefs require the burial of the whole body intact. It is a particular issue in coronial post-mortem examinations, where the next of kin do not have a role in consenting to the post-mortem examination itself. The provisions in the Human Tissue Act, which currently allow tissue to be used for other purposes without consent, are based on the recommendations of the Australian Law Reform Commission in its 1977 report on human tissue transplants. The Law Reform Commission recommended that body parts removed during post-mortem examinations should be available for use for other therapeutic, medical and scientific purposes.

However, it has become clear that the community no longer considers it appropriate that tissue removed during post-mortem examinations may be used for medical research or other scientific or therapeutic purposes, without the need for consent. Accordingly, the bill will now render such a practice unlawful. The bill inserts new provisions in the Act which state that an authority to use tissue removed during a post-mortem examination for other purposes may be given only if the deceased consented in writing whilst alive. Alternatively, if the deceased did not indicate their consent in writing whilst alive, or the deceased was a child, their senior available next of kin may consent in writing. However, no such consent may be given if the designated officer is aware, after making reasonable inquiries, that the deceased person had objected to the use of their tissue.

The bill also addresses cultural sensitivities by allowing a next of kin of a deceased person to authorise another person to exercise his or her functions under the legislation. The provision recognises the kinship and other familial relationships that exist in cultural groups, such as the Aboriginal and Torres Strait Islander cultures. For example, in the case of a death of an Aboriginal person or a Torres Strait Islander, the powers and duties of the senior next of kin would traditionally be exercisable by the designated culturally appropriate person of the family, extended family, clan or tribe to which the deceased person belonged. By allowing consent to be delegated, the bill provides a means of addressing these important cultural differences.

An authority to use the tissue must be given by a designated officer who is a person appointed under the Act to authorise the use of human tissue obtained through donation or from a post-mortem examination. Where the death is in the jurisdiction of a coroner, the coroner's consent will also be required. People giving consent to the use of tissue may limit that consent as they see fit. For example, they may limit the use of tissue to one particular research project. Under the proposed legislation, the requirement to obtain written consent will be extended to tissue removed from a living person during medical, dental or surgical treatment. It would be anomalous for consent to be required for the use of tissue removed after death but not for tissue removed or expelled in the course of medical, dental or surgical treatment. The use of such tissue for therapeutic, medical or scientific purposes will be permitted if the patient—or if the patient has died, the senior available next of kin—has given consent in writing to the use of the tissue for that purpose.

However, a general exception has been included in the legislation with respect to persons for whom the Minister administering the Children and Young Persons (Care and Protection) Act has parental responsibility. After consultation with the Minister for Community Services the view was taken that children and young persons who are under the Minister's care should not be subject to the provisions of the legislation enabling consent to be given to the use of their tissue. For the purposes of consistency, the provisions of the 2002 bill concerning authorisation of the removal of tissue for transplantation or other therapeutic purposes included amendments to require consent of the deceased whilst living, or the next of kin, to be in writing. The 2003 bill has added the alternative of recording the requisite consent by other prescribed means. It may be necessary to have consent recorded by other means, in the case of donation for transplantation, because of the time constraints on the retrieval of viable human tissue.

For example, in respect of potential corneal donation there is only a short window after death during which the tissue remains medically viable for retrieval. In many instances tissue banks have advised that it is necessary to discuss prospective donation with, and obtain the consent of, the deceased's family by telephone as they are not present on hospital premises to provide their written consent. Accordingly, consensually tape-recorded verbal consent, or other means of equivalent record to that of written consent, can be prescribed. This will ensure there is no reduction in the availability of tissue for donation whilst adhering to the principle of requiring clearly documented consent to tissue removal.

The bill renders it an offence to use tissue removed during a medical, dental or surgical procedure from the body of a deceased person or during a post-mortem examination unless an authority has been given for its use under the Act. It is also unlawful to use tissue outside the terms of the authority. During the course of debate on the 2002 bill the position of persons suffering from a disability that renders them incapable of giving consent was specifically raised. Under the bill deceased persons who lacked capacity to consent during their lifetime are treated in the same way as deceased persons with capacity who did not provide consent whilst living. Accordingly, if a deceased person lacked capacity to give consent during his or her lifetime to a post-mortem examination, anatomical examination or organ donation, the senior available next of kin would be responsible for giving consent under the legislation. Furthermore, if no senior available next of kin is available, then a post-mortem examination, anatomical examination or organ donation will not be authorised.

As previously mentioned, the bill requires patient consent to the use of tissue removed from a person for the purposes of medical, dental or surgical procedures. If the patient does not have capacity to consent, the person responsible under part 5 of the Guardianship Act for consenting to the medical treatment on the patient's behalf will also be responsible for deciding whether to consent to the use of tissue that may be taken during the treatment. The proposed legislation provides for two exceptions in respect of the requirement for consent for the use of tissue, for purposes unrelated to donation, removed from a deceased person or during the course of therapeutic, medical or scientific procedures. First, no consent will be required for the retention and therapeutic, medical or scientific use of small samples of any tissue that is lawfully removed from the body of a person, whether living or deceased, and retained in the form of a tissue block or slide. An exception in these terms has also been included in proposed amendments to the Anatomy Act and the Coroners Act.

The retention of such material is essential to assist in determining the manner and cause of death under the Coroners Act. The Walker report also noted the strong justification for the indefinite retention of tissue blocks and slides without specific consent requirements to allow for their use in teaching and research. The second exception allows for the retention of tissue for a prescribed period for the purpose of obtaining a written authority under the Human Tissue Act for the use of the tissue for therapeutic, medical or scientific purposes. This exception is designed to enable tissue removed in certain circumstances, such as emergency surgery, to be retained for a short period until the wishes can be ascertained of the person from whom the tissue was removed or, if the person dies, of their senior available next of kin.

The bill also provides for improved enforcement powers. The updated and improved enforcement provisions will assist in monitoring compliance with the legislation generally. More particularly, these new powers are generally aimed at ensuring that the prohibition on the trade in human tissue contained in section 32 (1) of the Act can be appropriately investigated and enforced. Under section 32 (1) it is an offence to enter into a contract or arrangement under which any person agrees, for valuable consideration, to the sale or supply of tissue from a person, either living or deceased, or to the post-mortem examination of any person after death. Section 32 has been updated to ensure that it not only captures any contract or arrangement that might breach section 32 (1) but also captures an offer to enter into such an arrangement.

The Act provides for an exception regarding prohibition on contracting for the sale or supply of human tissue. This exception allows for the sale and supply of therapeutic goods that contain human tissue. At present, this exception applies only to goods that are to be used in accordance with the direction of a medical practitioner. Since this provision was enacted, a number of therapeutic goods have been developed which contain processed human tissue but are not necessarily used in accordance with the directions of a medical practitioner. These include serological tests for certain human diseases that contain human serum, cell feeder lines for culturing viruses and other scientific and therapeutic goods. These products, which are regulated by the Commonwealth Therapeutic Goods Administration, may be used by persons such as laboratory scientists and researchers rather than in accordance with the directions of a medical practitioner. Therefore, the bill also updates the current exception to take such therapeutic goods into account.

The bill also addresses human tissue collections. The Chief Health Officer's audit of human tissue collections indicated that much of the stored tissue is unidentified. This makes it difficult for comprehensive audits of tissue collections to be undertaken. The bill addresses this issue by inserting new regulation-making powers into the Act. This will allow regulations to be made regarding record keeping for tissue collections or use of tissue under the Act. Regulations may also be made for the forwarding of such information to the Director-General of the Department of Health. This will allow the department to properly monitor human tissue collections. The bill also amends the Anatomy Act 1977. Consistent with the proposed amendments to the Human Tissue Act, the legislation introduces a requirement for written consent by the deceased prior to his or her death, or by the senior available next of kin, for the use of a body for anatomical examination. A number of

other amendments have been included in the bill by way of updating and clarifying the operation of the Act. The Walker report took the view that the current provisions of the Anatomy Act only allow for the dissection of bodies. This means that bodies donated under the Anatomy Act cannot be used for the purposes of other medical or scientific research, such as teaching or practising surgical techniques.

A new definition of "anatomical examination" has, therefore, been included in order to make it clear that such examination includes the use of the body for medical and scientific purposes. A reference to medical or scientific purposes includes educational purposes connected with medicine or science. This will ensure bodies donated under the Act will be able to be used for dissection and for other purposes related to instructing students studying medicine. The bill also introduces a provision stating that, in the conduct of an anatomical examination, regard is to be had to the dignity of the deceased. The bill provides for the inclusion of a similar provision in both the Human Tissue Act and Coroners Act. The comment might be made that neither anatomical examinations nor post mortems are, of themselves, inherently dignified procedures. However, it is considered important that there be some acknowledgement by way of general principle that the process surrounding these procedures should reflect the ongoing dignity that should be accorded to any person between the time of their death and their burial or cremation.

Presently, a licensee may retain a body that has been donated under the Anatomy Act indefinitely, provided an authority to do so is given by an inspector, as required. However, in keeping with the principle propounded in the Walker report that regard is to be had to the dignity of the deceased, it is proposed that a maximum period of eight years be set for the retention of bodies donated under the legislation. Specific provision has been made for the permanent retention of tissue when express written consent has been given by the deceased prior to death. When no consent has been given and the wishes of the deceased in this respect are unknown, the senior available next of kin may consent. However, as previously noted, no consent is required for the retention of tissue in the form of tissue blocks and slides. The Anatomy Act currently makes provision for the transfer of bodies between institutions licensed under the Act. However, the legislation is silent regarding the transfer of tissue between licensees.

The proposed bill allows for the transfer of human tissue from a body that is in the possession of a licensed institution to another holder of a license, an authorised officer of a hospital, or a person approved by the director-general for use for medical or scientific purposes. Such transfer will not be permitted when it is contrary to the authority given by the deceased or the next of kin. This amendment will ensure that activities, such as the practice of surgical procedures on particular tissue or body parts, can be conducted at hospitals and licensed facilities. Provision is made in the bill requiring the licensee to have arrangements in place for the return of the tissue, unless it has been wholly or substantially destroyed in the process.

Finally, the proposed legislation amends the Coroners Act in a number of respects. The bill clarifies that the purpose of a coronial post-mortem is to assist in the investigation of the manner and cause of death, the time and place of death or the identity of the deceased. I am sure that honourable members would agree that it is imperative that the proper administration of the justice system not be impeded. To this end, provision has also been made in the bill to allow tissue from a coronial post-mortem examination to be used for the Coroner's investigation of a death. Tissue so removed may also be used for the investigation of any offence, or in any offence proceedings. The provision is essential to ensure that forensic evidence is preserved for the proper investigation of a person's death by the Coroner, and for the proper investigation and prosecution of crime.

The bill will also allow small samples of bodily fluids, such as blood, to be retained from a coronial post-mortem examination. Small samples of skin, hair and nails may also be kept. Other small samples of tissue may only be kept when a Coroner makes a direction in a particular case. The direction is required to be made in writing, so that a record of the retention exists. Such a direction may not be made as a general practice, but only in a particular case. The small samples of tissue that are retained under this provision can only be used for certain purposes. These are, as follows: the exercise of a coroner's functions, the investigation of an offence, for use in legal proceedings, for any use that is authorised by the deceased or their next of kin under the Human Tissue Act and a purpose prescribed by the regulations.

The ability to prescribe further purposes for the use of such tissue samples is necessary to deal with contingencies that may arise in the future. For example, a particular government inquiry or a royal commission may require such samples to be re-examined for the purposes of its inquiry. The capacity to retain these small samples of tissue is necessary to ensure that the coronial system and the justice system continue to function effectively. For example, retained samples of tissue may be used in cases of unsolved deaths. New evidence may come to light several years later, and retained tissue samples may be needed in the reinvestigation of the

death. As previously noted, tissue slides and blocks may be retained and used for any therapeutic, medical or scientific purpose. Honourable members would appreciate that the retention of these small samples of tissue is necessary to preserve important interests of society, being the proper investigation of suspicious or unusual deaths and the proper administration of the criminal justice system. The provision represents a reasonable balance between the wishes of some individual community members, who may wish all tissue to be returned to them, and the interests of society as a whole.

The Government is committed to ensuring that the interests of individual community members regarding the use of human tissue from deceased persons are respected. It is also committed to ensuring the proper and effective administration of the justice system. The Human Tissue and Anatomy Legislation Amendment Bill has been developed to represent a balance between the community's expectations concerning the dignified and respectful treatment of deceased persons, the interests of justice and the need for ongoing medical and scientific research, teaching and inquiry. I commend the bill to the House.

Debate adjourned on motion by Mr Maguire.

BILLS RETURNED

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

Crimes Legislation Amendment (Property Identification) Bill
Rural Lands Protection Amendment Bill

JOINT STANDING COMMITTEE ON ROAD SAFETY

Mr DEPUTY-SPEAKER: I report the receipt of the following message from the Legislative Council:

Mr SPEAKER

The Legislative Council desires to inform the Legislative Assembly that it has this day agreed to the following resolution:

1. That this House agrees to the resolution in the Legislative Assembly's Message of Thursday 8 May 2003 relating to the appointment of a Joint Standing Committee to inquire into and report on road safety in New South Wales.

2. That the representatives of the Legislative Council on the Joint Standing Committee be Mr West, Mr Colless and Mr Tingle, and that Thursday 22 May 2003 at 10.30 am in the Waratah Room be the time and place for the first meeting.

Legislative Council
21 May 2003

PATRICIA FORSYTHE
Deputy-President

The House adjourned at 11.59 p.m. until Thursday 22 May 2003 at 10.00 a.m.