

# LEGISLATIVE ASSEMBLY

Wednesday 29 October 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.

## NSW OMBUDSMAN

### Report

**Mr Speaker** announced the receipt, pursuant to section 31AA of the Ombudsman Act 1974, of the report entitled "Annual Report 2002-2003".

**Ordered to be printed.**

## HAIRDRESSERS BILL

### Second Reading

**Debated resumed from 17 October.**

**Mr CHRIS HARTCHER** (Gosford) [10.01 a.m.]: I most appropriately lead for the Opposition on this bill. I welcome the support I have received from all sections of the Parliament and from my own party room. I note that the honourable member for Maitland and the Leader of the House also have a strong interest in this bill. Everyone in the community supports the hairdressing industry. It is one of the great industries in this State, providing employment for many thousands of people. The hairdressing industry once comprised a local barber shop and hairdressing salon. With recent fashion changes, it has transformed into unisex salons in our suburbs and shopping centres, which are well patronised and supported by the community. Hairdressing salons are not only centres for hair care, they are also social outlets. People, particularly women, like to go to a salon to have a cup of coffee and to enjoy the company of other members of the community.

This legislation follows on the National Competition Policy Agreement, ratified by the Australian Council of Heads of Government in 1995, which requires the removal of impediments to markets where they are not in the public interest. At present, the Department of Commerce is responsible for issuing trade licences to hairdressers in New South Wales. The present policy of the department, as required by law, states that each applicant must be trained to a certain level and have a specified level of workplace experience. Currently only the TAFE system in New South Wales provides this level of training through its apprenticeship programs, giving it a complete monopoly on providing training to the industry.

The legislation seeks to implement the national competition policy principles by amending the requirement that gives TAFE a monopoly. It seeks to ensure that people who undertake training in private colleges and obtain the appropriate standard of education or undertake training interstate can also be licensed to practise in New South Wales. The Coalition strongly supports the national competition policy and, accordingly, supports the principles behind this legislation. However, the legislation has been introduced without appropriate consultation with the principle industry group, the Professional Hairdressers Association. Therefore, whilst the Coalition supports the principles behind the legislation, which are designed to reflect national competition policy, we do not necessarily support the legislation.

The Professional Hairdressers Association has advised the Coalition of its concerns about the Hairdressers Bill. It feels that giving other entities the right to train hairdressers, and abolishing the TAFE NSW monopoly over training in the industry, could lead to private colleges charging higher fees for their courses and young people obtaining the Certificate III hairdressing qualifications within one year. The TAFE apprenticeships would still take the standard four years, yet private college students would receive the same level of qualification with less on-the-job training. The Professional Hairdressers Association believes that this could lead to more affluent students gaining qualifications much faster than less well-off students, which could lead to a divide in the industry between rich and poor.

The hairdressing industry has provided enormous opportunities for young people, particularly women, in our community to train and be educated in a trade at fairly low cost. It would be a backward step if a two-tiered system were to emerge whereby some people could undertake a shortened course through a private college and become qualified for hairdressing simply because they had paid higher fees and others went through the existing TAFE system. The TAFE students would not have the same advantage of a shortened course. The Professional Hairdressers Association is concerned about this provision in the bill. I can only express my surprise that the Government has not fully consulted with the Professional Hairdressers Association on this legislation.

The Professional Hairdressers Association also stated that prospective hairdressers would be able to gain their qualifications in a short time, provided they had the money to do so. They would enter the work force at 17 with full qualifications and expect to be paid at the same rate as a recently graduated 20-year-old apprenticeship hairdresser. This would cause obvious problems with young hairdressers who would feel that as they had the qualifications they would be entitled to the same level of payment, even though they had not undertaken the same course. The association is concerned that the Government has not taken its submission to this effect into account. I am advised that the association believes it has been ignored by the Government and that there has been little community or industry consultation on this legislation, which has wide-ranging effects.

The Coalition is concerned that, as with previous legislation introduced by the Government, there has been little appropriate industry consultation in the drafting of the bill. The Professional Hairdressers Association will issue a final submission about this legislation following a meeting today. At this stage the Coalition cannot indicate that it supports the bill. We will not divide upon it in the Legislative Assembly because we do not have the final view of the Professional Hairdressers Association, but we reserve our rights to take a different position, if necessary, when the legislation comes before the Legislative Council. We will consult with members of the crossbench in the Legislative Council. If the Professional Hairdressers Association expresses the same concerns following today's meeting, we would expect the association to also discuss its concerns with the crossbench in the Legislative Council.

This is not an ideological matter. Ideologically, we would all support the principles of the national competition policy. The Premier issued a statement in Parliament two weeks ago indicating that the State Government, as a signatory, supports the national competition policy. However, the Premier, in his statement, did express reservations about the sale of pharmaceutical products through pharmacies and the proposal to deregulate liquor outlets. He did not refer to the hairdressing industry. Although the Government had indicated through the Cabinet process that it would introduce this legislation, the rest of us were unaware of it.

Our position is simple: We reserve our final say on the legislation. The Legislative Council will pass final judgment on the bill, having regard to the views of the Professional Hairdressers Association. I can only express surprise that the Government, having had so much time and so many opportunities to consult, failed to do so. The Coalition—and I am sure every honourable member in this place—supports the hairdressing industry and many thousands of people whom it employs. The hairdressing industry can clearly do more for some than for others. I do not resile from that fact. Our genetic make-up determines these matters.

In closing, I acknowledge the presence in the public gallery of many visitors, including an intern from the United States of America, Henry Heinerscheid, who is working with me today. Henry and I have the advantage of going to the same hairdresser; we are determined to maintain our style. Henry comes from Minnesota and is a student at Harvard University. He is in Australia as part of an exchange program with the University of New South Wales. Henry was pleased—as I am sure all Americans were—to see America finally end the drought and defeat Japan in the Rugby World Cup match last Monday night. The Coalition reserves its final position on this legislation.

**Ms LINDA BURNEY** (Canterbury) [10.11 a.m.]: I feel compelled to speak about the Hairdressers Bill, firstly, because hairdressers should have a qualification; and, secondly, because, apart from Amanda Fazio in the other place, I have more hair than any member in either Chamber. In fact, the honourable member for Gosford might agree that I probably have more hair than several members combined. I assure the honourable member for Gosford that I like a good haircut on a man, so he should not feel too bad about it!

It has been 53 years since Parliament passed the Factories and Shops (Hairdressers) Amendment Act 1950 under which, first, a person is prohibited from carrying on the trade of hairdressing for fee, gain or reward unless he or she is the holder of a license issued by the under-secretary of the Department of Labour and Industry and Social Welfare, thereby ensuring that the public is provided with evidence of the person's

competency in hairdressing; and, secondly, private hairdressing training colleges that purportedly produced training of a low standard were abolished and hairdressing teaching was reserved exclusively for persons employed by or under the supervision of the Department of Technical Education. This legislation will obviously make some changes to that Act.

The position outlined in the Act prevails today even though it has been two generations since the Act was reviewed from a rigorous policy perspective. In today's setting we are required to assess whether the hairdressing licensing scheme achieves its aim of ensuring the provision of a competent service to members of the public. In essence, is it a value-added scheme? Moreover, does the prevailing statutory TAFE monopoly on off-the-job hairdressing training in this State accord with interstate training experience, reflect current government policy relating to the delivery of vocational training and tie in with the present standards of private training?

I turn first to the hairdressing licence. An issued licence is perpetual in nature and remains in force unless cancelled by the Director-General of the Department of Commerce. There is no complaints procedure under the Shops and Industries Act 1962 and the records reveal no known cases of the department's Office of Industrial Relations cancelling or suspending any licences. Therefore, we must ask whether this provision is still relevant. It seems to me that there is no enduring quality control in the provision of professional hairdressing services through the operation of the licensing network. When the honourable member for Campbelltown introduced the Hairdressers Bill in this place he said in his second reading speech that the Department of Commerce relies in many cases upon a testing and imprimatur role played by another agency—the Vocational Training Tribunal—in its granting of licences. This is a cost-added mechanism, necessitating expanding direct expenses for the applicant and inefficient administration costs for government. From that description, we can see that this bill modernises the 1962 arrangement in many ways.

Apart from cost considerations, a more telling question is why a licence issued by the Department of Commerce is required at all when invariably the decision as to a person's possession of relevant skills, qualifications or experience is made by the Vocational Training Tribunal. This threshold assessment having been decided, there is simply no need for the next paper step of a licence issue. The licensing scheme can be no guarantee of continuing competency in the trade and a licence holder cannot assert per se that the licence attests to a history of ethical conduct in the trade. This statement is founded in the licence's lifetime validity and upon anecdotal evidence that numerous unlicensed persons are engaged in the industry.

The notion that licensing confers evident hairdressing competency is also false given that the accepted pathway into the industry flows from the adoption by the industry of a national hairdressing training package, leading to the awarding of a Certificate III. The honourable member for Gosford canvassed the importance of the national scheme. The holding of this qualification indicates to an employer and to a member of the public seeking a haircut, styling, permanent wave or some other hair treatment that the provider is competent. This accords with what the industry parties have agreed periodically to be minimum competency standards. I think everyone would agree with that level of competency.

Furthermore, the tuition modules undertaken by a student in acquiring a Certificate III in hairdressing cover a full range of hairdressing topics and incorporate necessary aspects of chemical application—those people who have had their hair dyed, particularly dyed blonde, will appreciate the importance of that competency—hair and scalp treatment and a safe working environment. Thus standards relating to the avoidance or minimisation of health and safety risks are not imposed at the licence determination level. Rather, they are imposed in the training requirements and also through public health and workplace safety legislation that is applied universally in New South Wales. Universal application is the key.

I remind honourable members that the Occupational Health and Safety Act, the Local Government Act and the Public Health Act ensure fully and additionally that safe and hygienic work practices and policies are in place for the protection of both consumers and hairdressing practitioners. For the reasons I have outlined, I strongly support the first reform arm of the Hairdressers Bill in removing the current inefficient and unnecessary hairdressing licensing scheme. The bill's replacement scheme—namely, the holding of a Certificate III in hairdressing—is eminently simple and reflects the current industry training means of ensuring the delivery by professional hairdressers of a competent and safe service. Many people who go for a haircut do not appreciate the safety aspects of this profession.

The other major reform in the bill is the abolition of the hairdressing training monopoly that resides with the New South Wales TAFE Commission. That sort of monopoly does not exist in most other training

areas. It is my understanding that the national competition policy review of section 111 (b) of the Shops and Industries Act containing this exclusivity provision held that there was no continuing policy justification for retaining this market distortion situation. All registered vocational training providers in Australia, under the auspices of the quality training framework agreed to by all Australian governments, base their hairdressing courses on the uniform hairdressing training package.

A Certificate III is the standard training outcome for all hairdressing courses conducted by TAFE colleges and community and private commercial training institutions. Given the TAFE situation, the operation of section 111 does retard the intergovernmental policy commitment to greater diversification in the training market. It can no longer be a valid argument, as perhaps it was in the 1950s, that we should exclude private hairdressing training colleges from the training market because they provide an inferior quality of hairdressing instruction and assessment. In fact, that would be an anomaly in the training spectrum across the nation. Moreover, the Government adheres to the competition principle that if the conduct of standard Certificate III courses by a private college in New South Wales is best suited to the particular life situation and financial circumstances of an individual then the law should not act as a prop for any other system. If a mature adult wants to achieve required competencies in a minimal time and is prepared to pay the fees involved to seek entry into the hairdressing profession at the seemingly better remunerated level, so be it.

Honourable members should think about hairdressing as a profession and the age at which many young people begin training—that is, at 16, 17, or 18 years of age. As much as we make jokes about it, the hairdressing profession is no cakewalk. It involves four years training, on and off the job, the salaries are not fantastic, the hours are very long and those involved are continually interacting with the public. If one is not having a great day, it can be difficult. Hairdressers are required to please people, which adds to the stress imposed by the job. I do not say this jokingly; it is very real. Some people say that there is only a week between a good and a bad haircut. That depends on whether one has experienced the bad haircut.

I know that this is not a life-and-death situation, but it is important in bringing New South Wales into line with other States in its hairdressing training. It is important that we update our archaic laws and remove the unnecessary steps in this legislation. Often it is very expensive to get a haircut, and real safety issues can arise with chemical dyeing and scorching with the hairdryer. I am sure many people have inflicted pain on themselves with a hairdryer. The use of poor equipment is also a problem. During the last but one haircut I had, the hairdresser pulled out a razor, which caused me to question that person's qualifications. I support the bill and commend it to the House.

**Ms ANGELA D'AMORE** (Drummoyne) [10.24 a.m.]: I support the Hairdressers Bill. In August 2000 the National Training Quality Council, representing the Australian National Training Authority, endorsed the National Hairdressing Training Package. The endorsed framework addresses the training and career pathway needs of the hairdressing industry. It links the national industry competency standards to assessment processes and qualifications. The training package, which is a training and assessment framework, is the subject of periodic review by a representative industry training advisory board. The outcome is a nationally recognised and consistent basis for trade qualification in the hairdressing industry, being a description of the skills and knowledge needed to perform effectively in the workplace.

As recognised in the Hairdressing Vocational Training Order relevant to the apprenticeship pathway into the industry in this State, a Certificate III in hairdressing is a nationally accepted standard trade qualification for the industry. The certificate is structured to enable employees to work flexibly in a range of hairdressing applications. Its competency standards cover tuition modules in retail-client relationships, maintaining a safe and clean work environment, application of chemical treatments, working with hair and scalp conditions, and various forms of haircutting, styling, colouring and shaving. Completion of the TAFE NSW hairdressing trade course leads to the attainment of a Certificate III, normally after two years study within a four-year apprenticeship.

However, registered private vocational training providers in other Australian States and Territories and TAFE-style colleges in other jurisdictions all base their hairdressing industry training and assessment on the National Hairdressing Training Package. All such courses result in the awarding of a Certificate III. Some colleges outside New South Wales may award that certificate after a person has undertaken a year of tuition. However, the components of the course and the manner of end assessment are consistent with the National Hairdressing Training Package.

I have detailed the background of the National Hairdressing Training Package and its diversified vocational training delivery throughout the rest of Australia because the reality of this industry-accepted set of

competency standards is what the bill is all about. The bill aims to draw this State's legislation and the industry to the recognition that the current hairdressing licensing scheme and the monopoly hairdressing training position of TAFE colleges in New South Wales are no longer sustainable. If the hairdressing industry in Australia can determine a uniform set of competency standards, this State's legislation should not be allowed to act as an obstacle holding firm to industry requirements in the hairdressing services and training markets that defy modern policy justification and whose cost-benefit analysis is essentially negative. Occupational regulatory intervention in the form of legislation should exist only if there are clearly defined problems in the unregulated environment. Simply put, a legislative regulatory regime should not be more restrictive than is necessary to protect the public interest objectives for which the legislation is imposed.

I understand that the national competition policy review of part 6 of the Shops and Industries Act 1962 concerning hairdressing in New South Wales concluded that the licensing scheme acts to ensure that industry entrants possess certain minimum levels of competence. The issue of a licence is supposed to attest to recognition of that competency. I have emphasised that competency is normally assessed at a prior point in time, in most cases through the successful undertaking of the nationally uniform and industry-accepted hairdressing training package. Honourable members should recognise that the hairdressing license scheme in New South Wales is cost-inefficient; it is not value added in nature. Although it is laudable in its aim of consumer protection, that aim nowadays is met through the accepted industry training regime. The bill before the House rightly recognises that the form of the industry entry level is relevant to legislative stipulation.

I turn now to the TAFE hairdressing training monopoly. Training consumers or students are not generally capable of moving, or are reluctant to move, outside New South Wales to undertake training at a private college at considerable financial expense. Although TAFE NSW's teaching of the National Hairdressing Training Package provides a certain guarantee of service delivery, there is evidence of a strong mobility factor in buyers being able to assert a choice in accessing alternative training in the New South Wales market. The risk of substandard training delivery or the delivery of inefficient or non-innovative training is high when it is protected by legislative monopoly, and the vocational training market nowadays accepts diversified delivery of standardised training packages across Australia.

I strongly support the principle that champions choice and competition in the hairdressing training market. Recognised or accredited private hairdresser training institutions that base their courses on the National Hairdressing Training Package should be permitted to operate in New South Wales. Equally, a graduate of a course based in another State should be able to practise as a professional hairdresser in New South Wales without any further administrative barriers. I add one qualification to what I have just said, and I am pleased to see that clause 6 of the bill recognises this very important point.

The Apprenticeship and Traineeship Act 2001 is a key planning tool of this State in ensuring that employers provide a clear training and employment avenue for young trade entrants. I refer to the apprenticeship pathway into employment that is so vital for school leavers. Clause 6 of the bill states that the operation of the Apprenticeship and Traineeship Act is not to be affected by the proposed Hairdressers Act. This provision will ensure that section 25 of the dominant Act will not be extended in its operation.

Section 25 generally provides that a New South Wales employer is prohibited from employing a junior, that is, a person under 21 years of age, in a recognised trade vocation unless the junior is an apprentice or has received special Vocational Training Tribunal recognition. The provision represents this Government's firm policy stance that the training of young persons in recognised trade vocations, including the calling of hairdressing, is not to be diminished. So the practical interrelationship of the two pieces of legislation is to be that a person under 21 years who attains a Certificate III in hairdressing is unable to lawfully practise in the trade for fee, gain or reward until attaining his or her majority. As I have stated, the protection of the important apprenticeship system in the labour market commands nothing less.

But, on the other hand, an adult should not be hamstrung in his or her desire to enter the hairdressing trade, once having achieved competency through the awarding of a Certificate III in hairdressing, by having to fall back on apprentice wages and apprentice on-the-job training if an employer and discerning customers in the markets are prepared to access the utilisation of the person's hairdressing skills. There is a recognition that, for an adult, the apprenticeship pathway into gainful employment or financial participation in the hairdressing profession cannot be exclusive.

In conclusion, there is no continuing policy justification for the retention of hairdressing licensing and the NSW TAFE hairdressing training monopoly in this State. I commend the Government for its realistic review

assessment that the existence of the National Hairdressing Training Package should be the future legislative form in order to enter the industry. Last week I spoke to a number of hairdressers in my electorate of Drummoyne about this legislation. Drummoyne boasts quite a few hairdressers who are highly utilised by my constituents. The apprentices in Drummoyne look forward to this legislation and the owners of the salons are comfortable with the provisions of this legislation and look forward to its implementation. I commend the bill on that basis.

**Mr JOHN MILLS** (Wallsend) [10.32 a.m.]: I support the Hairdressers Bill, which aims to prohibit unqualified people from acting as hairdressers. The bill removes the TAFE-only licensing and training system and allows other trainers to provide training in hairdressing. As this legislation is a good outcome of a national competition policy review, it is one of the rare occasions that I am in agreement with the national competition policy. Before people get too carried away with the new regime that this bill introduces, I remind honourable members that things were not always bad in the old days and former training procedures had some worthwhile features.

In the first week of December 1988 I was the Labor candidate in a by-election following the sudden death of my predecessor. To sharpen myself up as a candidate I went to the nearest barber shop, which was 40 yards from my newly established campaign office. While my hair was being cut I noticed that hanging above the sink was a neatly framed, old yellow-coloured certificate showing the barber's qualifications. The certificate, which was proudly displayed, was issued in the early 1950s by the Hairdressers Union, which ran the qualification scheme in those days. He was obviously a good barber because he did a good job on my hair. The certificate was signed by Jim Scully, secretary of the union. He was a voter in my pre-selection because he had retired to the Hunter Valley and was living in Warners Bay. He is now living elsewhere in the Hunter region. He is a wonderful and very interesting man to talk to about trade unionism and the nature of work in the old days. I commend the union for what it did in those days and say that we always must keep up-to-date with appropriate methods of training in the industry. That is what this bill seeks to do. But the good old days were, in fact, good.

**Mr PAUL McLEAY** (Heathcote) [10.35 a.m.]: I congratulate the Minister for Industrial Relations on the reform stance embodied in the Hairdressers Bill, and on this timely and sound legislation, which should command the support of all members of this House and in the other place. Honourable members will recall that the honourable member for Campbelltown, in his second reading speech, said that the origin of the proposed legislation lies in a national competition policy review of the regulation of hairdressing in New South Wales. The honourable member stressed that the review had concluded that, first, there is sufficient justification for the retention of regulation at the point of entry to the hairdressing services market, based on ensuring competency in the provision of a hairdressing service and meeting possible public health concerns involving skin infection and chemical application hairdressing procedures.

Second, however, there is no continuing justification for the retention of a licensing form of regulation administered by the Office of Industrial Relations, being a scheme that essentially is reliant on prior assessment by the Department of Education and Training of hairdressing skills, qualifications and experience. Third, the justified and future appropriate form of regulation at the point of market entry is based upon the existence of the National Hairdressing Training Package, which also addresses safety issues, and the functioning of the Vocational Training Tribunal. Finally, there is no present policy justification for the continued existence of the NSW TAFE monopoly in the hairdressing training provider market, and private hairdressing training colleges should be lawfully permitted to operate in New South Wales in accordance with an Australiawide governmental commitment to the diversified delivery of vocational training.

I will speak on the review process. The review of part 6 of the Shops and Industries Act 1962, in relation to the regulation of the hairdressing trade, was undertaken as part of the Government's commitment under the national competition policy to review all of its legislation which potentially restricts competition. The National Competition Principles Agreement, ratified by the Council of Australian Governments in 1995, requires the removal of impediments to markets where they are not in the public interest. The agreement has a guiding principle that legislation should not restrict competition unless it can be demonstrated that the benefits of the restriction to the community as a whole outweigh the costs, and that the objectives of the legislation can be achieved only by restricting competition.

Provisions of part 6 of the 1962 Act identified as requiring review under the Competition Principles Agreement related to hairdressing licensing and hairdressing training provider recognition. The review was conducted according to standardised terms of reference for all such national competition policy legislation reviews and was co-ordinated by a steering committee of representatives of relevant government agencies—

chaired by the then Department of Industrial Relations—and assisted by a reference group of industry stakeholders, comprising the Professional Hairdressers Association, representing employers, and the Australian Workers Union.

An issues paper identifying issues relevant to the impact of the legislation on competition within the hairdressing industry was widely distributed in June 2000, and written submissions from the public and the industry resulting from that paper's release were considered by the steering committee and reference group prior to the writing of the review report to the Government. This has been a considered and consultative study of legislation that has basically remained unchanged for more than half a century. I understand that the review uncovered popular acceptance of the historic regulatory objectives of the legislation, being public protection against the risk of unscrupulous, substandard and unqualified persons providing a hairdressing service and from inferior training service providers entering the market. The review's next task was to assess whether these regulatory objectives could continue to be justified. It did this by analysing the costs imposed on the government, industry and consumer sectors through licence mandating of hairdressing qualifications and experience, and the exclusive TAFE hairdressing training provision.

Against a finding of attendant increased community costs through regulation, the potential for relevant market failure and provider failure was next considered to determine whether regulatory intervention was indeed necessary to confer wider or countervailing public benefits. On balance, the review concluded that there is sufficient justification, based upon protection against risks of public safety and the performance of substandard work, for the retention of regulation at the point of entry to the hairdressing services market in some form. However, the further conclusion of the review was that the licensing scheme of part 6 of the Shops and Industries Act is a duplication of effort at the point of entry level when considered with the functioning of the Vocational Training Tribunal under the Apprenticeship and Traineeship Act 2001.

The review considered that the Department of Commerce has an unnecessary and inappropriate involvement in hairdressing profession entry, as against the Vocational Training Tribunal's primacy in the assessment of a licence applicant's requisite training, skills and experience. Regarding the existence of the NSW TAFE hairdressing training monopoly, the review considered that the private and public costs associated with this legislative stipulation were not countered by any public or private benefits to justify retention of a distorted market situation. Indeed, it is contrary to the national training reform agenda, as agreed to by the New South Wales Government, for TAFE to be the sole provider of hairdressing training in New South Wales.

Other contributors to the debate on this side of the House have eminently explained the detail of the anachronism of the current legislation regulating the professional practising of hairdressing and off-the-job training in this State. I am sure all honourable members would appreciate the policy reasons for a law change in 2003. I trust that the House now has a proper understanding of the exhaustive review process and methodology by which the industry and the public have been consulted in this legislation review exercise. The bill is soundly based as a result of the review process. In the past the industry parties have worked extremely co-operatively and constructively in the development of the national hairdressing training package. The Hairdressers Bill 2003 builds upon that foundation, and I am sure that ultimately it will prove to be very acceptable to the hairdressing industry. I commend the bill to the House.

**Mr KERRY HICKEY** (Cessnock—Minister for Mineral Resources) [10.43 a.m.], in reply: I congratulate honourable members representing the electorates of Gosford, Canterbury, Drummoyne, Wallsend and Heathcote on their contributions to the debate. I am pleased that the Coalition supports the bill and the national competition policy review. The honourable member for Gosford spoke about the Government's stance on the national competition policy. It must be noted that the Government has no alternative but to agree to the national competition policy, given that it has been threatened that moneys will be withheld from the State and taxpayers will suffer if the Government does not conform with the Federal Government's views.

As the honourable member for Gosford said, hairdressers can do more for some than for others. The department consulted the hairdressers association and the union during the national competition policy review process. The review of the Act is long overdue. It provides a value-added scheme, allowing vocational training coupled with private training. Licences are perpetual, and to date none has been extinguished. The Department of Commerce, in issuing licences, does not recognise the skills and competency of individual hairdressers. The bill is a step forward in allowing competition in the hairdressing profession.

The hairdressing provisions of part 6 of the Shops and Industries Act 1962 were the subject of a national competition policy review conducted by the Office of Industrial Relations of the Department of

Commerce, which led to the following conclusions. First, there is sufficient justification for the retention of regulation at the point of entry to the hairdressing services market, based on ensuring competition in the provision of a hairdressing service and meeting possible public health concerns involving skin infection and chemical application hairdressing procedures. Second, there is no continuing justification for the retention of a licensing form of regulation administered by the Office of Industrial Relations, being a scheme which essentially is reliant on the Department of Education and Training's prior assessment of hairdressing skills, qualifications and experience.

Third, the justified and future appropriate form of regulation at the point of market entry is based upon the existence of the national hairdressing training package, which also addresses safety issues, and the functioning of the Vocational Training Tribunal. Fourth, there is no present policy justification for the continued existence of the NSW TAFE monopoly in the hairdressing training provider market, and private hairdressing training colleges should be lawfully permitted to operate in New South Wales in accordance with an Australia-wide governmental commitment to the diversified delivery of vocational training. Certificate III deals with the competency of hairdressers and unqualified persons operating in hairdressing salons. The bill allows for other agencies to enter the market, removes barriers that restrict any form of competition, and addresses the need for the industry to keep up to date with training, and I commend it to the House.

**Motion agreed to.**

**Bill read a second time and passed through remaining stages.**

## **INDUSTRIAL RELATIONS AMENDMENT (PUBLIC VEHICLES AND CARRIERS) BILL**

### **Second Reading**

**Debate resumed from 17 October.**

**Mr CHRIS HARTCHER** (Gosford) [10.47 a.m.]: The Industrial Relations Amendment (Public Vehicles and Carriers) Bill makes two major amendments to the Industrial Relations Act 1996, both related to chapter 6. Chapter 6 of the Act provides a mechanism for the Industrial Relations Commission to prescribe rates of pay and conditions for drivers of public vehicles and carriers of goods who are engaged under contract and are not employees. This is anticompetitive and accordingly breaches the Commonwealth Trade Practices Act. However, that Act allows a State to exempt itself in the area of industrial relations. The effect of the first amendment is to make permanent the exemption in the Act that specifies a sunset clause due to expire on 14 December 2003.

The State Government relies upon a report prepared by Professor Mark Bray of the Employment Studies Centre at the University of Newcastle, which recommends that the sunset clause be abandoned or allowed to expire and that instead a clause be inserted in the Act granting a permanent power to the Industrial Relations Commission to fix these rates for contract carriers and drivers of public vehicles. The New South Wales Road Transport Association has advised the Coalition that it is "comfortable with the proposed amendments contained in the Industrial Relations Amendment (Public Vehicles and Carriers) Bill 2003, and we have advised John Della Bosca's office of our position".

Accordingly, the Coalition, while it supports the national competition policy and is conscious that this bill is contrary to that policy, accepts there will be various areas in which the national competition policy cannot be enforced, and this is one of those. However, as I have stated in relation to other legislation, the Opposition reserves the right to vary its position if fresh evidence becomes available or further representations bring to light material that we regard as appropriate to be reflected in legislation or dealt with in parliamentary debate.

The whole issue of rights of contract carriers and drivers has long been a troubled one. The very first legislative provision to revise contracts, which was inserted in the 1950s in the Industrial Arbitration Act, was the famous section 88F. Its purpose was to allow the Industrial Relations Commission to review contracts, especially the contracts of transport drivers, many of whom were being placed under contract rather than covered by award. It was felt, quite appropriately, that many transport drivers were being denied appropriate benefits or were being exploited. Of course, that provision is now embodied in section 106 of the Industrial Relations Act 1996, the general section that covers all contracts for the performance of work worth less than the statutory amount of \$200,000.

The chapter 6 amendments are confined to drivers of public vehicles and carriers of goods who are engaged under contract and are not employees. The Opposition acknowledges that it is important to prevent exploitation of those engaged in this type of work. It may be that they do not have sufficient bargaining power or strength to allow market forces to determine their rates of remuneration because those engaged in the industry are not well organised and are not able to bargain effectively. Of course, that leads to the question: Where is the Transport Workers Union? That union claims to represent those people. Under State industrial relations legislation it is the union that has coverage of drivers and owner-drivers of public vehicles and carriers of goods. It is the union granted—under the "conveniently belong" clause embodied in legislation—control of recruitment in certain areas. The "conveniently belong" test prohibits unions from fighting amongst themselves for control in various areas.

The Transport Workers Union has the privilege of representing those drivers—and lamentably has failed to do so. Mr Hutchins seems to spend more time engaged in internal politicking in the Australian Labor Party than he does looking after the interests of his members or persons who could be his members. His successor as secretary of the Transport Workers Union also has clearly fallen down on the job. It is no wonder that only 19 per cent of people in private employment in this State are now members of registered industrial organisations—because the trade union movement has failed to adequately represent them. That is why we have this constant recourse to Parliament by the Government to introduce legislation it says will protect workers.

**Mr Kerry Hickey:** Why do you hate unions?

**Mr CHRIS HARTCHER:** The Minister for Mineral Resources, who is responsible for an industry that is heavily unionised, asks why we dislike unions. The answer is simple: We do not dislike unions. We strongly support the right of people in a free society to join any organisation they wish. We respect that right and we embody that right in our legislation, whether we are in power in the Federal or State jurisdictions. But we expect those organisations to represent their members. We think it is appropriate that such organisations that do not represent their members should be called to account. However, trade union after trade union exists more for the benefit of its officers, and their chances of gaining perks and political opportunities, than it does to look after the rights of ordinary members. The Transport Workers Union is no different. That union has failed. That is why legislation such as is now under consideration has to come before this Parliament.

**Mr Matt Brown:** Point of order: It relates to relevance. The honourable member for Gosford is not debating the bill but mounting an all-out attack on unions, and one union in particular—the Transport Workers Union, which I know works very hard for its members.

**Mr SPEAKER:** Order! The honourable member for Gosford is well aware of the standing orders. In making his contribution to the debate on this bill he may refer to matters relating to industrial relations generally. However, he is accountable for what he says.

**Mr CHRIS HARTCHER:** All industrial legislation imposes a statutory framework within which people are forced to operate. The whole idea of the national competition policy is to enable individuals to determine matters themselves without being restricted by a statutory straitjacket. The difficulty with this bill is that it imposes a statutory framework in which people must operate, and denies them the opportunity to make their own bargains. The bill specifically states that the Industrial Relations Commission will fix the rates, rather than have people bargain the rates for themselves. The reason that people have not been able to make their own bargains is that they are not well organised and lack the strength to do so effectively. They are not well organised and lack that strength because the trade unions that are supposed to represent them do not do so. So nothing could be more relevant to this legislation than examining the failure of the organisations that should be representing contract carriers, the Transport Workers Union.

The honourable member for Kiama may send to the Transport Workers Union the *Hansard* record of what I have been saying in an attempt at cheap political point scoring—or in an attempt to get its vote when the next preselection contest comes around. Of course, it now comes to mind that there are some interesting preselection developments in the honourable member's area. The penny drops! Interesting preselection struggles are taking place down south. I acknowledge the honourable member's very strong interest in those developments. He has spiked my enthusiasm; I had been quite unconscious of where he was coming from. Now I know. But we will talk about the honourable member for Kiama and his preselection challengers at some later stage. I am sure the honourable member for Wollongong will have something to say. We will see soon enough what happens in Throsby, the seat of Jennie George.

I repeat that the Coalition does not oppose the bill but reserves its right to vary its position on the measure. I welcome the fact that the legislation is based on a proper and comprehensive study by Professor Mark Bray of the Employment Studies Centre of the University of Newcastle. Legislation that is to be brought before the Parliament should have a factual basis. I quote from the Minister's second reading speech what may be a summary of what was said in Professor Bray's report. The Minister said the report concluded that:

... there was a market failure in road transport when contract carrier rates were unregulated because the price mechanism did not effectively regulate the supply and demand of contract carriers.

That is the foundation upon which the bill rests. As a member of a political party that strongly opposes exploitation and strongly believes in the need for protection of those unable to protect themselves—and fortified by the comments of the Road Transport Association—I repeat that the Coalition will not oppose the bill. The Road Transport Association went on to advise that, although it has no major problems with this bill, it looks forward to discussing the whole issue with the industry and making a more detailed submission to the Government and the New South Wales Coalition as soon as it is able.

The Road Transport Association indicated it plans to contact the Minister for Commerce, and Minister for Industrial Relations this week to discuss the wider effects of the legislation and other possible changes to industry legislation. It has indicated a wider concern in regard to the nature of the primary contractors arrangement, especially as it relates to workers compensation, and stated that the Government could most definitely improve some areas of the workers compensation system as a whole. There are enormous opportunities for improvements in the conditions of contractors working in the road transport industry, and there are many concerns about how the workers compensation legislation has been framed for them. Workers compensation is not an appropriate subject for this debate, as the bill deals with industrial relations, but nonetheless it is an area that needs to be flagged. I place that on the record now. I hope that the Minister meets with the Road Transport Association to discuss the relevant concerns.

The second amendment will allow the Industrial Relations Commission to regulate taxicab and private hire vehicles for bailment outside the Sydney, Newcastle and Wollongong transport districts, which were established under the Transport Administration Act 1988. At the present time the Industrial Relations Commission regulates only taxicab and private hire bailment vehicles in those three areas. According to the Minister, the legislation reflects a promise made by the State Government prior to the 2003 election that it would extend the regulation across the State. We have not received any representations about extension of the regulation across the State. However, extension will have an impact outside Sydney, Newcastle and Wollongong and it will affect the taxi industry in many country towns. We are interested to know the views of taxi organisations. We have sought their views but have not yet received them.

Accordingly, as I said in relation to the previous amendment, we reserve our position, upon receipt of appropriate representations, to amend or oppose the legislation in the Legislative Council, if that becomes appropriate. The Coalition is not in favour, in principle, of anti-competitive legislation. At the end of the day we know that our State economy is part of the wider Australian economy, which in turn is part of the wider global economy. The only effective way of ensuring economic growth, employment opportunities and wealth creation in our society is to function effectively within that total economic framework. As has been demonstrated again and again, societies that impose a statutory straitjacket on their economic and industrial systems will stagnate, but societies that adopt competition will progress.

We believe in competition because competition gives people the opportunity to get ahead. We believe in competition because competition creates wealth, jobs, and a prosperous society. That is the distinction between the Coalition and the Australian Labor Party. The Australian Labor Party acts in the short-term to suit whichever interest groups it is looking after at any given time. The trade union movement—the principal interest group that Labor looks after—believes in regulation and control because it has failed again and again to bargain adequately and to represent the workers whose rights it is supposed to uphold. Accordingly, at this stage the Coalition does not oppose the extension of chapter 6 across the whole of New South Wales, but reserves its rights in that respect.

**Mr JOHN BARTLETT** (Port Stephens) [11.02 a.m.]: Country members often speak in this House on bills of which they have little ownership. I am very close to this bill, as the record will show. I have listened to the honourable member for Gosford attack the Transport Workers Union and talk about the benefits of competition. My five years in Parliament have shown me that if a study were carried out of the ugly side of capitalism it would have to look at shopping centre owners and their small tenant operators, at milk processors and poor dairy farmers, at chicken processors and chicken producers—and, without a doubt, at bailor taxi owners and bailee taxidriviers in the bush—to find some of those who have very few rights in this wonderful world of ever-greater competition.

Today is 29 October 2003. On 29 October 2001, exactly two years from today, I received a letter from Mr Richard Sullivan, who at the time was working as a bailee taxidriver for a country taxi organisation. Basically his problem was that he worked under an agreement whereby the bailee taxidriver kept 40 per cent of what was made on a shift and gave the remaining 60 per cent to the owner. The owner supplied the taxi licence. So in the bush 60 per cent of what was earned went to the operator and 40 per cent went to the driver. At that time there many concerns in the Port Stephens electorate about the power of owner-operators as opposed to that of drivers. I do not have time in this debate to refer to individual items. After extensive investigation, and following a letter on 1 November 2001 to the Hon. Carl Scully, who was Minister for Transport at that time, we were trying to work out how to resolve taxidrivers' problems. A letter from Kevin Moss MP, the Parliamentary Secretary at the time, stated:

At the outset I would like to advise that issues of workers entitlements, benefits and arrangements made under the bailment agreement are matters that should be addressed by the Department of Industrial Relations. Similarly concerns regarding driver safety or hygiene are under the jurisdiction of WorkCover New South Wales, and I suggest that these issues be raised with the relevant government agency.

On about 21 Jan 2002 we raised these issues with the Hon. John Della Bosca, the Special Minister of State and the Minister for Industrial Relations. In a letter he replied:

Chapter 6 of the *Industrial Relations Act 1996* empowers the NSW Industrial Relations Commission to make contract determinations and contract agreements covering the minimum conditions of bailee taxi-drivers in transport districts established under the *Transport Administration Act 1988*. Under section 108 of the *Transport Administration Act 1988*, three specific transport districts are established (Sydney, Newcastle and Wollongong), along with a regulation-making power to establish additional transport districts.

A taxidriver working under a bailee/bailor agreement in Sydney, Newcastle or Wollongong had a right to go to the Industrial Relations Commission, but a taxidriver working in the bush did not. We asked why in the past a taxidriver working under a bailee agreement in the Cumberland area of Sydney, Newcastle and Wollongong had access to the Industrial Relations Commission, whereas a taxidriver working outside those areas—in, say, Nelson Bay, Coffs Harbour or the Blue Mountains—did not have those conditions and rights. Historically, taxidrivers in the bush were owner-operators who operated their own taxis and therefore did not need bailee/bailor agreements. The Minister's letter continued:

To date, no transport district has been established to cover the Port Stephens area. Accordingly, no minimum conditions currently exist to underpin bailment agreements for taxi-drivers in the Port Stephens area.

So we started this process. The letter stated that Mr Richard Sullivan should contact the TWU to help resolve the issue. The TWU commenced negotiations with the owner taxidrivers but those negotiations basically did not go anywhere, although some changes were made. In August 2002, 12 of the taxidrivers went on strike. I attended the rally to gain a better knowledge of the matter but, despite the comments by the honourable member for Gosford, the TWU did not have the power take the matter to arbitration because these taxidrivers were outside the Cumberland area. The purpose of the bill is to correct that anomaly. I do not suggest that the taxidrivers were correct in all instances but they were treated as serfs or as second-rate citizens because almost every other worker in the State has the right to go to the Industrial Relations Commission to resolve issues.

Unfortunately, only five remain of the original 12 taxidrivers who were part of the delegation that visited Minister Della Bosca in Sydney. I held meetings also with officers from the Department of Transport in my electorate office to try to resolve the issue but, at the end of the day, the only way was to amend the Act with respect to bailee-bailor taxidriver conditions. These workers had a genuine grievance that could not be resolved. This bill is designed to address those concerns. I hope that when the Industrial Relations Commission deals with the matter, it will consider retrospectivity with respect to those taxidrivers who are no longer in the industry because of lost shifts and insufficient incomes for their families. Basically, they were forced out of the industry, which caused arguments and dissension in the home.

The taxidrivers claimed that some of the moneys were being deducted unfairly in addition to the 60 per cent already deducted under the bailment agreements. Many of the taxidrivers were only receiving \$6 to \$8 per hour or \$16,000 per annum. We are not talking big bickies here. Taxidrivers in my electorate provide a service for the entire Port Stephens area so they are required to sit on taxi ranks waiting for customers. Their incomes are insufficient and, on top of that, deductions were being made inappropriately. I ask the Industrial Relations Commission to consider the matter retrospectively for those taxidrivers who are no longer in the industry, even though they may still belong to the union.

The honourable member for Gosford asserted that the TWU did not help these taxidrivers. However, the TWU negotiated with the taxidriver owners but could not reach an agreement. The union attended the

Nelson Bay strike and other industrial action. It also joined the delegation to see the Minister in Sydney but its hands were tied because these taxidriviers were outside the Cumberland area and, therefore, did not have the right to take the matter before the Industrial Relations Commission.

I shall provide a copy of my speech and the speeches of the honourable member for Gosford and the honourable member for Kiama to TWU officers in the Hunter. They did everything in their power to assist these taxidriviers but the stumbling block was the inability to have the matter resolved in the Industrial Relations Commission. It is quite unfair that the only people in the State who are disadvantaged are those in the bush subject to the bailment agreements. I think it was merely an historic oversight that no-one asked the transport districts administration in 1988 to consider giving drivers in the bush equal rights. I have my fingers crossed that the bill will pass without amendment, to give these taxidriviers the right to have matters resolved in the Industrial Relations Commission. I hope also that the commission will deal with the matter retrospectively with respect to the seven taxidriviers who have left the industry through loss of shifts and insufficient income. I strongly commend the bill to the House.

**Mr MATT BROWN** (Kiama) [11.16 a.m.]: I support the bill. The bill proposes amendments to chapter 6 of the Industrial Relations Act 1996, an important piece of legislation designed to protect workers who would otherwise be left to bargain on their own. Who are these workers? They are taxidriviers, van drivers, motorcycle and bicycle couriers, and truck drivers. Chapter 6 recognises that although these drivers are not employees in the true sense, nevertheless they share many of the characteristics of employees and deserve protection from exploitation. Chapter 6 provides a way of regularising outcomes for drivers and principal contractors. Under chapter 6, the Industrial Relations Commission can make contract determinations, like awards, to determine the rates of pay and conditions under which these drivers are to be engaged. The commission can also approve contract agreements, like enterprise agreements, between parties in relation to such contracts.

In New South Wales there is a long history of seeking to protect these transport industry workers. After the Second World War, excess transport vehicles were sold to the general public, many of them returned servicemen, who then sought to participate in the rebuilding of the Australian economy by transporting goods around the country. The amount of competition resulted in many drivers in the trucking industry quickly going out of business, leaving ex-servicemen and their families struggling to survive.

The first legislative response was to deem these transport industry workers to be employees. But section 88E of the former Industrial Arbitration Act 1940 gave rise to a rash of litigation as principal contractors sought to prevent the application of the deeming provision to growing numbers and classes of contractors. It became clear that a new approach to dealing with this issue was required. The Industrial Arbitration (Amendment) Act 1979 introduced regulated contracts provisions into the Industrial Arbitration Act 1940. These provisions were continued in the Industrial Relations Act 1991 and found modern expression in chapter 6 of the Industrial Relations Act 1996—and it is chapter 6 that we are debating here today.

Since 1979 New South Wales industrial relations legislation has provided a discrete regulatory regime for certain transport workers who, at law, are independent contractors rather than employees. This history clearly means that this system of industrial regulation for transport industry drivers has been supported in this Parliament by governments from both sides of politics. I would suggest that no-one in this Parliament would or should seriously question the ongoing need for such regulation. That is why I find it interesting that the honourable member for Gosford has committed the Coalition to sit on the fence, stating that it probably will not oppose the bill but might do so later. I do not think that adds to vigorous debate in the Chamber. The chapter 6 regulatory scheme applies to contracts of bailment and contracts of carriage which are, generally speaking, those applying to taxidriviers and to drivers involved in the transport of goods who own their own vehicle.

Like awards and enterprise agreements, contract determinations and contract agreements set out the conditions under which drivers covered by them will work, including payments to be made. Chapter 6 empowers the commission to resolve disputes in the industry, and provides for the registration of associations of contract drivers and associations of contract carriers, and associations of employing contractors, that is, those who engage contract drivers and contract carriers. Further, chapter 6 applies many of the general provisions of the Act to contracts covered by chapter 6, for example, the enforcement provisions of the Act.

Chapter 6 establishes a Contracts of Carriage Tribunal which is empowered to order the payment of compensation for termination of head contracts of carriage. These are the overarching arrangements under which truck drivers agree to provide services exclusively and on an agreed regular basis for a particular

principal contractor. The honourable member for Gosford said that such regulation could well be against the public interest. I think the public interest is maintained in these chapter 6 provisions. The chapter 6 scheme is based on the premise that the drivers involved are, in terms of bargaining power, in an analogous position to employees. In other words, although the contractual arrangements entered into by these drivers are not employment contracts at law, nevertheless they are in a vastly inferior bargaining position as against the large transport companies for which they perform services, and left to their own devices they would be incapable of achieving rates that would enable them to make a living out of their work.

In the absence of regulatory provisions such as chapter 6, these drivers are left in no-man's-land. Not being employees, they cannot seek the normal protections enjoyed by employees, such as union membership and award coverage. On the other hand, the drivers do not possess the resources, expertise or skills to deal on an equal footing with principal contractors. Occupational health and safety and broader community safety issues also arise. If drivers are unable to obtain a good price for each contract they undertake they are forced to take on additional contracts to earn a sufficient income. This puts them in a situation of doing a lot of driving in a short space of time, creating safety risks on our country roads and highways. Speeding and driver fatigue lead to accidents, sometimes involving injury and loss of life. Just last weekend in my electorate, between Gerringong and Berry, a tanker careered off the road at 3.00 a.m. Unfortunately the driver died as a result of that accident. It is simply another statistic of a transport worker working long hours and dying as a consequence.

In order to examine these and other relevant issues, the New South Wales Government engaged Professor Mark Bray and his colleagues from the Employment Studies Centre of the University of Newcastle to subject the exemption to a rigorous process of public benefit assessment. Professor Bray and his colleagues reported in late 2002. Their conclusion, which is interesting, was that chapter 6 has not had a substantial impact on the degree of competition in the road transport industry and that the public benefits of the legislation outweigh the public costs. I suggest that Coalition members read that report. In particular, it was concluded that there was a market failure in road transport when contract carrier rates were unregulated because the price mechanism did not effectively regulate the supply and demand of contract carriers.

Furthermore, this market failure had significant and adverse consequences for industrial relations, occupational health and safety, road safety and quality of service. Their principal recommendation is that chapter 6 should receive permanent protection against the anticompetitive provisions of the Trade Practices Act and the Competition Code of New South Wales. The Carr Labor Government accepts this conclusion. This bill places chapter 6 provisions on a secure footing, ensuring that the proud history I have just described continues into the future. I commend the bill to the House.

**Mr PAUL McLEAY** (Heathcote) [11.24 a.m.]: I am delighted to support this bill. Chapter 6 of the Industrial Relations Act aims to protect workers such as taxidriver, van drivers, motorcycle and bicycle couriers, and truck drivers from exploitation. This part of the Act recognises that, although these workers are not employees at law, they nevertheless share many of the characteristics of employees and therefore deserve the same protections employees enjoy under the Act. Most importantly, the Act recognises that these types of workers are not—and indeed cannot be—part of the mainstream industrial relations system, and without chapter 6 or something like it they would be left to bargain on their own. That this is so has been recognised for a long time in New South Wales, with the predecessor provisions of chapter 6 dating back to the post-World War II era.

In other words, the need for, and the appropriateness of, providing a system of industrial regulation for transport industry drivers has been supported in this Parliament by governments from both sides of politics. I suggest that no-one in this Parliament would or should seriously question the ongoing need for such regulation. The bill aims to provide a secure basis for the longstanding and effective provisions of chapter 6 of the Industrial Relations Act by protecting them from the prohibitions contained in the Commonwealth Trade Practices Act. The decision to do so has not been taken lightly, and the Government has decided to go down this path only after satisfying itself that legislating for this exemption is in the public interest.

Expert advice provided to us by Professor Mark Bray and his colleagues from the Employment Studies Centre of the University of Newcastle recommended that chapter 6 should receive permanent protection against the anticompetitive provisions of the Trade Practices Act and the Competition Code of New South Wales. The Government has decided to adopt that recommendation, and the result is the bill before the House today. What does the Trade Practices Act 1976 say about anticompetitive conduct? Section 45 of the Federal Trade Practices Act 1976 prohibits the making or giving effect to a contract, arrangement or understanding which has the purpose or effect of substantially lessening competition. Section 45A of the Act deems any provision which has

the effect of fixing, maintaining or controlling a price for goods or services supplied by two or more parties in competition with each other to have the effect of substantially lessening competition.

The Trade Practices Act also sets out a number of exemptions from these prohibitions. Section 51 (2) specifically exempts "any act done in relation to, or to the making of a contract or arrangement or the entering into of an understanding, or to any provision of a contract, arrangement or understanding, to the extent that the contract, arrangement or understanding, or the provision, relates to the remuneration, conditions of employment, hours of work or working conditions of employees". Section 51 (1) (b) of the Act provides that in deciding whether there has been a contravention of the relevant part of the Act the following should be disregarded: "Anything done in a State, if the thing is specified in, and specifically authorised by... an Act passed by the Parliament of that State; or... regulations made under such an Act". Pursuant to section 51 (1C), any such regulation may not be continued after an initial two-year period.

Importantly, the Competition Code of New South Wales applies similar provisions to all New South Wales conduct not covered by the Federal provisions. The Trade Practices Act provisions have implications for chapter 6 of the Industrial Relations Act. Legal advice obtained by the Office of Industrial Relations indicates that actions by parties to whom a contract determination or agreement applies—to comply with the determination or agreement—may potentially contravene the relevant provisions of the Trade Practices Act. The legal advice notes the exception provided for in section 51 (2) of the Trade Practices Act but states that, because it specifically refers to persons in the relationship of employer and employee, it is of no assistance with respect to chapter 6. Legal advice suggests that it would be possible to protect things done in compliance with chapter 6 by enacting legislation in accordance with section 51B of the Trade Practices Act. It notes that this legislation must comply with requirements of the Act and the State obligations under the competition policy agreement. Effectively, these obligations require the State to make out a case why, notwithstanding the anticompetitive effect of the provisions, it is in the public interest to maintain them.

I will briefly outline the current status of chapter 6 in relation to the Act's provisions. The suggestion that chapter 6 may authorise anticompetitive conduct was first made in the course of proceedings for a contract determination in 1999. The proposed determination would have required principal contractors to make superannuation contributions of a fixed amount to the Transport Workers Union superannuation fund on behalf of each contract carrier engaged. The body representing the principal contractor, the Road Transport Association, challenged the jurisdiction of the commission to make the determination, in part on the basis that it would be contrary to the relevant provisions of the Trade Practices Act because it would impose arrangements on contractors and carriers that would have the effect of fixing prices for the supply of goods and services. This prompted the amendment in January 2000 of the Competition Policy Reform (New South Wales) Regulation 1996 to provide that things done by the commission or in compliance with a commission order or in agreements made under chapter 6 were specifically authorised for the purposes of the Trade Practices Act.

This provision was continued under the Competition Policy Reform (New South Wales) Regulation 2001. Protection of the chapter 6 provisions was further extended by the Industrial Relations Amendment (Public Vehicles and Carriers) Act, which amended the Industrial Relations Act by adding a new section 310A to specifically authorise things done under chapter 6 for the purposes of the Federal Trade Practices Act and the competition code of New South Wales. However, the bill contained a sunset clause of two years from the date of commencement in December 2001. This was intended to enable further consideration of the appropriateness of continuing this exemption from the Trade Practices Act for the form of protection offered by chapter 6. This bill entrenches longstanding protection of vulnerable workers in New South Wales. It does so by ensuring that the public benefits of the legislation far outweigh the public costs. I commend the bill to the House.

**Ms LINDA BURNEY** (Canterbury) [11.32 a.m.]: I take this opportunity to register my endorsement of the Industrial Relations Amendment (Public Vehicles and Carriers) Bill. I am pleased to support this legislative change, which is designed to give taxidriviers and hire car operators the protection of chapter 6 of the Industrial Relations Act, no matter where they live and work in New South Wales. Chapter 6 of the Act, among other things, regulates the taxicab and private hire vehicle bailment industry. As it stands, the Act does this in transport districts established under the Transport Administration Act 1988. Currently, these districts cover only the Sydney, Newcastle and Wollongong areas. However, as everyone well knows, these bailment arrangements now typically operate in major non-metropolitan areas of New South Wales such as Nelson Bay, the Blue Mountains, Coffs Harbour, Wagga Wagga, and so on.

A recent dispute in Nelson Bay highlighted the incongruity of bailee taxicab drivers outside the Sydney, Newcastle and Wollongong areas not having access to the commission for resolution of disputes and

other industrial matters. We heard about that earlier from the honourable member for Port Stephens. While drivers in Newcastle and Sydney, which are both a short distance from Nelson Bay, would have been able, for example, to seek the assistance of the Industrial Relations Commission to resolve the dispute, the Nelson Bay drivers could not. There is no rational reason for maintaining such an anomaly. Recognising that, in the last election campaign the Government was happy to promise that it would legislate to fix the problem.

This bill puts that promise into effect. We are keeping our election commitment. It is putting it into effect by amending section 307 of the Act to remove references to the transport districts created by the Transport Administration Act. This will ensure equal access to chapter 6 regulation for all taxicab bailment arrangements throughout the State and correct the old and unnecessary exclusion of regional taxidriver and private hire vehicle operators from the benefits of chapter 6. It should be emphasised that the amendment does no more than open up access to the chapter 6 jurisdiction. As is the case with the current contract determination applying in Sydney, any future determinations will be crafted by the Industrial Relations Commission to suit the circumstances and requirements of the particular area or set of bailment arrangements they are intended to cover. This bill creates equity across the State for all operators of taxicabs and hire vehicles, which can only be a good thing. I commend the bill to the House.

**Mr GRAHAM WEST** (Campbelltown—Parliamentary Secretary) [11.35 a.m.], in reply: As we have heard from many speakers in the debate, since 1979 New South Wales industrial relations laws have included special provisions for a modified industrial relations system for drivers of public vehicles and carriers of goods who are engaged on contracts that are not contracts of employment. These provisions are located in chapter 6 of the Industrial Relations Act. Chapter 6 empowers the Industrial Relations Commission to make contract determinations and approve contract agreements that govern the payment of money to such drivers and the way in which their work is to be performed. The chapter 6 scheme is currently protected from contravention of the Trade Practices Act anticompetitive conduct provisions by section 310A of the Industrial Relations Act. However, this provision is due to expire on 14 December 2003.

The first of the proposed amendments in this bill places the protection of chapter 6 of the Industrial Relations Act from the operations of the Trade Practices Act on a permanent footing. This is done by removing the sunset clause currently contained in section 310A (4) of the Act, thus making the exemption permanent. The second amendment removes all references to transport districts established by the Transport Administration Act from Section 307 of the Industrial Relations Act, thus providing access to chapter 6 provisions by taxidriver and private hire car operators irrespective of their location. This will help to alleviate the problems highlighted by the honourable member for Port Stephens regarding a recent dispute in Nelson Bay.

I assure honourable members that consultation with the Taxi Council and the Country Taxi Operators Association was conducted in late 2002 and in October this year, and neither of these groups opposed the bill. Again I highlight the Minister's second reading speech, in which he said that any future determinations applying to taxidriver and private hire vehicle operators will be crafted by the Industrial Relations Commission to suit the circumstances and requirements of the area or set of bailment arrangements they are intended to cover. I commend the bill to the House.

**Motion agreed to.**

**Bill read a second time and passed through remaining stages.**

#### **MOTOR ACCIDENTS COMPENSATION AMENDMENT (TERRORISM) BILL**

**Bill introduced and read a first time.**

#### **Second Reading**

**Mr GRAHAM WEST** (Campbelltown—Parliamentary Secretary) [11.40 a.m.], on behalf of Ms Reba Meagher: I move:

That this bill be now read a second time.

The Motor Accidents Compensation Amendment (Terrorism) Act 2002 was passed during the budget session of Parliament in 2002. The Act amended the Motor Accidents Compensation Act 1999 to exclude all liability arising from a terrorist act involving a motor vehicle from the Compulsory Third Party Motor Accidents Insurance Scheme for the period 1 January 2002 until 1 January 2003. In the spring session last year the Motor

Accidents Compensation Further Amendment (Terrorism) Act 2002 was enacted, extending the temporary terrorism exclusion for a further 12 months until 1 January 2004.

The motor accidents scheme terrorist exclusion was introduced in response to changes in the international reinsurance market. After the 11 September 2001 terrorist attacks in the United States, international reinsurers withdrew unlimited liability cover for terrorist-related losses. When introducing the amendments last year the Government indicated that the action of reinsurers had serious potential to impact on the viability of the New South Wales green slip scheme as it left compulsory third party insurers exposed to a potential liability that could not be covered by reinsurance. The Government also indicated that should no viable alternatives emerge, it would be necessary to extend the terrorism exclusion further into the future.

The New South Wales Motor Accidents Authority [MAA] has been closely monitoring the reinsurance position and assessing the requirements for further action. Arising from discussions with reinsurers and information available from international sources, the MAA is of the view that terrorism cover for compulsory third party reinsurance will continue to remain unavailable for the immediate future. The reinsurance market conditions, which necessitated the introduction in 2002 of the terrorism exclusion for the motor accidents scheme, remain unchanged.

In November 2002 the Commonwealth Treasurer wrote to the States and Territories offering to consider coverage for State-Territory statutory insurance schemes under a proposed national scheme for replacement terrorism insurance. New South Wales responded to the Commonwealth indicating its interest in commencing discussions with a view to extending the Commonwealth scheme to cover the New South Wales compulsory third party scheme. To date the Commonwealth has established a reinsurance replacement scheme for commercial property and associated public liability and business interruption insurance. However, there has been limited Commonwealth progress on the issue of the possible inclusion of State and Territory statutory schemes.

Whilst New South Wales will continue to pursue discussions with the Commonwealth to assess the feasibility of including the compulsory third party scheme in a national approach for terrorism cover, those discussions will not be finalised before the expiry of the terrorism exclusion currently in place until 1 January 2004. It is, therefore, necessary to further extend the motor accidents scheme terrorism exclusion. The Motor Accidents Compensation Amendment (Terrorism) Bill proposes that the motor accidents scheme terrorism exclusion continue to operate until a date appointed by proclamation. I reiterate the Government's commitment to continue to pursue discussions with the Commonwealth to determine whether an affordable alternative arrangement can be put in place. I commend the bill to the House.

**Debate adjourned on motion by Mr Thomas George.**

## **CORONERS AMENDMENT BILL**

**Bill introduced and read a first time.**

### **Second Reading**

**Mr GRAHAM WEST** (Campbelltown—Parliamentary Secretary) [11.44 a.m.], on behalf of Mr Bob Debus: I move:

That this bill be now read a second time.

The purpose of the bill is to amend the Coroners Act 1980 to improve the efficiency and operation of the court and to streamline the procedure for conducting fire inquiries. The office of the Coroner, which is one of the oldest known to English law, was first provided for by statute in 1194 in the Articles of Ayre, though references exist to the office from AD 871. The first statute relating to coronial matters was passed in New South Wales in 1861. The current statute, the Coroners Act 1980, commenced on 1 July 1980. In 1993 substantial amendments were made to the Act as a result of recommendations and proposals examined and evaluated by a consultative committee. The amendments made significant changes to the administration of the coronial system and jurisdiction of the State Coroner.

The Attorney General's Department has continued to monitor and evaluate the effectiveness of the 1993 amendments and to develop protocols to improve the level of service for clients of the coronial jurisdiction. In

recent years there has been a marked increase in the level of public interest in the role of the Coroner and the practices and procedures of the Coroner's Court. In the decade since the 1993 amendments there have been substantial procedural and client service initiatives introduced by the Coroner's Court, particularly in the area of counselling and information provision to relatives. There have also been significant developments in police investigative techniques and the conduct of forensic medicine.

As a consequence of this jurisdictional, procedural and technological change and the heightened public interest in diverse aspects of the coronial jurisdiction, the Attorney General commissioned a broad-ranging review of the Act to allow interested members of the community and organisations to contribute submissions on areas of interest and concern. As a result of the broad scope of the review, the submissions produced a diverse range of comments, opinions and suggestions. The reform proposals canvassed in the review range from amendments of a minor procedural nature to matters that substantially affect the rights and obligations of parties.

The Government has decided to refer the more far-reaching proposals contained in the review to an expert working party. This bill contains practical, expedient reforms which have been identified during the review and which are supported by court users. Most importantly, the State Coroner, the Senior Deputy State Coroner and two Deputy State Coroners all approve of and support these amendments, which will clarify or amend the existing law and processes to improve the efficient operation of the court. Schedule 1 to the bill amends sections 15 and 15 (2) of the Coroners Act 1980 and adds section 15B. These amendments require the Coroner to inquire into the cause and origin of a fire unless a broader inquiry is requested by the Minister, the State Coroner, the Commissioner of the Rural Fire Service or New South Wales Fire Brigades. This is one of the most significant aspects of the bill and will have a major impact on enabling more rapid coronial investigation of fires.

At present a fire is required to be reported to the Coroner when there has been a death or damage to property. This bill will not change that requirement. What this bill deals with is the terms of that inquiry, that is, what will be required in most cases. A number of issues were raised in submissions on the review of the Act in relation to coronial inquiries into bushfires. Bushfires attract a great deal of public concern because of their scale and frequency, the potential for fatalities, injury to people and animals, and the large number of firefighters and resources deployed. Property damage, evacuations, travel restrictions and cessation of transport and essential services all add to the trauma experienced by victims. Investigations have become protracted and time-consuming because the unlimited scope of the fire jurisdiction given to New South Wales coroners sees the Coroner go beyond finding the cause and origin of the fire and inquiring into the circumstances of the fire.

The interpretation of the term "circumstances" as contained in the Coroners Act 1980 has tended to be broad, resulting in lengthy and wide-ranging police coronial investigations, adding to the time victims, property owners, firefighters and the public must wait for an outcome. Over recent bushfire seasons the increased complexity of police investigations, due to the broad terms of the jurisdiction, has caused delays in the presentation of the hundreds of briefs of evidence to the Coroner. Many of those briefs contain thousands of pages of evidence covering issues that are not necessarily needed to determine the cause and origin of the fire. In relation to the 2000 fires, investigations and briefs were presented to the Coroner well into the following year. In 2001 and 2002 the police created and resourced a special task force called Tronto to investigate fires and prepare briefs for the Coroner. In 2001, Strike Force Tronto 1 investigated 573 fires and produced over 6,500 pages of briefs. In 2002, Strike Force Tronto 2 investigated 771 fires and delivered the briefs to the Coroner.

Delays in investigating, preparing briefs, and holding and finalising a fire inquiry mean that the Coroner's recommendations are sometimes made several bushfire seasons after the event, lessening their effectiveness as a tool for disaster prevention or better fire management. After considering the submissions to the review and the results of subsequent consultation, the Government is of the view that delays in holding coronial fire inquiries could best be avoided by clarifying the scope of the inquiry to the cause and origin of the fire rather than the broader and less easily defined term, "circumstances". The current New South Wales coronial jurisdiction can be contrasted with those of the Australian Capital Territory, South Australia and the Northern Territory. These jurisdictions allow the Coroner to inquire into and make findings in relation to the cause and origin of a fire.

There will almost certainly be circumstances in which a broader inquiry could be considered to be in the public interest, such as when it is alleged that the fire damage occurred due to the misconduct or negligence of a government official or instrumentality. This amendment also allows the parties who are currently able to request a coroner to conduct an inquest—that is, the State Coroner, the Minister, the Commissioner of the Rural

Fire Service or New South Wales Fire Brigades—the discretion to request a broader inquiry into the circumstances of a fire. The fact that the State Coroner, an independent judicial officer, can request this broader investigation means that investigations cannot be arbitrarily restricted by narrow political or bureaucratic interests.

Schedule 1 also replaces references to "member of the police force" with "police officer" in line with the current title of the position. Schedule 1 also clarifies that all coroners have the right to give directions to police officers concerning investigations to be carried out for the purpose of a coronial inquest or inquiry. Section 17B of the Act expressly allows the State Coroner to give a police officer directions. This restates the common law duty of police officers to investigate matters for the benefit of the Coroner and, where necessary, at the Coroner's direction. The amendment adds section 17C, which expressly confers the power on all coroners. All coroners, not only the State Coroner, rely on police to investigate matters for them and police instructions require police to investigate matters for all coroners. It is confusing that the Act confers the power only on the State Coroner when the common law and current practice confers it on all coroners.

Schedule 1 further amends the Act to allow a coroner to issue a subpoena to any person whose evidence is deemed necessary for the inquest or inquiry. Section 35 of the Act allows a coroner to issue a summons for a witness to appear to give evidence only if satisfied that the witness would not attend voluntarily. This provision means that coroners and investigators must make inquiries prior to the hearing about the likelihood of a witness attending. Witnesses do not always advise police of their reluctance to give evidence and non-attendance on the date of the hearing causes disruption and the adjournment of proceedings. Witnesses are better protected from criticism for giving evidence if they are compelled to do so. Many willing witnesses require a written document from the court as an official record of their attendance to arrange or explain their absence from work or educational institutions. Subpoenas also protect witnesses who are compelled to give evidence that may otherwise constitute a breach of privacy or confidentiality.

Schedule 1 amends sections 30 and 44 of the Act to allow a coroner, in special circumstances, to exclude any or all persons from an inquest or inquiry if it is in the public interest to do so. This includes the administration of justice, national security or the security of any person or the public. Section 30 of the Act currently provides that the room or building in which a coroner holds an inquest or inquiry shall be open to the public. While the general principle of holding hearings in public must be supported in the interests of justice, there are special circumstances when it may be preferable for the coroner to exclude some or all people from the hearing room. Such circumstances would include hearings held in hospitals, gaols and psychiatric facilities from which the public are generally excluded, or when a witness may be in danger.

The common law allowed coroners to exclude individuals or the public generally. The Victorian and Queensland coronial legislation similarly allows exclusion of any or all persons if it is in the interests of any person, or the public, or of justice. The amendment preserves the general requirement that hearings be open to the public so that justice can be seen to be done, and proceedings can be fairly and accurately observed and reported to the public by the media. The amendment to exclude any person is expressed to be exercisable by the coroner only in special circumstances, when it is in the interests of any person, of the public or of justice.

Schedule 1 amends the savings and transitional provisions of the Act to ensure the jurisdiction of the coroner is limited to deaths that occurred less than 100 years ago. Section 13B of the Act purports to do this. The section was commenced on 1 February 1994. It was inserted by the previous Government to prevent the coroner from having jurisdiction over what are essentially relics of the past. However, there is a great deal of doubt about the effectiveness of that section to achieve the purpose for which it was enacted. The weight of legal opinion holds that the amendments do not apply to inquests into deaths that occurred prior to the amendment. This means that the section, in its current form, would not become effective until 1 February 2094. It is necessary to amend the Act so that the section can operate as it was intended, that is, to prevent the coroner from holding an inquest into historical remains. This is particularly important for members of indigenous communities, for whom the coronial processes of investigation and inquest into ancestral remains could cause serious problems and great distress. I commend the bill to the House.

**Debate adjourned on motion by Mr Andrew Humpherson.**

**LORD HOWE ISLAND AMENDMENT BILL**

**Bill introduced and read a first time.**

**Second Reading**

**Mr GRAHAM WEST** (Campbelltown—Parliamentary Secretary) [11.58 a.m.], on behalf of Mr Bob Debus: I move:

That this bill be now read a second time.

The Lord Howe Island Act has not been significantly updated since 1981 and a number of provisions are out of date. Recent reviews of the Act and the island's administration have identified a number of areas requiring legislative reform. The Lord Howe Island Amendment Bill will address issues raised by the national competition policy review of the Act and the Independent Commission Against Corruption [ICAC] discussion paper on the Lord Howe Island board's governance issues. It will also provide a solid foundation for the continued protection and enhancement of the environment and maintenance of services to the island community and visitors.

The Lord Howe Island group is an outstanding World Heritage-listed area that attracts tourists from around the world to appreciate its biodiversity and great natural beauty. The island was listed under the World Heritage Convention in 1982 in recognition of its superlative natural phenomena and for its important and significant habitats for in situ conservation of biological diversity. There are 241 different species of native plants on the island, 105 of them occurring nowhere else on earth. There are more than 160 bird species, including a number of rare or endangered species such as the Lord Howe Island woodhen.

The Government is committed to ensuring that the board continues to function efficiently and effectively, to promote community, economic and social wellbeing and conserve the superlative natural phenomena of the area in line with ecologically sustainable principles and its status as a World Heritage site. In line with the recommendations of the May 2000 national competition policy review of the Act and subsequent recommendations by a Government interdepartmental committee, the bill proposes the removal of the anti-competitive provisions in the Act relating to Crown ownership of kentia palm seed where it occurs on perpetual leasehold land and board control of its harvesting and sale. In future, leaseholders will be able to dispose of seed from their perpetual leases as they choose.

Kentia palms once adorned the ballrooms and salons of Victorian England, and are still prized as indoor plants around the world. They occurred naturally only on Lord Howe Island. Although there is now an international nursery industry producing them, the palms grown on Lord Howe Island have retained a quality edge over those of competitors and there is significant market demand for island seedlings. Perpetual leaseholders will now have ownership and a financial stake in the cultivation and management of kentia palms and seeds on their leases.

Following on from the ICAC report recommendations, the bill proposes to adopt provisions in line with those of local government for conduct of board members. In future, the Minister administering the Lord Howe Island Act will be able to remove an elected islander board member for corrupt conduct where there is a report under the Independent Commission Against Corruption Act 1988. Appointed non-islander members can already be removed. Other amendments provide a power to make regulations for meeting procedures, including disclosure and recording of board members' pecuniary interests and procedures for dealing with board members' conflicts of interest. These amendments will increase accountability and are in line with current local government administrative arrangements.

The bill will introduce provisions requiring the board to make monetary payments where special leases are withdrawn or not reissued because the land is required for home sites or other public purposes. Special leases are Crown land leased for up to 10 years for agricultural uses. They are generally cleared pasture or similarly modified. The Minister, on the recommendation of the board, currently has the power to withdraw special leases for public purposes without recompense. A review of the current Lord Howe Island regional environmental plan is under way, and is due to be completed in 2004. The review will ensure that sustainability principles are firmly enshrined in the development control process for the island, and the protection of important native vegetation systems. As part of the review, the most suitable sites for future development on the island will be identified, taking into account the need to protect the environment. This is likely to affect some special

lease land within the settlement zone on the island. The amount of compensation will be determined by the Valuer-General, subject to any regulations under the Act, and will be appealable to the Land and Environment Court.

Currently there is no equivalent system to local government rating or charges on the island and no freehold land as all land is vested in the Crown. Perpetual leases provide the main tenure type for residential and commercial development. The board carries out many of the functions of a local council as a deemed local government authority under the regional environmental plan. However, there are also significant differences from the mainland. In order to maintain an adequate revenue base for the island's management and services, and for equity reasons, the bill proposes a change to the current process for determining annual rentals for perpetual leases. In its current form, the Lord Howe Island Act sets the maximum perpetual lease rental at \$200 per hectare. This rental can be redetermined only every 10 years, and even then cannot be increased by more than \$100 per hectare.

The bill will remove the rent-setting provisions from the Act and enable the board to make regulations to set annual rentals. A regulatory impact statement will be prepared and exhibited for public comment in 2004. The regulatory impact statement will include the rental formula and component monetary amounts. Discounted rentals will continue to be available for eligible pensioners. The new time frame for redetermining annual rentals will be reduced to a minimum of three years. The setting of lease rentals will take into account advice from the Valuer-General as well as the budgetary circumstances of the board and the island community. A provision for a review of the Act after five years has also been included in the bill. The impact of the changes in rental, including any impacts on island tourism, will be considered at that time. A range of other proposals in the bill aim to improve the operational efficiency of the board.

An infringement notice system for minor breaches of the Act or regulations will be introduced. Currently, breaches are referred to the court on the mainland as the court has not sat on Lord Howe Island since 1997. The bill will allow penalty infringement notices for minor offences—such as littering, the unlawful removal of native flora and unlawful importation—to be issued without resort to court hearings. The bill increases the maximum penalties under the Act to make them consistent with those under the National Parks and Wildlife Act 1974. The bill proposes a number of general amendments to bring the Act into line with legislation guiding local government, and contemporary environmental and natural resource management legislation.

A contemporary charter will guide board activities and service delivery. It promotes responsible governance, community wellbeing and environmental protection consistent with the principles of ecologically sustainable development. In future, employment of board staff will be governed by the Public Sector Management Act 2002. The board membership will be increased from five to seven, to broaden its range of expertise. A non-islander with tourism-business experience will be appointed. The current board majority of elected islanders will be maintained by increasing the number from three to four. The option to appoint a non-government conservation member will also be introduced. The requirement to appoint at least one member from the Department of Environment and Conservation, which includes the National Parks and Wildlife Service, will be retained.

The Minister is given the power to make a determination or decision in cases where board members cannot participate in decision making due to conflicts of interest and lack of a quorum. All these measures aim to improve the public accountability, transparency and effectiveness of the board. This is a timely and responsible bill that addresses a number of recommendations from independent reviews as well as ensures that the operation of the board is viable, accountable and in line with accepted best practice. The bill maintains the current islander majority on the board. There will be public consultation on the formulation of regulations relating to compensation and annual lease rental charges. The bill will ensure that Lord Howe Island continues to be managed in an ecologically sustainable manner and that its outstanding natural values are managed to retain their World Heritage status, and it will support the tourism economy of the island. I commend the bill to the House.

**Debate adjourned on motion by Mr Andrew Humpherson.**

**SYDNEY WATER CATCHMENT MANAGEMENT AMENDMENT BILL**

**Bill introduced and read a first time.**

**Second Reading**

**Mr GRAHAM WEST** (Campbelltown—Parliamentary Secretary) [12.10 p.m.], on behalf of Mr Bob Debus: I move:

That this bill be now read a second time.

The proposed amendment to the Sydney Water Catchment Management Act 1998 is a further step towards achieving the Government's commitment to sustainable energy use and cutting greenhouse gases. Hydro-electricity is a key part of the Government's green power programs. This program specifically recognises the ability to retrofit small hydro-electricity plants to existing dams in New South Wales. In 1997 the Sustainable Energy Development Authority [SEDA] undertook a study into this source of green power by surveying which dams were capable of fitting such plants. SEDA sees these smaller sources of electricity as important contributors to adopting what it terms "distributed energy solutions", and a move away from large-scale and centralised capital investment in electricity production.

On some water outlets on our dams it is possible to install small hydro-electricity turbines. Because the pipes and other infrastructure are already in place, these installations can be cost-effective. I understand that the types of turbines used are generally quite small—in fact around the size of a member's office here in Parliament House—but they produce power at amounts that can usefully contribute to the electricity supply. The Sydney Catchment Authority [SCA] is proposing to generate hydro-electricity by building these small plants on its dams. Of course, this will occur only where such plants can demonstrate their commercial viability.

This bill will ensure that the SCA has all the necessary power in law to undertake these projects. As it stands now, the Sydney Water Catchment Management Act recognises that the SCA is to conduct activities in such a manner as to comply with the principles of ecologically sustainable development. However, the functions of the SCA, which are set out in section 14 of the Act, are ambiguous as to whether the SCA can build and operate the proposed plants. The amendment, therefore, does two things. First, it amends subsection 16 (1) to allow the SCA to undertake sustainable energy activities limited to the generation and supply of hydro-electricity, and any associated activities. Secondly, it amends section 24B to provide for payment into the Sydney Catchment Management Fund of any income received from its sustainable energy activities.

Honourable members may be aware that Sydney's drinking water supply system already has two large hydro-electricity schemes: the plant on Warragamba Dam, which is owned and operated by Eraring Energy, and the Shoalhaven scheme, which is jointly owned by the SCA and Eraring Energy. In 1998 SEDA released its assessment of potential small hydro-electricity facilities on New South Wales dams. The study identified the SCA's dams as having a strong potential for mini hydro-electricity plants. As part of its Energy Management Plan 2001-06, the SCA commissioned a feasibility study for such plants on its dams.

The study also examined optimal development and operating models. It found that the dams with greatest potential for technically viable plants are Warragamba, Cataract, Cordeaux, Nepean, Woronora and Tallowa on the Shoalhaven River. The study also found that such plants could be financially feasible investments. Most importantly of all, the combined plants could potentially generate 33 gigawatts of electricity. If all were built, the SCA would then become a net green power generator, producing up to five times more green electricity than the electricity it consumes.

Production of this green power will save a massive 31,000 tonnes of greenhouse gases. That is equivalent to taking 7,000 cars off the road every year. Following the passage of this bill the SCA will complete its analysis of preferred models for building, owning and operating mini hydro-electricity plants. It will also thoroughly examine the commercial risks involved, although I hasten to add that, as previously stated, plants will be installed only where their commercial viability can be demonstrated. But this work will be fruitless unless we have certainty that such plants can be actually installed if the SCA chooses to do so. I commend the bill to the House.

**Debate adjourned on motion by Mr Thomas George.**

## **NATIONAL PARKS AND WILDLIFE AMENDMENT (KOSCIUSZKO NATIONAL PARK ROADS) BILL**

**Bill introduced and read a first time.**

### **Second Reading**

**Mr GRAHAM WEST** (Campbelltown—Parliamentary Secretary) [12.15 p.m.], on behalf of Mr Bob Debus: I move:

That this bill be now read a second time.

Before turning to the detail of the bill, let me first provide some relevant background. The House would recall that on 31 July 1997 a section of the fill embankment along the Alpine Way above Thredbo in Kosciuszko National Park collapsed. Tragically, a landslide followed, killing 18 people. In 2000 the State Coroner brought down his findings and, among other things, recommended that the Government commission an independent review of the appropriateness of the National Parks and Wildlife Service retaining responsibility for urban communities and road maintenance within national parks. In response to this, the Government commissioned Mr Bret Walker, SC, to undertake this review.

Mr Walker recommended that the ski resort areas be retained within Kosciuszko National Park; that a new planning regime be put in place for the ski resorts, in which the Minister for Infrastructure, Planning and Natural Resources is the consent authority; and that responsibility for the Alpine Way and Kosciuszko Road be transferred from the National Parks and Wildlife Service to the Roads and Traffic Authority [RTA]. We now have a new planning regime in the alpine region, in which the Minister for Infrastructure, Planning and Natural Resources is the consent authority for all development in the area. With respect to Mr Walker's recommendation concerning the roads, the Roads and Traffic Authority and the National Parks and Wildlife Service have worked closely, and arrangements are now in place to enable the transfer to proceed.

This bill will therefore amend the National Parks and Wildlife Act 1974 to remove the Alpine Way and Kosciuszko Road from Kosciuszko National Park and vest the land in the RTA. The road corridor to be transferred generally comprises the alignment of the Alpine Way and Kosciuszko Road, measured 20 metres from each side of the road's centre line, with deviations to ensure that the major structural works that are integral to the road's long-term stability will lie within the road reserve. Close attention has been paid to ensure that future management arrangements do not compromise either the safe management of the roads or the important conservation values of the park.

The new road management regime presents a more efficient division of responsibilities and a shared approach in which each agency will apply its relevant resources and expertise. To perhaps state the obvious, the roads in Kosciuszko National Park present significant management challenges due to interrelated factors including geology, slope, drainage, climate and geographical isolation. The Alpine Way was in fact originally built as a temporary construction road in connection with the Snowy Mountains Hydro-Electric Scheme in the 1950s. Today it is, of course, the main vehicular thoroughfare in a geographically isolated area, and a vital asset to the regional economy. The Alpine Way and Kosciuszko Road are used by hundreds of thousands of cars every year to access the all-year-round recreational attractions the park offers.

Under a memorandum of understanding, the RTA will manage the road reserve, including the usual functions of carrying out road works and managing traffic and road safety. It will also manage and maintain geotechnical monitoring equipment and structural works located in the adjoining national park that are integral to road stability. The bill makes specific allowance for the RTA to access land adjacent to the road reserve to carry out work and to place ancillary infrastructure and other devices that are necessary to monitor drainage and ensure the long-term stability of the road. Arrangements have been made, supported by the memorandum of understanding, for the two agencies to share information and co-ordinate future risk reduction works in the area.

Let me assure the House that this Government remains firmly committed to upholding the integrity of the State's national parks system. Kosciuszko National Park covers almost 675,000 hectares and is the largest national park in New South Wales. It contains the nation's highest mountains, the famous Snowy River and all the New South Wales ski resorts. The alpine area of the park contains unique plant and animal species that do not exist anywhere else in the world. The rich natural and cultural heritage of the park, together with its growing range of recreational activities, attracts hundreds of thousands of visitors each year. Kosciuszko National Park is of huge importance to local communities, which have done so much to help protect its heritage values.

Under the memorandum of understanding, the two agencies expressly seek to work together to preserve the natural environment. The National Parks and Wildlife Service will continue to manage conservation in the road reserve, including management of flora and fauna, weeds and feral animals, and fire control measures. The RTA will develop an environmental management system, in consultation with National Parks and other stakeholders, before carrying out any work in the road reserve. In determining the appropriate road reserve corridor to be excised from Kosciuszko National Park, great care has also been taken to minimise the impact on leaseholders within the park. Only minor adjustments will need to be made to the Kosciuszko Thredbo Pty Ltd head lease and the Charlotte Pass Village lease.

I take this opportunity to thank the affected leaseholders for their understanding and co-operation as we implement reforms that will improve safety in the area. I am also pleased to report that the RTA and the National Parks and Wildlife Service have worked co-operatively to resolve issues that surrounded the use of a strip lease located alongside the road at Perisher, and there will be no impacts on the Perisher Blue Pty Ltd lease. There are gabion walls and drainage structures that are essential to the structural integrity of the road that currently encroach on the Kosciuszko Thredbo lease area. It is essential for the RTA to own and manage these structures. This part of the lease area will therefore be vested in the RTA and the lease boundary will be adjusted accordingly.

The Charlotte Pass Village lease crosses Kosciuszko Road where a ski lift crosses the road. The road reserve will be narrower at this point and the lease boundary will be adjusted accordingly. I understand that the RTA intends to enter into an agreement with the lessee, under section 138 of the Roads Act 1993, to allow for the ski lift. The vesting of the road in the Roads and Traffic Authority will also be a vesting in stratum at some points. This will allow for the Skitube lease to remain in Kosciuszko National Park. It will also mean that certain car parking spaces at Thredbo will remain in the lease area, while the infrastructure beneath the surface, which is integral to the stability of the road, will form part of the road reserve that is removed from the park.

Introduction of this bill reminds us of the tragic landslide of 1997. This bill continues the Government's commitment to doing everything possible to ensure the safety of visitors to Kosciuszko National Park. This important bill will see the State's principal roads authority managing the Alpine Way and Kosciuszko Road in Kosciuszko National Park, and the State's principal conservation agency managing the natural and cultural heritage throughout the national park, including in the road reserve. I commend the bill to the House.

**Debate adjourned on motion by Mr Thomas George.**

## **FIREARMS AND CRIMES LEGISLATION AMENDMENT (PUBLIC SAFETY) BILL**

**Bill introduced and read a first time.**

### **Second Reading**

**Mr JOHN WATKINS** (Ryde—Minister for Police) [12.24 p.m.]: I move:

That this bill be now read a second time.

I am pleased to introduce the Firearms and Crimes Legislation Amendment (Public Safety) Bill 2003. This bill introduces a range of new firearm and gun crime offences, introduces tough new penalties and provides police with the tools they need to crack down on firearm crime. New South Wales has the toughest firearms laws in Australia—with penalties for serious gun offences in the Firearms Act and the Crimes Act of up to 20 years imprisonment and a range of offences specifically targeted at illegal trafficking.

According to the Bureau of Crime Statistics and Research, over the two-year period to 31 December last year assault shoot-with-intent incidents involving a handgun fell by 26 per cent and assaults with a handgun fell by 36 per cent. The downward trend between 2001 and 2002 has continued in the first half of 2003. However, as recent incidents have shown, there is never any room for complacency in relation to illegal gun crime. There is clearly more work to be done. That is why on 23 September I released a package of measures to improve the comprehensive, co-ordinated approach taken by NSW Police to illegal gun availability, detection, apprehension and prosecution.

The initiatives in the package provide for increased detection and enforcement, legislative changes, improved security industry controls, better safe storage and the need for greater national controls. The Firearms and Crimes Legislation Amendment (Public Safety) Bill implements the legislative changes announced as part of

the package. These include changes to the Crimes Act 1900 such as clarifying that a firearm which is inside a motor vehicle which is in a public place is considered to be in a public place for the purposes of the current Crimes Act offence of possessing a loaded firearm in a public place.

A recent court decision found that a firearm which is inside a private vehicle which is in a public place is not necessarily itself within that public place. That is clearly nonsense, and new section 93F in schedule 1 to the bill amends the Crimes Act to clarify this. New section 93GA creates a more specific offence in the Crimes Act of firing at a dwelling house or building with disregard for the safety of persons. The maximum penalty for this offence will be 14 years. This will allow police to more accurately target persons who commit so-called drive-by shootings. It also represents an increase on the current 10-year penalty for the less specific offences of causing danger with a firearm or spear gun, and trespassing with, or dangerous use of, a firearm or spear gun currently in sections 93G and 93H of the Crimes Act.

The bill also amends the Crimes Act. New section 93I in schedule 1 introduces a new offence where an unlicensed person carrying an unregistered firearm in a public place is liable to a maximum penalty of 10 years imprisonment, as well as a new aggravated carriage offence carrying a maximum penalty of 14 years. New section 154D introduces a new offence of stealing a firearm, with a maximum penalty of 14 years imprisonment. Amendments to the firearm legislation in schedule 2 to the bill include new sections 50AA and 51BA, which make it an offence to illegally purchase or sell a firearm part, attracting a maximum penalty of 5 years for non-prohibited firearm parts and 10 years for a pistol or prohibited firearm part.

New section 51B increases the time period for establishing the current ongoing trafficking offence from three illegal firearm sales in 30 days to three illegal sales in 12 months. This recognises that the modus operandi in regard to illegal firearm sales is very different from that in regard to prohibited drugs, on which the three sales in 30 days time frame was originally modelled. New section 51BB introduces a new offence of ongoing supply for major parts of a firearm. This clause is modelled directly on the current offence of ongoing illegal sale of a whole firearm, with the addition of the extension of the offence period to three sales in 12 months.

Schedule 2 to the bill also amends the firearms legislation to clarify the offence regime for forging licences and using a forged licence. New section 71A introduces a new offence of using a forged firearm licence or permit in an effort to illegally obtain a firearm. This will attract a maximum penalty of 10 years imprisonment. The bill also increases the penalty for forging a firearm licence or permit from \$5,500 to a maximum of 10 years imprisonment by deleting the current offence in section 71 (b) of the Firearms Act and making it clear, via the insertion of a note, that the existing offence in section 300 (1) of the Crimes Act applies to forgery of a firearm licence. The penalty for such a forgery is a maximum of 10 years imprisonment.

Schedule 3.2 [1] inserts a new clause 14 I in the Firearms (General) Regulation 1997 that requires licence holders to notify police of both the storage address of their firearm and any change of address where firearms are stored within seven days of the movement. The amendments in clause 87 in schedule 2 and clause 107 in schedule 3 will enable the Commissioner of Police to more generally delegate the power to sign a certificate of evidence to an authorised registry officer, rather than the current requirement that requires the regulation to be amended each time the commissioner wants to exercise a delegation. This bill is part of the package of measures to improve the comprehensive, co-ordinated approach taken by NSW Police to illegal gun availability, detection, apprehension and prosecution. However, it does not constitute the entire package.

Other parts of the package include a new 47-member mobile team of Operation Vikings police, which has begun high-visibility, high-impact raids since the first week of October, targeting criminals and funds carrying concealed handguns in hot spots. An additional 20 firearm detector dogs will be deployed from the 2004-05 financial year to support searches, high-profile street policing, crime scene investigations and screening of public places and vehicles. The Government is seeking stronger sentences for handgun crimes and, to address consistency in sentencing, is asking the newly formed Sentencing Council to examine sentencing trends for serious firearms offences with a view to implementing standard minimum sentences.

The Government is also considering making more serious firearm crimes strictly indictable in order for such crimes to be tried in the District Court or the Supreme Court and, therefore, attract higher sentences. It is also examining measures to ensure that more cases are dealt with on indictment, and ensuring that the Commissioner for Police instructs prosecutors to instigate immediate appeals if firearms criminals receive sentences that the community views as inappropriate. In addition, a review of the use of firearms in the security industry is approaching finalisation. This review includes an examination of increased safe storage requirements, limiting the calibre and magazine capacity of firearms being purchased by the industry, limiting

access to firearms to certain types of security work and examining whether certain sectors of the industry need to be armed, the ratio of guns held by companies relative to the number of employees, and better enforcement of annual training requirements.

The Operation Vulcan illegal firearms phone-in campaign has been reactivated, with callers eligible for increased rewards of up to \$5,000 for information leading to a conviction. NSW Police are to have an additional five sworn positions provided to the State Crime Command's firearms and regulated industries crime squad. They will undertake a number of measures, including pro-active intelligence gathering on gun crime and better education for police on gun handling and licensing procedures, and lead co-ordinated force-wide efforts in training and the development of intelligence plans. The New South Wales Government is leading the way in the fight against illegal firearms. The Carr Government has provided NSW Police with more resources than ever before to fight gun crime. A total of more than \$2 billion was allocated to meet the recurrent and capital expenses of NSW Police in 2003-04. This represents the ninth consecutive record police budget. The Firearms and Crimes Legislation Amendment (Public Safety) Bill will provide police with the tools they need to investigate, apprehend and prosecute criminals who use guns and illegal gun traffickers. I commend the bill to the House.

**Debate adjourned on motion by Mr Thomas George.**

### **COPTIC ORTHODOX CHURCH (NSW) PROPERTY TRUST AMENDMENT BILL**

**Bill introduced and read a first time.**

#### **Second Reading**

**Mr GRAHAM WEST** (Campbelltown—Parliamentary Secretary) [12.35 p.m.], on behalf of Mr Bob Debus: I move:

That this bill be now read a second time.

The Coptic Orthodox Church (NSW) Property Trust Amendment Bill proposes to amend the Coptic Orthodox Church (NSW) Property Trust Act to reflect the new constitution of the Coptic Orthodox churches in the diocese of Sydney and affiliated regions in response to a request from the Coptic Orthodox Church. The Coptic Orthodox Church (NSW) Property Trust Act was assented to in November 1990 and commenced on 21 December 1990. The aim of the Act was to constitute the Coptic Orthodox Church (NSW) Property Trust and to specify its functions, and to provide for the vesting of certain property in the trust. The Act was amended in 1993 to change the definition of "board" to reflect the then constitution of the church. Under the Act, the trustees are the members of the New South Wales State board of the church.

On 8 October 2002 a new constitution for the diocese of Sydney and affiliated regions was approved by His Holiness Shenouda III, Pope of Alexandria and Patriarch of the See of St Mark. This replaced the previous constitution approved on 3 March 1989. Following the approval of the new constitution, the solicitors for the church contacted the Government and indicated that the Act required amending in order to reflect changes in the new constitution. The principal change of relevance to the operation of the Act is that under the new constitution it is the bishop of the diocese of Sydney and affiliated regions who is now the sole and exclusive authority in relation to financial matters in churches and in the diocese. Previously, the managing body of the church in all financial matters was the New South Wales State board of the church.

The Act is consistent with the previous constitution but requires amendment to be consistent with the new constitution. Specifically, the bishop is to become the sole trustee of the Coptic Orthodox Church (NSW) Property Trust, replacing the members of the board. A number of consequential changes are also required. Solicitors for the church have indicated that both the board, which under the previous constitution was the trustee for the property trust, and Church parishioners support the request by the church to the New South Wales Government to amend the Act so that it will be consistent with the new constitution approved on 8 October 2002 by His Holiness Shenouda III, Pope of Alexandria and Patriarch of the See of St Mark. The bill continues the longstanding Government policy to assist churches to organise their financial and property affairs by sponsoring legislation in relation to corporate property trusts. I commend the bill to the House.

**Debate adjourned on motion by Mr Thomas George.**

**BUDGET ESTIMATES AND RELATED PAPERS****Financial Year 2003-04****Debate resumed from 19 September.**

**Mr GERARD MARTIN** (Bathurst) [12.38 p.m.]: I am delighted to speak on the Appropriation Bill and the 2003-04 budget. It has taken me a while to get to the rostrum because of the long queue of Government members keen to extol the virtues of the budget brought down by the Treasurer in this House a few months ago. The current budget follows a long line of Carr Labor Government budgets, with the defining aspect being responsibility. The Premier was on the mark when he said that the hallmark for successful Labor governments is being able to get the big picture of fiscal responsibility right. That is certainly something the Carr-Egan Government has been able to do. Honourable members on this side of the House are all for improved essential services, such as health, education and transport. It is essential to have a sound fiscal policy to deliver those services. In the past some governments have not been able to get those broad parameters right and at the end of the day it is the people they represent who suffer.

That has not been the case with this Government over the past seven or eight years. Over that time the Treasurer has been able to substantially reduce debt in New South Wales. Although some people would argue that in a period of low interest rates we should be borrowing more, the reality is that because of the fiscal responsibility of the Treasurer and the Government a lot more money is available now in recurrent expenditure—not paying off debt but going into delivering services. For that reason, year after year the Government has been able to deliver not only balanced budgets but surplus budgets and has also been able to have record spending, particularly in three areas I am interested in—health, education and roads. When one judges the success of the fiscal policy of this Government, they are the areas we will be able to point to.

We hear a lot from the Opposition about this State having the highest-taxing Government in Australia. In fact, the highest-taxing Government in Australia is in Canberra. The Federal Government has set record after record in imposing taxes, but I do not want to turn this into a Federal-State debate. This Government has been able to keep taxes at a reasonable level and has scrapped a number of financial duties. It has reduced payroll tax by 25 per cent. We are often criticised about payroll tax but the Labor Government has mapped out a program for a continual drop in payroll tax. The fact that it has been reduced by 25 per cent is a credit to the Government.

**Mr Alan Ashton:** It is a boost to employment too.

**Mr GERARD MARTIN:** It is indeed. As budgets are rolled out in successive years these broad parameters of fiscal responsibility will be the hallmarks of future Carr Labor budgets. All members of the lower House can be accused of being a bit parochial because we have our own electorates to look after. It is our job to lobby as hard as we can for expenditure to deliver services to our constituents. That is a high priority to my colleagues on this side of the House and they will work hard to do it. There are no ends to the demands, particularly in health, education and transport.

Some \$25.8 million has been included in this year's roads budget for the Bathurst electorate. That follows record expenditure in recent years. Honourable members will be interested to look at the line items in the budget for the Bathurst electorate to see how that \$25.8 million is being disbursed. A major reconstruction program is going on—it started in 1999—for the Castlereagh Highway, which used to be referred to as the Mudgee Road and links Lithgow to Mudgee. This year, another \$3.3 million will be spent on the reconstruction of that road between Lidsdale and the Coxs River, including the widening of the bridge over the Coxs River. That work is being undertaken now. That follows the \$10 million being spent just a couple of kilometres east, at Lidsdale, where a new underpass was built under the western railway line and a notorious black spot was taken out of that road. The total allocation for this project in the 2003-04 year is \$9,700,000.

As well as reconstruction, realignment and major maintenance work is going on too. Near the village of Capertee, \$700,000 will be spent on realignment of the road to make it safer. A major bridge replacement is being undertaken on the Mid Western Highway that links Bathurst to Blayney. Last year, \$12 million was spent on the Kings Plains deviation which cut out a major black spot on a road that is being increasingly used by heavy container transport as Blayney develops as an inland port. The Spring Creek bridge at Evans Plains is in the process of being widened, redeveloped and rebuilt. This will make it much safer as there was a problem with its width. As it is used by heavy trucks and school buses, that was something we really pushed for.

I am pleased that \$1.2 million being spent on Abercrombie Road includes almost 40 kilometres of dirt road and links Oberon with the Goulburn area. Last year, the Minister responded to vigorous lobbying from the Oberon community and people living along that road, and the sealing project is under way. Oberon Council is undertaking the project, and it is doing an excellent job. On completion of the project—and I am hoping for funding next year to enable completion—we will have a sealed link between the Central West and the Goulburn-Canberra area. That will take a lot of pressure off people using the Great Western Highway and other routes. It will also make it much easier for people to access the central western area, particularly from the South Coast, without having to travel through the Sydney metropolitan area. Already, people living along the road are saying how marvellous it is that increased traffic, particularly tourist traffic, will come along that road. We have a wonderful caves network along the road—the Wombeyan Caves, the Abercrombie Caves, and the jewel in the crown, the Jenolan Caves. This road infrastructure is critical.

I am pleased that money has been allocated for the installation of ice warning systems on the Great Western Highway. A number of accidents have occurred on a stretch of the highway between Lithgow and Bathurst, particularly in the Meadow Flat and Circanol area, due mainly to ice on the road. The highway at that point is about 1,200 metres above sea level, or virtually on the snowline, so in inclement weather the road surface tends to ice up. Almost half a million dollars has been spent on an electronic system that covers a four-kilometre or five-kilometre section of the road. Sensors and probes are put into the road surface to measure the road temperature and flash it on a digital light system so that motorists can be aware of the chances of encountering black ice. This technology is a first in Australia. I commend the Minister for Roads for allowing it to be installed there. The system is being monitored. Funding is available for a couple of other projects, one being east of Lithgow at the 40-bends site. Paving projects and installation of high technology make our roads safer. The Minister has been very keen to embrace this new technology, from which I hope other areas in the State will also benefit.

One of the major election commitments I gave in the lead-up to the last election was about the redevelopment of the Bathurst Base Hospital. I am pleased we have been able to honour that promise by providing serious money to finalise the planning process for the project, which has now been expanded to include the Orange Base Hospital and the Bloomfield Mental Hospital. The total expenditure on the three precincts will be approximately \$200 million. In terms of capital projects in health, it would be the largest non-metropolitan project ever attempted by the Department of Health in New South Wales.

Bathurst Base Hospital has been on its current site for well over 100 years, and the great majority of people in Bathurst want the hospital to be redeveloped on this site. An extra \$500,000 funding has been allocated this year and \$1.5 million will be allocated next year to accelerate the planning process. Given the scope of the BOB project—which stands for Bathurst, Orange, Blayney, although some people might consider it stands for the Bob Carr project because he is a great supporter of it—it is important that there is a proper planning process. A community committee, chaired by the Mayor of Bathurst, Ian Macintosh, has been working with the Department of Health and the previous Minister on the planning process, site selection and development of the clinical plan. That has been a complex process. It is to the credit of the 14 community groups represented on the committee that they have been able to work with the Minister and the Government to come up with a plan that they and the clinicians consider an ideal facility for the area. Construction on the project will commence in 2005. When it is completed, we will have a facility that we can be very proud of. This project is another example of the Government's commitment to providing significant and top-class facilities in rural health.

Although the plans are in place to build this new facility, the Government has not stopped improving facilities at Bathurst Base Hospital. Recently the Government provided a CAT scanner to the hospital. The scanner should have been provided to the hospital years ago but the previous Coalition Government decided that the CAT scanner should go to a private provider. For years patients have had to be rolled out on operating trolleys into ambulances and taken down the road to have a CAT scan. That ridiculous situation has now ceased with the provision of the \$2.5 million CAT scanner at Bathurst Base Hospital. No doubt the CAT scanner will be incorporated into the redeveloped hospital.

With the allocation of funding in this year's budget, work is now being completed on the installation at Bathurst Base Hospital of four renal dialysis machines. Currently people in Bathurst who need this life-saving procedure have to travel to Westmead or Orange two or three times a week. The cost and inconvenience involved places a great deal of stress on these people, particularly older people. With the installation of the dialysis machines the need to travel will be a thing of the past. Those facilities will also be incorporated in the new hospital. Although the project for a new hospital is going ahead, I am pleased that the Minister for Health

has not put a brake on any further expenditure at the base hospital over the next couple of years. All members know that there is a great deal of angst in their communities about the level of health service. The Government is under immense pressure to perform in this area. I am very proud of the Government's commitment to the provision of health services in the State, particularly to rural health.

In another area of rural health, my electorate has been fortunate to be allocated funding in this budget for four multipurpose services [MPSs] centres—the new buzzword for health services to country, district and smaller hospitals. The multiple purpose service centre incorporates on the one campus acute, aged care and community health facilities. A couple of years ago such a facility was opened in Oberon. Although Minister Knowles was to open the facility, he was held up on the Great Western Highway in the Blue Mountains and I underwent my baptism as a new member by opening the facility. This facility is as a result of the Sinclair committee, which undertook an inquiry into rural health on behalf of the Minister and consulted with rural communities all over the State.

We have seen the construction and completion of an MPS at Blayney and another is under construction at Rylstone. In this budget \$750,000 has been allocated to complete that project. Once again, I pay tribute to the local steering committee under the chairmanship of the Mayor of Rylstone Shire Council Peter Hall, who has worked—and fought at times—with the consultants about the final shape of the project. The aged care facility at Rylstone is now completed and operational, and the acute section is undergoing its final work. Currently the ambulance station is located at Kandos. Kandos and Rylstone, which are seven kilometres apart, share facilities. The local high school is located in Kandos and the hospital is in Rylstone. The ambulance service will be relocated to the hospital and will be part of the complex. That has taken some negotiation because of territorial issues, but the people of the area will end up with a first-class facility.

Another important announcement in the budget is the allocation of funding to complete planning for the MPS at Portland, which is located 20 kilometres west of Lithgow. This community of about 2,000 people had been serviced by a large district hospital, but about four years ago the bureaucrats decided to turn it into a primary care centre. No-one knew what that meant, but it was to be a glorified outpatients facility. After negotiations I am pleased to say that there will now be a new \$6 million MPS provided for Portland. The centre will be built on the site of Tabulam Cottage, a not-for-profit aged care facility in Portland with nine hospital beds. Tabulam Cottage is a wonderful facility but, because of its size, is no longer viable.

The Federal Government provided 14 licences for aged care beds but did not provide any money. A deal was done with New South Wales Health under the previous Minister to build a new MPS on the site of Tabulam Cottage. The facility will incorporate the 14 aged care beds and high-dependency beds, which are very much needed in Portland. It will also have a new accident and emergency facility, community health facilities and facilities for doctors in private practice. Portland will have an integrated multipurpose service centre that will serve the community well. I commend Neville Castle, the Mayor of Lithgow and resident of Portland, who has led community activism in Portland over the past three or four years to ensure that the area was not short-changed by bureaucracy in the level of health services provided to them.

When this project is finished, which will happen during the life of this Parliament, the people of Portland will have first-class health facilities. Once again, another tick for the Government in its delivery of services in rural health. I am pleased to have been able to speak on the budget as it affects my electorate. I could speak for much longer but I do not have the time. I commend the Government for its 2003-04 budget. *[Time expired.]*

**Debated adjourned on motion by Mr Graham West.**

*[Mr Acting-Speaker (Mr John Mills) left the chair at 1.00 p.m. The House resumed at 2.15 p.m.]*

## **PETITIONS**

### **Gaming Machine Tax**

Petition supporting the increase in gaming machine taxes and welcoming the fact that all extra revenue will be spent on the health system, received from **Miss Cherie Burton**.

### **Gaming Machine Tax**

Petitions opposing the decision to increase poker machine tax, received from **Mr Alan Ashton, Ms Gladys Berejiklian, Mr Andrew Fraser, Mr Thomas George, Mrs Shelley Hancock, Ms Katrina Hodgkinson, Mrs Judy Hopwood, Mr Robert Oakeshott, Mr Barry O'Farrell, Mr Ian Slack-Smith, Mr Andrew Stoner and Mr John Turner**.

### **Cudgen Creek Seaway**

Petitions requesting that the Cudgen Creek seaway at Kingscliff be cleared of silt, received from **Mr Steve Cansdell, Mr Andrew Fraser** and **Mr Russell Turner**.

### **White City Site Rezoning Proposal**

Petition praying that any rezoning of the White City site be opposed, received from **Ms Clover Moore**.

### **Trunk Road 120 Upgrade**

Petition requesting substantial upgrades to Trunk Road 120, known as the Megan Road, and installation of guard rails at Deep Creek and The Bielsdown Creek, received from **Mr Andrew Fraser**.

### **Coffs Harbour Pacific Highway Bypass**

Petition requesting the construction of a Pacific Highway bypass for the coastal plain of Coffs Harbour, received from **Mr Andrew Fraser**.

### **Windsor Road Traffic Arrangements**

Petitions requesting a right-turn bay on Windsor Road at Acres Road, received from **Mr Wayne Merton** and **Mr Michael Richardson**.

### **The Spit Bridge Traffic Arrangements**

Petition opposing the proposal to add a two-lane drawbridge next to The Spit Bridge, and calling for a responsible and holistic solution to the transport, traffic, and freight needs of the area, received from **Mrs Jillian Skinner**.

### **Pepper Tree Lodge Aged Care Facility**

Petition opposing the closure of Pepper Tree Lodge, received from **Mr Andrew Constance**.

### **Coffs Harbour Aeromedical Rescue Helicopter Service**

Petition requesting that plans for the placement of an aeromedical rescue helicopter service based in Coffs Harbour be fast-tracked, received from **Mr Andrew Fraser**.

### **CountryLink Rail Services**

Petitions opposing the abolition of CountryLink rail services and their replacement with buses in rural and regional New South Wales, received from **Mr Greg Aplin, Ms Katrina Hodgkinson** and **Mr Andrew Stoner**.

### **Manly JetCat Services**

Petition seeking reversal of the proposal to cut the JetCat service to and from Manly, received from **Mr David Barr**.

### **Newcastle Rail Services**

Petitions requesting the retention of Newcastle rail services, received from **Mr Bryce Gaudry** and **Mr Milton Orkopoulos**.

### **Redfern and Surry Hills Bus Services**

Petition requesting improved bus services in Redfern and Surry Hills, received from **Ms Clover Moore**.

**Tamworth and Armidale Rail Services**

Petition opposing the proposed cut to the CountryLink rail service between Tamworth and Armidale, received from **Mr Richard Torbay**.

**Queanbeyan Rail Services**

Petition requesting the resumption of the early morning CountryLink rail service from Queanbeyan to Sydney, received from **Mr Steve Whan**.

**Community-based Preschools**

Petition requesting adjustment of funding to ensure viability of community-based preschools, received from **Mr Thomas George**.

**Dunoon Dam**

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

**Circus Animals**

Petition praying that the House end the unnecessary suffering of wild animals and their use in circuses, received from **Ms Clover Moore**.

**Sow Stall Ban**

Petition requesting the total ban of sow stalls, received from **Ms Clover Moore**.

**BUSINESS OF THE HOUSE****Withdrawal of Business**

**General Business Notice of Motion (General Notice) No. 13 withdrawn by Mr George Souris.**

**BUSINESS OF THE HOUSE****Reordering of General Business**

**Mr ANDREW TINK** (Epping) [2.27 p.m.]: I move:

That the General Business Notice of Motion (General Notice) given by me this day [Leonard Alan Rowley Sentence Appeal] have precedence on Thursday 30 October 2003.

This motion should have precedence because the Office of the Director of Public Prosecutions has mishandled the case of *Regina v Leonard Rowley*. It is plain from the judgment in that case that the Crown did not even submit that a custodial sentence should be imposed. The Crown submitted that it was a case that could warrant full-time custody, but she did not submit on the authorities that such a sentence should necessarily be imposed. The defendant's counsel, Mr Dennis, submitted that a custodial sentence should be imposed but that it should be suspended. In other words, the Crown did not argue any more strongly than defence counsel for a full-time custodial sentence.

The facts of the case are that the defendant had a prior record for drink driving, he did not stop after an accident, his conduct was described by the judge as extremely reprehensible, and he was unlicensed and, therefore, should not have been driving at all. The judge found that he panicked because he was unlicensed. In his ruling the judge said that he was also aware that Mr Rowley had, within a short period prior to the events, taken some alcoholic beverage, and that this caused the judge some concern.

The Crown did not even go to the trouble of submitting that the offence warranted a full-time custodial sentence. Those are the facts that the Attorney General does not believe warrant an appeal to the Court of Criminal Appeal seeking the imposition of a full-time custodial sentence. The Director Of Public Prosecutions

[DPP] personally misled the victim's next of kin by claiming there was no evidence of the presence of alcohol. There was. That evidence was not in relation to the driving or a specific blood alcohol content. The evidence was an admission of the defendant that he had been drinking prior to this incident. If the DPP has misled the victim's relatives and his partner and I were the Attorney General I would have no confidence in the DPP's advice to me.

There is talk of contrition. This matter did not turn into a plea of guilty until it had been running for one day before a jury. As the Premier, the Minister for Police and the Attorney General all know, the police on the Central Coast are still waiting for an apology from Mr Rowley, as are the victim's next of kin. The DPP says that there is no guidance in relation to a sentence being suspended. Why does the DPP not get guidance by appealing against the sentence? Why does the DPP not do his job and take this matter on appeal? Appeals against decisions are lodged all the time. Judges disagree all the time. What is so sacrosanct about the DPP? *[Time expired.]*

**Mr CARL SCULLY** (Smithfield—Minister for Roads, and Minister for Housing) [2.32 p.m.]: This is obviously an important and sensitive issue, but the Attorney General comprehensively dealt with the matter yesterday.

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

**Mr CARL SCULLY:** The issue has been well canvassed in the media and in this House. There are a number of matters on the Government's program. I do not believe a case has been made out for the matter to have precedence.

**Question—That the motion be agreed to—put.**

**The House divided.**

**Ayes, 38**

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

**Noes, 49**

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

**Question resolved in the negative.**

**Motion negatived.**

## TREASURER'S REPORT

**Mr Craig Knowles** tabled, by leave, on behalf of the Treasurer, pursuant to section 51 of the Public Finance and Audit Act 1983, the report entitled "Report on State Finances 2002-03".

## BUSINESS OF THE HOUSE

### Routine of Business

*[During notices of motions]*

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

## QUESTIONS WITHOUT NOTICE

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### RETIRED MINISTERS COOLING-OFF PERIOD

**Mr JOHN BROGDEN:** I direct my question without notice to the Premier. In view of ongoing revelations from the ICAC hearing regarding his former Minister for Gaming and Racing, Richard Face, will he now put in place a 12-month cooling-off period for Ministers from work related to their portfolio?

**Mr BOB CARR:** I must be excused for making this comment: Normally it is the Deputy Leader of the Liberal Party who asks questions about pecuniary interest issues, oblivious to the embarrassment he causes his leader. I found that an interesting pattern in this Parliament. In relation to allegations about former Minister Richard Face, in the lead-up to the election I said that I would get advice on the general issue of post-separation employment of Ministers. The Cabinet Office has provided me with options based on models used in other jurisdictions. For example, in the United Kingdom, there is an advisory committee on business appointments where Ministers can seek advice on the propriety of taking up a position within two years of leaving office.

**Mr Andrew Stoner:** Point of order.

**Mr SPEAKER:** Order! I am reluctant to hear a point of order as the Premier has barely started his answer. I cannot imagine under which standing order the Leader of The Nationals could take a point of order. What is the point of order?

**Mr Andrew Stoner:** Standing Order 138 states that the answer must be relevant to the question asked. The Premier is not being truthful. He said he would make an announcement before the election.

**Mr SPEAKER:** Order! There is no point of order. The Leader of The Nationals will resume his seat. Having regard to my previous warnings about this matter, I call the Leader of The Nationals to order.

**Mr BOB CARR:** He makes George look terrific. George is going to spring back. If I can sense a return to leadership anywhere, it is going to be made by the honourable member for Upper Hunter. Enough of these distractions. Other Australian States—Western Australian and South Australia—have restrictions but with no clear sanctions. Only the United States has a clear criminal prohibition for two years, but that applies only to Secretaries of State. They have a different system from that of the Westminster system. As former Premier Fahey, my old football buddy, indicated to the Parliament on 18 November 1992 when talking about former Premier Greiner, rules on post-separation employment are very hard to enforce.

Standing where I am standing now, Premier Fahey, in a spirit of frustration—and I remember the exchange—said it was very, very hard, limited and problematical to enforce a restriction on a former Minister or former parliamentarian. He said there are clearly legal sanctions where there is an abuse of confidentiality or misuse of government property or information, but beyond that, realistic sanctions are extremely problematical. In fact, I have the *Hansard* of 18 November 1992 quoting the former Premier saying, in answer to a question from the then member for South Coast, that it was very hard to enforce anything in respect to the former Premier. Why did this question come up about Premier Greiner? Because he left the Premier's job and took up board appointments, including—

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

**Mr BOB CARR:** Guilty as charged. I drove out Premier Greiner. That was my mission statement and I fulfilled it. Something is going on. The honourable member for Wakehurst has been very quiet up until now. For weeks he has been quiet, not a word out of him, but he has come to life today. Something is happening over there. That is all set out in the *Hansard*. It arose in connection with Premier Greiner. Nevertheless, I have asked for further work to be done on available options. Many of these options rely on moral suasion and, of course, in the conduct of its current investigation, the ICAC is also looking at this issue and may make suggestions. In light of that further advice from the Cabinet Office and any suggestions from the ICAC, the Cabinet will revisit the issue.

As far as the current ICAC inquiries in relation to former Minister Face are concerned, I note that the ICAC initially indicated that it was satisfied with the Minister's responses. It has now decided to reopen the matter. I have no comment to make on that, of course. It is entirely a matter for the Independent Commission Against Corruption and we should await the outcome of its inquiries and not engage in speculation. On a related matter, the Cabinet is giving close consideration to recommendations restricting the employment of current members of Parliament.

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

**Mr BOB CARR:** Why does the Deputy Leader of the Liberal Party spring to life when the pecuniary interests of existing members of Parliament comes to light? Does he realise that he only embarrasses his leader? These were recommendations made by the ICAC pursuant to the Brogden inquiry. We expect to be in a position to put matters to the Parliament for its consideration.

**Mr John Brogden:** Let's have a Pam Allan inquiry.

**Mr BOB CARR:** You went to the ICAC. The ICAC gave us a report. But in the meantime—

**Mr John Brogden:** Point of order: Why don't you send Pam to the ICAC? Let's have a Pam inquiry. We know you hate her, so why don't you not send her to the ICAC?

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

**Mr BOB CARR:** The Leader of the Opposition still has not told the people of New South Wales what he did for that \$110,000. What did he do for it? What questions did he ask for it? If he did nothing for it, why did he not give the money back?

**Mr John Brogden:** How much is Pam getting paid?

**Mr BOB CARR:** It is good that we belong to the most vigorous, robust parliamentary forum in Australia. The St Hilliers development at Zetland, the Sydney Water development charges, the sale of railway yards at Rozelle, the Walsh Bay development, Eurobodalla Shire Council, the Mogo charcoal plant—all questions asked by the Leader of the Opposition as shadow Minister for Planning while he was being paid by the company. Cash for questions—\$110,000 worth! If the Leader of the Opposition was not paid the money to ask those questions, what did he do for the money and why will he not give it back?

#### RACIAL VILIFICATION

**Mr PAUL PEARCE:** My question without notice is addressed to the Attorney-General. What is the Government's response to recent racist activity in western Sydney?

**Mr BOB DEBUS:** Nazi Germany collapsed in 1945, indelibly stained by genocide and bloodshed. Hitler may be dead but his ideals survive in the minds of a small group of misguided people who have not learnt the lessons of history.

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

**Mr BOB DEBUS:** It is my sad duty to advise the House that a virulently anti-Semitic, neo-Nazi newspaper called the *Nationalist* has been published and is being distributed in Sydney's west.

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

**Mr BOB DEBUS:** I have referred this publication to the President of the Anti-Discrimination Board, expressing deep concern that much of its content may constitute serious racial vilification under the Anti-Discrimination Act. I advise that the President of the New South Wales Jewish Board of Deputies, Mr Stephen Rothman, has lodged a formal racial vilification complaint with the President of the Anti-Discrimination Board. Mr Rothman has expressed deep concern that the *Nationalist* "undermines the fabric of Australian society and preaches racial hatred". And on my reading this is indeed a scurrilous and hateful publication. It refers to Jewish people as "filth", "maggots" and "crafty manipulative slime". It refers to the "six million supposed deaths of Jews during World War Two".

**Mr SPEAKER:** Order! I call the honourable member for Lane Cove to order.

**Mr BOB DEBUS:** It is crudely racist and white supremacist. Such intolerance and hatred have no place in Australia. The ideals that plunged Europe into war and nearly wiped a people off the face of the earth have no place in this community. However, we also know from last century's tragic history that a free, tolerant and diverse society does not survive unassisted. These ideals must be buttressed and protected. That is why this Parliament passed the Anti-Discrimination Act and strengthened it on many occasions. Those laws provide for the Anti-Discrimination Board President to immediately investigate whether prosecution for serious vilification is warranted. If he believes that a serious racial vilification offence has been committed he must refer the matter to the Director of Public Prosecutions to consider a prosecution.

The offence of serious vilification involves "public acts which incite hatred towards, contempt for or severe ridicule of a group" by means which involve the threat of violence or the incitement of violence. The maximum penalty for the offence is \$5,500 or six months imprisonment for an individual or \$11,000 for a corporation. Public acts specifically include the writing, printing, distribution or dissemination of written material. Lesser acts of vilification not involving the threat of violence can result in an award of damages of up to \$40,000 by the Administrative Decisions Tribunal. The Government and the Jewish Board of Deputies have rightly sought recourse under those laws. I look forward to the Anti-Discrimination Board and its President, Mr Stepan Kerkyasharian, upholding the rule of law, the rule of tolerance and decency, by taking the appropriate action against this absurd and obscene publication. I am sure that every member of the House will join me in deploring this shameful publication.

#### **HONOURABLE MEMBER FOR WENTWORTHVILLE AND ENVIRONMENTAL RESOURCES MANAGEMENT AUSTRALIA (HOLDINGS)**

**Mr ANDREW STONER:** My question is directed to the Premier. Why will the Premier not sack ERM director Pam Allen from the chair of the natural resources committee, given that she has not resigned, as Richard Face did when it was revealed that he was setting up a private consultancy business while he was still a Government Minister?

**Mr BOB CARR:** The Leader of The Opposition might have operated on a cash-for-questions basis but no-one would pay him for questions that bad. The idea of going to him and paying money for "advice on public affairs" would be preposterous. After a few days exposure to what they were getting for their money they would be off to the Minister for Fair Trading to have it clawed back. Why on earth are members opposite trying to manufacture an issue out of this when everyone knows that their own leader was paid \$110,000 by a big firm, and the shadow Minister for Planning proceeded, month after month in this Chamber, to ask questions relevant to the work he was doing.

**Mr John Brogden:** It's a lie!

**Mr BOB CARR:** It's a lie? Over a two-week period the Leader of the Opposition asked questions on notice about the St Hilliers development at Zetland, Sydney Water development charges, the sale of railway yards at Rozelle, the Walsh Bay development—

**Mr SPEAKER:** Order! I call the Leader of The Nationals to order for the second time.

**Mr Barry O'Farrell:** Point of order: The future Prime Minister has been speaking for three minutes.

**Mr SPEAKER:** Order! What is your point of order?

**Mr Barry O'Farrell:** My point of order relates to Standing Order 138. The Premier was asked why the honourable member for Wentworthville would not resign either her directorship or the chairmanship of the committee. He should explain to us how much she gets and why she does not have the sort of conflict of interest he inappropriately ascribed to the Leader of the Opposition!

**Mr SPEAKER:** Order! The Deputy Leader of the Opposition will resume his seat. He is sufficiently aware of the standing orders of the House to know the content of Standing Order 138. He knows his point of order is nonsense. The Premier will resume his answer.

**Mr BOB CARR:** These were all the questions he put on notice as an apparently enthusiastic shadow Minister for Planning. Was it just coincidence that each of these referred to a development in which PricewaterhouseCoopers Legal was involved? Was it just a wild coincidence that this company was involved? I will accept the premise that it was wildly coincidental that the matters on which the honourable member was so inquisitive were matters in which the company was involved. What else did he do for the \$110,000—sing songs at the company birthday party? What else did he do for it? Why did they pay him \$110,000? Was it "public policy advice"? If it were, he was charging for things that every member of Parliament does anyway. It is part of the job description. He has given no account about the type of work he did as a consultant, what issues or areas he was consulting on or the projects on which his advice was sought.

The Leader of the Opposition did not advise the House that he had been on a retainer, firstly, for Dunhill Madden and Butler, and then PricewaterhouseCoopers Legal during the time he was shadow Minister. He did not declare it. Further, he asked questions in this House about a range of matters they were involved in. When questioned on these issues by Quentin Dempster on *Stateline* on 29 November and asked whether he would do it again, the Leader of the Opposition cheerfully rejoined, "No, I wouldn't"—an admission of guilt.

**Mr SPEAKER:** Order! In this Chamber the Leader of the Opposition has the right to ask questions without notice. He does not have the right to continually interject throughout question time or to ask questions from where he is seated. That is particularly so while Ministers are answering questions.

[*Interruption*]

**Mr SPEAKER:** Order! I place the Deputy Leader of the Opposition on three calls to order. The Leader of the Opposition knows the Standing Orders of this House. I ask him to abide by them. It does him no credit to continue to interject in a schoolboy way.

**Mr John Brogden:** Mr Speaker, it does you no credit to act like a schoolteacher. If you expect the Opposition to uphold the standing orders, you should uphold the standing orders—in particular, those relating to relevance—and ask him to answer what he will do about the honourable member for Wentworthville.

**Mr SPEAKER:** Order! The remarks of the Leader of the Opposition are a gross reflection on the Chair.

**Mr John Brogden:** You are grossly reflecting on me.

**Mr SPEAKER:** Order! The Leader of the Opposition will not interrupt the Chair. I gave the Leader of the Opposition some advice and I would have expected him to accept that advice. I remind the House that question time is set aside for members to ask questions and for Ministers to answer those questions. The interjections the House has heard today do no-one any credit. The Premier has the call.

**Mr BOB CARR:** One can imagine what happens at their little tactics meeting each morning. It is always the Deputy Leader of the Liberal Party saying "We will ask more questions about that matter", or "We will ask more questions about what he said" or whatever it is, while the Leader of the Opposition is saying, "No, I think there are some other matters."

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

**Mr BOB CARR:** But the Deputy Leader always gets his way, because he seems to have—talking about pecuniary interests—a direct personal interest in embarrassing his leader. He ought to put that on the register. The House would expect me to say that I stand by previous answers given in this House on this subject.

**Mr Andrew Fraser:** Point of order: Often you have—

**Mr SPEAKER:** What is your point of order?

**Mr Andrew Fraser:** On many occasions you have raised the fact that the Premier purportedly knows the standing orders. Standing Order 138 says that the answer must be relevant. The answer given is not relevant. I ask you to draw the Premier's attention to the fact that he must be relevant as per the standing orders, as it is your job to uphold them.

**Mr SPEAKER:** Order! On many occasions I have ruled that the Chair is not able to direct a Minister or the Premier how to answer questions.

### **TEACHER SCHOLARSHIPS FRINGE BENEFIT TAX**

**Mr KEVIN GREENE:** My question without notice is addressed to the Minister for Education and Training. What is the Government's response to community concerns about fringe benefits tax being applied to teacher scholarships?

**Dr ANDREW REFSHAUGE:** I thank the honourable member for his longstanding interest and practice in the education system. Recruiting teachers is an important task and a major focus of our activities in New South Wales. We are spending some \$71 million over the next four years to achieve this through training, through scholarships and through incentives. We are having significant success.

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

**Dr ANDREW REFSHAUGE:** Our efforts are being undermined by the Commonwealth Government.

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

**Dr ANDREW REFSHAUGE:** Not only is it forcing up the costs of university education, it is not providing enough places either. Brendan Nelson, the Federal Minister for Education, Science and Training, trumpets the fact that he is bringing in 2,000 more places for teachers and nurses for the whole of Australia.

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

**Dr ANDREW REFSHAUGE:** Last year almost 3,000 who wanted to do teaching in New South Wales alone could not get into university. That is because the Federal Government is not providing enough places, and even for the places it is providing it is ratcheting up the higher education contributory scheme [HECS] fees. We do not have an overall shortage but we do have difficulty getting teachers in some disciplines, particularly mathematics and science and technology. All States are finding difficulties with those disciplines. We are providing scholarships for teachers to be able to get into university and be able to pay for their books and their HECS fees. Many of our scholarships cover full HECS fees and provide \$1,500 for books and other ancillary requirements.

This is a very good program. We are expanding it by 33 per cent—150 student scholarships this year, going up to 200 next year. We have other scholarships as well—300 for students to study to become teachers, including those I talked about and 200 accelerated teacher training scholarships for people who do not have teaching backgrounds but who have expertise in the areas we want, such as maths, science and technology. They can get their diploma of education and become teachers, accelerated through the system. We also have 100 teacher retraining scholarships to retrain teachers in subject areas of need. We have more than 600 scholarships to get teachers into the disciplines where we need them.

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

**Dr ANDREW REFSHAUGE:** The Government is assisting people to retrain as teachers by providing scholarships. What is the Commonwealth Government's response? Every teacher who gets a scholarship gets hit with fringe benefits tax. We pay that. The Federal Government adds on almost 100 per cent of the cost of the scholarship as fringe benefits tax. This year the Department of Education and Training has spent approximately \$3 million on fringe benefits tax, money that could otherwise be used to fund more scholarships. This year we have provided 600 scholarships. We could have provided 1,200 scholarships, but the Commonwealth Government is taking the money away.

**Mr SPEAKER:** Order! There is too much audible conversation in the Chamber. I call the honourable member for Burrinjuck to order.

**Dr ANDREW REFSHAUGE:** The Opposition should listen to The Nationals Whip. The honourable member for Lismore is applying for membership of Country Labor. We might have a scholarship for him as a Country Labor member. He has had the guts to take on this issue. He has written to me about a teacher in his electorate.

**Mr Thomas George:** Why don't you answer it?

**Dr ANDREW REFSHAUGE:** I have, and you are getting another dose of it now. He has raised a concern—and it is a genuine concern because he is a genuine guy—about one of his constituents. The Opposition should take note of the letter The Nationals Whip has sent to me.

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

**Dr ANDREW REFSHAUGE:** The honourable member for Lismore wrote that his constituent has completed his degree using our successful Accelerated Teacher Training Program and has been appointed to a country school as an industrial arts teacher. He is very valuable. We want him there, and so does the honourable member for Lismore.

**Mr John Turner:** Point of order: All members of this House have been circulated with a direction from the Cabinet Office that Ministers are not to use representations given to them by other members of the House. Clearly, the Deputy Premier is breaching that direction.

**Mr SPEAKER:** Order! That is not a standing order of this House.

**Dr ANDREW REFSHAUGE:** The honourable member for Lismore has raised a very important issue. His constituent, now working as an industrial arts teacher, believed that becoming a teacher would be a good change of direction. He wanted to be a teacher in that area. But not only do we have to pay the fringe benefits tax, which is equivalent to the amount of his scholarship, the Federal Government has denied him benefits he would otherwise be entitled to. Austudy and family tax benefits have been denied him because of the scholarship and fringe benefits tax that we were forced to pay. This man with a family gave up his previous job to train as a teacher in an area we want him to train in. Obviously, his community wants him and he has the support of his local member. He persevered for 18 months without any income to reskill himself. He was assisted with a scholarship from the State Government, yet the Commonwealth Government denies him Austudy and other benefits.

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

**Dr ANDREW REFSHAUGE:** The honourable member for North Shore would do a lot better to listen to The Nationals Whip.

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

**Dr ANDREW REFSHAUGE:** The Commonwealth Government at every turn is undermining our efforts to get good teachers into classrooms in the difficult areas. I salute the honourable member for Lismore for his support. He ought to get the rest of his side to join with us to petition the Federal Government to remove this negative fringe benefits tax on scholarships.

#### LEONARD ALAN ROWLEY SENTENCE APPEAL

**Mr ANDREW TINK:** My question without notice is directed to the Minister for Police. Does the Minister agree with the decision of his colleague the Attorney General not to appeal the sentence in the Thornton case, given his own public comments that Rowley "should be in gaol"?

**Mr JOHN WATKINS:** I have spoken to Sarah Matthews, the partner of Senior Constable Chris Thornton, twice in recent weeks. I spoke to her on Police Remembrance Day and on the evening that the sentence was handed down. I expressed to her my sympathy and the sympathy of the entire Police Force. The distress suffered by the family of Senior Constable Thornton on hearing the sentence handed down is

understandable. I am advised that the Director of Public Prosecutions has informed the family of his intention not to appeal the decision that was handed down on 9 October. I understand that Rowley, the driver, was unlicensed and was given a two-year suspended sentence. Decisions to appeal are a matter for the Director of Public Prosecutions, as has been made clear in the House in the past couple of days. At this time our thoughts are with Sarah Matthews and the family of Senior Constable Thornton.

**Mr Andrew Tink:** Point of order: The point of order is relevance. The question was what is the Attorney General going to do in light of the Minister's public comments that Rowley should be in gaol.

**Mr SPEAKER:** Order! The Minister has completed his reply. The honourable member for Epping will resume his seat. I call the honourable member for Epping to order.

*[Interruption]*

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

### NATURAL RESOURCE MANAGEMENT

**Mr PETER BLACK:** My question without notice is addressed to the Minister for Infrastructure and Planning. What is the latest information on natural resource management and the Brigalow?

**Mr CRAIG KNOWLES:** As the honourable member for Murray-Darling well knows, last week I went around the State handing out big cheques to country communities. There was that lovely sound of money raining down on country communities, surpassed only by the drought breaking. The list of cheques included \$2.5 million for the North Coast, \$4.5 million for the Namoi and Border rivers, \$6.9 million for the Central West, \$7.5 million for the Lachlan, \$28 million for the Murray and Murrumbidgee, and the list goes on. I was up in Broken Hill handing over big cheques—millions of dollars worth of local investment—to six of the catchment areas in the electorate of the honourable member for Murray-Darling. The response to the announcements about the Catchment Management Authority start-ups over the last couple of weeks around the State have been terrific. I will not trouble the House with the very lengthy list of press clippings and endorsements from farmers groups, irrigators and green groups.

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

**Mr CRAIG KNOWLES:** Maybe I will later.

**Mr SPEAKER:** Order! The Minister needs no encouragement from Government members.

**Mr CRAIG KNOWLES:** The breakthrough work of Ian Sinclair, a real National Party leader, on native vegetation—a huge reduction in red tape bureaucracy, balanced and tailored solutions, and commonsense plans—has provided the essential ingredients that can deliver headlines like this in places as diverse as the coast through to Broken Hill. While the headlines about catchment management authorities have been terrific, there are other major essential ingredients to our natural resources policy. For example, we will establish a Natural Resources Advisory Council and a Natural Resources Commission. The advisory council will be the peak natural resources management stakeholder group in the State. It will include representatives of groups such as the Nature Conservation Council, the Total Environment Centre, irrigators, indigenous communities, local governments, NSW Farmers, the Forest Products Association, catchment management authorities, the New South Wales Minerals Council and scientific bodies.

Importantly, the Natural Resource Advisory Council will subsume the 13 existing advisory bodies and committees in the first real attempt in more than 20 years, at least for the 10 years I have been a member, to do something serious about reducing, rather than increasing, red tape and bureaucracy. In addition to the Natural Resources Advisory Council, the Natural Resources Commission will bring together 13 councils and commissions to focus on the entire natural resource landscape. It will provide the Government with independent advice and recommend statewide standards and targets for water, vegetation, salinity, soil conservation, biodiversity, coastal protection and other natural resource management issues. It will recommend the accreditation of catchment management plans and order performance. It will undertake inquiries and assessments and assist in reconciling the frequently conflicting views on specific natural resource management issues.

Once the Natural Resources Commission is established under the legislation, it will be a fundamentally important component of the new natural resources regime. Appropriate staff is being assigned to the commission, largely sourced from the existing bodies. A permanent commissioner with a five-year appointment as well as part-time commissioners will be appointed when the relevant legislation is passed. So as not to lose time in the start up of the commission, the Government has decided to appoint an interim commissioner. The interim commissioner will start up the organisation in a manner similar to that used by the groups established last week in the context of catchment management authorities—the people endorsing our actions in the bush. Professor Tom Parry has agreed to take on the task of interim commissioner. His work will focus on setting up the commission—

**Mr John Brogden:** Not him again!

**Mr CRAIG KNOWLES:** —and establishing the specialist groups to inform the standards and targets for biodiversity and regional natural resource management. Despite the puerile interjection from the other side of the House, Professor Parry's reputation speaks for itself, as does his extensive list of qualifications. His is a significant appointment because most importantly, as the Premier reminds us, under both Liberal-National Party Governments and subsequent Labor Governments, he has managed to maintain a reputation of independence and integrity in his role as chairman of the Independent Pricing and Regulatory Tribunal and its predecessor, the Government Pricing Tribunal.

The clear message, particularly to the bush and interested stakeholder groups, is that the Natural Resources Commission is being established along independent lines. It must demonstrate that it is above the normal argy-bargy of entrenched natural resource conflict. A sound, sustainable natural resources policy must combine economic, social and environmental interests as one integrated agenda, not three conflicting agendas. That is the fundamental task of the Natural Resources Commission. Having Professor Parry as the first interim commissioner gives us the best chance of achieving that objective from day one. This is terrific work off the back of Ian Sinclair's and his group's work over the past six months.

It is a magnificent response from environmental and community groups, local government, farmers' groups and irrigators around the State. Of course, underpinning that work is the formation of single bodies with stakeholders and natural resource management as the peak independent group. In that context, as Ian Sinclair is able to free up more time to move away from his work on native vegetation, he will spend some of his energy on the Brigalow bioregion. Minister Debus and I have asked Ian Sinclair to review the work done to date and to link up with key stakeholders to reach a lasting solution. In many ways Ian Sinclair, like Tom Parry, is uniquely positioned to bring together some of the disparate views in the Brigalow bioregion and to achieve that lasting solution.

*[Interruption]*

I know it upsets the Leader of The Nationals that Ian Sinclair has post-political career prospects that he does not have. The fact that Sinclair can sign up for health reform under a Labor Government and for native vegetation conservation upsets The Nationals enormously. The proof of the pudding is the community response. The Nationals cannot get this sort of headline; only Country Labor can deliver this and is willing to work with Mr Sinclair. We are interested in solutions in the bush, not playing politics. We will work with good people whatever their political affiliation. Ian Sinclair is a good man and the New South Wales Nationals should not run him down. After all, he is about to be appointed formally as the President of the Murray-Darling Basin Commission. He has done good work on native vegetation and has achieved a result that people did not believe could ever be achieved. His work on rural health is fantastic. Honourable members can visit any multipurpose service to see the results of that work. I am particularly optimistic because of his background that he will achieve excellent results for the Brigalow.

#### **LAKE CATHIE PRIMARY SCHOOL PROPOSAL**

**Mr ROBERT OAKESHOTT:** I direct my question to the Deputy Premier and Minister for Education and Training. Will the Minister assure the House that he and his department will work with the local Hastings Council and its planners to build a new school in the Lake Cathie-Bonny Hills area to meet the present and future needs of the region?

**Dr ANDREW REFSHAUGE:** Significant growth is occurring between Port Macquarie and Laurieton. The 2001 census revealed that each community had a population of about 2,000. The Department of

Education and Training will conduct a review of the projected enrolments and demographic trends of that area in close co-operation with Hasting Council and the local school community. It is important to recognise that a detailed process must be undertaken to determine whether the school is not only needed but also sustainable. For example, we must ensure there are enough school-age children to support the new school and that the enrolment level is sustained to ensure its ongoing viability. We must also ensure that the new school will not jeopardise the ongoing viability of nearby schools.

Lake Cathie and Bonny Hills are both within the local school catchment of the North Haven Public School, which is at Camden Haven. North Haven Public School has a total enrolment of 465 students and the enrolment trends are expected to remain stable over the next five years. However, it is reasonable to expect that things might change given the development of area 14, which incorporates the Lake Cathie and Bonny Hills areas. The size of that future development is not clear. Once it is clear we will have a better understanding of the potential population increase in area, particularly in the school-age population. I assure the honourable member that the Government will conduct that review and, as he suggests, in consultation with the Hastings Council.

### RURAL CRIME

**Mr JOHN PRICE:** I address my question to the Minister for Police. What is the latest information on the fight against rural crime?

**Mr JOHN WATKINS:** The Government established the Pastoral and Agricultural Crime Working Party in 2000 to investigate rural crime. The working party comprises New South Wales farmers, the Rural Land Protection Boards, NSW Agriculture and NSW Police. Last week I attended a meeting of that group in Tamworth. I am pleased to report to the House what I heard first-hand from farmers about the progress made since the working party began its work, including the appointment and training of 33 rural crime investigators in 26 country local area commands. The investigators and the communities they serve also benefited from more than \$200,000 in extra funding for equipment for the investigators, including clippers, digital cameras, binoculars and animal handling equipment.

I continue to be encouraged by what I am told by the rural crime investigators. For example, they have developed crime maps plotting hotspots for stock theft across New South Wales. The figures they have produced on reported stock theft are encouraging, especially at this difficult time following the drought. The theft of cattle fell from 2,219 animals in 2001 to just over 1,500 animals in 2002. Sheep theft fell from 28,000 head in 2001 to 17,000 head in 2002. Although the drought was a factor in that reduction, the work of the rural crime investigators was significant. The level of co-operation between police, farmers and the rural industry continues to grow. We have firm partnerships with all other relevant agencies, including NSW Agriculture, rural lands protection boards, the Australian Quarantine Inspection Service and the RSPCA.

Last week the working party also drew attention to the transported stock statements. I heard from farmers and police that since the transported stock statements have come into force and been appropriately enforced by police there has been a dramatic increase in compliance and co-operation with the livestock transport industry—thanks to the new penalties we have introduced. This has important implications for the quick and efficient identification of stock that may be stolen or diseased. While in Tamworth last week I announced that the Pastoral and Agricultural Crime Working Party would continue to meet. This decision followed unanimous backing from the delegates.

I should like to touch on some important new initiatives that the Government will explore as the working party continues in 2004. Police and the Rural Lands Protection Board are working together to address problems posed by transporting feral pests, which is a major problem in the spread of disease around the country. Police have now been made authorised officers under the Rural Lands Protection Board Act 1998, which is a significant development. This means that police can enforce the Act in relation to the illicit transport of pests such as feral pigs.

The working party has also agreed to consider the problem of straying stock. We will also look closely at the adequacy of legislation covering tampering with stock identification marks. NSW Police, after encouragement from the working party, will shortly launch a rural crime stoppers campaign, whereby calls about rural crime will be referred to the appropriate specialist rural crime investigator. It was of great benefit for me to observe the good work of the Pastoral and Agricultural Crime Working Party while in Tamworth. I am pleased that the members have indicated their enthusiasm to continue to function as an advisory body to the Government, and I look forward to further updating the House next year on its valuable work.

### SPORTING GRANTS PROGRAM

**Mr IAN ARMSTRONG:** My question is directed to the Minister for Tourism and Sport and Recreation. Why is her department's grants program for sporting groups loaded in favour of Sydney when a third of the population lives in country areas yet they can access only 22 per cent of grant funds?

**Ms SANDRA NORI:** I am not sure where the honourable member for Lachlan gets his facts from. Let us look at the big winners from the regional sports facility programs and all the other programs that help fund sporting facilities throughout the State. In 2002-03, \$4.094 million was provided for such programs, and 28 of the 32 projects approved were for regional New South Wales. In dollar terms, the contrast was even more significant. Of the \$4 million provided, \$3.015 million, or 74 per cent, went to regional New South Wales. When we look at the population densities, we realise that 42 per cent of the State is considered rural. In other words, 42 per cent of the population is receiving 57 per cent of the funds available. I think that is a good result for the bush.

**Mr IAN ARMSTRONG:** I ask a supplementary question. In light of the Minister's answer, will she now explain why there is an absolute disbelief in rural areas that they are getting a fair go in terms of sporting grants?

**Mr SPEAKER:** Order! The honourable member for Lachlan has been a member of this House for as long as I have, and he knows that is not a supplementary question.

### BLUE STRIPE MEATS

**Mr NEVILLE NEWELL:** My question without notice is directed to the Minister for Regional Development. What is the latest information on the new Tamworth company Blue Stripe Meats?

**Mr DAVID CAMPBELL:** The honourable member for Tweed is a Country Labor member who is interested in the value-adding opportunities of agricultural products throughout New South Wales. Blue Stripe Meats is a revolutionary new beef processing and packing plant that will produce consumer-friendly specialty meat cuts. The company has spent \$3.3 million on its new Tamworth plant, and it expects to employ up to 60 people when it reaches full production. Within the first 18 months of operations Blue Stripe Meats expects to employ 40 people. These are new jobs for Tamworth, and I am proud to report that Blue Stripe Meats received assistance from the State Government in this venture. This assistance was provided through the Regional Business Development Scheme, which is designed to support firms establishing or expanding in regional New South Wales. Around 100 New South Wales companies are assisted through this scheme every year.

Tamworth City Council also deserves congratulations for its support of this new enterprise, which will have a major positive impact on the local economy. As we speak, Blue Stripe Meats is about to commission its new purpose-built plant, which features state-of-the-art technology designed to produce meat cuts that will please the most demanding consumer. Blue Stripe Meats is leading the way in the transformation of the meat industry. Meat carcasses are cut down using a method called seaming. This method allows Blue Stripe Meats to label individual cuts under appropriate descriptions, such as grill, stir-fry, roast, and even steak sandwich. These names are more relevant to consumers than some traditional cuts such as rump, sirloin, porterhouse, and the like.

Blue Stripe Meats labels its products according to use, providing a clear guide to buyers. In this way buyers know that the meat they have bought is suitable for the particular dish or meal they want to prepare. Blue Stripe Meats also deploys modern technology in the preparation and packaging of the meat. All products are delivered in individual portions, assuring consistent size and weight. As well as being convenient, these cuts have an extended refrigerated shelf life of up to seven weeks, minimising losses due to spoilage. Blue Stripe Meats products will be delivered by company-owned and independent selected meat retail shops throughout Australia. The company has adopted strategies that will provide it with competitive advantages in the marketplace, both domestically and overseas. Blue Stripe Meats is a highly significant and positive contributor to local, regional and New South Wales economic development.

**Questions without notice concluded.**

### USCOM CARDIAC OUTPUT MONITOR

#### Ministerial Statement

**Mr FRANK 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) [3.37 p.m.]: New South Wales is home to one-third of Australia's 300 biotechnology companies, and

accounts for 48 per cent of all jobs in the Australian biotechnology, medical and pharmaceutical manufacturing industries. Today it gives me great pleasure to inform the House of another New South Wales biotech success story.

Last Monday night a Coffs Harbour based biotechnology company took a giant leap from the New South Wales mid North Coast onto the global stage. Earlier this year I was honoured to be able to officially launch the international export program for a new ultrasonic blood flow monitor. Invented, designed and built here in New South Wales by Rob Phillips, the USCOM cardiac output monitor is a device that could earn New South Wales up to \$300 million in export income. It has the potential to revolutionise the diagnosis and management of cardiac conditions by using Doppler ultrasound to measure blood flows through the heart's valves.

Until now, the measurement of cardiac output has involved the painful process of inserting catheters into a patient's neck or groin. The monitor is cheap, it is portable, and it is a home-grown invention, dreamed up at a Coffs Harbour barbecue. Now USCOM competes against the global giants of biotech—Siemens, General Electric and Toshiba. It is also an example of how the New South Wales Government is encouraging and fostering biotechnology innovation. When Rob Phillips and USCOM were granted a \$100,000 BioFirst proof of concept grant, a partnership was formed. The money was used to develop prototypes and conduct successful clinical trials.

The company is trialling devices in hospitals across Australia and has achieved its first export sales. It gives me great pleasure to say that this partnership has paid off in spades. On Monday night, USCOM showed its wares to the world and won, being awarded the inaugural Global Entrepolis @ Singapore Award organised by the Singapore Economic Development Board, in conjunction with the Far Eastern Economic Review. The prize is one of the Asia-Pacific's premier events for recognising enterprise, innovation and technology. The award was presented by the Prime Minister of Singapore, Goh Chok Tong. USCOM was chosen ahead of 142 other entries submitted from across Asia. The judging criteria were, firstly, the application of technology in the product, secondly, the potential of the product to become a global leader—

[*Interruption*]

How childish Opposition members are! I have their support, that is all I need. Further judging criteria were, thirdly, a clear indication of the growth of the business in terms of profit, size and market share, and fourthly, a sustainable business model that is commercially viable. USCOM has succeeded on all counts and it now competes in a market estimated at \$7 billion a year. In November USCOM will join a New South Wales Government-supported mission to Medica, the world's largest medical product exhibition, in Germany. The success of USCOM is exactly the type of outcome we are looking for: local ingenuity catapulted onto the world stage. USCOM is on its way, with the New South Wales Government proud to play a supporting role in its future successes.

**Mr ANDREW FRASER** (Coffs Harbour) [3.41 p.m.]: It gives me great pleasure to respond to the Minister.

[*Interruption*]

I am asked what happened to the shadow Minister. The shadow Minister gave me the opportunity to speak on this as it concerns constituents of mine. Rob Phillips is a friend of mine and has been for many years. I thank the shadow Minister for allowing me this opportunity and I thank my colleagues for staying and listening—unlike the Minister's colleagues on the other side of the House.

**Mr SPEAKER:** Order! I might call the attention of the honourable member for Coffs Harbour to Standing Order 138.

**Mr ANDREW FRASER:** Thank you, Mr Speaker. I will remind you of that at question time tomorrow. I would like to add my congratulations to Rob Phillips and to Garry Davey as well. Rob Phillips has been involved in this industry for probably seven or eight years and his ideas have really come to the fore. In fact, I see Rob fairly regularly at Sydney airport, usually when he is coming back from Singapore or from somewhere else in Asia or India after promoting this magnificent machine. This device, which will enable many people to avoid having to undergo an invasive procedure, will give a very valuable reading for anaesthetists and others in the medical industry on blood flow monitoring across the heart.

It is a fantastic invention. I am extremely pleased that the State Government has finally recognised the great work of these people and has finally given them some money to develop this technology and take it further. This technology presents an opportunity to set up a \$300 million industry in Coffs Harbour to manufacture the device not just for Australian hospitals but also for hospitals anywhere in the world. Rob Phillips has had great vision and, to his own detriment, has spent a lot of time overseas promoting it. To be recognised by a Singapore firm in this way and to have the Prime Minister of Singapore present him with this prize is absolutely fantastic.

As the member for Wakehurst says, barbeques in Coffs Harbour have great results. This is one of them. The Nationals are so strong up there because of our barbeques and because of the great things that come out of them. This is but one of the ideas that has come out of them. Frank, we won't tell you what we are cooking up for you. I commend the award and I commend this company for a great job well done.

## MINISTERS ANSWERS TO CORRESPONDENCE

### Privilege

**Mr MALCOLM KERR** (Cronulla) [3.45 p.m.]: I raise a matter of privilege. My point of privilege concerns the undoubted right and privilege of members to receive answers from Ministers to their correspondence. I draw the attention of the House to question 803 and the answer to it. Question 803 was:

When will the Minister respond to my correspondence on behalf of:

- (a) Mr C Hall, dated 28 February 2003?
- (b) Mrs C Loader, dated 9 January 2003?
- (c) Mrs M Myers, dated 5 February 2003?
- (d) Mrs J Reeves, dated 23 December 2002?
- (e) Mrs R Shepherd JP, dated 15 February 2003?

Obviously, if a speed camera was installed in the Minister's office—

**Mr SPEAKER:** Order! What is the matter of privilege?

**Mr MALCOLM KERR:** The point is that it would be lucky to record any sign of life. However, my submission on privilege relates to the answer that was given. These matters were administered in full or part during the transitional phase of government surrounding the 2003 State election. Accordingly, New South Wales health agencies responded directly to four of the five constituents mentioned. The matter outlined in the correspondence of Mrs Reeves was resolved through patient treatment while a response was being prepared, as such a response was not considered necessary. The Minister said that he remembers signing it, which is interesting because in fact the only written response referred to in the public record of the House is:

Accordingly, New South Wales health agencies responded directly to four of the five constituents mentioned.

And the other one did not receive a response. Is the Minister saying that he signed on behalf of health agencies? Correspondence between members and the Executive has been the subject of a considerable body of authorities, and I will cite them. Firstly, I refer to the 22nd edition of Erskine May's *Parliamentary Practice*, at pages 65 and 96, which deal with correspondence. I refer also to page 105 of the report on parliamentary privilege in New South Wales and its consideration of parliamentary privileges and correspondence from members to the Executive Government.

This is an extremely serious matter. Every member of this House, whether they be Opposition, Government or Independent, should have their correspondence answered. I will go further and say that their correspondence should be answered within a reasonable time and in a reasonable form. Even the member for Bligh agrees with that. I am told that must be right then. I have to say that comment is the only thing that makes me doubt the validity of my submission. I still believe the submission is on very solid ground. I go further because the answer is so bizarre. The answer states:

These matters were administered, in full or part, during the transitional phase of Government surrounding the 2003 State Election.

I do not understand the reference to transitional government. The Premier released memorandum No. T2002/6 under the heading "Caretaker government conventions and other pre-election practices". Members of Parliament do not vacate their offices when the writs are issued. We still continue to send and receive correspondence

during that period. It is a pity that the Minister for Health is not in the Chamber because this is a matter of great importance. It is the right and privilege of members to receive an answer to correspondence. During question time, Mr Speaker, you have often said, "I have no power as to how the Minister will answer the question", but it is always conceded that the Minister must answer the question. That is a right and privilege that members of Parliament exercise on behalf of their constituents, the people who elect us. Members are obliged to put the views of their constituents to the Executive Government, whether or not we agree with them, and our constituents are entitled to receive a response from the Executive Government through their elected members.

The Minister for Energy and Utilities should note the time. I regret that the Minister for Health is not in the Chamber. However, I have a time limit in which to speak on a matter of privilege and I cannot wait until the Minister for Health is present. He may misunderstand parliamentary democracy and believe that members vacate their seats during an election. That is clearly not true, particularly in terms of the public record and the Premier's documents. It is not open to a Minister to merely say, "The matter has been resolved. I will therefore disregard correspondence in relation to the issue." Both the constituent and the member are entitled to a response from the Executive Government.

**Mr SPEAKER:** Order! I have considered the matter raised by the honourable member for Cronulla. I concur that it is indeed important for members to be able to obtain answers to correspondence from Ministers. However, it is not a breach of privilege for a Minister to respond directly to a constituent and not through the member who raised the issue. I rule that the member has not established a *prima facie* case of breach of privilege.

## CONSIDERATION OF URGENT MOTIONS

### National Competition Council Recommendations

**Mr MATT BROWN** (Kiama) [3.52 p.m.]: My motion is urgent because the Premier has written directly to the Prime Minister regarding a response on the position of New South Wales. It is urgent because there is concern within the farming community, bottle shop owners, medical professionals—particularly pharmacists, dentists and optometrists—and poultry growers in New South Wales. We need to support small business and alleviate their worries about national competition policy directives and the financial impact they will have on this State.

### Teachers Support Staff Reductions

**Mrs JILLIAN SKINNER** (North Shore) [3.53 p.m.]: My motion is urgent. It calls on the Carr Government to justify its plans to slash support for teachers in its proposal to abolish 1,000 jobs in its restructure of the education portfolio. The Government claims there will be an additional 300 classroom teachers, but it claimed before the election that Labor's education policies, which were funded by Treasury, would not be implemented at the expense of the sacking of other public sector employees. This motion is urgent because teachers, parents and students are all extremely concerned about the loss in classrooms of 1,000 experts. Every Government member surely must share those concerns.

My motion is urgent because the Parliament has the right to ask the Premier to justify the plan to abolish 1,000 jobs, given his pledge on 10 March that his class size reduction plan was fully funded by Treasury and would not come at the expense of sacking other public sector employees. Students will miss out as these jobs disappear. These teachers are experts in literacy, numeracy and drug education, and in subjects that have undergone dramatic curriculum changes across primary and secondary classes. It is a disgrace that members of this Parliament are not prepared to support a debate in this place to examine the proposal to abolish all jobs except those of two curriculum experts to support teachers of years 7 to 10 across New South Wales, particularly at a time when new syllabuses are being introduced in all courses. I ask the Labor members of this place, including the honourable member for Kiama and the honourable member for Kogarah, to explain why only five information technology experts are available to support computer students.

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

**Mr Matt Brown:** Point of order: The standing orders do not provide that during an urgency debate a member may ask Government backbenchers to answer questions. That is the main purpose of question time.

**Mr SPEAKER:** Order! The honourable member for Kiama will resume his seat.

**Mrs JILLIAN SKINNER:** It is extremely urgent that this House has an opportunity to hear from Labor members of Parliament how they justify abolishing the jobs of all but two curriculum experts to support teachers in the classroom. They cannot justify that. They should be given an opportunity to explain why there are 10 public relations consultants in New South Wales school regions but only 14 drug education counsellors. It is farcical. Honourable members opposite need to explain why schools in the New England, North Coast, Riverina, south-western Sydney and Sydney areas do not have road safety consultants. They should be given an opportunity to explain why there are no regional sports organisers to assist schools in northern Sydney, Sydney and Western Sydney. If the Parliamentary Secretary wants to know where I have obtained my information, I refer her to the Department of Education and Training web site. That explains why this matter is urgent.

**Miss Cherie Burton:** Point of order: During her entire contribution to this urgency debate the honourable member for North Shore was chewing, and I think that is extremely rude.

**Mrs JILLIAN SKINNER:** To the point of order: I am chewing cough lozenges at the suggestion of my doctor because I have a sore throat.

**Mr SPEAKER:** Order! The Chair had not noticed whether the honourable member for North Shore was chewing. I take it that the observation of the honourable member for Kogarah is correct. I remind members that there are strict standards in relation to what is acceptable in the Chamber. Has the honourable member for North Shore concluded her speech?

**Mrs JILLIAN SKINNER:** No, Mr Speaker, I have not. I will never miss an opportunity to explain to this House why it is urgent to debate the Government's disgrace in cutting 1,000 teacher jobs. [*Time expired.*]

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

**The House divided.**

**Ayes, 48**

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

**Noes, 38**

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

**Question resolved in the affirmative.**

## LEGISLATIVE COUNCIL VACANCY

### Joint Sitting

At 4.05 p.m. the House proceeded to the Legislative Council Chamber to attend a joint sitting to elect the member to fill a seat in the Legislative Council vacated by the Hon. Malcolm Jones, resigned.

*[At 4.18 p.m. the House reassembled.]*

**Mr DEPUTY-SPEAKER:** I report that the House met with the Legislative Council in the Legislative Council Chamber to elect a member to fill the seat in the Legislative Council vacated by the Hon. Malcolm Jones and that Jon Jenkins was duly elected.

## NATIONAL COMPETITION COUNCIL RECOMMENDATIONS

### Urgent Motion

**Mr MATT BROWN** (Kiama) [4.18 p.m.]: I move:

That this House:

- (1) notes with concern the recommendations from the National Competition Council and their impact on New South Wales farmers, bottle shops, medical professionals and poultry growers; and
- (2) calls on the Federal Government to drop plans to penalise the New South Wales Government \$51 million this financial year for failing to comply with its recommendations.

Small and vulnerable businesses—bottle shop owners, pharmacists and farmers, to name a few—are under threat again from the national competition policy. The Federal Government says that unless New South Wales implements competition reforms, it will lose more than \$50 million a year. That is not just a one-off loss. More than \$50 million in Commonwealth payments will be lost each and every year. That loss will mean a reduction in the funding for health and education. It is the equivalent of 760 nurses salaries or double this year's funding for primary school class size reductions. The Premier has already written to the Prime Minister expressing his alarm at recommendations by the National Competition Council [NCC] that New South Wales face non-compliance financial penalties.

I am concerned about a number of the NCC reviews, especially in relation to farmers, chicken growers, bottle shop owners, taxidriviers and medical professionals. The NCC recommendations could cripple the ability of farmers to hold onto their land during tough times like the recent disastrous drought. On Monday of this week I met dairy farmers in my electorate. They are facing financial difficulties. They could lose their right to mediate with lenders, thereby giving banks an open invitation to evict farmers without any form of negotiation. The reforms would also result in the removal of collective bargaining rights for chicken growers.

New South Wales has demonstrated a strong and continuing commitment to national competition policy reform. The Carr Government has acted responsibly in implementing competition regulations that are delivering real benefits to the people of New South Wales. New South Wales has amended 90 per cent of the 216 pieces of potentially anticompetitive legislation, especially in relation to energy, water and transport. We have also established an environment that promotes systematic and transparent assessment of the costs and benefits of all proposed government regulations. The achievements of New South Wales through the national competition policy have been significant and comprehensive. The financial penalties recommended by the National Competition Council for comparatively minor matters of incomplete reform are completely unwarranted. These unnecessary and gratuitous reforms will destroy the investments of small businesspeople, who get involved in their communities and employ many people. We should not put their businesses at risk from large, impersonal corporations. That is the policy of the Liberal Party.

The reforms that we are being forced to comply with, or pay \$51.44 million in penalties, will only serve to impact unfairly on our local bottle shop owners, taxidriviers and medical professionals. The NCC is concerned that New South Wales liquor legislation significantly restricts competition for which a net public benefit justification has not been provided. The main restriction identified is the application of the needs test. The needs test assesses the need for a bottle shop in a particular area. It protects our communities from being flooded with new liquor outlets. This is particularly relevant following the conclusion of the Alcohol Summit, whose recommendations affecting the regulation of liquor included the need to control the availability of alcohol.

Whereas the NCC has identified the needs test as having an anticompetitive impact, the New South Wales Government believes that the unregulated proliferation of liquor outlets would have an unacceptable impact on the community. The Carr Government's strongly held view is that a robust liquor regulatory regime must remain in place given the substantial harm associated with alcohol abuse in the community. The continued regulation of liquor is consistent with the clear message of the Alcohol Summit. The NCC recommendations that New South Wales be penalised by a permanent reduction in NCC payments is unwarranted and unfair. When I was speaking to some of my colleagues today, they mentioned the concerns of their local bottle shop owners. In particular, the honourable member for Illawarra and the honourable member for Wollongong said they had received representations, as I have, from local liquor outlets.

At a time when taxidriviers are struggling to earn a living wage, the NCC believes that the New South Wales Government is deliberately withholding new licences and wants to flood the market with them. Nothing could be further from the truth. Contrary to this view, the Passenger Transport Act 1990 does not impose a quantitative restriction on the supply of taxi and hire car licences. Permanent taxi and hire car licences can be acquired from either the existing bundle of plates or from the Ministry of Transport at the prevailing market price. As there is no quantitative restriction on the supply of plates into the market, the strategy adopted by the Government to increase the number of plates in circulation was to offer short-term six-year plates at more attractive rates.

Even at these lower rates there was a limited demand for plates. This would seem to suggest that the price of plates is not the only or even the key factor limiting market entry. The NCC simply does not understand the Sydney taxi market. People are not buying the licences because we have already got more taxi licences per head of population than Melbourne or Brisbane. New South Wales does not consider that any penalty is warranted. There are no quantitative restrictions, as asserted by the NCC.

In addition, the NCC wants to permit unrestricted corporate consolidation in pharmacy, dentistry and optometry. The community expects that dental surgeries, optometry practices and pharmacies are owned and operated by professionals, not by faceless corporations who are not qualified to protect the health and wellbeing of our community. The Carr Government has previously set out in detail its reasons for retaining restrictions on employment and ownership. Essentially, the provisions have been designed to deliver most of the benefits of complete deregulation, but to also provide necessary protections to ensure the welfare of patients and the accountability of service providers.

This is achieved through a robust exemption mechanism that allows, for example, non-dentist employers to be exempt from the rule if they have met public interest requirements. We want to keep this sector as one of family-run businesses. The public benefits from that type of business. We want only medical professionals to own and operate optometry and dental surgeries. The Howard Government's program is designed to change that position. Accordingly, the Carr Government is of the firm view that the exemption mechanism ensures that no detriment arises from the restrictions and that any penalty would, therefore, be out of proportion to the detriment. Likewise, the Government has given a commitment that restrictions are not intended to be used to protect incumbent business owners, but will be used to protect the interests of consumers.

The Prime Minister described himself as a strong supporter of maintaining the traditional pharmacies owned and operated by pharmacists. I am sure that pharmacists will be as disappointed as I will be if the Commonwealth Government fails to back the Prime Minister's statement and forces New South Wales to remove the ownership restrictions for pharmacies. The achievements of New South Wales through the national competition policy have been significant and comprehensive. At this time it seems to me to be particularly important to remember what jurisdictions have accomplished rather than to dwell on minor areas where reforms have not gone as far as the NCC would have liked.

The reforms proposed by the NCC are illogical and the imposed penalties are unfair and extravagant. New South Wales simply cannot afford to lose \$51.44 million this year. That amount of money would put State government services under considerable financial strain. In view of the progress demonstrated by New South Wales over the span of the National Competition Policy Agreement, the proposed penalties are unjustified and completely inappropriate. I am pleased that the House voted to debate this motion for urgent consideration today. The munching member for North Shore is disappointed that we are debating this issue. I believe this is a significant issue that affects the gamut of our communities. Looking after our pharmacists, dentists, farmers, taxidriviers and liquor suppliers will result in a better and more cohesive community. I urge all members to support this motion.

**Mr GEORGE SOURIS** (Upper Hunter) [4.28 p.m.]: There are two possible reasons why the Australian Labor Party has moved this motion today. First, a potential reason is it intends to embark upon a significant program of deregulation of the very industries the honourable member for Kiama has just alluded to. Second, and this is perhaps the more likely reason, it is another attempt to beat up the Federal Government for the shortcomings of the State Government. Time and again we hear the inadequacies of the State being loaded onto the Commonwealth whenever the Commonwealth and the State are in partnership in funding or administration. Whether it is hospitals, schools or roads, there is a consistent attempt by the Government to deflect attention from the inadequacies of State administration onto the Federal Government.

An example of that is the upgrade of the Pacific Highway, which has experienced a \$1 billion blow-out at the hands of the State even though the bulk of the funding has come from the Federal Government. It is a predictable pattern for the State to blame the Federal Government for the State's incompetence. One would think those opposite were doing the bidding of some hopeless Federal Opposition. Most of the points made by the preceding speaker reflect on matters that are within the purview of the State Government. I remind the House that it was the Premier, Bob Carr, and Paul Keating who signed up to the national competition policy on 11 April 1995, the beginning of the term of office of the Labor administration. It was one of the first acts of the new Premier after he was elected in March that year. One can only assume that, having initiated the Federal-State agreement on competition policy, the State Government would know the rules.

A number of agreed tests and criteria has been established for debate and discussion in the implementation of national competition policy. It is up to the States, having signed the agreement and being participants in the National Competition Council [NCC], to put the arguments we have just heard—the arguments that the Coalition has been putting all along—to the NCC. I do not remember the exact time frame, but between four and six years ago vesting in the rice industry was raised. The NCC placed it under review and assessment and it was successfully argued that vesting was in the public interest and it would benefit Australia if it were to remain in place, and it has. As I said, I do not know whether the Government is using this debate to bash the Federal Government and to mask the fact that it intends to implement some of these deregulation proposals. I would be shocked if that were to happen. But why would I be shocked? After all, it was this Government that a couple of years ago under Minister Face issued a green paper about the deregulation of liquor stores.

On 19 March 2002 and 8 October 2002 I issued media statements on behalf of the Coalition stating that the Coalition was completely opposed to the deregulation of liquor stores and, in particular, deregulation to corner stores and petrol stations. Honourable members should think about the message that we would be sending by having packaged liquor for sale at petrol stations where young people below the age of 18, but with a licence, would pull up to fill their cars. That would expose us to the enormous risk of the illegal purchased of liquor. The message it would send coupling drinking and driving would be disastrous. On a number of occasions the Coalition has expressed its complete opposition to the deregulation of bottle shops. Likewise, the Coalition has sought to protect the professional integrity and standards of various medical professions in the interests of the public of New South Wales.

The poultry industry is characterised by many producers facing a market of only a few processors and, subsequently, only a few major retailers. That places poultry producers in a weak bargaining position. The importance of collective bargaining cannot be understated. Their case was argued successfully before the Australian Competition and Consumer Commission. There is plenty of substance in these issues for the Government to argue its case in the NCC, to which it is a signatory, and to succeed on behalf of the people of New South Wales, rather than failing or planning to implement reforms and then trying to mask its intentions by this attack on the Federal Government.

I have a schedule issued by the NCC in respect of the state of progress of liquor store deregulation. Every State other than Victoria has successfully argued for the retention of the needs test. Victoria has only partially reviewed the situation and has retained an 8 per cent rule, which it proposes to assess and continue to review. In all of these cases, except Victoria, the council notes that it will assess progress. It seems extraordinary that the Government is trying to convey the impression that the game is all over, that the debate has ended and that the NCC has concluded everything, made a determination, advised the Federal Government and Treasury and that in some way competition dividends are to be withheld.

I did not hear the preceding speaker say anything about, or table, any documentation indicating that the Government has been pressing the case to retain the needs test, collective bargaining or professional standards for registration of medical professionals. Where is the Government's evidence of its active involvement in the

national competition process? If it has been involved, why did the honourable member opposite not incorporate that as the centrepiece of his speech? What has the Government done in negotiations as a participant in the NCC? What has been the outcome of its deliberations and presentations? What is the state of progress? What assessments have been made? What are the counter points and pro points? What is the relationship between those issues and other States and the NCC? I do not think honourable members opposite have done the work they should have done on behalf of the people New South Wales in respect of those industries.

The honourable member for Kiama said that we are all under threat with regard to national competition policy dividends. The Government has said that every year since it signed up in 1995. However, a national competition policy dividend has never been withheld. These are matters for negotiation, deliberation, assessment, outcome and recommendation, in which the Government should be participating. Honourable members opposite are trying to extract cheap political points by arguing that the Federal Government is to blame for everything that they have failed to deliver. Day after day, question time after question time we hear "Let's blame the Feds." Honourable members opposite should grow up and deal with these issues like a proper, responsible, mature Government would do. They should deal with these issues on behalf of the people of New South Wales instead of hiding behind the cheap political rhetoric they have been peddling in this debate.

**Mr PETER BLACK** (Murray-Darling) [4.38 p.m.]: I am pleased to support my Country Labor colleague the honourable member for Kiama. The term "NCC" has been used. Before I became a member of this place I thought that the NCC was the National Civic Council, with Santamaria, Mullins and so on—that unhealthy lot. However, I then discovered it was the Nature Conservation Council. I have heard some argument that it was a slight improvement. But today I am given to understand that it is the National Competition Council. Whatever the NCC really is, it is my firm conclusion that it has not improved. The honourable member for Upper Hunter said that this Government is saying that the Federal Government is responsible for everything that is going wrong. I do not agree. The Nationals are responsible for at least half of what is going wrong, because they refused to support us on the issue of single-desk rice marketing arrangements. In the very near future we will introduce legislation about the NCC.

Wasn't it terrible yesterday when *Australopithecus Murrumbidgeitis* was described as ignorant? I urge all members of this place who want an insight into the nature of The Nationals to read what our good Country Labor Minister, the Hon. Kerry Hickey, had to say about *Australopithecus Murrumbidgee* it is yesterday afternoon. I digress. I turn to the Farm Debt Mediation Amendment Bill, which was referred to by the leader of this debate. The bill was introduced on 17 September, and I had the great pleasure of contributing to the second reading debate. The real leader of the National Party at the time, the Hon. Ian Armstrong—for that matter, he is still the leader—that hoary old leader, is a great inspiration to all the people who used to support the old Country Party, because Stoner the goner is no inspiration to them at all. On 24 September in his contribution to the second reading debate the honourable member for Lachlan said:

There is an old saying in this Parliament that nothing changes except the Act. When this legislation was introduced the Minister for Agriculture, who is in the Chamber, was a shadow Minister.

He was referring to the Hon. Richard Amery. The honourable member for Lachlan continued:

The roles are now reversed but, with respect to the Minister, I hope that that is not for too long.

Well, he got another four years. The honourable member went on:

Since the implementation of the Farm Debt Mediation Bill about 1,500 cases have been considered, 771 of which have been resolved satisfactorily. The Rural Assistance Authority established that about 445 farmers did not act in good faith ...

The source of these figures is marvellous. I am assured that as at a few days ago just on 940 cases had been considered, which is a little short of the 1,500. But I pay credit to the honourable member for Lachlan for telling a good story. Significantly, however, 88 per cent of the cases were satisfactorily resolved by way of agreement between the parties. I refer to what the honourable member for Upper Hunter had to say about Country Labor. I assure him that Country Labor is doing the right thing for New South Wales farmers. They need a crystal ball. Following the House's decision yesterday regarding urgency, today NSW Farmers issued a press release entitled "Federal Treasurer must reject NCC Farm Debt Mediation recommendations", saying that farm debt mediation must be retained. The press release reads:

An end to Farm Debt Mediation legislation in NSW will remove a vital process that allows farmers and banks to resolve disputes.

We have just been through a very unhealthy drought. The press release from NSW Farmers continues:

Chair of the Association's Business Economics and Trade Committee, Charles Armstrong, is calling on the Federal Treasurer to reject National Competition Council recommendations that would penalise the NSW Government ...

Where are The Nationals, both Federal and State? I refer particularly to Warren Truss—that waste of space as a Federal Minister for Agriculture—and been-and-gone John Anderson. They are not defending New South Wales farmers, who are doing their very best to survive the drought in one piece. *[Time expired.]*

**Mr CHRIS HARTCHER** (Gosford) [4.43 p.m.]: The Central Coast chicken industry is one of the great rural industries that still survives in that area—along with citrus growing and oyster farming—but it has gone through hard times. In recent years the industry suffered through the impact of Newcastle disease. It also suffered from the fact that the growers themselves are few on the ground and therefore lack a strong bargaining position and are very much subject to the dictates of chicken distributors.

Accordingly, the Australian Competition and Consumer Commission gave poultry farmers the right to engage in collective bargaining. The commission acknowledges the weak bargaining position of poultry farmers. They are prominent not only on the Central Coast but also in Marulan, in the electorate of my colleague the honourable member for Burrinjuck, and in Tamworth and Maitland. Poultry farming is one of our great icon industries on the Central Coast. Accordingly, the Coalition has always strongly supported the poultry meat industry. A report provided by the NSW Farmers Association reads:

The industry is unusual in that contracted farmers never own the poultry they rear yet contribute approximately 40% of the capital investment in the industry through ownership of farms, sheds and other facilities. As processors own the birds, are relatively few in number and are geographically specific, growers have little ability to exercise bargaining power by threatening to switch processors when negotiating contracts or base rates. The industry represents a clear case of monopoly market power which results in prices and quantities being suppressed below what could be expected in a competitive environment and for this reason the Poultry Meat Industry Act was implemented in 1986.

The Poultry Meat Act allows poultry growers to collectively bargain and establishes a statutory committee, on which are represented growers, processors and independents. The role of this committee is to:

1. Approve contracts between growers and processors based on minimum acceptable terms and conditions;
2. Set growing fees for various classes of poultry production, and
3. Mediate disputes between growers and processors.

In practice, the Committee sets a growing fee based on model total cost of production for each group of growers which may be adjusted every six months according to cost and CPI changes.

This legislation was subject to a national competition policy review in 1999. The conclusion of that review was that the legislation should be retained in the public interest, but substantially modified. A number of those modifications were reflected by this Parliament when, in 2002, it passed the Poultry Meat Industry Amendment Bill. The New South Wales Government commissioned a study by consultants, who concluded that the legislation imposes a small net public cost, equivalent to 1 per cent of the retail price of poultry meat, although the study has not been released.

The Coalition expressed its concern about the need to protect the poultry industry. We have always recognised the industry's special position; it was recognised in the seven years we were in government, from 1988 to 1995. At that time we did not take steps to implement national competition policy in relation to the poultry industry. We continue to support the poultry industry on the Central Coast. The Coalition noted with concern the recommendation of the National Competition Council and its potential impact on the poultry industry. We invite the council to reconsider this aspect of its report. We believe that the existing arrangements are suitable for poultry growers and are in the public interest. Accordingly, we believe that this is one area in which the national competition policy may not be appropriate.

**Ms MARIE ANDREWS** (Peats) [4.48 p.m.]: I am very pleased to support my colleague the honourable member for Kiama in this urgent motion. Honourable members would be aware of the importance of the poultry meat industry to many regional areas. I am pleased to note from the contribution of the honourable member for Gosford in this debate that it looks as though we will get bipartisan support on this very important issue. The poultry meat industry is a vital part of the local economies in areas such as the Central Coast, the Tamworth area, the Hunter, the mid North Coast, the North Coast and Western Sydney. In those areas the poultry meat industry means jobs; it means income for the community; it means a lifeline to help these regions survive and prosper. The Government is committed to fighting for the rights of chicken growers to retain their current collective bargaining system. They are working under enough difficulties, including the drought, without

any added pressure from the Federal Government. We need to protect this important agricultural industry, and make sure our chicken meat farmers can continue their contribution to regional economies.

In 2001 alone the industry injected \$425 million into the State's economy, producing 244,000 tonnes of meat. In total there are 330 chicken meat farms in New South Wales producing poultry meat on a contractual basis for processors. They supply six processors: Bartter, Inghams, Baiada, Red Lea, Cordina and Sunnybrand. The use of centralised collective bargaining rights is a significant safety measure for the farmers. These bargaining rights help local growers achieve the best price for their produce and give individual producers closer to an equal footing when dealing with giant poultry-processing companies.

Honourable members of this House may not be aware of the unique nature of the poultry industry that makes this kind of support critical. It is unique because the chickens never actually belong to the growers. Instead, processors provide the chickens, feed and other supplies necessary for the growers to rear the chicks. They then pay the growers on a per-bird basis to raise them to maturity. Clearly, the individual grower is not on an equal footing with the massive processors when it comes to negotiating price.

There are also issues of geography. Many growers have access to only one processor, despite the fact that there are six in total in New South Wales. Clearly, the individual grower benefits from a system that gives the grower a little more weight in the bargaining process. This is where the Poultry Meat Industry Committee, established under the Poultry Meat Industry Act, comes into effect. The committee is a centralised body that oversees the price-setting process and approves contracts for all poultry growers. It includes both grower representatives and processor representatives. Essentially, this committee reduces the power imbalance between the big poultry meat processors and the small poultry meat growers. But the Poultry Meat Industry Act governing this committee is one of the many pieces of legislation that have come under attack from the National Competition Council [NCC].

The NCC has recommended to the Federal Government that New South Wales remove the centralised collective bargaining rights for chicken growers. The Poultry Meat Industry Act, in particular, would be undermined. As the House has already heard, if the Commonwealth adopts this proposal the State Government would either have to comply or face a penalty payment of \$12.68 million per year. With weaker legislation and weaker bargaining rights, these poultry meat growers would be left on their own to compete individually against the giant poultry processors.

Where is the fairness in forcing small family farmers to negotiate individually against giant corporations? Let me spell out in more detail what this threat to poultry farming in New South Wales could mean. Put simply, this could spark an exodus of chicken growers from the industry. It could lead to a massive loss of jobs in regional areas, including the Central Coast. It could slash vital income in our communities. The State Government has been campaigning hard to prevent this from happening. It has been pushing the Federal Government to reject the recommendations of the NCC. We believe the position of the NCC will undermine the viability of poultry growers and generate significant structural adjustment problems. There is no evidence that the current system has hampered new growers from entering the market. There is also nothing to indicate that the current system is restricting innovation in the industry. In fact, growers' fees take into account different production methods to try to ensure that growers are not penalised for introducing efficiency.

The Australian Competition and Consumer Commission [ACCC] has noted other factors which support our case for retaining the current system. The State Government strongly feels that the NCC has failed to consider the full range of factors impacting on the price of poultry meat. It has looked only at the production end of the chain, rather than at the retail end as well. The irrelevant Nationals are trying to manipulate farmers' fears and claim credit for forcing the Federal Government's hand. On the other hand, the State Government is committed to getting on with the job and campaigning on behalf of New South Wales farmers.

**Mr MATT BROWN** (Kiama) [4.53 p.m.], in reply: I thank all members who contributed to this debate. I would like to address some of the issues that have been raised. I sense at this stage of the debate that there will be bipartisan support for the motion, and that will send a very strong message to the National Competition Council [NCC] and the Federal Government that New South Wales representatives in this historic Chamber are most concerned that such a large amount of money could be withheld from our State if we do not comply with their recommendations.

The honourable member for Upper Hunter tried to turn this into a partisan debate. He said that we were trying to blame the Federal Government, and that we blame it for everything. We are not blaming the Federal

Government for anything. The only reference to the Federal Government in the motion is to call upon it to drop plans to penalise this Government \$51 million this financial year for failing to comply with its recommendations. We are asking the Federal Government to show some leadership, commonsense, and compassion to our small businesses and the farmers who do such vital work in generating income and employment as well as providing our food in this great State.

The honourable member for Upper Hunter said that to validate its argument the Government should table evidence to substantiate its active involvement in the national competition process. There would not be enough time to do that, nor is this the place to table documents such as that. This is a place to put rational arguments and to try to get consensus on a very important motion so that we speak with a strong and unified voice. We have done our homework on this issue, as we have done all along. There are only a few recommendations that we do not want to comply with. We have complied with 90 per cent of the 216 recommendations, but on these key issues we want to look after small business, we want to look after farmers, and we also want to look after medical professionals throughout the State.

Regarding liquor outlets, the honourable member for Upper Hunter used Victoria as an example. If the modelling in regard to Victoria were followed in New South Wales we would see an extra 6,000 outlets throughout the State selling liquor—after the Alcohol Summit made very clear recommendations to restrict the number of liquor outlets. I would like to know what value there was in holding such a strong summit when the National Competition Council withholds millions of dollars from this State because we try to act responsibly.

I thank the honourable member for Murray-Darling for his contribution about the history of this issue and, in particular, the Farm Debt Mediation Bill. I am pleased that he informed the House of press releases by NSW Farmers, which has made submissions in an attempt to look after farming interests in this State. As I said earlier, on Monday this week I met a group of dairy farmers in Gerroa, which is between Kiama and Jamberoo, who were concerned about the National Competition Council putting pressure on the State. They do not ask for much; they just want to mediate with their banks, should the banks want to foreclose on their farms. That is not anti-competitive; it is fair, considering the hard work that these men and women and their families put into farming and protecting our land.

I thank the honourable member for Peats for her comments about the importance of the poultry industry in her electorate and the need for fairness between the growers and the processors on the one hand—there only being six in the State—and the retailers on the other. It really is a David and Goliath scenario, and I believe she articulated the arguments for poultry farmers very well. I also compliment the honourable member for Gosford, who also gave a considered speech, and surprisingly said that the national competition policy was not appropriate in this instance. I thank all honourable members for their contributions, and I urge the House to support this motion.

**Motion agreed to.**

## **FREEDOM OF INFORMATION**

### **Matter of Public Importance**

**Mr IAN ARMSTRONG** (Lachlan) [4.59 p.m.]: I raise a matter of extreme importance to the people of New South Wales and point out the responsibilities of government and the Parliament. Many things are incumbent upon members of Parliament, the Parliament itself and particularly the Government of the day, irrespective of its persuasion. A primary responsibility is communication between people and those elected to power: the Government. That communication must be open, honest and in a form that is understood by the average person. Proper communication is necessary for the good conduct of business, commerce, culture and recreation. It will help to improve the quality of life, to ensure that New South Wales prospers and that people receive what they are reasonably entitled to expect.

Business cannot operate properly without co-operation between the customer and business. The art of communication is extremely important; that is, communication between a service station attendant, a butcher, a doctor, factory operators or officers of the local shire to ensure that the shire and ratepayers have a good relationship and that the system works. The former conservative Government introduced the Freedom of Information Act. Under that legislation any citizen may apply to have information made available about a particular event, legislation or responsibilities under the management of the Government of the day. The Act is voluminous and contains certain exclusions.

These exemptions are primarily matters of significance in that they may compromise the Government in the exercise of its responsibilities, such as a matter of national or local security. Also, the legislation seeks to respect the privacy of individuals who deal with government matters on a daily basis. Those matters, quite rightly, are protected through the freedom of information legislation. However, since the introduction of the Act, from time to time successive governments have refused certain applications, but only very few. Governments have been fundamentally forthcoming. I remember that following one freedom of information application 13 tea-chests full of information had been tipped onto the floor of the Jubilee Room and people were sifting through that information for weeks. In that case the Government of the day provided the information requested.

Unfortunately, with this Government there are no tea-chests in the Jubilee Room; there would be hardly enough information to fill a tea-cosy. When this Government does not like an application it merely says, "Sorry, Cabinet confidential. You will have to pay an exorbitant amount of money to obtain information"—information which the Government has a responsibility to release to the public. I shall outline three examples of requests for documents under the freedom of information legislation. On 27 January I made an application seeking documents relating to drought assistance provided by the New South Wales Government. In particular I sought documents relating to the total amount of drought assistance provided to New South Wales primary producers, small businesses and rural communities since April 2001; the total amount of drought assistance provided during the current financial year to date, including monthly totals for September, October, November and December 2002; a complete breakdown on the costs, including the amount provided by each government agency and the number of people assisted; and projections for future spending in relation to the current drought. I also requested documents that fall within the scope of the application. I refer to a letter from Liz Dewar, Director of Natural Resources and Environment, which stated:

Documents which I am claiming exemption and am not able to release are listed in Attachment 3.

#### **Consultation**

Treasury's consideration of your application has included consultation with NSW Agriculture, Premier's Department, Department of Land and Water Conservation, and the Premier's Office, where documents originated with, were received from, or contain information that may affect those entities.

The letter outlined a long list of its exemptions, such as advice to Treasurer for use in Cabinet standing committees; advice to Treasurer for use in Cabinet meetings, and so on. In relation to information that was excluded, the letter concluded:

I have determined that the following documents are exempt under Clause 9 of Schedule 1 of the Act, because it is an internal working document the disclosure of which would expose an opinion, advice or recommendation that has been prepared or recorded in the course of the decision-making functions of the Government and would, on balance, be against the public interest.

Surely information on drought is within the public interest arena. This letter is not signed by a Minister but by a bureaucrat. The Premier has repeatedly stated in this House that New South Wales is going through the most significant drought in the history of this State, yet bureaucrats have said it is not in the interests of the State to have that information. The letter went on to state that if I wanted the information I was required to send a cheque for \$840 and they would be happy to send the information, but that the processing charge had to be paid prior to release of the documents.

The second application under the freedom of information legislation related to the names, locations, sizes of areas and dates of hazard reduction as shown on page 59 of the National Parks and Wildlife Service annual report, and the names, locations, sizes and dates in regard to areas that have been hazard reduced by means other than by prescribed burning on the North Coast. The letter in response to the application stated:

NPWS officers have indicated that to collate the details you have requested it will take approximately 20 hours for each of the 19 regions, at the FOI processing cost of \$30 per hour. This amounts to an approximate processing cost of \$600 per region or \$11,400 in total. I therefore require an advance deposit of \$1000 ...

That is \$1,000 for information that belongs to the public. The Government believes it paid for the production of those documents, but the people of New South Wales paid for it, and the Government wants to charge them \$11,400 for that information. The third application was for all submissions and letters, both internal and external, memos, handwritten notes, post-it notes, printed and published information relevant to the proposal to build a \$3 billion aluminium smelter at Lithgow. The determining officer on behalf of the New South Wales Department of State and Regional Development, Perce Butterworth, stated:

This Department holds a number of files containing material regarding the proposed Lithgow Aluminium Smelter project ...

You were previously advised that prior to a determination being made on your application it would be necessary to consult with persons under Division 2 of Part 3 of the FOI Act ... I have determined not to release any material relating to the Lithgow Aluminium Smelters Pty Ltd as I consider such material to affect their business affairs and to be exempt by virtue of Clause 7 of Schedule 1 of the FOI Act.

That is the \$3 billion aluminium smelter that the Premier trumpeted in this House day in and day out, yet suddenly it is off the agenda. The department said, "No, we are going to keep that information to ourselves." What is the department hiding? It should have been the first to explain why this project did not go ahead, so that it will not happen again. We do not know whether the Government stuffed up or whether the applicants withdrew their application. Indeed, a future application to build an aluminium smelter may suffer the same fate. The Government has an obligation and a responsibility to be frank and transparent so that other people wishing to build smelters in this State know the histrionics of previous applications. The Government cannot put its arm round and hide behind the FOI any longer. [*Time expired.*]

**Miss CHERIE BURTON** (Kogarah—Parliamentary Secretary) [5.09 p.m.]: The Carr Government continues to champion and support freedom of information [FOI] as an important civil rights and administrative law reform for the people of New South Wales. I point out to the honourable member for Lachlan that New South Wales has some of the quickest time frames for processing FOI applications: 21 days to process an ordinary application and 35 days to process an application that requires third-party consultation. Each Government agency strives hard to achieve these time frames, and it is acknowledged that the harder a goal is set the more difficult it becomes to achieve. However, each agency FOI officer across the Government remains committed to pursuing the high ideals of the FOI Act.

This legislation was introduced to the Parliament by the Greiner Government, and commenced in 1989. The Act has been periodically amended and improved in line with community expectations. Most of the amendments have been of a minor or inconsequential nature but some changes have marked major shifts in policy. Local government authorities were made subject to the FOI Act in 1992. The 1992 amendments also reduced the Act's original processing time limit from 45 days to 21 days. The main difficulty for aggrieved FOI applicants was the fact that legal challenges to decisions could only originally be lodged in the court system. The Carr Government made a significant improvement to the FOI Act by creating the Administrative Decisions Tribunal [ADT] and allowing FOI matters to be heard before the ADT in 1998.

This major and positive reform has greatly facilitated the ability of FOI applicants to have a matter reviewed in a tribunal environment, which is much less expensive and less formalised than court processes. Of course, applicants will still have appeal rights before the courts, in addition to their right to have matters heard before a low-cost and easily accessed tribunal. The FOI Act permits access to government documents. It also allows people to access their personal records held by government departments and to amend incorrect, misleading and out-of-date data that relates to them personally. The FOI Act also specifically applies to Ministers' private offices.

The honourable member for Lachlan said that it is difficult to get information from this Government. I point out that, apart from the fact that we have the shortest FOI turnaround times, we have many other ways that have been put online since this Government came to power by which people can access government documents quickly, easily and cheaply, and without the need to use the FOI process. The rise of the Internet and online access has seen a revolution in how people can interact with government departments. Literally, a multitude of government documents are freely available on government web sites for immediate download. People can access government documents of various classes by using legislation too. The Privacy and Personal Information Protection Act 1998, the State Records Act 1998 and the Local Government Act 1993 provide access regimes to various types of personal and non-personal information.

Government departments now regularly load onto their web sites information that was once only released under FOI. This is an excellent example of the Carr Government embracing a culture of openness and accountability. For example, the State Rail Authority on-time running reliability and security statistics are now regularly published online, as well as the Department of Health's hospital waiting and elective surgery waiting time statistics. The Government Information service is yet another way that publications, brochures, maps, flags and other material are available to the public, either for free or by the payment of charges. The Government takes seriously its responsibilities in relation to FOI.

We are pleased that the Ombudsman has reported a long-term decline in the number of complaints received about agencies refusing access to documents. In the past four years the number of complaints has fallen from 95 to 73. Similarly, during 2002-03 more than 80 per cent of matters were completed to the Ombudsman's satisfaction, usually because an agency agreed to take some positive action. I noted the observation that since 1995 the Ombudsman has reported an increase in the percentage of matters where only partial access to requested documents has been granted. The Ombudsman's case studies show that partial access to documents is often necessary to prevent the release of personal information about individuals. The Ombudsman's advice in areas such as good record keeping practices will be noted and adopted by the agencies.

**Pursuant to sessional orders business interrupted.**

## PRIVATE MEMBERS' STATEMENTS

### KU-RING-GAI BUILDING DEVELOPMENTS

**Mr ANDREW HUMPHERSON** (Davidson) [5.15 p.m.]: I raise a matter on behalf of the residents of Ku-ring-gai in my electorate of Davidson who are concerned about local environmental plan [LEP] 194. This local environmental plan is intended to provide for a greater quantity of medium-density housing in Ku-ring-gai. Let me say at the outset that most residents in Ku-ring-gai acknowledge that it is necessary for Ku-ring-gai to accept a reasonable share—I emphasise "reasonable share"—of Sydney's growth. They also appreciate and understand the need for local housing choice, rather than predominantly single dwelling homes. Having said that, it is clear, from development applications and approvals, that in recent years Ku-ring-gai has provided reasonable quantities of medium-density housing. If the council had a say, much of that housing has been provided in appropriate locations. Unfortunately, as a consequence of State environmental planning policy [SEPP] 5 and SEPP 53, some housing has not been in appropriate locations.

The primary objective and desire of the local residents is to preserve the character of Ku-ring-gai, including the predominantly vegetative qualities. In particular, I refer to the tree canopy, because there are few locations in Ku-ring-gai where buildings prise through and break the tree canopy. I acknowledge the presence of the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration), who I know is conversant with this issue. I point out to her that Ku-ring-gai Council convened two meetings in the past two weeks, both on Wednesday nights. Each meeting was attended by about 1,000 interested residents who not only expressed concern but also sought to gain a better understanding of the issue.

Notwithstanding the proposal in LEP 193, many people find it perplexing that 80 per cent of Ku-ring-gai will still not be exempted from SEPP 53 and SEPP5. I am sure they would appreciate the Minister explaining why that is the case. Many residents are concerned that the seven councillors elected to the Ku-ring-gai Preservation Trust have been happy to allow a development style to be imposed on them by the Government, rather than taking responsibility and negotiating some solutions. The community has the perception that the councillors have not been willing to accept responsibility and have not tried to achieve a solution and an outcome. Some time ago a senior bureaucrat in the department of planning told me that if the draft plan that was put to council in 2000 had been accepted without having certain parts of it deleted, it is likely that the recommendation to the Government would have been accepted by the then Minister for Planning and indeed the council would have been exempted from SEPP 53 for several years now. So there is some concern in the community that council has not been genuine about trying to resolve the problem.

There is a Hobson's choice for members of Parliament and for the community. We do not like either option but there is acceptance that some development must happen. The community might not like it but will be able to have a say about it. I submit to the Government and to the Minister a number of requests, even at this late stage of the process. I ask the Minister whether she is willing to negotiate in good faith on several aspects of the proposal. There is room to try to increase the common ground. I raise three points that require consideration. The first is the need for transitional provisions. The council propose a 35 degree top storey plane to preserve privacy and amenity and to reduce the overshadowing of lower-level residences that immediately adjoin medium-density housing.

My second request is that the limited area proposed for five-storey development be modified to four-storey development, particularly because of the tree canopy issue I raised at the outset. The third point concerns the setback for a four-storey development. The council proposes a 12-metre setback but the Government has proposed that it be nine metres. I submit that the 12-metre setback is desirable for privacy reasons. I am aware that the Government is not in complete agreement with the council, but I submit those points to the Minister and would be grateful to hear her comments.

**Ms DIANE BEAMER** (Mulgoa—Minister for Juvenile Justice, Minister for Western Sydney, and Minister Assisting the Minister for Infrastructure and Planning (Planning Administration)) [5.20 p.m.]: I think the honourable member for Davidson got it right when he said that councillors have not been willing to try to find a solution. Ku-ring-gai Council has one of the highest legal cost expenditures in the State—approximately 50 per cent of its budget is spent in the Land and Environment Court. Ku-ring-gai Council seems to consider that it would be exempted from every rule and that every other council in Sydney should follow its example. Every week 1,000 people are moving into the Sydney Basin, yet Ku-ring-gai Council considers it should be

exempt from various requirements. Every council in New South Wales was granted an exemption from State environmental planning policy 53 on the basis of having an approved residential strategy. Every council—except Ku-ring-gai Council—did what was required and developed a residential strategy. Ku-ring-gai Council is dragging the chain. It is resisting at every turn and is frustrating the process that will provide an adequate housing choice for its community.

I have taken a great deal of interest in Ku-ring-gai Council's local environmental plan [LEP] to ensure it does the right thing and delivers an appropriate housing choice, and in the right numbers. This is the second week in a row that I have answered concerns from members of the Opposition about Ku-ring-gai Council. I have given it until December to give me an LEP for its area. I await with interest Ku-ring-gai Council's performance in providing me with its LEP. I want to see councils trying to find solutions within their communities. I implore the Ku-ring-gai councillors to do the right thing by their community and come up with a residential strategy that makes sense.

### **TRIBUTE TO MR BERNARD HARLEY, OAM**

**Mr KEVIN GREENE** (Georges River) [5.22 p.m.]: Last Wednesday, 22 October, I had the honour of delivering the eulogy at the funeral of Mr Bernard Harley, OAM. I indicated at that time that to deliver any eulogy is difficult, but to encapsulate the life of Bernard Harley in a few minutes was and is impossible. The requiem mass was celebrated by Bishop David Cremin, who delivered a moving homily. Bishop David was a long-time friend of Bernard. He was assisted in the service by Father Phil Zadro, the parish priest of Holy Family Church at Menai. I also note the contribution at Woronora Crematorium of police chaplain Rev. David Warner, whose words were a great comfort to the family. The mass was attended by a large gathering of Bernard's family, friends and business associates. The honourable member for Menai, who is in the House today, was also in attendance.

Bernard Harley was only 72 when he passed to his eternal reward after a battle of just over 12 months against leukaemia. A chartered accountant, Bernard had spent over 40 years serving the club movement and was acknowledged throughout that movement for his enormous contribution, and particularly for his advice and guidance to small and struggling clubs. Bernard was a member of various hospitality and tourism industry working parties and taskforces. He was a director of Club Keno Holdings as well as the Club Plus Superannuation Fund. He was Chairman of the Licensed Clubs Association and served as a metropolitan vice-president of the then Registered Clubs Association. Last year, due to Bernard's illness, I had the privilege to accept, on his behalf, his Clubs NSW life membership which was presented at their annual conference. That honour demonstrated the esteem in which Bernard was held within the club industry. Bernard received an OAM in 1991 for his service to the club industry.

Perhaps the most obvious testimony to Bernard's status in the club movement is demonstrated by his position on the Club Industry Advisory Council. Bernard was appointed to this body in 1976 as one of two ministerial representatives, and retained that appointment through changes of government and Ministers for 27 years. I believe that record is unique in government appointments and is a mark of the respect that his contributions rightly deserved. Of course, Bernard's greatest contribution to club life was through the Illawarra Catholic Club. When members of the Knights of the Southern Cross came together in the late 1950's to look at establishing a Catholic community club whose profits would support Catholic education, Bernard was elected to the steering committee as secretary. Bernard was at the forefront of ensuring that all the necessary requirements were met so that the club could open as it did in Hurstville in May 1961. Bernard was a foundation director and at his death was club president, a position he had held from 1987. Bernard was elected a life member of the club in 1974.

Bernard was justifiably proud of the Illawarra Catholic Club, of its role in the local community, and of the support it has given to Catholic organisations too numerous to mention. He was particularly proud of the additional premises at Club Menai. Built in 1997, Club Menai had only been open a week when devastating bushfires raced through the district. The building quickly became a haven for those escaping the fires, including families, children separated from parents, and even family pets. As Bernard said at the time, this was what the club was there for, to help the community. Of course, Bernard was also on hand. There is no doubt that in the history of the Illawarra Catholic Club, no-one—directors, members, management or staff—has played a greater role than Bernard Harley. While the club's success can be attributed to many factors, undoubtedly Bernard's contribution was one of the most significant. His knowledge, expertise, commitment and vision have been cornerstones in the club's success.

While his positions, titles and honours give some insight into Bernard Harley, it is even more important to recognise Bernard Harley the man. Bernard was devoted to his family. His wife Janice, daughters Donna and Maureen and his grandchildren were the core of his existence. While the community benefited from Bernard's generosity of service, his family received his love and devotion. Bernard considered himself fortunate to have two loving daughters, and his grandchildren were, in his eyes, perfect. The last eighteen years of his life had been blessed through his relationship with Janice. Their marriage was a tribute to their love and devotion. Bernard's love for his family was beautifully highlighted in a moving tribute presented at the crematorium by his daughter Donna, and in the words of his grandson, Neale, which I had the honour of incorporating in my eulogy.

Bernard Harley was a great Australian, a magnificent servant of the club movement and a major contributor to the St. George district and to the Sutherland shire. Those of us who had the privilege of knowing him and working with him are the better for that experience. It was fitting that the closing song at the service was the Sinatra classic, reworked, *He did it his Way*. Bernard certainly did, and he can be proud of all that he achieved. It was a great honour for me to be classed as one of his friends.

**Mr GRANT McBRIDE** (The Entrance—Minister for Gaming and Racing) [5.27 p.m.]: Unfortunately, when I became Minister for Gaming and Racing, Bernard Harley was already a very sick man. However, I am very much aware of the enormous contribution that he made to the club industry. In 1976, Bernard was appointed as a member of the newly established Club Industry Advisory Council and was a very active member of the council for more than 25 years. His contribution was recognised last year when a certificate was presented to him in recognition of his long service. During his long involvement he was responsible for providing forceful and fearless advice to relevant Ministers of the day, regardless of which side of politics they were from.

Bernard's legacy through his extraordinary contribution to the Club Industry Advisory Council continues today. As an accountant and auditor, Bernard had a keen interest in making club auditors more accountable. His proposals for standards for club auditors have now been referred to the Club Industry Task Force. I am sure that his expertise in the area of club accounting and auditing will continue to be of value to that task force during its deliberations. Bernard was also a very active member of the steering committee for the Community Development and Support Expenditure [CDSE] scheme. His involvement in the development and implementation of this program was highly pertinent, as Bernard's clubs had a very long history of providing significant support to community and welfare groups.

The long history of his club, the Illawarra Catholic Club, is one of providing very generous and ongoing support to local community groups. Through his work with the Community Development and Support Expenditure [CDSE] scheme, Bernard was able to further his vision for the club industry. Again, some of Bernard's proposals for enhancements to the CDSE scheme remain on the agenda. While I did not have the opportunity to know Bernard well myself, I know that he was held in very high regard by people in my portfolio who had the honour of working with him over the years. In fact, he was a legend. I am told that he epitomised the spirit of the club industry as a person who worked hard and selflessly for those less fortunate than himself. Bernard was a genuinely good man, and the club industry and the people of New South Wales are poorer for his passing. To his wife Janice and all the members of the family, I extend my very sincere condolences.

#### **FIREARMS LICENCE RENEWAL**

**Mr IAN ARMSTRONG** (Lachlan) [5.29 p.m.]: I wish to speak about the reapplication for a shooter's licence which I have recently completed. I have been a licensed shooter since the inception of the legislation under this Government. I wish to point out to the House the unnecessary bureaucratic process, which is obviously costing taxpayers an enormous amount of money and, I suspect, infuriating many people applying for licences. On 18 July I received a notification, which states:

Dear Ian

This letter acknowledges receipt of your firearms licence reapplication that was received at the Firearms Registry on 30 June 2003.

G Richmond  
Manager  
Firearms Registry

On 25 July, one week later, I received another letter, which states:

Dear Ian

This letter acknowledges receipt of your firearms licence reapplication that was received at the Firearms Registry on 30 June 2003.

G Richmond  
Manager  
Firearms Registry

That is an identical letter to the first, except for the date. Then I got the trifecta. I received a third letter on 11 August. It is slightly different because it states in bold type "Acknowledgment of receipt of firearms licence reapplication", and rather than saying "Ian Morton Armstrong, Killara, Cowra", it says "Ian Armstrong, Killara, Cowra"—dropping my second name. Apart from that difference, it has the same serial number, same licence number and same expiry date.

**Mr Paul McLeay:** Do you understand it yet?

**Mr IAN ARMSTRONG:** I do. But the Government does not understand that it is wasting taxpayers' money and, because it cannot get its act together, it is making people—your voters in some cases—very angry. I have received three separate letters so far. I believe it costs the Government \$13 to process a letter. After the licence application process I receive a new licence, the date of issue being 26 July 2003 and the expiry date 26 July 2008. The licence was issued only one day after the last letter. The details of this category A licence for primary production are written on two pages. There is no shortage of paper here. Like many people, I have a category A licence and a category B licence. But they are not listed on the same paper; they are on separate bits of paper. Two pages for the category A licence and two pages for the category B licence. I have seven pieces of paper for a licence renewal.

To apply for a passport to travel around the world one only has to fill in three pieces of paper. To open a bank account one fills in one piece of paper on two sides. To obtain a driver's licence—which many people would apply for and would be in many ways far more significant than an application for a shooter's licence—one has to fill in only one piece of paper. This bureaucracy cannot get its act together. Is it creating jobs for three people to type up an acknowledgment of the application? As I said, I received letters on 18 and 15 July and 11 August. It is like a penfriend's club. I do not need penfriends, certainly not from the Firearms Registry. I am sick and tired of paying taxes to the highest taxing Government in Australia today. This example of overexpenditure is why people are being taxed out of existence in New South Wales. The Government cannot get its bureaucratic act together.

The relevant Minister may want to respond to this matter. I will be interested to hear his response, and I will circulate it to the various members of the Shooters Party and other licensed firearms owners throughout country New South Wales. This example of waste has been a cause of complaint to my office for a couple of years, but I have never seen anything like this. I would be pleased to provide copies of these documents to any member who is interested in this matter.

### QUEANBEYAN CITY COUNCIL

**Mr STEVE WHAN** (Monaro) [5.34 p.m.]: Today I want to come to the defence of my hometown, Queanbeyan, against the appalling attack on our city by The Nationals. On 18 September in this place the Opposition shadow Minister for Local Government launched an irrational and unfounded attack on Queanbeyan. He accused Queanbeyan City Council of being "a Labor-led, inefficient and ineffective council that, 12 months ago, tried to sell off its local parks and gardens to balance its budgets". He said it was a council that overspends and cannot manage its own affairs. With that attack, the member confirmed once again his lazy and inept approach to his shadow portfolio. Outraged by the attack, the Queanbeyan city mayor wrote to all members in this place to correct the record. In his letter the mayor said:

Dear Mr Fraser

My attention has been drawn to your outrageous attack on the Queanbeyan City Council when you addressed the Legislative Assembly on 18 September, 2003.

Your shameful misuse of Parliamentary Privilege is a disgrace to you and the constituents who elected you. However, your conduct has served to reveal the lamentable standards which could be expected if the State was unfortunate enough to have you as its Minister for Local Government.

Clearly you are not a person who believes in checking the facts because none of your criticisms of Queanbeyan City Council are factually correct.

Queanbeyan City Council is not Labor led. I have been the Mayor of the City since 1991 and I am not a member of, or aligned with, any political party.

Your comments in relation to the Queanbeyan City Council's efficiency and effectiveness demonstrates clearly your unsuitability even for the Shadow Ministry because the readily ascertainable facts are that Queanbeyan City Council has achieved large operating surpluses in the financial year 2001/2002—\$21M and 2002/2003—\$10M.

With regard to your pathetic accusations that the Council overspends and cannot manage its own affairs, you should note that the Council not only has cash investments of over \$40M it also has property investments in the CBD of the City valued in excess of \$10M.

On the issues of good management, you should be made aware that as a result of a policy decision made many years ago, the Council's General Fund is debt free and its other funds have a debt service ratio of less than 2.2%.

The facts in relation to the Management of the Council's affairs give the lie to your pathetic ramblings and demonstrate the conduct of a highly efficient operation for the citizens of Queanbeyan.

The Mayor goes on to detail a number of important initiatives being undertaken in the city. He concludes his letter by saying:

Your cheapest attempt to smear the Council was also untruthful as the proposal for sale of some parks was not to "balance the budget" but to rationalise the massive areas of open space and to use the revenue to advance the Council's services programme for development of parks, gardens and playing fields.

If you are serious about aspiring to the position of Minister for Local Government in New South Wales it is about time you came out from behind the apron strings of mother parliament and engaged in proper dialogue with the local government community and the citizens of NSW.

The letter is signed Cr Frank J Pangallo, Mayor, Queanbeyan City Council. As can be seen from the letter, it is very clear that the statements made in this House have absolutely no truth in them.

**Mr Thomas George:** Did he answer the letter?

**Mr STEVE WHAN:** I have no idea. He did not send me a copy. This is not the first time we have seen this sort of inaccuracy. On 28 May 2003 in this place the honourable member for Coffs Harbour said of Queanbeyan City Council, "because that council overspent its budget and wants to build a new shire chamber." He suggested that Queanbeyan City council was trying to rip the assets off its neighbouring shires. In response, I pointed out that Queanbeyan City Council had no plans to build new shire chambers. I asked the honourable member for Coffs Harbour whether he had mixed up the city with another place. His answer was "Probably". For a shadow Minister, he is not too concerned about finding out the facts. Perhaps the facts might not fit his political vendetta against Queanbeyan. We know that The Nationals hate Queanbeyan. During the 15 years they represented Queanbeyan they delivered nothing at all. They left it to Labor and myself to get a new school in Jerrabomberra, a new ambulance station and a new hospital.

No doubt The Nationals backbench, all five or six of them, will say in defence of its shadow Minister that he lives a long way from Queanbeyan, so a bit of confusion might be understandable. However, I have received correspondence from the honourable member's electorate. Apparently he accused the local council of being negligent for not providing sun protection over a toddlers' swimming pool. The next week's edition of the local newspaper had a picture of the said swimming pool with sun protection in place, as it has been for some years. That sort of ignorance and inability to research facts is a great discredit to the Opposition front bench. It demonstrates that it is lax. It needs to work much harder if it is ever going to produce anything credible. The honourable member for Coffs Harbour is an embarrassment to the Opposition and it is time honourable members opposite got rid of him.

#### **HAWKESBURY ELECTORATE SCHOOL BUS SERVICES**

**Mr STEVEN PRINGLE** (Hawkesbury) [5.39 p.m.]: I draw the attention of the House to the difficulties that my constituents are experiencing with school bus services in the Hawkesbury electorate, particularly those who live north of the Hawkesbury River in the North Richmond, Kurrajong, Bilpin and the Blaxland Ridge areas. The issue is particularly pertinent today as the Unsworth inquiry considers a range of issues surrounding the provision of bus services. I hope that what I will say and the documents I have tabled today for the information of members will lead to an investigation of what many of my constituents believe is a gross lack of consideration of the rapidly changing demographics of the area.

I have surveyed local parents to gather pertinent information about the existing school bus services that their children must use. It is interesting to note that not one of the responses received has contained a positive comment. I know the Minister at the table, the honourable member for Mulgoa, is well aware of the huge population increase in many areas of the Hawkesbury electorate over the past decade. However, during that period there has been little change in the bus services provided. There also appears to have been an increase in the number of bus passes issued to students. We must ask ourselves how all those extra children fit into virtually

the same number of buses supplied in years gone by. It seems they do not. A couple of weeks ago a delegation of parents approached me and I encouraged them to provide me with as much information as possible so that I could raise the issue in Parliament immediately.

Although the delegation represented only one school in the area, all of the local school communities are well aware of the problems and are keen to inform me that they face exactly the same predicament. Their concerns centre on a number of major themes. The first is the environmental impact of the unnecessary use of private transport, which contributes to greenhouse gas emissions and has an impact on the local residential amenity. The second theme is safety concerns raised by overcrowding of existing services and the exposure of children to local unsafe conditions. The third major theme, which concerns all of us in this busy modern world, is the waste of time caused by an inefficient transport schedule and routes leading to unnecessary and extended school days for students and inconvenience to parents. This situation is dramatically affecting their lives. These points were expanded in the documents I tabled earlier.

I direct honourable members' attention to the terms of reference of the review of bus services in New South Wales requested by the Minister for Transport Services and chaired by the Hon. Barrie Unsworth. The brief canvasses a number of issues but starts by asking for an effective public transport system that must be a viable alternative to the car and provide people with attractive transport choices. It also states that improving public and community transport options, particularly in rural and regional New South Wales, is critical to ensure that people can effectively access employment, education, health and other services. The brief also states that in the metropolitan area buses do not form an integrated network. In rural areas communities must find opportunities to use existing resources such as school buses to provide a better mix of local transport options. With regard to the last two points, the existing resources in the Hawkesbury area are sparse and need to be vastly improved.

The Unsworth review will address the improved use of resources in rural and regional communities that ensure more flexible solutions to transport needs, funding contractual and regulatory arrangements and any legislative changes required to implement these improvements, and the best mix of recommendations to achieve improvements in a cost-neutral manner. What my constituents are asking for is cost neutral. On the evidence I have collected so far, the majority of students have already been issued with passes to cover transport on every day of the school year. In fact, the potential claims made under the New South Wales transport scheme would be reduced if services were expanded and were adequate for the needs of Hawkesbury students. The local transport group has made the point that companies are willing to provide additional and required services, but they are specifically precluded from doing so because of existing regulations. This issue should be directly addressed under the review.

### **ILLAWARRA RISE UP GATHERING**

**Ms MARIANNE SALIBA** (Illawarra) [5.44 p.m.]: I draw the attention of the House to an event that took place in the Illawarra last Friday evening at the WIN Entertainment Centre involving almost 6,000 people. The event was called Rise Up and was a gathering of all the Christian churches in the Illawarra region. It was a spectacular event involving more than 90 churches and 600 volunteers. It was the first time that all Christian churches of the Illawarra had gathered at one venue for a celebration. It was a spectacular night of prayer. Two combined church choirs, one comprising 100 adults and the other comprising more than 120 children, provided the music. There were followers of the Catholic Church, the Orthodox Church, the Assemblies of God, the Apostolic Church and many others.

This event would not have happened without the efforts of those who organised it. I first acknowledge Scott Hanzy, the pastor of the Apostolic Gateway Church in Wollongong. A couple of years ago he told me about his dream of gathering all of Christian churches in one venue. Although it seemed a difficult task, he managed to make it happen. The event was organised by two teams. One was a steering team comprising ministers from each of the churches, including Ted Keating from the Church of Christ, Paul Bartlett from the Assemblies of God, Scott Hanzy from the Apostolic Church, Elwin Grigg from the Salvation Army, Sam Reeve from the Baptist Church, Bishop Reg Piper from the Anglican Church, Bishop Peter Ingham from the Catholic Church, Bruce Hamond from the Presbyterian Church and David Bartlett from the Pastors' Network. Their job was to get the event off the ground. A working team was also established comprising Marie Szalla, Warwick Marsh, Scott Hanzy, Levi Boes, Mark Oats, Craig Scott, Nathaniel Marsh and Diego Bincullo. I know that without their efforts the event would not have happened.

It was great to see so many people gathered to promote Christianity throughout the Illawarra. It was especially good to bring each of the churches together. As I said, it would not have happened without the

organisers. The event was directed at the wider community and young people. The first part of the evening started at 7.30 p.m. and went through to 9.15 p.m. The audience ranged from older people to babies. From 9.30 p.m. to 10.45 p.m. there was a youth event involving more than 1,500 participants. It was good to see so many young people celebrating the fact that they are Christians.

The fact that so many children were involved in the event made it very special. A significant amount of money was raised for the Lord Mayor's Schizophrenia Awareness Appeal. I commend the Lord Mayor of Wollongong, Alex Starling, for bringing the Ministers together. Without the Lord Mayor's assistance the event would not have been possible. Plans are already under way for next year's event, which will be even larger. It is hoped that both the WIN Entertainment Centre and the WIN football stadium will be used. Given the attendance at this year's event, we believe that next year we will be able to fill the football stadium. The event belonged not to one church but to everyone in attendance on the night. I have had good feedback about the event, which was a terrific celebration of Christian faith. I place on record my thanks to all those involved, especially Scott Hanzy, who started off the event.

### **WOOLGOOLGA AGED CARE SERVICES**

**Mr ANDREW FRASER** (Coffs Harbour) [5.49 p.m.]: I wish to make representations on behalf of Woolgoolga and District Retirement Village Ltd, which has accepted a \$700,000 Federal Government grant to build an after-hours clinic in Woolgoolga. I have made successful representations to the Minister for Health and the chief executive officer of the local area health service to ensure that a triage nurse is employed at the facility when it is opened. Woolgoolga is 15 kilometres from Coffs Harbour, and the timely handling of medical emergencies on site will, in the long term, save money for the Mid North Coast Area Health Service. On 21 March this year Woolgoolga and District Retirement Village lodged a development application with Coffs Harbour City Council for a 34-bed extension to its aged care facility. On 2 April it advertised for expressions of interest from builders, and on 4 June it applied to the Rural Fire Service for building approval. The site is about 21 metres from an area that the Government is currently turning into a nature reserve, claiming it as one of the North Coast's newest national parks.

The retirement village engaged the services of a local consultancy firm, Boambee Forestry Services, to provide a fire assessment. The consultant reported that, given that the High Street road reserve is about 21 metres wide with a six-metre sealed formation, a concrete kerb and mown grassed shoulders, the application would meet the requirements of the Rural Fire Service. The Rural Fire Service then decided that it was reasonable to clear the understorey of the tree cover, to ensure that the \$5 million development was able to go ahead. After the application was approved, the Rural Fire Service said it was not certain whether the area could be cleared because the Government had declared it as a nature reserve and national park. Coffs Harbour City Council then lodged a vegetation management strategy which stipulated that the area, which runs from Woolgoolga through to Moonee Beach and for the most part is melaleuca scrub, is the home of the glossy black cockatoo.

It is absolute lunacy that this \$5 million development, which will comprise 34 new nursing home beds and an after-hours facility for medical emergencies, has now been put on hold because of government green tape. I appeal to the Minister for the Environment and the Minister for Emergency Services to accept the report of Boambee Forestry Services, which says that the site is 21 metres from the reserve area and three metres below street level. If the development is to create a problem, surely it will create a problem for the existing buildings. If we are to believe the reports of the Rural Fire Service that there is a fire hazard, surely the existing buildings should be knocked down. I challenge the Minister to issue a demolition order to have those buildings removed because they are in peril or, alternatively, to accept the report.

The Minister has 10 days in which to make a decision to allow the development to go ahead. Without threatening the Minister, I urge him to consider this matter carefully. I urge him to accept the report submitted by Boambee Forestry Services, and to ensure that the Woolgoolga and District Retirement Village Ltd is given approval to go ahead with the development. The local community will suffer because of government green tape. I make an urgent plea to the Minister to support Woolgoolga and District Retirement Village Ltd, which does a fantastic job in the interests of all in the community, particularly the aged and those who need urgent care.

### **GREAT AUSTRALIAN BUSHWALK**

**Mr PAUL McLEAY** (Heathcote) [5.54 p.m.]: Last Saturday I had the pleasure of joining Premier Bob Carr and officers from the National Parks Association in a walk through the Royal National Park. We walked

from Bundeena to Little Marley Beach and back. We were joined by the Executive Officer of the National Parks Association, Andrew Cox, its president, Rob Michie, and more than 50 other walkers. We were part of the Great Australian Bushwalk.

**Madam ACTING-SPEAKER (Ms Marianne Saliba):** Order! If members wish to conduct private conversations they should do so outside the Chamber.

**Mr PAUL McLEAY:** The inaugural Great Australian Bushwalk, which was organised by the National Parks Association of New South Wales, kicked off with bushwalks across New South Wales. The free bushwalks, mainly in national parks, aim to promote the benefits of a walk in the bush for health and improved environmental awareness. Day-long bushwalks were held in 20 locations from one end of New South Wales to the other. The locations included Oxley Wild Rivers National Park in Armidale, Blue Gum Forest in the Blue Mountains, Wollangambe Wilderness near Mount Wilson, the Strickland State Forest on the Central Coast, Mount Warning on the Far North Coast, Ben Boyd National Park on the Far South Coast, Dungog Common in the Hunter Valley, the Illawarra State Recreation Area in the Illawarra, Point Plomer on the mid North Coast, Morton National Park on the South Coast, the Royal National Park, Sydney Harbour National Park, Middle Harbour and Macarthur in Sydney, and Attunga State Forest in Tamworth.

The walks were held last Saturday, except for the South Coast and Tamworth walks, which were held on Sunday. The National Parks Association is a non-government environment group that has the largest bushwalks program in Australia. Each year it holds more than 700 walks for its members, led by experienced volunteer walk leaders. The association's web site has assisted me in providing much of this information, but I have also had much discussion with Brian Everington, one of our local representatives, who worked with me before the campaign and subsequently. The following is an extract from the National Parks Association's strategic plan for 2001-06:

National Parks Association of NSW seeks to protect and conserve the complete range and diversity of species, natural habitats, features and landscapes of New South Wales.

The National Parks Association was formed in 1957 to establish a network of national parks in New South Wales. Today the association continues to build on this work through a network of 19 branches and more than 4,000 members. The public reserve system now consists of more than 500 national parks and nature reserves covering 6.7 per cent of New South Wales. The association continues to engage with and monitor the National Parks and Wildlife Service. To achieve the association's mission, the organisation works efficiently and thinks strategically to maximise the ability of its limited resources to achieve real outcomes. Effective action, relying on a broad support base, effective communication, sound relationships and an ability to rapidly respond to change are required. The association's strategic plan provides a framework for its activities through a five-year vision and operating objectives. Each year the association develops yearly action plans and reviews its performance against its strategic objectives.

For those who go bushwalking with the NPA, it is not just bushwalking; they visit many magnificent areas, they have fun with new friends, they walk in the safety of a group, they can improve their fitness and they also support a good cause. The NPA operates according to the Confederation of Bushwalkers code of ethics, and bushwalkers can enjoy the safety of a group while exploring the spectacular and unique bushland of New South Wales. Its members walk free and as often as they wish, both mid-week and at the weekends. Those who become members enjoy excellent benefits, while meeting new friends and knowing that their membership is helping one of the leading conservation groups.

The walks range from easy short walks through to full-pack overnight treks. The NPA caters for every ability and interest. All activities are graded with easy-to-understand terminology so walkers will know the distance, the elevation climbed or descended, and even the terrain to be encountered on the walk. The NPA does more than conduct bushwalks; it is the leading conservation campaign group. It has been supported by its members since its inception in 1957 and now has 19 branches. It also arranges specialised walks, biodiversity surveys and bush regeneration. It produces a journal and provides many other benefits. Suffice it to say that we had a wonderful time last weekend. I encourage all honourable members to join us next year.

#### **SENIOR FIREFIGHTER MALCOLM ROBERTSON**

**Mr ANDREW TINK** (Epping) [5.59 p.m.]: I make strong representations on behalf of the residents of north Epping and Pennant Hills concerning the transfer of senior firefighter Malcolm Robertson from the fire station at Beecroft to the fire station at Willoughby. Mr Robertson has been at fire station 58, which is at

Beecroft, for three years. The fire brigade at station 58 covers the north Epping and Pennant Hills areas, including his local community. He enjoys living within his own fire station area and contributing to the local community. In January 2002 four new community fire units were approved in the area covered by station 58, and they are mainly in north Epping and Pennant Hills. Mr Robertson took it upon himself to carry out the role of community fire unit liaison officer. During this time he developed a strong working relationship with the community fire unit members within the station 58 area, resulting in a two-way flow of information.

When community volunteers needed their goodwill reinforced with strong support and response from the local fire station, Mr Robertson's input was provided both inside and outside his rostered shifts as he is a local resident in the north Epping area and is closely placed to the north Epping units and not too far away from the Pennant Hills units. That input involved a number of matters and the rapport and camaraderie between the community fire unit and brigade members continued to grow, enabling the facilitation of education in preventing and preparing for fighting fires. There are a number of references in support of his work. A reference dated 9 October from James Brown, the station officer at Beecroft, states:

Malcolm's work load involving Community Fire Units in our areas has been outstanding, performing a considerable amount of work in his own time and expense. He has itemised all the C.F.U. Crews into our computer system, creating a simpler and more practical method in recording equipment and manning levels.

Another reference, which is dated 7 October, is from John Simpson, who has now retired as a station officer at Beecroft fire station. Mr Simpson is one of the most respected residents of Beecroft. He said:

During the last year of my service Malcolm Robertson accepted the responsibility of co-ordinating the Community Fire Units ...

The relationship and rapport between Malcolm and the Community Fire Units is based on his commitment and the connection he has as a local resident ...

Malcolm gained the respect of the North Epping unit when off duty he supervised them in successfully defending several houses during the January 2002 fires which swept through Pennant Hills Park. This respect has been transferred to the other units.

Another reference is from Keith Herron, who is the community leader of MHP23 and MHP61, that is, he is a community volunteer rather than a full-time firefighter. Mr Herron said:

Rock (Malcolm Robertson) being a resident of North Epping has been instrumental in the growth of our unit from one trailer with 12 members into a unit with 37 members, two trailers and additional equipment purchased through local donations.

In the last fires the original unit MHP23 defended homes in Braidwood Avenue directly behind Rock's residence, since this activity many new members have been drawn from areas and with his encouragement have formed the new unit consisting of 4 platoons.

Rock has recently taken over this responsibility seeing great growth not just in North Epping but also in surrounding districts.

That was previously the responsibility of John Simpson. Mr Herron continued:

... Rock's involvement with these units is important to their ongoing success ...

Mr Bob MacDonald, who is the community fire unit leader in Pennant Hills in MHP60, stated:

The Pennant Hills Community Fire Unit (MHP 60) was established in early 2002. Our initial guidance was provided by John Simpson from Beecroft Fire Station ...

[Mr Robertson] has provided contact, guidance and support since our inception. It has enabled us to continue a two way communication between the community and the Fire Brigade. Our training program for this year has been mapped out by him and with his encouragement we undertake regular drill evolutions amongst ourselves.

On previous occasions I have thanked the members of the fire brigade hierarchy for their support of my community, and I have a great deal of time and respect for them. In this instance my plea to the members of the hierarchy is to intervene so that Mr Robertson is allowed to remain a member of the fire brigade in his local area and to continue his liaison job and the great work of the community fire units. We are about to embark on what will be another dangerous fire season. Fire seasons are always dangerous in the Epping electorate, particularly in north Epping and Pennant Hills. From work that I have done with the community fire unit at Busaco Road, Marsfield, I know how important the liaison work is. With great respect to the members of the hierarchy—and my thanks again for their support for me in the past on community fire units and other units—I ask them to let this man remain where he is so that he can continue this good work.

#### **BRODERICK GILLAWARNA SPECIAL SCHOOL SWIMMING POOL**

**Mr ALAN ASHTON** (East Hills) [6.04 p.m.]: Tonight I want to talk about a community success last week in my electorate. We were informed, rather inadvertently, that the swimming pool at Broderick Gillawarna

Special School in my electorate had to close because of the retirement of the full-time assistant at the school. That assistant worked at the school five days a week and did a great deal of the maintenance there, which included looking after the swimming pool. Being a special school, obviously it has an array of students with a range of disabilities. Unfortunately, because the full-time assistant had been replaced by someone who worked only two days a week—or 0.4 of a school assistant—the swimming pool had to be taken out of service.

The swimming pool is a therapeutic hydrotherapy pool with all the extra facilities that are needed, such as lifts, to enable the young students to get to swimming training. Hydrotherapy assistance is also provided for those with physical disabilities. The pool is also used by the Rainbow swimming club, which gives lessons to some of the students, and by the Wattle play group from Padstow. Because there was not enough time for the new employee to do the necessary work, the pool was closed and more than 100 disabled students and children were unable to access it.

His rather disappointing news was delivered early last week and I immediately contacted the Department of Education and Training and the Minister's office to see what could be done about it quickly. The advantage we had was that although the school is in my electorate, most of the students come from the electorates of Cronulla, Miranda, Auburn, Fairfield and Menai, among others. Families of the students from other electorates rang me because mine was the only name given out by the parent community—Alan Ashton, help save our school pool. I contacted the members representing the other electorates and asked them if they would also make calls to the Minister's office, which they did.

I thank the Minister for Education and Training and his staff for the quick way in which they responded when they realised the severity of the crisis and that a school had to suffer because of the difficulty in fully funding the position of a general assistant. In a special school a swimming pool that was built by the Department of Education cannot be run by someone who is at the school for only two days a week and has to do many other maintenance jobs around the school as well. I place on record my appreciation to the Minister for stepping in. The pool will now be fully operational until the end of term this year, and then until the end of first term next year. I will continue to lead the fight to have the position of full-time assistant reinstated after that time. The students at the school range from kindergarten age through to year 12. Since I have been a member of Parliament I have visited the school every year to present the awards at the end of the year. I have often dropped in to try to help the school, which needs more than a two-term solution.

I have written to the Minister thanking him for his intervention so far and asking that the pool remain operational on a continuing basis. Principals must make decisions on how to allocate resources, and anyone who owns a swimming pool would be aware that their upkeep is a full-time job. However, a swimming pool is critical to the health care of students with a range of physical and mental disabilities. I thank the Minister for reinstating the position on a full-time basis until the end of first term next year, but I ask that it be extend beyond that time. Coincidentally, at the time the principal thanked me for the quick resolution of the problem, I received news that the pool plant equipment had caught fire and the school had to be evacuated. The fire brigade and ambulance were called and, although no students were harmed, the incident reinforces the need for further assistance at that school.

### REGIONAL DENTISTS SHORTAGE

**Mr RICHARD TORBAY** (Northern Tablelands) [6.09 p.m.]: New South Wales is facing a severe shortage of dentists and the impact is already being experienced in regional areas. A dentist in Armidale who has been unable to attract a replacement dentist for his practice, although he has made inquiries all over Australia, has asked me to draw attention to this ongoing crisis. The result of his investigations during the search for a recruit is alarming. He found that the number of dentists graduating in this State and elsewhere in Australia has declined dramatically. In 1974 there were 115 graduates in dentistry from the University of Sydney. That figure rose to 135 in 1979. However, the number of graduates from the University of Sydney this year is only 45. The figures are similar at all Australian universities, from which between 50 per cent and 70 per cent fewer dentists are graduating in 2003.

In the 1970s the health statistics stood at one doctor per 2,500 people and one dentist per 4,500 to 5,000 people. With around 3,200 dentists now practising in New South Wales we have a patient to dentist ratio of one to 8,000. More than one-third of these practising dentists graduated prior to 1975 and only 14.5 per cent of the State's dentists practise in regional areas. This means that we have an ageing population of practitioners and insufficient numbers to replace them. It takes five years to train a dentist, so even if we begin immediately there will still be a significant shortfall.

One complaint I have heard quite regularly regarding this situation is that incentive schemes put forward by the Government and the State's health services to encourage a greater number of dentists to practise in regional areas have little chance of success. There are many reasons for this. First is the overall shortage of graduates, which I have outlined. Then there is the preference for the majority of new dentists to practise in the more affluent areas of metropolitan cities. More women dentists are now graduating and for them the problem of taking up posts in regional areas is finding suitable work for their partners. We are also training more overseas students in dentistry and the majority of those return to their home countries once they have completed their courses.

Some country areas still have a sufficient number of dentists for the short term but the long-term scenario is not good. Other areas have almost no dental services and many people have to travel very long distances and endure very long delays for appointments. In 1996 the Commonwealth Government drastically cut funding for public dental services and the State is now bearing almost the entire burden. In my area of the State this means that public dental services available to health card holders, pensioners and children are delivered on an emergency basis. Those in the greatest need are treated as a priority, which leaves a long list of people waiting for routine dentistry.

The stress is enormous on staff who deliver public dental services and it is difficult to imagine that as their numbers decline many dentists will make themselves available for this important work. Those to suffer the most will be the elderly, people with disabilities and children. Our safety net for these people has holes in it—a bit like their teeth. Next year the University of Sydney will allow only post-graduate students to enrol in its Bachelor of Dentistry program, following the pattern that has developed for training doctors. Several schemes have been suggested to encourage more of these students to practise in the country, including spending part of their course working with regional health services and with practising country dentists.

Further ideas include zonal taxation incentives and concessions, and bonding dental students to work for two years in regional areas after they graduate. It has been proposed by several senior dentists that the Government establish multidisciplinary clinics in regional centres to provide young graduates with access to continuing professional expertise through video and teleconferencing. All of these strategies, however, are meaningless unless we have sufficient numbers of dentists within the system to meet the demand. I call on the New South Wales Government to take on board this potentially critical situation and to work with the Commonwealth Department of Education, Science and Training, the University of Sydney and others to increase the numbers of students studying dentistry in this State. As part of this initiative I ask the Government for an assurance that it will address as a priority the need for people in country communities to have access within a reasonable distance to good dental services.

#### **BENT STREET, MOORE PARK, RETAIL AND ENTERTAINMENT COMPLEX**

**Ms CLOVER MOORE** (Bligh) [6.14 p.m.]: The so-called family entertainment precinct on the historic Moore Park showground site is being progressively transformed from the Government's publicly stated purpose to totally unjustified activities for this significant public site, which is situated in a residential and parkland precinct. On 15 October the *Sydney Morning Herald* reported that Lend Lease and News Corporation want to sell their Bent Street retail, restaurant and cinema complex. This follows previous reports that these private corporations have written down the value of this venture and do not consider the precinct a long-term investment.

The *Sydney Morning Herald* article reported that the Commonwealth Bank, through its DFS Gandel Retail Trust, wants to purchase the precinct for \$80 million and overhaul it, with the reported introduction of a major supermarket or general goods leasing space. These proposals are a breach of public trust over this significant public site; they violate key public commitments about the site; and they conflict with the spirit and intent of State environmental planning policy [SEPP] 47 for the Moore Park showground. There is growing community conviction that all significant public lands must remain in public ownership and control, be used in accordance with their independently assessed significance and be held in trust for the people of New South Wales.

There is justifiable public outrage when trusts responsible for protecting public lands lease out those public assets for private commercial gain, frequently without any prior public consultation or public disclosure. While there is some community resignation about the lease of the showground for film studio purposes, there is strong and continued opposition to the long 40 to 50 year appropriation of public land, vested in the Centennial Park and Moore Park Trust, for a commercial retail and entertainment complex. The family entertainment

precinct was presented to the New South Wales community as a range of ancillary activities vital to ensure the financial viability of the film and television studio use of the site.

However, the entertainment precinct, known as Bent Street, is increasingly irrelevant for the film studio operation. The site's staged development process has radically altered the original master plan, and there is no justification for a commercial shopping centre on public land that is part of the Centennial Park and Moore Park Trust parklands. On 22 November 1995 the Treasurer, Michael Egan, stated in Parliament that the Government has never regarded the showground site as simply a vacant site to be disposed of by lease or sale to the highest bidder. On 19 June 1996 he stated that the Government wished to secure for New South Wales the social, cultural, economic and investment benefits from filming and related facilities. He indicated that the Government was not prepared to lease the site for a regional shopping centre.

In 1995 the State Government took control of site planning through SEPP 47, the Moore Park showground. The aims of this SEPP include enabling redevelopment consistent with the site's importance for the State; enhancing cultural and recreational facilities by developing a world-class film, television and video production centre; allowing film-related development, commercial uses associated with the industry, and other entertainment, recreational and educational activities; and ensuring that impacts are considered in determining development applications.

The proposal to transfer the retail and entertainment precinct to another commercial organisation and its further redevelopment into a general shopping centre seriously compromises and undermines any remaining integrity in the site's planning framework. The proposed change is not of State or regional significance; it has no relevance to achieving a world-class film studio; it is not associated with filming activities; and it risks further exacerbating the existing poorly managed impacts, particularly increasing area traffic congestion. I ask the Minister for Infrastructure and Planning and the assistant Minister, who is at the table, to provide full transparency and accountability by publicly reporting on discussions the Government or the Centennial Park and Moore Park Trust have had concerning the future of the Bent Street precinct.

I ask these Ministers to ensure prior public scrutiny and comment, to ensure that there is no repeat of the McDonalds in Moore Park decision, made by the Centennial Park and Moore Park Trust, and signed off by a former Minister in secrecy. In 1997 the Auditor-General reported that the showground lessee was unable to sublease a substantial part of the premises without prior written consent of the landlord. I ask that the Government abide by the terms of its own SEPP 47, which is the basis of the conditions of the lease of the land, and to reject any subleasing application that fails to comply. As the family entertainment precinct is no longer needed for its stated purpose of ensuring the viability of the film studios, I call upon the Government to return this public land for public use, and not permit unrelated private commercial operation on dedicated public land, which is needed by the dramatically increasing urban population.

**Private members' statements noted.**

## **LEGISLATIVE COUNCIL VACANCY**

### **Joint Sitting**

**Madam ACTING-SPEAKER (Ms Marianne Saliba):** I table the minutes of proceedings of the joint sitting to elect a person to fill the seat vacated by the Hon. Malcolm Jones.

**Ordered to be printed.**

## **BILLS RETURNED**

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

Environmental Planning and Assessment Amendment (Development Consents) Bill  
Royal Blind Society (Corporate Conversion) Bill

*[Madam Acting-Speaker (Ms Marianne Saliba) left the chair at 6.20 p.m. The House resumed at 7.30 p.m.]*

**FREEDOM OF INFORMATION****Matter of Public Importance**

**Debate resumed from an earlier hour.**

**Miss CHERIE BURTON** (Kogarah—Parliamentary Secretary) [7.30 p.m.]: The Premier is the Minister responsible for the Freedom of Information [FOI] Act. The Premier's Department provides effective support to the Premier in the administration of the Act, and it provides access to the FOI hotline, a telephone and email service that is open to all members of the public and FOI practitioners in order to obtain advice and information. But let us not forget that the FOI unit in the Premier's Department fell victim to the savage cutbacks of the Greiner Government. The Greiner Government abolished the FOI unit and FOI statistical compiling was decentralised to each agency. I shall respond to a few comments made by the honourable member for Lachlan.

The honourable member raised several interesting points, and the Government appreciates the reasons that he raised this matter of public importance. I should point out that the exemptions to which the honourable member referred were brought in by the Greiner Government. Let us not forget that this Act was introduced by the Greiner Government. This includes the Cabinet document exemptions and the fees and charges regime, to which the honourable member referred so extensively—the same Cabinet document exemptions and fees and charges regime that he supported when he was a Cabinet Minister in the Greiner Government. I find it bizarre that the honourable member has made these allegations because the fees and charges, and the exemptions, are in the Greiner Government's Act, which the honourable member voted for and supported. Finally, the honourable member is well aware of the appeals mechanism in the FOI Act, if he is not satisfied. We do not believe that it is appropriate to enter into a detailed discussion in the Parliament about specific FOI applications.

**Mr IAN ARMSTRONG** (Lachlan) [7.32 p.m.], in reply: I listened with great interest to the Parliamentary Secretary representing the Government on this matter. I shall make a couple of pertinent comments in response, which is my right. First, the Greiner Government has been out of power for well over a decade. I remind the Parliamentary Secretary that she is an office holder in the Carr Government, which has been in power since 1995.

**Miss Cherie Burton:** It is a bit tough to complain about something you brought in.

**Mr IAN ARMSTRONG:** This Government has been in power long enough to run down the rail system and the health system, and to have the greatest crime wave the city has seen in recent times. Yet it wants to bucket a government that was in office years ago.

**Miss Cherie Burton:** Point of order: The honourable member is not speaking to the matter of public importance, which is about accessing government information. I do not know what tangent the honourable member has gone off on now, but I ask you to direct him to make his comments relevant to the matter of public importance.

**Madam ACTING-SPEAKER (Ms Marie Andrews):** Order! I ask the honourable member for Lachlan to ensure that his remarks are relevant to the matter of public importance.

**Mr IAN ARMSTRONG:** I believe the Parliamentary Secretary has a point. Information about health, education, policing and agriculture is all part of government information.

**Miss Cherie Burton:** Point of order: I do not know what happened during the dinner break, but once again the honourable member for Lachlan is not speaking to the matter of public importance. He should make his comments relevant to the matter of public importance. If he has nothing left to say, or if he wants to filibuster for another three minutes, he should allow another member to make a contribution.

**Madam ACTING-SPEAKER (Ms Marie Andrews):** Order! The honourable member for Lachlan may proceed.

**Mr IAN ARMSTRONG:** I simply reinforce that the matter of public importance is clear: It is accessing government information. That allows for the canvassing of any information for which the Government might be responsible and over which it has jurisdiction. Effectively, that is all matters which affect government,

commerce and industry in this State. I repeat: this Government has run down the health system, the police system and the education system. There is no point in the Parliamentary Secretary saying that the Government is not responsible for the Act. This Government has been in power since 1995 and is totally responsible for the papers I produced today, because all of these freedom of information applications have been signed by officers of the Crown who are employed by the current Government. Let us deal with the facts.

The bottom line is that the Government has tried to get around much of the freedom of information processes by charging people extraordinarily exorbitant fees to get information to which they are entitled. This is nothing more than giving the public access to information for which it has paid and which it has a right to oversight because, in the cases I quoted, it is in the interests of the timber industry, national parks, which belong to everyone, the drought and the failed aluminium smelter at Lithgow. It is worthwhile repeating my comments about the smelter because we have not had any further applications for aluminium smelters since this one fell over. As I said earlier, the response I received stated in part:

You were previously advised that prior to a determination being made on your application it would be necessary to consult with persons under Division 2 of Part 3 of the FOI Act, and accordingly an extension of 14 days would be required. Based on the response received by this consultation I have determined not to release any material relating to Lithgow Aluminium Smelters Pty Ltd as I consider such material to affect their business affairs and to be exempt by virtue of Clause 7 of Schedule 1 of the FOI Act.

Is a \$3 billion smelter not a matter of importance for the people of New South Wales? Is it not the Government's responsibility to give a brief answer as to why the project failed? I suspect that there has been a massive cover-up by this Government because it will not release information on the failed smelter at Lithgow.

**Discussion concluded.**

## **BUSINESS OF THE HOUSE**

### **Bill: Suspension of Standing and Sessional Orders**

#### **Motion by Mr Carl Scully agreed to:**

That standing and sessional orders be suspended to permit the introduction and progress through all stages at this sitting of the Local Government Amendment (Cudgegong (Abattoir) County Council Dissolution) Bill, notice of which was given this date for tomorrow.

## **BUSINESS OF THE HOUSE**

### **Order of Business: Suspension of Standing and Sessional Orders**

#### **Motion by Mr Carl Scully agreed to:**

That on Thursday 30 October 2003 standing and sessional orders be suspended to permit the member for North Shore to continue her second reading speech on the Government School Assets Register Bill after the conclusion of the interrupted second reading speech on the Defamation Amendment (Costs) Bill.

## **LOCAL GOVERNMENT AMENDMENT (CUDGEGONG (ABATTOIR) COUNTY COUNCIL DISSOLUTION) BILL**

**Bill introduced and read a first time.**

### **Second Reading**

**Miss CHERIE BURTON** (Kogarah—Parliamentary Secretary) [7.39 p.m.], on behalf of Mr David Campbell: I move:

That this bill be now read a second time.

This bill reflects the Government's continuing commitment to assist former employees of the Cudgegong (Abattoir) County Council, formerly trading as the Mudgee Regional Abattoir. The bill will also amend the Local Government Act 1993 to ensure accountability for the financial failure of the county council. The amendments will allow some or all creditors to be paid out after the winding-up of the abattoir operation. Most importantly, the bill will ensure that the former employees of the county council immediately qualify for

financial assistance, which has so far been withheld by the Commonwealth. Currently there are unpaid employee entitlements estimated at \$2.5 million.

The purpose of the proposed amendments to the Local Government Act is to ensure that creditors of the county council may be paid out and, in particular, that employee entitlements receive immediate attention. The necessity for the amendments arises from the Commonwealth Government's refusal to release General Employee Entitlements and Redundancy Scheme [GEERS] funding to former employees of the abattoir until State legislation is passed that will ensure the Commonwealth has the means to recover the GEERS funding if the liquidation of the abattoir's assets provides the funds.

Under GEERS, the Commonwealth Government has absolute discretion to advance certain entitlements of Australian employees whose employment has been terminated because of their employer's insolvency. The Commonwealth can recover GEERS payments under parts 5.5 to 5.9 of chapter 5 of the Commonwealth Corporations Act from an insolvent company. Under these provisions, unpaid employees are given priority creditor ranking, after the winding-up and administration costs are paid, and the Commonwealth is entitled to stand in the place of these former employees in order to recoup any GEERS funds already paid out to those eligible.

However, former employees of insolvent statutory corporations such as the county council are not recognised under the Corporations Act and are not considered by the Commonwealth as eligible for GEERS funding. The Federal Government insists that it will not release GEERS funding to the former abattoir employees unless the State enacts legislation that will ensure that they assume priority unsecured creditor status. This bill will achieve the request by applying the winding-up provisions of parts 5.5 to 5.9 of chapter 5 of the Commonwealth Corporations Act to the county council.

The county council commenced operations in 1960. The governing body of the county council was comprised of four members elected from Mudgee shire councillors and two members elected from among the Rylstone shire councillors. As separate corporate and legal entities, county councils, like local councils, are responsible for managing their own affairs on a daily basis and must be guided by their own legal and financial advice. While subject to the Local Government Act, it is not the Minister's or the Department of Local Government's role to oversee or endorse a local or county council's business transactions and decisions. However, as part of the Department of Local Government's brief to monitor the financial health of local government, the county council was placed on the financial monitoring list as one of 30 councils in financial difficulty.

Throughout this financial monitoring, the county council's management expressed optimism that despite its difficult trading situation the abattoir could pull through. Nevertheless, on 3 September this year the county council became insolvent and its board members resigned. Mr Stephen Parbery was appointed as administrator of the county council under the Local Government Act. Mr Parbery met with Mudgee Shire Council on 8 September 2003, seeking \$2.1 million in financial assistance to keep the abattoir operating for the following six weeks. Mudgee council declined to provide the amount sought. It did agree to provide \$100,000 to cover immediate unpaid abattoir wages. Mr Parbery indicated to the Minister that without the required financial assistance there was no legal or financial alternative other than closure of the abattoir operation. On 9 September this year all of the abattoir employees were stood down.

Rabo Bank, the major creditor of the county council, is owed approximately \$5 million, and employee entitlements are estimated at \$2.5 million excluding any redundancy payments that may be payable. There are other significant creditors, including local businesses. It is quite clear that the assets of the county council will not meet its debts. Mr Parbery advised the Minister that due to the hopelessly insolvent state of the county council he intended to seek appointment as a receiver and manager of the county council under the Supreme Court Act 1970. Mr Parbery believed that with the dual powers of administrator and court-appointed receiver and manager he would be able to develop a strategy to maximise the return to creditors, including unpaid employees. Mr Parbery was appointed by the Supreme Court of New South Wales as receiver and manager of the county council on 11 September.

Expressions of interest have been sought for the sale of the abattoir facility. I understand there has been a high response rate and tenders close on 10 November 2003. Contributions have been made by Rabo Bank, Mudgee council and the Government towards general sale costs. Amendments such as those proposed in this bill are not without precedent in New South Wales. The Commonwealth Corporations (Ancillary Provisions) Act 2001 specifically allows States to adopt provisions of Commonwealth Corporations Law into State legislation

and declare it to apply to legal entities otherwise not caught by that law. The New South Wales Government has passed the Corporations (Consequential Amendments) Act 2001 to specifically apply parts 5.5 to 5.9 of chapter 5 of the Commonwealth Corporations Act 2001 to the Centenary Institute of Cancer Medicine and Cell Biology and to the Garvan Institute of Medical Research. Those amendments are very similar to the amendments proposed in this bill.

The necessity for these amendments also arises from the insistence of the constituent councils that they are not legally responsible for the debts of the county council. The Mudgee Shire Council in particular has made a number of claims that are spurious at best. These claims are in relation to the re-writing of the old 1919 Local Government Act and the lost opportunity at that time to include provisions in the new 1993 Act that might make constituent councils responsible for a county council's outstanding debts. The Minister has taken the opportunity to review these claims and the legal advice obtained by Mudgee Shire Council. There is little acknowledgement or analysis of the powers presently contained in sections 213, 387, 397 and 398 of the Local Government Act that allow an apportionment of liabilities upon dissolution of a county council.

The Government is of the view, which has been confirmed by Crown Solicitor's advice, that these sections provide for the dissolution of the county council, and the concurrent apportionment of its assets, rights and liabilities, to be achieved by way of the Governor's proclamation. Such a proclamation must be preceded by the public notice and consultation provisions set out under sections 384 and 385 of the Act. Importantly, the power to apportion a county council's assets, rights and liabilities at the point of its dissolution has remained essentially unchanged since the 1919 Act. This bill provides the opportunity to reinforce that power. Dissolution of the county council will occur in the near future upon the advice of the administrator.

The constituent councils should now be held accountable to the creditors for the downfall of the abattoir. The county council was created by the constituent councils to be a separate legal and trading entity, subject to the Local Government Act. It was controlled by members elected from among the councillors of the constituent councils. By refusing to accept responsibility for the debts of the abattoir, Mudgee council would be prepared to turn its back on the unfunded employees entitlements and the local businesses, which are creditors.

In the event that the county council's liabilities are apportioned to the constituent councils, and those councils then refuse to meet those liabilities, the many unsecured creditors will be faced with no option but to either commence Supreme Court proceedings or forgo the debt. This bill will make it clear that in the event of a Governor's proclamation dissolving the county council, the Governor may appoint a nominee to direct the constituent councils as to how those liabilities are to be dealt with. I want to emphasise that any apportionment of liabilities will not occur until the consultation requirements of the Act are discharged so that the Minister has every opportunity to properly consider the arguments and respective financial positions of the constituent councils and the outstanding creditors.

Until the abattoir land and buildings are sold, and until the Minister is advised of final recommendations with respect to dissolution of the county council, no-one should pre-empt the outcome of this matter. The Government may have had differences with the Deputy Prime Minister on the way the GEERS funding should be expedited to assist the former employees of the abattoir. But I do not disagree with his view that the county council was established, and ultimately controlled, by those members elected by the constituent councils. The constituent councils, and in particular Mudgee Shire Council, might argue technical points of legal separation, but this does not absolve them of their legal and moral responsibility to the former abattoir workers and other creditors.

In this regard, the Government would welcome any moves by the constituent councils, in particular Mudgee Shire Council, to sympathetically and immediately meet any outstanding employee entitlements not covered by the GEERS funding. The Government is committed to assisting the former employees of the abattoir and their families. This is reflected in the Treasurer's decision to defer any claim on the almost \$1 million in liabilities owed by the county council to Government agencies, including Country Energy, until such time as employee entitlements have been paid out in full.

The Government may not be able to influence meat and livestock prices or mitigate the devastating effects of the drought, but it does have a strong record of assisting the abattoir, its workers and their communities. On many occasions it has facilitated proposals and met requests by the county council to improve its financial position. In 1997, under the administration of the then Minister for Local Government, special legislation was enacted at the request of the county council to enable it to secure loans for expansion by mortgaging its lands. In September 2001 the former Minister for Local Government consented to the county

council participating in the formation of a joint venture company to manufacture bio-pharmaceuticals. According to abattoir management, the venture promised good financial returns to the abattoir.

In March 2002, pending sale of the abattoir, ministerial consent was given to the abattoir's incorporation as a company. The sale subsequently fell through and incorporation did not proceed. On the request of the county council in August this year, the current Minister for Local Government provided a letter addressed to the Australian Securities and Investments Commission [ASIC] indicating that he had no objection to a proposal to register the county council as a company under the Corporations Act. The county council sought registration by ASIC so that it may appoint a voluntary administrator under the Corporations Act. This would provide, among other things, a moratorium from creditors' claims. It is understood that ASIC rejected the application.

The Government continues to assist workers and families in regional New South Wales through the meat industry restructuring initiative. Also, the Mudgee community has been declared eligible for assistance through the Regional Economic Transition Scheme. It is my understanding that without the proposed amendments the former employees of the abattoir and the other unsecured creditors of the county council will receive an estimated dividend of only 25¢ in the dollar, depending on the final sale price of the abattoir land and buildings. In conclusion, this bill delivers the key conditions sought by the Commonwealth Government before it will release the GEERS funding. The former workers of the abattoir should get their entitlements within a month of the passage of these amendments. I commend the bill to the House.

**Mr GEORGE SOURIS** (Upper Hunter) [7.54 p.m.]: The Government has asked the Opposition to proceed with this bill with haste so that it can be sent to and proceed through the Legislative Council this evening. This legislation will enable the Commonwealth Government to make payments under the General Employee Entitlements and Redundancy Scheme [GEERS] to satisfy unpaid entitlements of the former employees of Cudgegong abattoir. I received a copy of the bill late this afternoon and I have listened to the second reading speech. I noted in the second reading speech a provision in the bill that goes beyond enabling the Commonwealth to pay unpaid employee entitlements. Proposed clause 3 (2) (a) of schedule 9 states:

- (2) Any such proclamation may include provisions:
  - (a) transferring the liabilities of Cudgegong (Abattoir) County Council to Mudgee Shire Council or Rylstone Shire Council (or to both) ...

The bill is not solely for the purpose of enabling the Commonwealth to make payments to employments under GEERS. This proposed clause provides that, upon liquidation any remnant unsatisfied, unsecured creditors would become liabilities of Mudgee Shire Council and/or Rylstone Shire Council. That is an entirely separate issue, and one that I would want to debate. The bill is not as the Government purported earlier today. I seek the leave of the House for an adjournment to undertake discussions with departmental advisers prior to resuming my second reading contribution.

**Debated adjourned on motion, by leave, by Mr George Souris.**

## **PRIVACY AND PERSONAL INFORMATION PROTECTION AMENDMENT BILL**

### **Second Reading**

**Debate resumed from 17 October.**

**Mr ANDREW TINK** (Epping) [7.58 p.m.]: The Coalition does not support the bill. At the outset, I indicate that I am grateful for the opportunity to discuss the bill with the Ombudsman and for the briefings by the Cabinet Office and the Attorney General's Office. After careful consideration the Coalition is still concerned with aspects of the bill and, therefore, cannot support it. This bill amends the Privacy and Personal Information Protection Act to transfer the Privacy Commissioner's functions under the Act to the Ombudsman. It also amends a number of other Acts and regulations to remove references to the Privacy Commissioner and generally to replace those references with references to the Ombudsman.

Section 75 of the original Act provides for a review after five years. That five years is yet to come to pass. It is regrettable that there are to be major changes to the legislation before the review has taken place. As honourable members with an interest in privacy know, the concept of privacy legislation has been some time in coming. I think I introduced the first legislation dealing with the topic about 10 years ago as a private member's

bill, and a number of bills dealing with the topic have been introduced since. However, it took about seven years for legislation to be passed through the Parliament after I introduced that first bill.

The Act was a long time in coming and a lot of thought went into it. It does have shortcomings and those who have a very strong pro-privacy bias would say it is weak. I am concerned that it is about to get a lot weaker. The Act is weak in some places; for example, by adopting a code of conduct a Minister can avoid a number of requirements of the Act. However, that does not justify the more significant weakness that is in this amending legislation. The review should have taken place first and we should have all been involved in it. Following that review, which was the original intention of this Parliament, we could consider amendments to the legislation. The legislation is capable of some amendment and improvement, particularly in relation to codes of practice. I am not sure that the majority of honourable members would necessarily agree with what I see as a weakness. Those issues need to be tested through a review process.

It troubles me greatly that, even though this is a relatively small bill when compared with the size and weight of the principal Act—to use a crude comparison—it contains some significant measures. First and foremost, the office of Privacy Commissioner will be abolished. That is a major and fundamental step. Before such a step is taken the legislation must be reviewed as originally anticipated by the Parliament. I know there has been a lot of controversy surrounding the recently departed Privacy Commissioner. Nevertheless, there is now an acting Privacy Commissioner. I believe he was the Commonwealth Censor. The incumbent is obviously a very senior and experienced public servant. There is no need for a degree of urgency that pre-empts or prevents a review.

The handing over of this jurisdiction to the Ombudsman is of concern because the Ombudsman has different powers and responsibilities. I am not convinced that those powers and responsibilities are appropriate for the functions of the Privacy Commissioner. The Ombudsman's primary function is to recommend, not to direct. The Privacy Commissioner has different, more acute functions in making decisions, orders and so on. Handing the functions over to the Ombudsman would not represent a simple change of name or incorporation of a name; we would be making significant changes to what can and cannot be done, given the powers of the Ombudsman compared to those of the Privacy Commissioner.

Honourable members on this side of the House have had concerns about this type of thing in the past. It is not so long ago that the Children's Services Commissioner position was abolished and incorporated as a Deputy Ombudsman's position under the Ombudsman's Act. We were not happy with that at the time; it was a bad mistake. We thought that it was important for that commission to continue to have an independent focus and advocacy role. With no disrespect to the Deputy Ombudsman who fulfilled the role of Privacy Commissioner, because I have a lot of time for Mr Fitzgerald, the advocacy of children's services has sunk without trace. That is a tragedy. I had some discussions this morning with the honourable member for Wakehurst, who played a major part as shadow Minister for Community Services in the debate that led to these changes. He expressed concern about how that educative and advocacy function would be lost in an incorporation or a takeover by the Ombudsman's Office. That has come to pass. As someone who has been interested in privacy from day one in this Parliament, I am very concerned that the advocacy of privacy will also sink without trace. That would be a great shame and a major concern to me.

Privacy needs advocacy; it must be pushed; it must be pressed; it needs a champion. This is not a get-the-Ombudsman exercise. I have been chairman of the Ombudsman's committee and I have a great interest in that office. I have considerable respect for the present incumbent, which is why I rang him yesterday to speak to him about this issue. When we subsume one body into another, the body subsumed loses its identity. I am not talking hypotheticals; it has happened with the Community Services Commission. Page 104 of the Ombudsman's report indicates that the incorporation of that commission in the Ombudsman's Office has understandably created a great deal of difficulty with the assessment and comparison of complaints. It used to frustrate me as shadow Minister for Police when the criteria in the budget papers for the police portfolio were changed every year. One could not compare like with like from one year to another. A similar problem has arisen in this case. The report states:

The merger of the former commission and the Ombudsman's office has complicated the reporting of community services complaints for 2002 - 2003. During the period 1 July-1 December 2002, both the former commission and the Ombudsman handled inquiries and complaints about DoCS and DADHC under different legislative and procedural requirements ... Because of the possibility of some duplication, it is not possible to make accurate comparisons with complaint statistics from previous years.

I am concerned that this type of discontinuity will be a factor of the new regime if it goes ahead. It is a significant by-product and a difficulty that I would also like to have seen addressed in a proper review process. I am not saying that this should never happen, but these things must be dealt with during a review rather than in a bill debated in a limited time frame. The Ombudsman also discussed with me a matter involving a former privacy commissioner. He referred to a report, which was mentioned in the *Daily Telegraph*, that raised a number of matters that are currently the subject of further investigations. I have not seen the report, but apparently it contains recommendations for changes to the way the Privacy Commissioner operates, perhaps even including the measures proposed in the bill.

I sought to explain to the Ombudsman that he has the benefit of knowing what it is in the report, whereas I and other members of Parliament do not; it is not a public document. In that sense, we are being asked to make a decision without knowing what the main proponents of change are aware of. I find that state of affairs unsatisfactory and, in the context of this bill, unnecessary. An acting commissioner is in place. Should we not wait until that report, or so much of it as relates to these changes, is made publicly available? At that point, we would all know what is pushing the need for these changes. I know that there is reference to this issue on page 29 of the Ombudsman's report, but I am still none the wiser about the precise details and the need for change in the form that is now proposed.

Another matter that bothers me greatly is the change to section 41 of the principal Act, a matter referred to in the legislative digest based on a submission by the Public Interest Advocacy Centre, which has raised the matter with me and indicated its opposition to the bill. Section 41 of the principal Act deals with exempting agencies from complying with principles and codes, and provides:

- (1) The Privacy Commissioner, with the approval of the Minister, may make a written direction that:
  - (a) a public sector agency is not required to comply with an information protection principle or a privacy code of practice, or
  - (b) the application of a principle or a code to a public sector agency is to be modified as specified in the direction.

Schedule 1 [13] amends section 41 as follows:

Omit "Privacy Commissioner, with the approval of the Minister," from section 41 (1).

Insert instead "Minister".

The effect of the amendment is that the Privacy Commissioner will be substantially taken out of the picture when it comes to the decision to, in effect, exempt a public sector agency from complying with information principles. Currently, the Minister has the power to direct that a public sector agency is not required to comply with an information protection principle or privacy code of practice. It is argued that the Minister must still consult the Privacy Commissioner. With respect to anyone who might hold the office of Privacy Commissioner, I do not place any store in that. Schedule 1 [14] inserts new section 41 (3), which reads:

The Minister is not to make a direction under this section unless the Minister:

- (a) has consulted with the Ombudsman about the proposed direction and has taken into account any submissions made by the Ombudsman in relation to the matter, and
- (b) is satisfied that the public interest in requiring the public sector agency to comply with the information protection principle or privacy code of practice is outweighed by the public interest in the Minister making the direction.

In practical terms, I do not believe that means anything. The reality is that the Minister will make the decision about whether a public sector agency is to be exempted. At present that can only be done by the Privacy Commissioner, taking the public interest into account. That is a major fundamental change. In my view it guts a key part of the Privacy Commissioner's jurisdiction, whether it is run by the Ombudsman, the Privacy Commissioner or anyone else. It is argued that Ministers have the power to introduce codes of conduct that can exempt agencies in any event. I believe that is a weak part of the Act. I cannot accept the use of a weak aspect of the Act to justify weakening another aspect of the Act. That argument is totally misconceived for anyone who is interested in privacy issues and in having a privacy commissioner who has some semblance of independence and power. A whole series of issues arise from that, and these are all picked up by the Legislation Review Committee in material it has made available for this debate. I think it is worth reading some of the information onto the record because it reflects the bipartisan view of a number of members of Parliament. In its report the Legislation Review Committee provided the following information:

The amendments have the effect of conferring the power to exempt on the Minister alone. This limits the scope of protection afforded under the legislation. The Minister will also have to weigh the two competing public interests, compliance with information protection principles, and the particular public interest in giving the exemption.

In practical terms, that is exactly what the bill does. The report continues:

The problem inherent in this proposal is that any public interest that competes with the "right to privacy" ought to be calculated on a *completely disinterested* basis. For example, medical information may help identify or locate a missing person, and there is plainly a public interest in release of what would otherwise be confidential material ...

But the very existence of the Privacy Act and the Health Records Act acknowledges that private information is widely held, and may have a powerfully destructive effect if misused, including being disseminated into the public arena.

Ministerial control over what until now has been controlled by an independent statutory body raises the possibility of political considerations entering into the process of granting temporary exemptions.

I think that is true. Perhaps it is putting it a little high to say "what until now has been controlled by an independent statutory body", because Ministers already have fairly wide leeway to drive a truck through the whole show by introducing a code that exempts everything under the sun. Nevertheless, section 41 provided some positive statutory power base for the Privacy Commissioner to fight off the more outrageous exemptions. In that key respect, I believe the Legislation Review Committee is correct. The committee's report continues with the following very important point:

In addition, granting the Minister sole power to grant exemptions from compliance with these Acts may raise a conflict of interest. Given that the government is the largest collector and holder of personal information, the potential for such a conflict to arise is real.

It is important to refer at this stage to the special report to Parliament by the former Privacy Commissioner relating to the so-called Cecil Hills affair. The report shows how out of hand these privacy issues tend to get, how important the principles are in the assessment of privacy issues and complaints, and how imperative it is that those principles are applied. The summary of the report presented to Parliament reads:

There were insufficient steps taken by Mr Low, Mr Secord and Mr Aquilina to ensure that the mere suggestion that Student A had access to a gun, wherever it initially originated, was sufficiently verified before it was used and disclosed to third parties.

Because Student A was able to be identified at Cecil Hills High School and in his local community as the subject of media reports, because information about Student A was disclosed to the media, and because false information about him was provided to the media and consequently widely reported on, Student A and his family were subject to a violation of their privacy.

That is the background, the setting of the scene, so to speak. The report demonstrates the importance of the privacy principles in the assessment of this complaint and, through this precedent, hopefully it will be a deterrent to the same sort of thing ever happening again. A number of principles were found to be relevant, and they are under serious threat from this bill. Information protection principle 9, which is section 16 of the Privacy and Personal Information Protection Act, states:

A public sector agency that holds personal information must not use the information without taking such steps as are reasonable in the circumstances to ensure that, having regard to the purpose for which the information is proposed to be used, the information is relevant, accurate, up to date, complete and not misleading.

The finding of the commissioner, I suppose as a matter of law, was that Ministers are not part of the department or ministry they administer and, therefore, are not bound by the requirements of the Privacy and Personal Information Protection Act that relate to public sector agencies. It is evident that the former Minister for Education and Training was not prohibited by the Act from disclosing information. But, of course, the Act covered the staff involved, so the issues remain extremely relevant. Information protection principle 11, which is section 18 of the current Act, states:

- (1) A public sector agency that holds personal information must not disclose the information to a person ... or other body, whether or not such other person or body is a public sector agency, unless:
  - (a) the disclosure is directly related to the purpose for which the information was collected, and the agency disclosing the information has no reason to believe that the individual concerned would object to the disclosure, or
  - (b) the individual concerned is reasonably likely to have been aware, or has been made aware in accordance with section 10, that information of that kind is usually disclosed to that other person or body, or
  - (c) the agency believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or another person.

How did that principle apply? The Privacy Commissioner stated:

In disclosing personal information about Student A to the media, in circumstances other than those contemplated in DPP 10(1)(a)-(c)—

which related to the individual consenting to the disclosure or being required by law—

and IPP 11(1)(a)-(c), I conclude that Mr Secord and Mr Low may have breached IPP 11, and that Mr Secord, Mr Low and Mr Aquilina acted in a manner contrary to DPP 10. I therefore conclude that this action violated the privacy of Student A and that of his family.

This report, which was of the utmost concern, is about the operation of data protection and privacy principles and involves members of the Government to a highly embarrassing degree. The difficulty with this amendment is that a Minister in a similar situation will be able to exempt himself and his staff. He will be able to issue his own get-out-of-gaol card to avoid compliance. After the appalling record of the Government and its violation of the privacy of student A in the Cecil Hills affair, I do not trust the Government to do the right thing. The Cecil Hills affair is a precedent for the sort of behaviour we are all trying to avoid.

Given the track record of the Government, I do not trust it, the Premier or the Premier's staff to run exemptions under this privacy legislation without the Privacy Commissioner, in effect, having the right of veto. Under the current rules, exemptions under section 41 cannot come into operation without the Privacy Commissioner making that decision. To suggest other weaknesses in the legislation relating to codes of conduct is a pathetic way to justify further weakening the legislation. The Government does not have clean hands with respect to privacy, yet it is asking us to trust it. Information protection principle 9, which is section 16 of the Privacy and Personal Information Protection Act, states:

A public sector agency that holds personal information must not use the information without taking such steps as are reasonable in the circumstances to ensure that, having regard to the purpose for which the information is proposed to be used, the information is relevant, accurate, up to date, complete and not misleading.

Data protection principle 8 provides:

A recordkeeper who has possession or control of a record that contains personal information shall not use that information without taking such steps (if any) as are, in the circumstances, reasonable to ensure that, having regard to the purpose for which the information is proposed to be used, the information is relevant accurate, up to date and complete.

A reference is then made in the Cecil Hills matter to a radio interview between the former Minister for Education and Training, Mr Aquilina, and Mike Carlton on Radio 2UE:

Carlton: Did he have access to a gun?

Aquilina: Yes.

Carlton: What sort of gun?

Aquilina: Well I'm not going to go into that detail, but the actual case, as I understand it was that, yes, he could have had access to a gun. I want to stress that he could have had access to a gun.

The finding continued:

This information about Student A's alleged access to a gun was later proved to be false and the question therefore follows, who was the source of the incorrect information about the gun and what steps were taken to verify it before it was made public?

A few pages further on the finding states:

It is clear from Mr Low's evidence to the ICAC that the environment in which he was working at the time focussed on the importance of "the story" ...

In other words, the spin. The only thing of concern to the Government and the Premier's Office or, for opposite reasons, the only thing the public should be vigilant about is the importance of the story. The finding continued:

... and that "calling it off" was less palatable an option than letting an inaccurate story become current in the media. In particular it should be noted that, according to Mr Low, Mr Secord had earlier told him, "without a gun we could not do the story". In his response to my Investigation Report Mr Secord disputed this account of events and relied on the information he provided to the ICAC.

The conclusion reads:

I conclude that false information about Student A's access to a gun was provided to the media by Mr Low, Mr Secord and Mr Aquilina. The failure of Mr Low, Mr Secord and Mr Aquilina to take reasonable steps to check the accuracy of the information before its use was contrary to DPP 8 and possibly breached IPP 9. I therefore conclude that this action violated the privacy of Student A and that of his family.

In other words, the Premier's Office was working in the worst way possible to spin an inaccurate, damaging story about a minor in a school environment where a duty of care of an almost parental nature was owed to that minor. Even after that, the Premier's Office continued to allege there was a gun when that was not the case. Yet these same people now ask us to trust them to handle issues of privacy, without the Privacy Commissioner looking over their shoulders. That is akin to bank robbers, who have been given the combination to a safe, saying to bank staff, "Trust us, we will be all right with this". They have been given the tools to do the job. The amendment to section 41 is a disgrace in its present form. The summary of the disgraceful Cecil Hills affair is as follows:

Because Student A was able to be identified at Cecil Hills High School and in his local community as the subject of the media reports, because information about Student A was disclosed to the media, and because false information about him was provided to the media and consequently reported on, it is my view that Student A and his family were subject to a violation of their privacy.

In terms of the DPPs I conclude that the use of this information was contrary to DPP 8 (accuracy) and DPP 10 (disclosure), and therefore violated the privacy of Student A and his family. In terms of the PPIP Act it would also appear to have breached IPP 9 (requirement to check accuracy before use) and IPP 11 (limitations on disclosures) ...

That is a slam-dunk indictment of the worst possible type of the very people who now say, "Trust us, we will do it better." Can one imagine, with that type of track record, the Minister for Education and Training or the Minister for Health moving to exempt from the application of privacy principles all or parts of their departments that might be embarrassing from time to time? It is appalling. If it is proposed that the bill should be passed before a review is undertaken, there must be a few things that the Government would prefer not to be put before a review at all. The starting point for any sensible review would be a consideration of the Government's record throughout the Cecil Hills affair and the bona fides of Ministers of the Crown and their staff under this Government in relation to the application, non-application or total avoidance of privacy principles. One must then ask whether those people can be trusted with a bill in this form.

That is the reason the bill is being pushed through the House before a review has taken place and it is one important reason why the Opposition will not support the bill. The review should come first. One cannot trust the Government after what happened with the Cecil Hills affair. I do not believe that amendments should never be made to the legislation. I understand enough about privacy to accept that it is an evolving process, but history has shown that that is best done on a consultative basis, in circumstances where the proposal can be tested and proper consideration is given to it before, hopefully, a bipartisan approach is reached.

I hope the Government realises that trying to push through amendments, particularly to section 41, is a way of dealing with any future Cecil Hills affairs via the backdoor. I sincerely hope the bill is defeated in the upper House so that a considered and measured approach can be taken to the legislation. That would also provide an opportunity for a review, which the Parliament contemplated in the original legislation, and no reason has been given why the review was not undertaken before the bill was put through the Parliament. We strongly oppose the bill.

**Mr ALAN ASHTON** (East Hills) [8.33 p.m.]: I was disappointed to hear the Opposition spokesman say that he hopes the bill will be defeated in the other place. At the beginning of his contribution I was interested to hear his reasons for opposing the bill in its present form. However, he spent the next 10 minutes revisiting the so-called Cecil Hills case, with nine minutes devoted to dragging the former Minister for Education and Training and his adviser through the mud. Members may to consider whether the truth was told in Federal Parliament in the past couple of years with respect to the *Tampa*, children being thrown overboard and the SIEV X. Fortunately, Senator Faulkner and Senator Ray dissected the lies told in Federal Parliament about those matters. It is complete hypocrisy for the shadow Attorney General to speak about the role of the Privacy Commissioner in this State as though it is a most hallowed position. That is a load of codswallop. When Opposition members can come to this House with clean hands about kids overboard, the *Tampa*, and the Office of National Assessments—and I refer to a recent *Four Corners* program about that—then they can speak about Cecil Hills.

**Ms Gladys Berejiklian**: Point of order: Given the importance of the bill and its consequences for the residents of New South Wales, I ask you to draw the member back to the leave of the bill. I ask the member to address the specific issues.

**Mr ACTING-SPEAKER (Mr John Mills):** Order! I remind the honourable member for East Hills of his obligation to comply with the standing orders and confine his remarks to the subject matter of the bill.

**Mr ALAN ASHTON:** I will, but the shadow spokesman opened a window of opportunity when he spoke about Cecil Hills. That is the one issue about which the Opposition could have a real shot at the Government, but we can fire back. We jumped at that opportunity, and we always will.

**Mr Thomas George:** This is State Parliament.

**Mr ALAN ASHTON:** It is State Parliament. The shadow Attorney General said also that he hopes the bill will be defeated in the upper House. His leader in Canberra wants to abolish the upper House in Federal Parliament, the Senate, because he cannot get legislation through. Members of the Opposition like to dish it out but they cannot cop it. The Legislation Review Committee is doing a great job under the leadership of the honourable member for Miranda. It is the first time that a document relating to bills has been presented. If it were not provided to Opposition members they would not have a clue about bills because they do not do the necessary research.

**Ms Gladys Berejiklian:** Point of order: I appeal to you to direct the member to address the specific issues in this important bill.

**Mr ACTING-SPEAKER (Mr John Mills):** Order! There is no point of order.

**Mr ALAN ASHTON:** I can appreciate she is learning, but she is not learning very fast. The Legislation Review Committee is providing members with a complete and thorough—

**Mr Thomas George:** Point of order—

**Mr ACTING-SPEAKER (Mr John Mills):** Order! If the point of order relates to relevance it will not be upheld because the comments of the honourable member for East Hills are relevant to the debate.

**Mr Thomas George:** I think it is very relevant.

**Mr ACTING-SPEAKER (Mr John Mills):** Order! I am pleased the honourable member for Lismore agrees with my ruling. There is no point of order. The honourable member for East Hills has the call.

**Mr ALAN ASHTON:** The shadow Attorney General consistently referred to the Legislation Review Committee document as part of his argument and I am entitled to do the same.

**Mr Thomas George:** Point of order—

**Mr ACTING-SPEAKER (Mr John Mills):** Order! If the point of order relates to relevance, I will not hear it. The honourable member for East Hills has spoken only 10 words since the last point of order. The honourable member for Lismore may take a different point of order, but not one related to relevance. The honourable member for East Hills has the call.

**Mr ALAN ASHTON:** My comments are relevant because the shadow spokesman suggested this report as the reason he did not believe this was good legislation. He spent most of his time talking about Cecil Hills, but there are more substantive issues in the bill. The shadow spokesman also referred to the Privacy Commissioner. Government members have a fair degree of respect for the Privacy Commissioner. They probably have more respect for him than most members of the Liberal Party, who have spent the past 20 years ruining his career and denigrating his name. We received the Ombudsman's report today and item [3] on page 29 includes a case study about Mr Chris Puplick, the former Privacy Commissioner. We have all read that information, if not in this report then in the media. It was a sad case that probably played some part in bringing undone the position of Privacy Commissioner.

The Opposition cannot claim that one man is doing a wonderful job, but that there are a few problems with Bunny and his mates that we will hide and not look at again. The Government took another look at the matter and felt, quite rightly, that taking the power away from one person and putting it under the control of the Ombudsman and dozens of staff is a much better outcome for privacy in this State than having a Privacy Commissioner who is compromised by who his friends may or may not be. Opposition members should

understand that that is the motive for this bill, not a desire to give a Minister power to cover up certain matters. By virtue of this bill the Minister will still have to refer matters to the Ombudsman and they will have to discuss them before any decision is made about whether to release certain information. I ask members opposite to try to understand that, if they are capable of understanding anything at all.

To avoid upsetting members opposite I will now address the more obvious provisions of the bill. The bill makes changes that are necessary to enable the responsibility for privacy complaints handling and oversight to be transferred to the Ombudsman. I was just a kid in the late sixties or early seventies when the Ombudsman's position was created. Who kept fighting for it? The Labor Party! Who did not want an Ombudsman? Bob Askin and his cronies! It was a continuous demand from the people of New South Wales, who said, "We have to have an Ombudsman to check up on what the Government is on about." Who created the Ombudsman's office? The New South Wales Labor Party. No member of the Coalition could ever have done it because they would have found out too much about Bob Askin if they had.

The Ombudsman is widely regarded as a strong and impartial watchdog body. He is independent of the government of the day and is accountable to the public through the Parliament. The Ombudsman has extensive experience in handling complaints and in improving standards of administration. There are real benefits to be gained from placing responsibility for such an important issue as privacy protection in the Ombudsman's office. As a large, effective and high-profile organisation, the Ombudsman's office has the capacity to effect substantial improvements in privacy protection in New South Wales. Only today I received the NSW Ombudsman's 2002-03 annual report, which contains 192 pages. The letter accompanying the report, dated 29 October, states:

Dear Mr Ashton

Please find enclosed my report, which can also be found on the web site.

When I decided to participate in this debate I quickly read the report and found information that gives me great confidence—taking into account the range of work covered by the Ombudsman—that he will be able to handle privacy protection. If it is suggested that he cannot handle privacy protection, how is it that he has been able to handle matters that have come before him already, such as equity, child protection, community visitors, information that is published on reviewing deaths, handling complaints about community services, legislative review and police matters? The Government proposes to transfer staff who previously worked for the Privacy Commissioner to the Ombudsman. It is not the case that as a result of this bill the Ombudsman will have more work to do with fewer staff. The Ombudsman will have extra staff to carry out the privacy protection role.

The Ombudsman's annual report also notes that agencies agreed to implement all of the recommendations made by the Ombudsman's general team in final investigation reports. These recommendations were for changes to law, policy or procedures. In addition, as pie graphs in the report indicate, during 2002-03 more than 80 per cent of freedom of information complaints were either completed to the Ombudsman's satisfaction or were finalised on the basis that there was either no evidence or there was insufficient evidence of wrongful conduct. I challenge members opposite to point out any member of this Parliament who has not had someone come along at some stage with a case that is followed right to the nth degree but is later found to be without foundation and a complete waste of time. That is fair enough and it is not a big problem because it just happens to members of Parliament. However, members of Parliament sometimes chase a matter to its very end, find something amiss and get straight onto the Minister to have it dealt with.

In practically 100 per cent of cases the Ombudsman's investigations have shown how people whose actions are the subject of complaint have done the right thing or they have uncovered practices that should be rectified. In some cases complaints have been found to be utterly without foundation and based on ill-feeling. Completion of a matter to the Ombudsman's satisfaction has generally meant that an agency took positive action to address a particular problem that had been identified by the Ombudsman. It should be remembered that the Ombudsman is not a single entity, which was the case with the Privacy Commissioner. I use the term "Ombudsman" to include dozens and dozens of staff who are working on the Ombudsman's office to ensure that probity is a characteristic of all matters handled by government and the State's bureaucracy.

The Ombudsman's investigation statistics demonstrate that the Ombudsman has the capacity to effectively influence the policies and procedures of agencies. The high regard in which the Ombudsman is held, combined with his ability to provide high-quality advice, will facilitate the development of improved privacy outcomes for agencies and for the public. Bruce Barbour notes in the very first line of the introduction to the annual report that "the essential characteristic of this office is its integrity". The four key principles of the integrity that underpins the operation of the Ombudsman are openness, honesty, accountability and objectivity. I

do not like the term "mission statement", but the Ombudsman's comment is a statement of values and a statement of objectives. The Ombudsman's office has always exemplified the standards inherent in those four principles.

The bill transfers the present powers of the Privacy Commissioner to the Ombudsman. As the Minister acknowledged, governments hold the most information about people. The State Government holds more information about what is going on in New South Wales than any other organisation. The Federal Government—through its taxation agency, Centrelink and other organisations—possesses a great deal of information also, as do local councils through their collection of rates, et cetera. In a sense it is quite appropriate for the Government to have an agency operating at arm's length so that information that should be private will be protected. It should not be thought that if information is released which should not have been released, an opposition—presently constituted by the Coalition parties, although that may change when Labor members are in their dotage—will challenge the decision.

I am a member of the Public Bodies Review Committee, as is the deputy Opposition Whip, the honourable member for Wagga Wagga. Four or five years ago one of the tasks of that committee was to ensure that reports by government agencies were as detailed as they could possibly be and that they provided answers to questions asked by members of Parliament. With invaluable assistance provided by the Deputy Opposition Whip, the honourable member for Swansea and me, the committee made sure that annual reports are useful. The Ombudsman's annual report contains 103 different case studies. Because I received the report only today I have not had the chance to read all of them, but I am sure that they cover the ambit of any claim investigated by the Ombudsman and typify the role of the Ombudsman.

The Ombudsman's annual report will underwrite the faith of everybody in his ability to undertake the work of the Privacy Commissioner. Unfortunately, the Privacy Commissioner's position has been somewhat tainted by some of the activities referred to in the Ombudsman's annual report. I believe that abolition of the position of Privacy Commissioner is not the end of the world or the most heinous thing that this Government has ever done, as suggested by the Opposition spokesman. During the first five minutes of the Opposition spokesman's speech he made some sense and I was genuinely interested in what he was saying. However, when he began to refer to people pulling out guns and running around school yards it was obvious that he had run out of relevant material and that he would filibuster for the rest of his speaking time. I commend the bill to the House.

**Ms GLADYS BEREJIKLIAN** (Willoughby) [8.48 p.m.]: As a new member of this House I am appalled by the audacity of the Government in bringing forward the Privacy and Personal Information Protection Amendment Bill. The bill reeks of arrogance, mass politicisation of a process that should be impartial and exposes the people of New South Wales to manipulation of a process that, as pointed out by the honourable member for East Hills, should be at arm's length from the Government, not directly linked to the Government. The purpose of this bill is to amend the Privacy and Personal Information Protection Act 1998 to transfer the functions of the Privacy Commissioner to the Ombudsman. The bill also amends a number of other Acts and regulations to remove references to the Privacy Commissioner and to generally replace those with references to the Ombudsman.

The Opposition, as already ably indicated by the honourable member for Epping, opposes the bill for a number of reasons. The complete abolition of the Privacy Commissioner's office by the Ombudsman will reduce privacy protection rather than improve it. The whole privacy jurisdiction will become one of many under the control of the Ombudsman. By this bill the Government is indicating that it is very happy to dilute or diminish the importance of privacy. In an era when technological change is increasing and access to information is of paramount importance, the Government is sending the message to the people of New South Wales that privacy can be lumped in with everything else. This is no reflection on the current Ombudsman. However, one person having many areas of responsibility and expertise obviously means that there will be a dilution and diminution of the importance of privacy. That in itself is a good enough reason to oppose the bill.

The second reason, amongst many reasons, the Opposition opposes this bill is that the five-year review provided for in the Privacy and Personal Information Protection Act, which was scheduled to commence in November 2003, has not been undertaken. The Government is proceeding to completely rewrite the Act before the review has even commenced. The Act should not be rewritten until a review has been completed. I find it difficult to stomach this point, given that the honourable member for East Hills said that we should trust the Government in terms of the privacy rules and regulations, and privacy processes.

How can we trust the Government when it has already reneged on a prior commitment to conduct a full review? To put on the public record a commitment and to legislate to review an Act and then to introduce a bill to abolish the review process before the review has commenced is an appalling way to proceed on this important issue. Frankly, the Government's arrogance has no bounds. Rather than have a full and frank review and bring to the fore important matters that need to be discussed the review process will be totally thwarted.

**Mr Bob Debus:** How come it says that it will be extended by one year? Extended by one year is not abolition of a review.

**Ms GLADYS BEREJIKLIAN:** The Minister has a right of reply. He should wait his turn. Currently the Privacy Commissioner must agree with the relevant Minister before the application of the Act is lifted from a particular government agency. Under the amendments the Premier will be able to exempt government agencies from privacy requirements without the concurrence of the Privacy Commissioner. In the case of the Health Department the Minister for Health will have this power. This change will politicise the process. I stress again what the honourable member for East Hills said in support of the legislation. He said that the Government should be at arm's length from the privacy process. This bill does the exact opposite. Perhaps the honourable member either misread his briefing notes or does not understand the issues, or both.

This bill will inextricably link the Government and Ministers directly to control information passed through our agencies that relates to the voters, taxpayers and residents of New South Wales. It will literally make the Government big brother in relation to information and the flow of information. This is an appalling position and the Opposition is rightly opposing it. The Australian Labor Party [ALP] is hypocritical. When privacy legislation for the private sector was introduced into the Federal Parliament the ALP not only supported that legislation but also suggested that the Federal Government was not going far enough in making the private sector accountable in terms of privacy. Yet in this Chamber the Labor Government has closed ranks and has taken a position that is completely opposite that of Federal Labor. What is good enough for the private sector is not good enough for the New South Wales Government.

The New South Wales Government wants to increase its power and control over privacy regulations. Although it wants to make the private sector accountable for a range of privacy issues, it will exempt itself from the process. That is totally hypocritical to say the least. I would like to hear the Attorney General's response to these issues of paramount importance. What concerns me the most is that people in our electorates would be appalled if they knew what the Government was putting through the House tonight at this late hour. They would be appalled if they knew that the Government is not only taking power from the Privacy Commissioner and giving it to the Ombudsman but also giving the Premier the ability to exempt government agencies from privacy requirements.

If a Minister does not want something to comply with the privacy process he or she will simply send a memorandum or give the Premier's office a call, get the Premier to sign something and next thing we know information flows readily between agencies and departments but is held back from the people of this State. That is an appalling state of affairs. Again I highlight the Government's hypocrisy in introducing this bill given its position in relation to the private sector. The Government makes the private sector comply and do back flips on all sorts of privacy issues, but when it comes to itself it wants to appoint itself the arbiter of information and the flow of information. I reiterate that I am appalled by and oppose the bill. I ask all members of the House to think hard about what their constituents would want. How would their constituents feel if they knew what was happening in this House tonight? On that basis I vigorously oppose the bill.

**Mr PAUL LYNCH** (Liverpool) [8.55 p.m.]: As usual, the Opposition is completely wrong. I support this legislation. The prime object of the bill is to transfer the functions of the Privacy Commissioner under the Privacy and Personal Information Protection Act to the Ombudsman. The section of the bill that particularly attracted my attention is clause 20 in schedule 1. The impact of that provision is to repeal part 7 of the Privacy and Personal Information Protection Act. That effectively involves the abolition of the Privacy Advisory Committee. In a sense that flows from the abolition of the position of Privacy Commissioner. The need for an committee to oversight the body carrying out the functions of the Privacy Commissioner, which is what the abolished body was doing, will be met by the existence of the Committee on the Office of the Ombudsman and the Police Integrity Commission.

That joint parliamentary committee was established by this Parliament under the Ombudsman's legislation. I chair that committee, which is obviously why that aspect of the legislation attracted my attention. My view is that the committee I chair is capable of oversighting the exercise of those functions when they are

performed by the Ombudsman. I have other reasons to support the legislation. The committee I chair conducted an inquiry into freedom of information regimes. This inevitably involved the Privacy Commissioner's office and the work of the Privacy Commissioner. The areas of privacy and freedom of information intersect. Indeed, the then Privacy Commissioner gave evidence before the committee.

The one inescapable conclusion from that inquiry is that the current regime is one of extreme complexity and confusion. Parliament, probably with the best of intentions, managed to create a complex, convoluted and complicated series of Acts and regimes. The adoption by the Office of the Ombudsman of the functions of the Privacy Commissioner will help that situation. It will not completely resolve the situation but it may assist. This also reflects a broader principle that it will help complainants and aggrieved citizens if there are fewer, rather than more, places to complain to to have their grievances redressed.

Having a multiplicity of places to complain to runs the risk of simply confusing complainants and allowing them to fall between the cracks. A one-stop shop certainly has many attractions. Of course, that should not be adopted uncritically in every case. For example, I bitterly oppose the absorption of the Police Integrity Commission by the Ombudsman or the Independent Commission Against Corruption [ICAC]. In this case there are no sufficient disadvantages to militate against the benefits that can be achieved by the Office of the Ombudsman taking over the functions of the Privacy Commissioner. It is a progressive step to consolidate bodies to whom one can complain. It will make it easier for citizens.

It is also true from my experience on the committee that the Office of the Ombudsman has great expertise in issues dealing with the management of personal data and information. There is also a significant area of work already undertaken by the Office of the Ombudsman that relates to privacy issues, such as oversighting telecommunications intercepts. The only possible concern is whether, by continually adding powers and responsibilities to the Office of the Ombudsman, we are creating an unwieldy monster. I think not, but that is the other side to pursuing one-stop shops.

Certainly, the Ombudsman has had a significant increase in jurisdiction with the transfer of the functions of the Children's Services Commissioner. We also continue to get the Office of the Ombudsman to conduct reviews of the plethora of legislation in this place that affect citizens' rights. The reviews that the Ombudsman carries out are good. It is important that the reviews are done; they must be part of legislation that we adopt to cover such things as knife powers and so on. But it certainly continually adds to the Ombudsman's jurisdiction. I do not think there is a problem as yet. It is the only conceivable objection one could have. On balance, there is no doubt that the proposal in this legislation is good. The status of the Ombudsman is higher. Given what has happened to the most recent Privacy Commissioner, something that raises the status of the regime exercising the functions of the Privacy Commissioner must be a good thing. At the moment one would be hard pressed to find people who take the regime that currently exists seriously, given what happened to the Privacy Commissioner.

The adoption of this bill helps address some of those problems. In relation to the history of this bill, I refer to the report of the NSW Ombudsman which was released today. Page 29 of the report, under the heading "Case study 3", deals with the allegations that Mr Chris Puplick, as both the President of the Anti-Discrimination Board and the Privacy Commissioner, had dealt with several cases in which he has a conflict of interest. I do not propose to go through the intricacies of the allegations; in my view they are not particularly relevant to this debate. However, some of the Ombudsman's comments are relevant. Part of that section of the report deals with the complaints and states:

The investigation also focussed on the problems that can arise from one person being both ADB President and Privacy Commissioner and the co-location of the staff of both those organisations.

We found that staff of one organisation had access to complaints and files of the other organisation. We also found that senior managers on the ADB discussed discrimination complaints at meetings where the Deputy Privacy Commissioner was present. These actions were, ironically, contrary to relevant privacy principles as well as legal requirements.

Further, the document states:

Our final report of 22 May 2003 made ten recommendations to the Attorney General. He has accepted all ten. Some of the key recommendations were that:

- one person should not be both ADB President and Privacy Commissioner
- there should be a review of the co-location arrangements of the ADB and Privacy NSW offices.

That explains to some extent how we got to this stage with this bill. I refer to some of the comments of the honourable member for Epping and to the quite extraordinary performance of the honourable member for Willoughby. The honourable member for Epping said, among other things, that he was not launching an attack on the Ombudsman, that this was not a get-the-Ombudsman approach. That is not the impression I had. And, frankly, criticism was implicit in the speeches of members of the Opposition.

**Mr Bob Debus:** Or the impression one would have from the attack by the Leader of the Opposition on the Ombudsman during the afternoon.

**Mr PAUL LYNCH:** The Attorney General made the point I was just about to make: that the performance of the Leader of the Opposition in attacking the Ombudsman today was an absolute disgrace. The Leader of the Opposition ought to grow up and bother to find out why the course of events that occurred today did occur. His behaviour was absolutely unforgivable. The honourable member for Epping once again ranted and raved about the Children's Services Commission. I note that the honourable member for Wakehurst is present in the Chamber; I dare say there will be another dose of that.

**Mr Brad Hazzard:** Some concise and logical argument, is that what you mean?

**Mr PAUL LYNCH:** The honourable member for Wakehurst says he will be giving us some concise and logical arguments. I look forward to the day—I have never seen him do that. I would be delighted if this is the first occasion on which it occurs. The truth of the amalgamation is that the functions and powers of the Children's Services Commissioner were inferior to those that are now exercised by the Ombudsman. It is in fact an increase in status, an increase in power.

**Mr Brad Hazzard:** It was not the Children's Services Commissioner, it was the Community Services Commissioner.

**Mr PAUL LYNCH:** I am sorry, it was the Community Services Commissioner. In fact, there has been an increase in powers and status. It is certainly true that initially a number of people were concerned. Those people have moved on, but regrettably the Opposition has not. The honourable member for Epping also became extraordinarily excited about section 41, and we heard a long dissertation about events at Cecil Hills. As I read the provisions of section 41 and other similar sections, exemptions can be obtained and ordered. They have to be done after consultation with the Ombudsman. If one really thinks that the Ombudsman is going to roll over and allow exemptions to be granted which he vehemently opposes, it seems to me that one would have a very low opinion of the Ombudsman. The comments of the honourable member for Epping were an implicit attack upon the Office of the Ombudsman, its capabilities and capacities.

It is absurd to think that the office would not make reports adverse to the Government if it thought that was appropriate when exemptions were issued. The childish undergraduate performance of the honourable member for Willoughby was very high in rhetoric and very short on logic. She accused the Government of politicising the process of privacy and of behaving with extraordinary arrogance because we are transferring the functions to the Ombudsman. What is she saying about the Ombudsman? According to her, giving these powers to the Ombudsman is a politicisation. That is not only an attack upon the Ombudsman, it is also grossly offensive and extraordinarily stupid.

The honourable member for Willoughby also made the point that it is terrible to lob all these things onto the Ombudsman. She said that he has too much to do, and asked how one person could carry out all these functions. That argument is so childish it hardly needs rebuttal. The staff of the Privacy Commission are to be transferred to the Office of the Ombudsman. The Ombudsman already has about 100 staff. As chairman of the Committee on the Office of the Ombudsman and the Police Integrity Commission I have not received any complaint from him that he is understaffed. It has been made clear to the Ombudsman that if he has a problem along those lines the committee will be delighted to play a role. But that has not happened; he clearly has enough staff. It is stupid and childish to suggest that this is all too much for one person.

I note also that the honourable member for Willoughby and the honourable member for Epping seem obsessed with five-year reviews. Reviews are very useful, but it is wrong to say that things cannot be changed simply because five years have not elapsed. I know that both honourable members have an inclination for conservative politics, but even that level of conservatism is a bit extreme. The honourable member for Willoughby and the honourable member for Epping ranted and raved and said that they do not trust the Government. That is fine; the bill does not ask them to trust the Government; it asks them to trust the

Ombudsman. It is sad that they are prepared to attack the bill and the Ombudsman. Today the Ombudsman has been treated very shabbily, by the Opposition in this debate and in earlier radio comments. Frankly, the Opposition ought to be ashamed of itself.

**Mr BRAD HAZZARD** (Wakehurst) [9.06 p.m.]: The honourable member for Liverpool talked about logic and insight. We really did not obtain a lot of either from him. It was unfortunate that he spent so much time attacking other members of the House who have made comments and given their views. The bill is part of a pattern by the Carr Government. Over the past few years we have seen a drawing back—further than most people could possibly imagine—from any pretence at transparency or accountability. Over recent years a number of major steps have indicated that the Government is not keen to leave itself open to scrutiny. The bill is simply part of the continuum of a movement by the Carr Government to shut down any serious opportunity for critical analysis of what the Government and government agencies are doing.

Those of us who have been here for a few years would remember the Government's reluctance to appoint an inspector-general in the Department of Corrective Services. At that time the Attorney General, who is in the Chamber, was the Minister for Corrective Services. I recall debates in this House when he introduced legislation that had the effect of making certain amendments to that department. I recall also indicating to him that the Opposition was extremely concerned at his failure to appoint an inspector-general. There was a hiatus, a long delay in the appointment of an inspector-general. It was not with enthusiasm that the Labor Government eventually appointed an inspector-general. It therefore came as no great surprise that the Inspector-General of Corrective Services effectively disappeared before the last election.

That was not the only event that indicated the shutdown of the flow of information and the desire to shut down scrutiny. Another matter that stood out was the action taken in regard to the Community Services Commissioner. The honourable member for Liverpool referred to the Community Services Commissioner as the Children's Services Commissioner—an understandable mistake, because the Community Services Commissioner acted largely as an advocate on behalf of children who were in care in New South Wales. The role of the Community Services Commissioner was established under a Coalition government prior to the current Labor Government coming to power in 1995.

The Community Services Commission built up an admirable reputation, but the Government started to become a little aggravated by the level of criticism that was being offered by Robert Fitzgerald in his capacity as Community Services Commissioner. I remind the House that this Parliament, at least in the form of the Legislative Council, also became concerned about what the Government was doing. During the administration of Minister Lo Po' the Government sought the advice of the Crown Solicitor, who returned the great news for the Government that the Community Services Commission may have been operating *ultra vires*. It used that opportunity to send a letter to the Community Services Commission, advising the commissioner that he was not to undertake certain functions he had been undertaking with regard to the investigation of children who had died and who were at risk.

The net result of that was that the expertise and talent inside the Community Services Commission started to be lost over a period of almost 18 months. There was considerable public comment outside Parliament. The Legislative Council voted unanimously, save and except for members of the Labor Party, to reinstate those powers via a bill that I, on behalf of the Liberal and National parties, introduced. In the Legislative Council there was sensible debate on that bill. Views were expressed by members of the Government and members of the Opposition, and all members of the Legislative Council, save and except for members of the Labor Party, voted to reinstate the commission's powers. There was a consensus view that the commission was doing a good job and needed to be reinstated. The Government took no notice, stymied debate on the bill in the lower House and effectively shut down the Community Services Commission under the guise of bringing it under the Ombudsman's Office. Interestingly, since that merger, the Community Services Commission staff who were taken under the umbrella of the Ombudsman's Office have been incredibly quiet publicly.

The staff of the commission comprised people who acted most honourably on behalf of children at risk and in care. They prepared many good reports about the problems that needed to be addressed in the Department of Community Services, but when they went over to the Ombudsman's Office that ethos, that advocacy role, that desire to bring things out into the public arena, was for some reason largely lost. It may or may not have been an immediate consequence of directions from the Government. It may have been that placing the staff into the Ombudsman's Office to some degree assailed the culture that had developed in the Community Services Commission. Whatever it was—and I will not contribute to the trivial debate about who said what about the

Ombudsman, and I will not be critical of the Ombudsman—the transfer of the Community Services Commission staff to the Ombudsman's Office had the effect of shutting down much of the public criticism and public evaluation of the Department of Community Services and the very important issues relating to the welfare of children in New South Wales. With those two examples—and there are others—it is obvious that a pattern of behaviour is developing in the Carr Government to shut down criticism, to remove opportunities for transparency and to make sure there is as little criticism as possible outside the tightly contained lines that the Carr Government wishes to set around its public agencies.

The bill, without assailing the personal intent of the Minister, must be analysed in the context of what Premier Carr has done. From my experience, the agendas of the Premier's Department and Cabinet Office are not driven by individual Ministers. Quite often Ministers recognise the true value of their departments and their intrinsic worth as stand-alone agencies. But they have become part of a Government hell-bent on containing information and criticism. This Government has all the symptoms of a government in its death throes. Unfortunately, arrogance has become its hallmark. It disregards completely the needs of the community.

With that background, I address the amendments proposed to the Privacy and Personal Information Protection Act. The Opposition regard this bill with more than a degree of cynicism. The Government's intention to transfer the functions of the Privacy Commissioner to the Ombudsman's Office is alarmingly similar to its intentions with regard to the Community Services Commissioner. The people of New South Wales should now regard this Government with absolute caution. We should look carefully at what is being done and the consequences of containing the Privacy Commissioner under the umbrella of the Ombudsman. I am not questioning Mr Barbour's capacity in the Ombudsman's Office, but officeholders such as the Privacy Commissioner need to satisfy certain criteria in order to effectively carry out their work. They must not be accountable to any other body—in this case the Ombudsman. The Privacy Commission must be a stand-alone organisation.

The Government is seeking to contain the Privacy Commissioner by placing him under the umbrella of the Ombudsman. But it is even worse than that. Item [13] of schedule 1 to the bill specifically provides that the Minister, instead of the Privacy Commissioner, may make a direction under section 41 of the Act exempting a public sector agency from complying with an information protection principle or a privacy code of practice under the Act. That is yet another example of the Carr Government's policy of the centralisation of power. No longer will such power rest in the hands of anyone outside of the Government. I do not wish to reflect personally on the Minister, but the Ministers in this Government are part of that containment through the Cabinet Office and the Premier's Department. I will note with great interest the consequences of the bill. I suspect that the people of New South Wales will discover that this is yet another amendment proposed by the Government that is not in their best interests.

**Mr BOB DEBUS** (Blue Mountains—Attorney General, and Minister for the Environment) [9.17 p.m.], in reply: Who would ever have guessed, after hearing the contributions to this debate by members of the Opposition, that in the lead-up to the last election the Leader of the Opposition announced a policy to merge a substantial number of investigating bodies under the Ombudsman? Who would have guessed, having listened to Opposition speakers this evening, that the Leader of the Opposition actually announced the merger of Privacy New South Wales with a number of other complaints handling and watchdog bodies? The Opposition has engaged in a high level of hypocrisy in this debate, and I feel sure I will be drawn back to that theme from time to time in my reply. Several Opposition members completely misunderstood the meaning of the bill and the circumstances that led to its presentation to the House. And, as I say, they apparently feel completely comfortable about ignoring their own announced policy on many relevant matters.

I thank Government members for their contribution to debate on this bill, not least the honourable member for Liverpool, who as I indicated earlier is chairman of the relevant parliamentary committee and who, as a consequence, has more understanding than most of the issues contained in the bill. Obviously, the necessity for an urgent reconfiguration of our arrangements for the administration of the Privacy Act and its bureaucracy was precipitated by the rapid and unpredicted departure of the former Privacy Commissioner. At present it is not appropriate for me to dwell on the circumstances of that departure. No doubt he has colleagues on both sides of the House. Whilst various investigative procedures find their way through various investigative bodies, the former commissioner is entitled to all the protections of the law. However, the fact remains that, since his departure, the Privacy Commission has been in limbo.

The honourable member for Eastwood rightly referred to the steady hand and experience of the present acting commissioner. He is a most valuable person and we are lucky to have his services. But if the honourable member for Eastwood really cared about privacy protection, he would be as keen as the Government to see the commission set up on a sustainable and long-term basis, not in limbo for another six or 12 months while other reviews are conducted. The Privacy Commission is a rather small agency; as I recall it comprises eight full-time

employees. That group of people is not able to stand on its own as a separate institution or as a separate agency. It is simply impossible and it has not done so in the past. That is why we previously had arrangements in place that also saw the former commissioner as the chairman of the Anti-Discrimination Board. That situation, which existed under this Government and under the former Government, led to some difficulties.

Contrary to the implications of several Opposition speakers, we have never had a situation in which the Privacy Commission has stood on its own in a bureaucratic sense. The Government believes that the transfer of responsibility for privacy regulation to the Ombudsman under the bill will enhance privacy protection, complaints handling and public sector administration. Again, notwithstanding the strange implications of several Opposition speakers, the Ombudsman is widely regarded as the pre-eminent public sector watchdog. He has extensive experience in handling complaints and improving standards of administration. He and his staff have substantial knowledge about information management, including privacy issues. I refer, at least briefly, to the second reading speech in which attention was drawn to the number of ways in which public sector agencies would be able to achieve improved privacy protection under this arrangement.

First, the Ombudsman has the capacity to further improve outcomes by drawing on his high public profile and expertise in public administration. Second, the Ombudsman has extensive experience in considering issues relating to information management, including privacy management. Third, the Ombudsman's dual role in relation to privacy and freedom of information as proposed by this bill will promote an integrated and coherent approach to information handling. In the second reading speech the Parliamentary Secretary went on to point out that this exact arrangement is being proposed in the United Kingdom, in several Australian States and in many Canadian provinces. We are introducing an arrangement that has already been considered and adopted in a number of comparable jurisdictions around the world.

As I said earlier, it is anticipated that the Ombudsman will be able to use his high public profile and expertise to develop improved outcomes for privacy. His ability to achieve improvements in public administration is demonstrated by even a most cursory reading of the just published 2002-03 Ombudsman's annual report. The proposal by the Government strengthens privacy by giving it a more long-term structure, resolving the massive uncertainty that has existed, not just in recent weeks but since May, when the difficulties surrounding the former commissioner first came to light. It gives privacy protection to a large and powerful organisation, one that has never hesitated to undertake searing investigations into government agencies and to produce critical reports. If the Government really wished to emasculate privacy—which is what members opposite profess to believe—it would leave the small band of privacy staff just where they are: isolated, with an acting leader, subject to endless reviews and committee meetings. That would be the best way to ensure that nothing happened in privacy advocacy.

I repeat: It is extraordinary hypocrisy for Opposition members to suggest that these new arrangements will in some way weaken our privacy provision. The Office of the Ombudsman is a large and powerful body. It has decades of experience in making searching investigations and in writing public reports. It has coercive powers, including powers of entry into government agencies that are unheard of for the existing bureaucracy. It has powers to make reports and to place them before the Parliament. As I said earlier, privacy is being passed by this bill to an agency that is inherently, legislatively, politically, and in its public profile, much more powerful than the body with which arrangements sit currently. The bill directly addresses the Opposition's publicly stated concern that the overlapping jurisdiction between watchdog agencies can lead to complexity, conflict and confusion for the public. That is the position that Opposition members were taking until about half an hour ago.

I wish to respond to my colleague the honourable member for Wakehurst, who raised several specific issues. He seemed to suggest that the abolition of the position of Inspector General in the Department of Corrective Services would involve some kind of attempt to remove conditions of transparency from the Department of Corrective Services so far as it relates to watchdog bodies. However, he neglected to mention the fact that the Ombudsman now has the responsibility that the Inspector General had, and much more besides. The Independent Commission Against Corruption has a permanent relationship with the Department of Corrective Services, which again is much more powerful and which guarantees much more transparency and much more significant possibility for the exposure and pursuit of corruption in that department than any power that the Inspector General could possibly have brought to bear in that circumstance. It is ludicrous for Opposition members to suggest that we are engaged in some kind of systematic attempt to undermine various watchdog and accountability organisations that have been established by the Government over the years.

Finally, I mention something about the proposal in the bill to transfer to the Minister the power of the Privacy Commissioner to exempt organisations from privacy laws. The transfer of that power to the Minister, which is entirely proper, seemed to agitate several Opposition members. However, it is entirely proper and it is consistent with the operation of the present Act and with the role and independence of the Ombudsman. There are strong checks and balances on the exercise of the exemption power. Under the present privacy laws, the Privacy Commissioner may exercise this power only with the approval of the Minister. That requirement was not apparent from the overwrought contributions of the Opposition.

The Ombudsman is independent of the Government, and it is not appropriate for that function to be transferred to the Ombudsman. The Ombudsman, however, does not have a relationship with the Minister that would appropriately accommodate such power. To change that situation in accordance with the proposals put by the Opposition would compromise the Ombudsman's independence. The Minister will have a statutory duty to consult the Ombudsman before granting an exemption. The Minister must take into account any submission made by the Ombudsman in relation to the proposed exemption. This is an important and independent check on the exercise of the Minister's power. The Minister must grant the exemption only if, in doing so, the public interest outweighs the public interest in compliance with the relevant privacy laws. This clearly requires the Minister to balance competing public interests. Failure to do so would expose the Minister's decision to adverse comment from the Ombudsman. As the honourable member for Liverpool said earlier, to suggest that the Ombudsman would be reluctant to comment adversely on a Minister's decision seriously questions the integrity of the Ombudsman and denies the obvious facts of the Ombudsman's history.

The Minister's failure to balance those interests effectively would, in turn, attract the Supreme Court's inherent jurisdiction of administrative review. That, in turn, imposes a compelling reason for a Minister to exercise discretion in an entirely proper way. It is appropriate for a Minister to analyse competing public interests to determine the appropriate course of action. That is what governments are expected to do. The Minister is, of course, also responsible to Parliament for the exercise of this function and ultimately to the electorate. Significantly, under the present privacy laws the Minister already has the power to exempt organisations from privacy laws by making privacy codes of practice. There is no statutory requirement to consider the public interest in making these codes. Codes of practice may be far more comprehensive and permanent than the exemptions that may be granted by the Privacy Commissioner with the approval of the Minister under the current privacy laws.

The analyses and arguments put by the Opposition are legally ridiculous and politically opportunist and do not bring any credit upon those who made them. As the honourable member for Liverpool said during the debate, they resonate uncomfortably with the appalling behaviour of the Leader of the Opposition this afternoon and this evening when he launched an attack upon the Ombudsman, apparently because the Ombudsman did not attend a press conference. He was completely ignorant of the reasons why the Ombudsman failed to do so. If the Opposition members who are presently affecting to be unimpressed by my criticism of the Leader of the Opposition were publicly denigrated when, in fact, they had pressing family circumstances that caused them to be absent, they would present a less pompous attitude.

Finally, I refer to the statutory review. The bill provides that the review will be delayed one year. The review will occur, but the many pressing circumstances, which I have described, demand that we settle the circumstances of the Privacy Commissioner and his staff and we establish a structurally sound arrangement in which they may work. In the meantime, the review will be established and take place. The proposed arrangements are sensible and will better ensure the appropriate administration of the privacy laws of the State. The bill merits passage through the House. The criticisms made by the Opposition are at best misguided and in most respects hypocritical. I commend the bill to the House.

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

**The House divided.**

**Ayes, 50**

Ms Allan	Mr Gibson	Mrs Paluzzano
Mr Amery	Mr Greene	Mr Pearce
Ms Andrews	Mr Hickey	Mrs Perry
Mr Barr	Mr Hunter	Mr Price
Mr Bartlett	Ms Judge	Dr Refshauge
Ms Beamer	Mr Lynch	Ms Saliba
Mr Black	Mr McGrane	Mr Sartor
Mr Brown	Mr McLeay	Mr Scully
Ms Burney	Ms Meagher	Mr Shearan
Miss Burton	Ms Megarrity	Mr Torbay
Mr Collier	Mr Mills	Mr Tripodi
Mr Corrigan	Ms Moore	Mr Watkins
Mr Crittenden	Mr Morris	Mr West
Ms D'Amore	Mr Newell	Mr Whan
Mr Debus	Ms Nori	<i>Tellers,</i>
Mr Draper	Mr Oakeshott	Mr Ashton
Mr Gaudry	Mr Orkopoulos	Mr Martin

**Noes, 31**

Mr Aplin	Mrs Hopwood	Mrs Skinner
Mr Armstrong	Mr Humpherson	Mr Slack-Smith
Ms Berejikian	Mr Kerr	Mr Souris
Mr Cansdell	Mr Merton	Mr Stoner
Mr Constance	Mr O'Farrell	Mr Tink
Mr Debnam	Mr Page	Mr J. H. Turner
Mr Fraser	Mr Piccoli	Mr R. W. Turner
Mrs Hancock	Mr Pringle	
Mr Hartcher	Mr Richardson	<i>Tellers,</i>
Mr Hazzard	Mr Roberts	Mr George
Ms Hodgkinson	Ms Seaton	Mr Maguire

**Question resolved in the affirmative.**

**Motion agreed to.**

**Bill read a second time and passed through remaining stages.**

**LOCAL GOVERNMENT AMENDMENT (CUDGEGONG (ABATTOIR) COUNTY COUNCIL DISSOLUTION) BILL**

**Second Reading**

**Debate resumed from an earlier hour.**

**Mr GEORGE SOURIS** (Upper Hunter) [9.46 p.m.]: I thank the House for adjourning earlier debate on the Local Government Amendment (Cudgegong (Abattoir) County Council Dissolution) Bill. In the interim I have had the benefit of discussions with the Minister for Regional Development, Minister for the Illawarra, and Minister for Small Business, and I am satisfied that the undertakings he gave me will prevail. Therefore, the Opposition will not oppose the bill.

I am pleased to have this opportunity to lead on behalf of the Opposition in this debate because Cudgegong abattoir, or the Mudgee regional abattoir, is situated in my electorate. It is a very important business in the township and in the entire Mudgee district. The abattoir is a rare entity in that it is owned by the Mudgee Shire Council and the Rylstone Shire Council, which joined to form the Cudgegong County Council. Indeed, it is the last local government owned abattoir in New South Wales. Unfortunately, it has always operated on the margins and has experienced some liquidity problems in recent times. The State Government was aware of those difficulties and extended the abattoir's payroll tax payment period.

Recent negotiations with the St Merryn company of the United Kingdom about a merger proposal fell through and the drought has had a serious impact on the abattoir's operations. Business was poor for the abattoir as stock numbers dwindled and, when the drought finally began to break, farmers withheld their remaining animals in order to build up their herds. In fact, there was so little throughput at the Mudgee regional abattoir that the existing level of operations, and therefore the existing level of employment, could not be sustained. An administrator was appointed and the county council was subsequently placed in liquidation. I was pleased to learn earlier today that there are 20 prospective suitors anxious to purchase the abattoir and recommence business activities as a private operation. That gives the former employees and the local community much hope that the abattoir will be a going concern once again.

In the meantime, the liquidation has exposed a significant liquidity shortfall that is affecting the payment of entitlements to abattoir employees who were made redundant. The entitlements owed to the employees fall short to the tune of about \$5 million. Their only hope is the Commonwealth General Employee Entitlements and Redundancy Scheme [GEERS]. The Federal Government has indicated its willingness to invoke GEERS to make \$3.5 million available to the liquidator to pay employee entitlements. The one obstruction to that occurring—although it should have already occurred—is that the existing Act would not allow the Federal Government to stand ahead of other creditors should it make payments directed specifically to the employees.

In other words, if the Federal Government were to make the payment now under the existing Act it would simply increase the pool of funds available to satisfy all unsecured creditors, including the employees. That might marginally increase the funds that could flow to employees, but undoubtedly it would not because there are significant secured creditors standing at the head of the queue. By making those GEERS payments and ensuring that they flow to the employees, the Federal Government would assume a superior position for unsecured creditors in the event that funds were available to satisfy them.

This bill amends the Local Government Act so that it conforms with normal corporate practice under the Federal Corporations Law. This bill therefore paves the way for the Federal Government to make GEERS payments to the liquidator and, by giving the appropriate notice as required in the Federal Act, will ensure that funds flow to the employees within 28 days of this bill passing. With goodwill and genuine undertakings all round, I hope that the bill will proceed through this House and the Legislative Council this evening so that the 28-day period can commence tomorrow and employees will know for certain that they will receive funds in 28 days.

It has been unfortunate that in the lead-up to this bill the Federal Government and the State Government have been engaged in a battle of wits, in many respects trying to lay blame at each other's feet for the lack of GEERS payments. This has become something of a political football. If my monitoring of local media, local comments, and contributions from the local area is accurate, it appears that neither government has come out of this with very much credit. I was disappointed to hear in the Minister's second reading speech that this Government is still maintaining, ever so subtly, that the Federal Government has been withholding payments. That obscures the fact that the Federal Government is unable to make payments in such a way that they definitely flow to the employees. That is the purpose of this bill. Why are we considering it if not to ensure that the Federal money goes directly to satisfy the employee entitlements? It would not do anyone any credit if after the passage of this bill that debate were to continue.

As I said, given the level of goodwill and good faith that prevails, at least in this Chamber and in the other place, Mudgee can expect some considerable amelioration of the financial disaster that is confronting more than 200 employees there. That is a very large number of employees that impacts upon a relatively small community. Much of their apprehension about the future will be dissipated by our enabling these payments to flow. This measure will free up the remaining part of the liquidation process that will eventually see the abattoir sold to a private operator and reopened with as many of those employees as possible being re-employed. As I said, the Opposition wants to co-operate and ensure the passage of the bill. We have confined the debate this evening to ensure that the bill passes this Chamber expeditiously and proceeds through all stages in the other place.

**Miss CHERIE BURTON** (Kogarah—Parliamentary Secretary) [9.56 p.m.], in reply: I thank honourable members for their contributions to the debate on this important bill. In particular, I thank the Opposition for its support in ensuring that the former employees of the Mudgee regional abattoir will not have to wait any longer to receive their entitlements. I commend the bill to the House.

**Motion agreed to.**

**Bill read a second time and passed through remaining stages.**

## **CHILD PROTECTION LEGISLATION AMENDMENT BILL**

### **Second Reading**

**Debate resumed from 3 September.**

**Mrs JILLIAN SKINNER** (North Shore) [9.58 p.m.]: The aim of this bill is to improve the operation of child protection legislation by clarifying the reportable conduct of employees. In particular, it amends part 3A of the Ombudsman Act 1974 and part 7 of the Commission for Children and Young People Act 1988. On 8 March 2003 the Leader of the Opposition raised the concerns being expressed by a number of people in the community, particularly teachers, when he told the *Sydney Morning Herald* that the definition of "child abuse" was too broad and suggested that it be overhauled, given the damage it was doing to the relationship between teachers and students and in discouraging men from becoming teachers.

After the election the New South Wales Teachers Federation formed an alliance with other education bodies, including the Association of Independent Schools and the Catholic Education Commission, to pursue

their concerns because of the increasing number of teachers facing allegations of child abuse after disciplining students in accordance with student discipline and welfare policies. They believe that the current definitions of "child abuse" are so vague and broad that many minor or trivial matters are required to be reported to the Department of Education and Training and the Ombudsman. Reports and files are then retained forever, even if the allegation is not substantiated. That is the reason for the introduction of this bill. There has been broad media coverage about the number of teachers concerned and it has been a matter of discussion in the community for a long time. Before introducing this bill, the Premier agreed with the Leader of the Opposition and released a discussion paper, which attracted a number of submissions. As I said, this bill gives effect to the recommendations of the Government's review into the impact of child abuse legislation, particularly on the work of teachers.

The bill affects part 3A of the Ombudsman Act 1974, which relates to notification to and monitoring by the Ombudsman of disciplinary proceedings against employees of government and certain non-government agencies. It also affects part 7 of the Commission for Children and Young People Act 1998, which provides for employment screening for child-related employment. I will refer only to key provisions in this bill, particularly schedules 1 and 2, which replace the definition of "child abuse" and related definitions based on child abuse with a definition of "reportable conduct" and related definitions based on reportable conduct.

The replacement definitions maintain the principal elements of the existing definitions, namely, any child-related sexual offences or misconduct, any assault, ill-treatment or neglect of a child and any behaviour that causes psychological harm to a child. However, specific provision is made to exclude conduct that is reasonable for the purposes of the discipline, management, or care of children, having regard to the age, maturity, health, or other characteristics of the children, and to any relevant codes of conduct or professional standards; and to confirm the authority of the Ombudsman to exempt any class or kind of conduct from being reportable conduct. Examples of conduct that would not constitute reportable conduct include, without limitation, touching a child in order to attract a child's attention, to guide a child or to comfort a distressed child; a schoolteacher raising his or her voice in order to attract attention or to restore order in the classroom; and conduct that is established to be accidental.

Items [1], [2] and [3] of schedule 2 to the bill, which amend the Commission for Children and Young People Act 1998, make similar amendments to those proposed to the Ombudsman Act 1974 with respect to replacing the definition of "child abuse" with a definition of "reportable conduct" in order to promote consistency in dealing with these matters. In this case the exemption of conduct of a class or kind from reportable conduct will be affected by the guidelines for employment screening under section 35 of the principal Act. The amendments do not affect the current obligation with respect to the notification of criminal records relating to adult sexual offences for the purposes of employment screening. There are provisions that prescribe that amendments to both Acts extend to matters arising before the commencement of the amendments, but not so as to affect action taken with respect to a matter notified to the Ombudsman or the commission before that commencement.

After this legislation was introduced I received representations from a variety of key stakeholders and I will refer to some of them. On 10 September 2003 the alliance comprising representatives of the Catholic Commission of Employment Relations, the New South Wales Teachers Federation, the Association of Independent Schools, and the New South Wales Independent Education Union wrote to the Premier and stated:

The organisations recognise the potential improvements, in terms of fairness and providing greater certainty, of the legislative amendments put forward, especially the introduction of the concept of reportable conduct and exclusion of conduct that is judged reasonable in the circumstances and having regard to professional codes and standards. However, close examination of the proposed amendments, and consideration of current and past cases that the organisations typically have dealt with, create considerable doubt as to whether the stated intention of the Government and the objectives of the legislation have been met.

... we believe we share with you and the Government a desire to address deficiencies in operation of the existing legislation, in the interests of strong protection for children, fairness for employees and manageable professional processes governing the actions of those with responsibility for the protection of children in schools and schools systems.

I share their view that the Coalition, the Government, all members of Parliaments, and others should provide the strongest possible protection for children, fairness for employees, and manageable professional processes governing those actions. The problem is that this is now in doubt. Shortly after that letter was written, the Federation of Parents and Citizens' Associations of New South Wales issued a press release that stated:

Of concern to the P&C Federation is the adequacy of support and professional development for principals who have to determine the "level" of complaints. We are calling on the Government to provide clarification around the role of Department of Education and Training staff in this initial assessment process.

On 9 September 2003 Professor Patrick Parkinson, Professor of Law, who chaired the review which led to the enactment of the Children and Young Persons Care and Protection Act 1998, wrote to the Minister for Education and Training about this bill, and I will refer to these worrying parts of his letter. He wrote

**The Child Protection Legislation and Amendment Bill 2003 will not fix the problem**

The Bill will not fix the problem because the definition of reportable conduct continues to use the language of 'assault' without limiting it in any way to situations where there is a harm or risk of harm. The term 'neglect' is also left undefined. In the context of this legislation, a teacher would really be guilty of neglect, although the term could be applied to serious failures in looking after children in out-of-home care.

I do not consider that the provisions which follow the definition of 'reportable conduct' in the Bill concerning reasonable discipline, management and care go far enough to limit the definition of reportable conduct.

He further stated:

I do not think also that it is sufficient to rely on reporting exemptions by reference to class or kind under s. 35 because the issue is not one of categorising kinds of behaviour which are not reportable, but of providing that before a matter is reportable in the first place, it should represent conduct of a sufficient level of seriousness to justify the kind of institutionalised response under the auspices of the Ombudsman which is proper in dealing with child abuse allegations in institutional settings. Class and kind agreements have been, or are being, negotiated with major organisations, but that still leaves the problem of systemic overreaction in relation to smaller agencies. Such agreements have been developed mainly, I believe, with the education sector. I understand that no approaches have been made to develop such agreements with the non-government child welfare sector.

On 10 September Mr Nigel Spence, Chief Executive Officer of the Association of Children's Welfare Agencies, said:

The Association of Children's Welfare Agencies (ACWA) continues to support the need for a regulatory system aimed at protecting children and young people from abuse by staff and foster carers in child welfare services, schools, child care centres and in other workplaces where children and young people are present. However ACWA has long held the view that the requirement, as stated in the Ombudsman's Guidelines, to report allegations of abuse which are "trivial, minor or obviously untrue" is extreme and counter-productive to children's interests.

After ACWA and others raised this concern with the Ombudsman in 2001, the Ombudsman obtained advice from Senior Counsel which supported the Ombudsman's position requiring that "trivial, minor and untrue" allegations be reported on the basis that "*child abuse*" means and includes all assaults regardless of whether any physical harm is occasioned or threatened.

It appears possible within the *Child Protection Legislation Amendment Bill 2003* that use of the term "assault" as one of the grounds for *reportable conduct*—without any threshold requirement that harm has occurred—could result in an interpretation that 'technical' assaults are grounds for *reportable conduct*. For example, a situation where a foster carer smacks a child in circumstances where it cannot be justified as 'reasonable discipline' and where no harm has occurred would require a report to the Ombudsman. Child welfare agencies recognise such behaviour as wrong and take steps to counsel and correct such actions. However, a report to the Ombudsman is heavy-handed, unnecessary and risks jeopardising the stability of the child placement.

Both Nigel Spence and Professor Parkinson are extremely well regarded in their respective fields. I now turn to a submission regarding the bill presented to the Minister by the representatives of the four agencies comprising the alliance. I received representations from those agencies before they visited the Minister. In fact, I was approached by a number of them well before the bill was introduced in this House. The agencies expressed concerns about the bill's direction, and I raised that matter with the Minister. The Minister acknowledged my concerns and said there was a foundation for them. Indeed, he thanked me for offering a bipartisan approach to the bill. It is recognised that both the Premier and the Leader of the Coalition are of a like mind in relation to the need to amend the legislation to make it workable, to continue to provide protection for children, and also to prevent the wholesale reporting of teachers, which has had such a detrimental effect on a large number of teachers and the schools in which they work.

The alliance members approached me again to express their concerns about the bill. They said they would speak to the Minister and raise their concerns with him. They spoke to me again after meeting with the Minister and presenting a submission to him, and I now address some of the matters raised in that submission. It reads:

In accord with our agreement with yourself and other government officials ... the CCER, Teachers Federation, AIS and IEU wish to propose some specific further amendments and other steps, consistent with our discussions, in relation to achieving the government's, and our, hopes for the child protection laws.

Amendments

1. In both Schedules, in addition to the existing proposed exclusions from reportable conduct (reasonable conduct in the circumstances and class and kind determinations), include a third as follows:

- c) inappropriate professional interactions with children as defined by a relevant code of conduct or professional standard where there is no ongoing risk of harm to the child.
- 2. In Schedule 1 (Ombudsman), Section 8, regarding "past" matters, add the following words:  

"However, where a person has been issued with a statement from the relevant employing authority stating that a matter dealt with prior to these amendments would not have constituted 'reportable conduct' if dealt with under the amendments, then that person may lawfully represent the earlier matter in this way."
- 3. Examples in Note: Please add "acts of restraint in the management or care of children", and locate Note after excluded conduct (a).
- 4. Proposed Section Relating to Access to Files
  - a) a person against whom there has been an allegation of reportable conduct pursuant to the *Ombudsman Act 1974* or *CCYP Act 1998* is, subject to this section, entitled to apply for access to documents which comprise the investigation file into the allegation of reportable conduct.
  - b) Such application for access may be made after the preliminary finding in the investigation has been made.
  - c) Any person who provides any information to the investigation team for the investigation either by way of statement, interview, or otherwise in good faith and with reasonable care is protected from any action, liability, claim or demand of any kind including an action for defamation or breach of confidence.
  - d) any person who provides access to the documents referred to in sub-section (1) in good faith and with reasonable care is protected from any action, liability, claim or demand of any kind including an action for defamation or breach of confidence.
  - e) the exemptions contained in the *Freedom of Information Act 1989* shall apply to access granted pursuant to this section.
- 5. We request the drafting of an appropriate section dealing with penalties for vexatious or malicious complaints.

#### Other Instruments

- 6. The organisations urge that the following occur:
  - a) Ombudsman "class and kind" clarity be expedited.
  - b) A mechanism be put in place for the CCYP to purge the data base of notifications which don't comply, where employers won't withdraw appropriate cases.
  - c) The second reading speech be strengthened in ways indicated in previous correspondence and conversations and in accord with the Wilkins Report.
  - d) Depending on what amendments occur, the second reading speech should "direct"/"encourage" the Ombudsman's procedures to include certain things, including second reading speech matters.
  - e) The second reading speech, depending on the amendments, should support the independent status of codes of conduct/professional standards, where a proper industrial/professional/managerial instrument is in place.

On 22 October Bishop Kevin Manning, the Bishops' representative on the Catholic Commission for Employment Relations, wrote to the Premier as follows:

I am writing on behalf of the Bishops of New South Wales in order to support the direction of the above Amendment Bill proposed for the *Ombudsman Act 1974* and the *Commission for Children and Young People Act 1998*. The proposed Amendment Bill does not sufficiently address the fundamental concerns which employers, unions and others have in relation to the above Acts.

The definition of reportable conduct and identification of those matters that do not constitute reportable conduct are not sufficient to address our often expressed concerns. Two issues arise out of the proposed definition which require a resolution:

- 1. The definition of reportable conduct should exclude those interactions which, while they may be inappropriate professional physical interactions, do not cause or are unlikely to cause any risk of harm to a child. The present definition of reportable conduct remains too broad. The inclusion of the risk of harm concept would assist in achieving child protection outcomes with reasonable resource and employment relations implications.
- 2. The proposed definition of reportable conduct states that the Ombudsman has the capacity to exempt certain matters from reportable conduct which are of a *class or kind*. Since the commencement of this legislation, the *class or kind* agreement provisions of the Act have been of minimal value to Catholic employers. It would be our real concern that we cannot rely on the Ombudsman to deliver a *class or kind* arrangement that most appropriately excludes certain matters from the operation of the legislation. It was our understanding, when the legislation was initially enacted, that the Ombudsman would be able to utilise a *class or kind* agreement to establish a proper threshold in the context of the broad-based child abuse definition which was being included in the legislation. This has not happened. Our view is that the Government, in passing this Bill, it would not resolve our serious concerns in regard to the types of matters, which

we believe, should be excluded from the legislation and should more properly be dealt with and encouraged to be dealt with by managers and principals of child related services.

The Bishops encourage the Government to take into account the above comments so that we can arrive at a proper and reasonable approach to child abuse or reportable conduct. The Government should, in reintroducing the Bill to Parliament, make appropriate amendments and make clear in any speeches in the Parliament the intentions and purposes of those amendments.

I understand that discussions have taken place among various government officials, employers and unions with an interest in this Amendment Bill. I also understand that progress towards resolving the very serious concerns associated with the child abuse definition or the definition of reportable conduct have not yet been satisfactorily resolved.

I would encourage the Government to take appropriate action to resolve our concerns. The above will surely enhance the Government's child protection package rather than the current approach which risks undermining the credibility of this important initiative and diverting resources away from the most needy cases.

Earlier today I spoke to a representative of the alliance that the bishop represents. I was extremely alarmed when I subsequently received phone calls from the Minister's office and the representative to inform me that, contrary to an undertaking that the representative and the alliance believed they had received from the Minister that the debate on this bill would not be brought forward until matters had been resolved, the Minister proposed that it be brought forward tonight. I had a meeting with the teachers' representative, Jennifer Leete, in my office at 5 o'clock. She gave me a copy of a notice that all members have now received and I will read that onto the record. It is dated 29 October and it states:

The Child Protection Legislation Amendment Bill 2003 was introduced into Parliament following intense expressions of concern and lobbying throughout the education community about the impact of the current legislation on teachers in schools.

Following the introduction of the Bill into Parliament, a group consisting of representatives of the Teachers Federation and the Association of Independent Schools, the Independent Education Union and the Catholic Commission for Employment Relations raised serious concerns with representatives of the Government that in reality the Bill did not adequately address some of the concerns of the education community. Specifically, the organisations are concerned about the extent and breadth of matters that are reportable conduct and the lack of clarity in relation to non reportable conduct. The organisations also have been clear about their commitment to Child Protection.

In good faith, the organisations have attempted to discuss and negotiate further amendments to the Bill. We had hoped the Government would have agreed to make changes to its own Bill. We were assured that the Bill would not be brought back into the House until the issues were resolved.

This has not occurred.

With only a few hours notice, we have today been informed that the Government will bring the matter back into the Lower House on Wednesday evening.

Our request is for this Bill not to be progressed in either House until the concerns of the above organisations have been resolved.

We seek your assistance to call for the Government to re-enter negotiations with the above organisations. Representatives of these organisations are available for discussion at short notice.

When I was briefed on this bill by members of the staff of the Minister for Education and Training, they suggested to me that there was not a universal view amongst education stakeholders and others about this bill. That has proven not to be the case. I met with those people after I met with the Minister's staff and, frankly, I am disgusted by the advice provided to me. They suggested to me that these matters could somehow be resolved by directions to the Ombudsman. The letter from Professor Parkinson and others has made it clear that in past years that has not been the way to resolve the ongoing concerns.

I have deliberately read the key highlights of all of those letters onto the record. It will be noted that they all say the same thing: there is a universal view amongst nearly all of those organisations that the problem relates to a definition. When the Minister's staff came to see me they kindly copied many parts of the Ombudsman's report that was released today. I thank them for that because the report demonstrates some of the problems that have been occurring. There is a table on page 87 that shows the number of notifications received by the Ombudsman. Over the past year, 2002-03, there were 2,560 notifications. On the next page the agency findings show that 32 per cent of matters were sustained. So only 32 per cent of 2,560 people were found to have done anything wrong. All of the others were living in fear of their reputations and future employment, and they were worried stiff about how they would be able to go back to school.

The flow-on effect of that was that young students decided not to go into the teaching profession because of bad publicity about teachers fearing dealing with children in the playground, teachers fearing that they would not be able to comfort a child who had fallen over in the playground, and teachers fearing that they would not be able to discipline a child, even in accordance with discipline policies.

**Mr Bryce Gaudry:** That is why it is such an important bill.

**Mrs JILLIAN SKINNER:** It is an important bill. That is why I am trying to be as measured as I can, because this is a serious matter. Not long ago I spoke to the Leader of the Opposition about this matter. He is also disappointed because he was keen that we should work together to make sure that we get this right. It saddens me enormously that that has not been the case. The Coalition will not oppose the bill in this House, but I give notice that I will meet with the stakeholders again next week to develop a proposition that we will put to the upper House. That proposition may well take the form of the amendments that the Minister has refused to even consider.

I sincerely hope that every member of this place lobbies the Minister to make sure that he hears the messages that I put on the record. Members have got copies of some of this material I have quoted from. If they want to see the full text of any of the letters I am happy to provide them. This matter is far too important for us not to work together. We have to guarantee that children are protected, but we also have to make sure that we do not turn teachers away from schools. We especially do not want this measure to act as a disincentive for young men to take up teaching. I cannot stress enough how seriously the Leader of the Opposition regards this matter. Members of the Coalition will speak on this bill, and I thank them because they had little notice of the debate being called on. Although they will speak with almost no notice, they are prepared to do so because they take this matter as seriously as I do. I sincerely hope that every member of the Government takes heed of what I have said and pressures the Government to support the amendments in the upper House to meet the concerns of those reputable organisations that I have named in this House.

**Mr ALAN ASHTON** (East Hills) [10.26 p.m.]: As I understand it, the shadow Minister for Education and Training is indicating that the Coalition, and perhaps other parties in the upper House, will move amendments to the bill. I appreciate that, because it is a little easier to do it in that House than in this House.

**Mrs Jillian Skinner:** I have not had time to develop them.

**Mr ALAN ASHTON:** That is a fair enough point. I accept it, because from the first day of school at the start of the school year teachers have approached me with what they consider to be the dramatic effects of the child protection legislation and how it would impact on teachers going about their daily job. In this place it is well known that I was a teacher for 20 years and I understand some of the problems and difficulties in doing that job. The Government began this whole process with a degree of goodwill, not only towards teachers, the Catholic teachers system, the independent teachers and the New South Wales Teachers Federation, with which I am closely involved, but also towards parents and citizens associations, the Principals Association, classroom teachers, parents, and the children themselves. From day one the Government acknowledged that we seem to have a system that could impact on teachers in the most benign situations.

I have been there and done that, as have 17 of my colleagues in the Labor Party who have been schoolteachers. I know that there are also former teachers on the other side of the House. At different times a teacher has to say to a student, "Hang on, what are you up to?" I would hate to think that was some sort of intimidating or threatening behaviour that would psychologically damage a student for ever. From my teaching experience of over 20 years I know that students can do things that can lead to accidents. They play games they should not play, an accident occurs and an ambulance is called. A range of things can go wrong in schools, and one cannot just blame the teachers.

There are stories about teachers saying to a little kid who was crying and upset, "Don't worry about that, come with me," then putting their arm around the child, and walking him or her up to the sick bay. It is unfair that that could be considered to be child abuse. I am sure members of the Opposition and my parliamentary colleagues in the Government realised, as I did, that something had to be done. There was a degree of goodwill. We told the Premier, the Minister for Education and Training, and the Minister for Community Services that we had to come up with legislation that tidied up the anomalies that make it virtually impossible to teach in any school system without being at risk of being accused of child abuse. We are all aware of some terrible occasions on which teachers have been taken out of the classroom system and have been presumed guilty until they are found innocent.

I shall not detail those tragic cases at this time. The Child Protection Legislation Amendment Bill was developed in response to the Cabinet Office review of child protection procedures. It commenced under the auspices of the Premier, and I appreciate the push by the Leader of the Opposition for a clearer definition of child protection and child abuse. Clearly, there is a significant difference. The Premier requested the review

because of concerns expressed by teachers about the lack of clarity on what constitutes child abuse. Some fanatics may take the view that anyone who raises his or her voice to a child is guilty of child abuse. A few weeks ago I spoke to a teacher who did not dare speak loudly to any student. We will never develop as a society under those circumstances, because everything will be acceptable and anarchy will reign. Young people will die because teachers will not be able to warn students of the consequences of playing with a Bunsen burner or mixing chemicals.

Previously students were warned against such behaviour, knowing that if they did the wrong thing they would face an interview. The message was, "Don't waste my time, don't be a fool, and you won't have to see me and have your name written down." The situation has got out of hand because that had been the normal way of conducting business. Discipline was a management term, and teachers could teach and students could learn. In this place we are often told by the Speaker or the Acting-Speaker that we behave like children. However, I believe that children behave better than we do. The legislation is not intended to make it more difficult for teachers to go about their ordinary work when the majority of students do the right thing. Protecting children is the most important aspect of any role in schools, in the scout movement, et cetera. Whether it involves swimming trainers, football players or coaches, we are much more aware about the dangers faced by young people.

However, we must also be aware that students make false allegations against teachers. Kids are fairly shrewd; if they want to get back at someone they may say certain things. Every parent has one advantage over teachers: at some time they went to school and they may think they know more than the teacher. Unfortunately, there are also vexatious parents who, unfortunately, occupy too much of the principal's time; they prevent the principal from becoming fully aware of what is going on in the school. The Government is committed to protecting children and takes pride in the quality of opportunity, care, safety, routine and discipline in our schools. At home I am notorious for saying "Don't run", because I have seen so many kids who run along corridors and end up running into glass windows, doors or walls. It is only a habit. I also speak too loudly, because teachers tend to project their voices so that they children sitting in the back of the classroom can hear.

Schools should provide a nurturing and caring environment for students. Teachers should not live in fear that their actions could be misconstrued or that they could be reported without being given the full facts of any allegation against them. The Cabinet Office review recommended changes, including amendments to the Ombudsman Act 1974 and the Commission for Children and Young People Act 1998 so that the definition of child abuse does not extend to the reasonable work of teachers in the classroom and playground. The bill incorporates the recommendations of the Cabinet Office review by amending part 3A of the Ombudsman Act and part 7 of the Commission for Children and Young People Act. The amendments will provide for a better understanding by teachers of the actions they are able to take to maintain discipline in the classroom and to teach effectively. Examples are provided of the sorts of actions that should not be considered to be abusive. Those actions include comforting distressed students or restraining a student who poses a risk to others.

I do not want to personalise the issue, but honourable members opposite who have been teachers or who visit their local schools will be aware of terrible days for both teachers and students when matters get out of hand. Usually these problems can be solved at the school level. The deputy principal is always a bad guy, and the principal is often the good guy who sorts out the matter without the need for letters and long reports. I found that if I was cranky with a student one day, the first thing I did on seeing the pupil the next day was to say, "G'day". That pupil would then realise that I did not hold a grudge and the matter was settled. That is important. However, it is not so easy to incorporate such matters in legislation. What may work for some teachers at some schools may not work for teachers at other schools. I accept that is the point made by the honourable member for North Shore.

Even at this stage the Government is prepared to negotiate with the relevant organisations and the Opposition to achieve clarity and unity. If the bill passes through this House tonight, it will then go before the upper House, where the Opposition, in concert with crossbench members, can seek to amend it. In the meantime, I hope the Catholic schools, the private schools, the Teachers Federation and others will negotiate for a better solution for teachers. The language will be tightened and corrected. The semantics of language in bills and amendments are vital and the wording must be exact. If those organisations are not totally happy, I am sure there is still a window of opportunity for further negotiation. In the end we must all agree because we must improve the situation for teachers.

**Mr Brad Hazzard:** Why are you pushing this bill through?

**Mr ALAN ASHTON:** You will get an answer later on, when the Minister and others speak. You have a better chance of amending the bill here. I have taught with teachers who have done the wrong thing and who have burned books because they did not appreciate what was being taught in them. I do not defend every teacher who has gone over the top, but we must find a balance that protects our teachers and our students. By removing the term "child abuse" and replacing it with "reportable conduct", the changes will allow employers to respond appropriately to conduct of concern without being caught up in the emotion associated with the label "child abuse".

The bill acknowledges the need to balance protective frameworks provided by the law in the interests of children with the need to support those responsible for their care and safety. The changes in the bill will not result in a lower standard of care for students in our schools. They will give those who work in education greater confidence that the system for the protection of children is fair and reasonable. That confidence will increase their already high commitment to the principles and procedures for child protection. The main aim is to protect children, but the fear that some teachers genuinely feel must be removed. I agree that the term "child abuse" must be removed. Reportable conduct includes sexual assault, inappropriate touching, and inappropriate physical abuse of students. As I have said from the start of the year, I raised this issue and received a positive reception from the Premier, the Minister for Education and Training and other Government members. Clearly, the best outcome will be one on which there is a degree of unity between the Opposition and the Government, and I hope that that will be achieved.

**Mr BRAD HAZZARD** (Wakehurst) [10.39 p.m.]: It was interesting to listen to the honourable member for East Hills because when he started reading his prepared speech—obviously, it was prepared before he heard what the Opposition was talking about in this place—it was clear that he supported what the Government was doing, which is pushing through a bill that unfortunately will not substantially address the substantive issues for teachers. However, when he started talking off the cuff he acknowledged—perhaps because he is a teacher and understands some of these issues—that in fact they do need to be addressed. Indeed, he went further and said that the Government is now considering making the changes that the Opposition, in concert with many members of the educational community, is saying this bill needs to make it right. We accept that undertaking—because that is what it amounts to—from the Government that it will address these issues.

**Mr Bryce Gaudry:** From the honourable member for East Hills.

**Mr BRAD HAZZARD:** The Parliamentary Secretary is keen to support the honourable member for East Hills in so far as the Government has indicated that it will address these issues.

**Mr Bryce Gaudry:** No verballing, thank you.

**Mr BRAD HAZZARD:** I hope that I am not verballing the Parliamentary Secretary. I understood that that was a clear undertaking from the honourable member for East Hills on behalf of the Government. If that is not right, it shows a certain intransigence on behalf of the Government, which is not sensible. I remind the Government of issues that were raised a number of times in public forums prior to the last election. As the shadow Minister for Community Services I was aware of the need for a substantive child protection framework. However, I was also aware that, while we wanted to protect children from abuse, we were in the process of guaranteeing that some children would receive a form of abuse in so far as teachers were not being enabled and empowered to provide the necessary caring educational environment.

No-one would argue for one moment that in the past the Government and the Opposition have not been well intentioned on this issue. Indeed, recent history shows that child protection legislation has been introduced in this place in a bipartisan fashion. I remind members opposite of the Children and Young Persons (Care and Protection) Act 1998. The architects of that legislation worked well with the Government and the Opposition, and the legislation that was brought forward was very good legislation. But along the way politics got involved, and former Minister Faye Lo Po' introduced legislation that sought to amend various child protection laws. As the shadow Minister I led the charge on behalf of the Opposition and the community to rebuff the attempt to make changes without adequate consultation in the community.

Yet again the problem for the Labor Party and the Government is that the Government failed to carefully consult. Key players in the community should be consulted whenever either the Liberal Party or the Labor Party attempt to reform the law relating to child protection. Clearly, one of those people is Professor Patrick Parkinson. I find it extraordinary that the Government, under former Minister Faye Lo Po' before she was effectively removed, made the mistake not to consult Professor Parkinson, one of the foremost authorities

on child protection laws in the State. I have a letter from Patrick Parkinson showing that yet again another Minister in this Labor Government has failed to consult on this bill. Indeed, to push a bill through without having the benefit of Patrick Parkinson's substantial insights is a major shortcoming by the Carr Government. In a letter dated 9 September to the Minister for Education and Training, Professor Parkinson of the University of Sydney noted the following:

The Bill will not fix the problem because the definition of reportable conduct continues to use the language of "assault" without limiting it in any way to situations where there is harm or a risk of harm. The term "neglect" is also left undefined. In the context of this legislation, a teacher would rarely be guilty of neglect, although the term could be applied to serious failures in looking after children in out-of-home care.

I do not consider that the provisions which follow the definition of "reportable conduct" in the Bill concerning reasonable discipline, management and care go far enough to limit the definition of reportable conduct.

Professor Parkinson makes other criticisms, but I will not take up the time of the House by detailing them. The significant and important issue is that Professor Parkinson has some insights that the Minister for Education and Training, in a most difficult and complex area, is failing to heed. That is the issue. But it is not only Professor Patrick Parkinson. The shadow Minister, the honourable member for North Shore, said that the Bishop of Parramatta has expressed concern about the issue. Indeed, in a letter addressed to the Premier dated 22 October—only last week—the bishop, on the letterhead of the Diocese of Parramatta, said:

I am writing on behalf of the Bishops of New South Wales in order to support the direction of the above Amendment Bill proposed ... The proposed Amendment Bill does not sufficiently address the fundamental concerns which employers, unions and others have in relation to the above Acts.

One must add to that the concerns of the Teachers Federation and various other organisations that represent not only government teachers but independent teachers and teachers in the systemic system. In a letter addressed to the Premier, Michael McDonald, the Executive Director of the Catholic Commission of Employment Relations, Barry Johnson, the General Secretary of the New South Wales Teachers Federation, Terry Chapman, the Executive Director of the Association of Independent Schools, and Dick Shearman, the General Secretary of the New South Wales Independent Education Union, make it clear that they are unhappy with the way the legislation has been developed and that they are dissatisfied with the outcomes that are likely to ensue if this bill becomes legislation.

Tonight a letter signed off by Jennifer Leete, Dick Shearman, Michael McDonald and Terry Chapman and circulated makes it clear that they are unhappy with this Government's approach. I do not know whether Government backbenchers are aware of this; I do not know whether anyone outside the Minister for Education and Training is aware of it, but members opposite should be. I understand from the honourable member for North Shore that all Labor Party members have received a copy of the letter, which states in part:

The Child Protection Legislation Amendment Bill 2003 was introduced into Parliament following intense expressions of concern and lobbying throughout the educational community about the impact of the current legislation on teachers and schools ...

In good faith, the organisations have attempted to discuss and negotiate further amendments to the Bill. We had hoped the Government would have agreed to make changes to its own Bill. We were assured that the Bill would not be brought back into the House until the issues were resolved.

This has not occurred.

With only a few hours notice, we have today been informed that the Government will bring the matter back into the Lower House on Wednesday evening.

How many times can this Government make the same mistake? It is as though the Government reads from the same script and simply fails to listen. It fails to hear people who are genuinely concerned. This issue should not be political in that sense. It goes to the heart of the delivery of education for children in New South Wales. Prior to the last election a number of issues were discussed inside the Coalition. We spend a lot of time talking about how we could provide a better environment for teachers and students in the New South Wales education system, both acknowledging the need to protect children from abuse but also providing a system that ensures that teachers are able to deliver the best education possible for our students. We recognised that teachers had felt constrained by the child protection laws in New South Wales and, in particular, their interpretation of those laws. We recognise that the normal impartment of human support for children, of comfort and of care, was something teachers felt constrained about. We also recognise it was putting off young teachers from entering the profession. As the honourable member for North Shore indicated earlier, that was particularly the case for males, but also for females.

On many occasions I have visited schools and seen teachers hesitantly extending their hands to provide comfort to their students. When they realised I was shadow Minister for Community Services and they made a

comment about feeling vulnerable, I said to them, "Good on you. I am pleased to see you providing that sort of support, but I understand we need to sort out the law on this issue." The Coalition recognised that. The Leader of the Opposition, to his great credit, made that one of the major issues before the election—it was reported in the *Sydney Morning Herald*. A major feature was that the issue needed to be addressed, and it was from that lead that the Labor Government, after it was re-elected, responded.

**Mr ACTING-SPEAKER (Mr Paul Lynch):** Order! Members on both sides of the House will come to order and allow the honourable member for Wakehurst to continue his contribution.

**Mr BRAD HAZZARD:** The Teachers Federation and other organisations that represent teachers recognise that the Leader of the Opposition and the Opposition had a role in that. They understood that the Government would also have a role in it. They understood that there would be a bipartisan effort to improve the lot of our children. The Liberal and National parties understood that the Government would talk to us, to the community, to Professor Patrick Parkinson, and to the Association of Child Welfare Agencies—and I have not even bothered yet to mention that I have another letter here from Nigel Spence, one of the driving forces in making sure that child protection legislation has been well advanced in New South Wales. He has not been properly consulted either.

I hope Government members will adopt the measured tone of the honourable member for East Hills when he spoke without notes. I hope they go to the Minister for Education and Training and tell him he should not push this through, that the bill needs to be dealt with in a bipartisan way and that the community needs to be consulted on the appropriate amendments. Of all the legislation that has come through this House in my 12 years here, this legislation will probably have the biggest impact on the educational environment of our children. We should not push it so hard in this Chamber. The Labor representatives should ensure in their first caucus meeting that the Minister for Education and Training is held accountable for a silly decision to push this through tonight. He should not have done that. It shows a fundamental misunderstanding of the real significance of the issue.

The bishops of New South Wales, the Association of Child Welfare Agencies, the Teachers Federation, the independent teachers and the representatives of Catholic teachers cannot all be wrong. The Liberal and National parties are not wrong. The challenge for Labor members is also not to be wrong. At the moment they are wrong and they need to pull back quickly and accept the advice of the honourable member for East Hills, from their own party, to consult and get it right. We all owe it to the children and teachers in New South Wales to make sure the right balance is struck so that where we go from now is an advance and not a backward step.

**Ms MARIANNE SALIBA (Illawarra) [10.53 p.m.]:** This Government has a proud record of protecting children, and our establishment of the Commission for Children and Young People Act was groundbreaking. Under the Commission for Children and Young People Act, people who want to work with children must undergo background checks before they take up their jobs. Since the New South Wales employment screening system was established, other Australian jurisdictions have either introduced similar systems or are preparing to do so. They have sought our advice and expertise in developing them. We now seek to make some refinements to the system as a result of the lessons we have learned since its introduction. Most importantly, we propose to clarify the distinction between actions that are harmful to children and actions that are necessary or reasonable for their care and management.

This bill removes the term "child abuse" from the Ombudsman Act and the Commission for Children and Young People Act. The legislation will now refer to "reportable conduct". This change recognises that the community applies a very specific, and very serious, meaning to the term "child abuse". The definition of reportable conduct still captures those behaviours towards children that need to be reported. It includes sexual offences, sexual misconduct, child pornography offences, assault, ill-treatment and neglect, and behaviour that causes psychological harm to a child. However, the new provision excludes acts that are reasonable for the purposes of discipline, management or care of children. These changes make it clear that work with children and young people may at times involve physical contact—to assist, guide, protect and care for them—and reassure employers that these actions are excluded from the Act.

The new concept of reportable conduct recognises the wide range of interactions between employees and children. The bill now reflects clearly the balance the community seeks between protecting children and giving people who are working with children the authority to work effectively. This bill reaffirms the Government's strong commitment to child protection. That principle remains paramount. However, it is now better balanced with the need to give people working with children the confidence that they can carry out their duties without fear of unfounded allegations of child abuse. That is why I support the bill tonight, and I urge all members of this House to support it.

**Mrs SHELLEY HANCOCK** (South Coast) [10.56 p.m.]: I preface my remarks on the Child Protection Amendment Bill by expressing my amusement at the honourable member for East Hills. He had a prepared speech on the subject and then realised he had to say something about the process, the consultation and the representations we had received this evening about the proposed amendments. He then changed tack and made a clear statement that there would be further discussion. I was amused that he was clearly accepting that there was a problem. He talked about further amendments. I am sure the honourable member for Illawarra is well-meaning. She had a prepared speech but entirely missed the point of the debate, which is that all of us, including Government members, have received representations from key stakeholder groups that they are not happy with the process of consultation, that they have concerns.

I also preface my remarks by saying that child protection is an absolute priority for me. It was a priority in my former life as a high school teacher and it is now a priority as a parent and as a member of this place. I am sure it is also a priority for every member of this Chamber. It is a priority for us all. The child protection legislation that was enacted in 1998 was at worst ill-conceived and careless; at best problematic. I remember when that legislation was presented to us in our staffrooms, and in my school at Ulladulla. Principals were grappling with the ramifications of the legislation, as were we teachers, not because we were not concerned about child protection but because we were concerned about the impacts on children and on us. Those concerns continued to grow in the following weeks and months, and they have continued to be expressed to this Government. Those concerns have been expressed to me hugely since my election in March this year.

**Ms Angela D'Amore:** Hugely?

**Mrs SHELLEY HANCOCK:** Hugely, yes.

**Ms Angela D'Amore:** Great grammar from a teacher.

**Mrs SHELLEY HANCOCK:** Correct grammar, not that the honourable member for Drummoyne would know anything about correct grammar. There was concern, the concerns grew, and not much was done about them. There was consultation. The honourable member for North Shore outlined articulately the extent of that consultation, but this evening there is an expression that that consultation has resulted in dissatisfaction with the proposed amendments.

If I had not received the letter from the key stakeholders, which was delivered to all members at six o'clock this evening, I would have considered that the proposed amendments were a good start. I would have considered that the Government was attempting to address the concerns of teachers throughout the State. Teachers in classrooms are concerned about touching a child in distress. I have done that many times—I have comforted a year 7 student who has fallen over in a running race. Male teachers in classrooms are particularly concerned about the legislation. Male high school teachers now find ways to avoid giving after-school lessons to female students.

There is a dearth of male teachers in our primary schools. There are not enough male teachers, who act as role models for that age group. This afternoon the Minister for Education and Training spoke of incentives to encourage teachers into the classroom. This legislation, which has been in place for 4½ years, has been a disincentive for teachers to enter the classroom and to remain in the classroom. This evening we received a letter from four key stakeholder groups—the New South Wales Teachers Federation, the Independent Education Union, the Catholic Commission for Employment Relations and the Association of Independent Schools. They indicate that the Government assured them the bill would not be brought back into the House until the issues were resolved. They say that appropriate consultation has not occurred, and that they were given only a few hours notice that the Government would reintroduce this bill in the lower House this evening.

The key stakeholders request that the bill not progress through the House until the concerns of the organisations have been resolved. What else do they need to say? The negotiations have failed. The Government has not listened to them nor attempted to hold appropriate negotiations. I stress the word "appropriate". The Government may say it has listened to them. But if the key stakeholders are still dissatisfied and want to continue negotiations, then the Government has failed to bring about effective consultation. The result of effective consultation is that everyone feels reasonably comfortable with the negotiations, even if compromises are made. These four key stakeholder groups are completely dissatisfied and other key stakeholder groups, which the honourable member for North Shore referred to, are also dissatisfied. We have a serious problem.

The honourable member for East Hills said that further negotiations would take place. I hope that he is correct. I will follow the passage of this legislation to ensure that appropriate negotiations do take place. If the

Government does not get it right there will be continuing problems in our schools. At present, for many reasons, there is seriously low morale in our classrooms. This legislation will only add to that low morale. The Government must implement initiatives that will encourage teachers back into the classroom. I found teaching to be an immensely rewarding career. But the rewards are continually being eroded by the many problems present in our schools, such as poor infrastructure and overcrowding, and by the actions of this Government. Let us get this one right.

**Ms VIRGINIA JUDGE** (Strathfield) [11.03 p.m.]: I support the Child Protection Legislation Amendment Bill. A key issue of concern for teachers is that allegations of child abuse against them can result in their names being reported to external agencies, such as the NSW Ombudsman and the Commission for Children and Young People. I am a member of the parliamentary Committee on Children and Young People. That committee, which is chaired by my colleague the honourable member for Auburn, inquires into a range of issues that affect our youth, our future. Teachers are concerned that allegations for minor matters will be recorded alongside serious matters of child sexual abuse or paedophilia. They are also concerned about the implications of having their name recorded for future employment. Some years ago, I will not say how many, I worked as a teacher. I taught kindergarten, years 1 and 2, a composite years 5 and 6 class and high school students ranging from 12 to 18 years of age. I have had extensive experience dealing with youth across the primary, secondary and junior infants areas.

**Mr Brad Hazzard:** What did you teach?

**Ms VIRGINIA JUDGE:** I am speaking from experience, and I have been at the coalface. I was a teacher of kindergarten students at a time when this legislation was not in place. In the normal hustle and bustle of playing in the playground a young child would fall over. He may not suffer a serious injury, such as a broken bone; it may be something as simple as a graze. Today the child could be lying on the ground crying, but the teacher on playground duty would be too scared to bend down and offer a comforting hand to lift him off the ground and escort him to receive some medical attention. Teachers are worried about being reported. We have to get the balance right. We need to protect the child.

**Mr Brad Hazzard:** The Bishop of Parramatta says this legislation does not do that.

**Ms VIRGINIA JUDGE:** I agree with the honourable member for Wakehurst because we owe it to the child, the parents, the family and the community to support this bill. If the Opposition had its way—with its procrastinating and pussyfooting around—nothing would happen. That is why it is so important that we support child protection legislation. The reasons for reporting to external agencies are twofold. The Ombudsman Act requires employers to report allegations of child abuse against employees so that the Ombudsman can determine that employers have properly responded to the allegations. The Commission for Children and Young People Act provides for employment screening to ensure that people who clearly pose a high risk to children and young people do not work in child-related employment. Under the direction of the honourable member for Auburn, the Committee on Children and Young People inspected the directory and the work being done by the commission. With the support of the Government, the directory will be an excellent facility in the future.

These legislative requirements were developed following the Wood royal commission in 1997. The royal commission found that systems for responding to allegations of employee abuse of children and employment screening laws were inadequate. We cannot argue with that fact. However, now that the protective systems have been put in place, it is important to ensure that they do not capture employees who do not pose a risk to children and young people. That is a commonsense approach. We have to get the balance right. We must not tilt the seesaw too far one way so that children are put at risk. The amendment to the Ombudsman Act will emphasise that the NSW Ombudsman has the capacity to exempt certain matters from being reported to the Ombudsman's office. The Ombudsman has entered into a class or kind agreement with the Department of Education and Training and the Catholic Commission for Employment Relations to ensure that certain low-level matters of physical contact between teachers and students are no longer reported but are simply dealt with by the respective agencies. That is a commonsense approach.

The Commission for Children and Young People Act will be amended to make it complementary with the Ombudsman Act. It will exclude certain low-risk matters from being reported to the Commission. This will ensure that employment-screening processes for child-related employment will capture only information that would be relevant in assessing risk to children and young people. By changing the current term "completed disciplinary proceedings" to "employment proceedings" the amendment will provide a clearer description of what information is relevant for risk assessment in regard to employment screening processes that require a report to be made to the Commission for Children and Young People.

These amendments should maintain a protective safety net with respect to people who clearly pose a risk to children, but enable less serious matters to be appropriately dealt with by employers without adversely affecting a person's employment record. It should not be forgotten that reports are on one's record forever and a day. This change would seem to be a victory for commonsense. There is no doubt that having their conduct under increased scrutiny is a professional challenge for all education employees. It is important that we have systems in place that assure parents that their children will be protected from those who might abuse, neglect, or exploit them, and that also support the good work of people who are committed to their care and development. I cannot see why the Opposition would have any problems with looking after children and our precious teachers, who work hard. I congratulate the Minister and his staff on introducing the bill and I highly commend it to the House.

**Mrs JUDY HOPWOOD** (Hornsby) [11.11 p.m.]: I am the final speaker for the Opposition on the Child Protection Legislation Amendment Bill, the object of which is to improve the operation of the following child protection legislation by clarifying the reportable conduct of employees under that legislation: part 3A of the Ombudsman's Act 1974, which relates to notification to and monitoring by the Ombudsman of disciplinary proceedings against employees of government and certain non-government agencies; and part 7 of the Commission for Children and Young People Act 1998, which relates to all employment screening for child-related employment. The bill gives effect to the recommendations of a government review into the impact of that legislation, particularly in relation to the work of teachers.

The Opposition does not oppose this legislation but has some serious concerns about it. I am also a member of the Children and Young People Committee, and under the Chair, the honourable member for Auburn, we are working hard to look at concerns that affect children. I hope the Government takes note of the speeches that have been made on this side of the Chamber. We recognise the Government review, but we state categorically that the bill does not go far enough and that there certainly has not been enough consultation. I am concerned about the impact on the education of boys, and on young men taking up teaching as a profession and staying in the profession. When my children went to primary school there were three or four male teachers, who were role models for both male and female students, but tragically by the time they left the school there was only one male teacher.

As the representative for Hornsby I have received a number of letters from teachers expressing concern about complaints that have been or could be made against them. As has already been noted, these complaints remain on their files forever, even if the complaints are unsubstantiated. As the honourable member for North Shore stated, one-third of complaints are not sustained, so that is a serious consideration. The Opposition—along, I am sure, with all honourable members—has strong beliefs about the protection of children and employee fairness. It is important that we all work together for appropriate fairness processes.

The Government needs to look further at the definition of "reportable conduct", because the Opposition is concerned that the bill will not entirely fix the problems. Some heavy-handed conduct needs to be reported. There should have been bipartisan consideration of what is contained within the bill, particularly including the New South Wales Teachers Federation, the Independent Education Union, the Catholic Commission for Employment Relations, and the Association of Independent Schools. Amendments need to be made to the bill, especially because of the definition of "reportable conduct". I stress that the Government needs to look further at these recommendations.

**Ms ANGELA D'AMORE** (Drummoyne) [11.15 p.m.]: The Child Protection Legislation Amendment Bill 2003 applies commonsense to our child protection systems and processes. It recognises that teachers are in a privileged relationship of trust with the students in their care and that our processes need to support and protect that trust without undermining it in any way.

**Mr Adrian Piccoli:** Who wrote this? You can't write!

**Ms ANGELA D'AMORE:** Do you think so? This amendment to the child protection legislation will end the concern of teachers that the legislation creates confusion about what conduct is acceptable in the teaching context; that it undermines the ability of teachers to exercise effective classroom management and discipline; and that it interferes with their ability to develop the positive student-teacher relationships necessary for effective teaching. It will improve the level of care for children in our schools by supporting positive student-teacher relationships. It will strengthen the authority of teachers in the classroom and playground by making it clear, for example, that teachers can take reasonable action to restrain a child for the safety of others, comfort a distressed student, or raise their voice to restore order.

By removing the term "child abuse" and replacing it with "reportable conduct" the changes will reduce the anxiety of teachers that the present process can result in their conduct labelling them as child abusers. That is a very important point that I have discussed with teachers in my electorate, a lot of whom have suggested to me that this change in term is influential in reassuring them—

*[Interruption]*

This is a serious issue for other honourable members in the Chamber.

**Mr ACTING-SPEAKER (Mr Paul Lynch):** Order! Members on the Opposition benches will come to order.

**Ms ANGELA D'AMORE:** They said they welcome these amendments. The legislation will remove the current concern of principals that by reporting a complaint about the conduct of a teacher they are labelling a staff member who will be treated as guilty until proven innocent. It will make it clear to teachers that reasonable classroom management strategies will not be misrepresented as child abuse. Increased confidence of principals that commonsense will be applied in the response to complaints about the conduct of teachers will result in more confident and effective resolution of these complaints. It will make it clear that less serious matters can be resolved at the school. If appropriate, these concerns can be addressed as performance management issues. They will deliver better outcomes for students, parents and carers as well as for teachers—the very people we are trying to protect.

Matters that require investigation will be progressed without unnecessary anxiety of unwarranted labelling by the process. Records of investigations will be kept under strict confidentiality and separate to the teacher's personnel file. By responding in a positive way to concerns expressed by teachers about the problems of the current legislation, their commitment to the protective processes will be increased. That will also ensure that employment-screening processes for child-related employment will capture only information that is relevant in assessing risk to children and young people. People who work in schools are committed to the care and development of students. They work hard to provide discipline and support within a safe and secure environment. This is not always an easy balance to achieve, but all those committed to protecting children are working hard to do just that. These amendments will ensure that teachers feel safe and that children will be protected in the educational environment. I commend the bill to the House.

**Mrs BARBARA PERRY (Auburn) [11.20 p.m.]:** This bill provides that conduct that is reasonable for the discipline, management, or care of children is not reportable conduct. That means employers have a new level of discretion when it comes to determining what is reasonable behaviour towards children in the workplace. This strikes a balance between child protection and child abuse and what action is reasonable and need not be considered reportable conduct to the Ombudsman or the Commission for Children and Young People. I listened intently to the debate tonight, and there was a great deal of reflection about what this means to teachers. We should be aware that this legislation is not teacher specific; it covers more than 7,000 government and non-government agencies. We must remember that when we talk about children and their protection.

In considering an incident, an employer can now apply a reasonableness test to an employee's actions. The employer may find that the employee acted reasonably to discipline, manage, or care for a child. If so, he or she need not report that behaviour to the Ombudsman or the Commission for Children and Young People. Obviously what is reasonable behaviour towards a preschool age child differs from what is reasonable towards a 17-year-old. Accordingly, when employers consider whether certain conduct is reasonable, they must take into account the age, health, maturity and other characteristics of the child. They must also consider any relevant codes of conduct or professional standards that apply in the workplace.

Under the amendments, employers will be able to consider incidents on a case-by-case basis and in context before determining whether the conduct is reportable. This change will make the system fairer to employees by not making reasonable behaviour the subject of reports to the Commission for Children and Young People or the Ombudsman. Employers will be able to make sensible judgments about the kinds of behaviours that are appropriate and reasonable interactions with children in the workplace.

Of course, the Ombudsman will continue to play an important role in overseeing child protection systems in workplaces covered by this legislation. External scrutiny is crucial, not only by the Ombudsman but also by the Commission for Children and Young People. The Ombudsman will ensure that employers have appropriate procedures in place to prevent reportable conduct and to respond to allegations involving

employees. The office also monitors investigations to ensure that they are conducted thoroughly and fairly. This protects the employee from unfair procedures or actions and supports employers undertaking difficult investigations. The honourable member for North Shore said that some of the letters she had received said that inappropriate actions were not well defined and needed to be better defined. Under the heading "What is child abuse? What is not..." the Ombudsman's 2002-03 annual report makes the following comments:

We have tried to make it clear to agencies that the following behaviour on its own would not be considered abusive and need not be reported to the Ombudsman. This 'non-reportable' behaviour could include:

- helping a child who has been physically hurt or is distressed
- providing appropriate physical assistance in a special education/residential setting or in a gymnastics class
- giving a spontaneous pat on the back to acknowledge achievement
- guiding a child by the shoulders, hands or arms
- having a difference of opinion with a child.

There is other behaviour that demonstrates inappropriate professional behaviour or misconduct but on its own would not be regarded as child abuse and would not be reportable to the Ombudsman. We expect that agencies would follow their usual disciplinary procedures for dealing with such misconduct as:

- yelling or swearing at a child or group of children
- making rude gestures at a child
- inappropriate references to a child as, for example, 'stupid' or 'smelly'
- discussing personal family issues with a child
- having informal classroom discussions on topics with sexual connotations.

Reference was made to a letter sent to the Premier by the Federation of Parents and Citizens Associations of New South Wales and signed by the President, Sharryn Brownlee, but it was not pointed out that the letter states:

P&C Federation was pleased with the announcement of the changes to the Child Protection legislation.

She also made this very important point:

P&C Federation is concerned that the real issues surrounding the protection of children are not hijacked by agendas that are not focused on the welfare and protection of our most precious asset.

She is correct—children are our most important asset. This legislation ensures that is the case while attempting to be fair and reasonable to those working with children in myriad fields.

**Dr ANDREW REFSHAUGE** (Marrickville—Deputy Premier, Minister for Education and Training, and Minister for Aboriginal Affairs) [11.26 p.m.], in reply: I thank honourable members who have spoken in this debate. There is a genuineness on all sides to have good legislation that will fix a significant problem for teachers working in classrooms. It is important to realise that this does not apply only to teachers, it applies to everyone working with children. The changes may have been in response to the concerns of the teaching service, but the legislation will significantly affect everyone working with children. Some changes suggested in recent times would be inappropriate. Although some might argue that this bill does not do exactly what they would like, if their suggested amendments were implemented they might undermine child protection. I do not believe people want to do that.

There has been significant and extended consultation on this issue. All parties have come to the general conclusion that this is the direction we should pursue. In fact, the bill has been praised. Over the past few days amendments have been suggested that would make some groups feel more comfortable than others. But they would change the dynamic and reduce child protection, and I am not prepared to do that. Despite the fact that some with genuine concerns feel that their proposal would be better, others say it would not. The Act does not give teachers the appropriate level of protection, and delaying this amending legislation any further would expose teachers to further problems.

[*Interruption*]

Every independent teacher has said it. No-one has introduced an amendment that has been acceptable to everyone. Let us get the change that we need now. I am happy to continue the discussion about important issues that have caused concern. There is no problem with that. However, the discussion and the negotiations have been continuing. It is inappropriate for honourable members to say, "Stop it. Do not protect the teachers we want to protect now. Delay this because someone else wants something changed." That is not the right way to treat professionals who want these amendments now to protect them.

This legislation should be passed as it is—not that I believe it is perfect, but it does address the major problems that have been brought up. I am happy to continue to consult as time goes by to find out whether any group can come up with some measure that gives it surety but does not undermine child protection. So far, every suggestion for change would undermine child protection. If the honourable member for North Shore would undermine child protection because she believes one person rather than another, that shows me she does not have a comprehensive view of what we are trying to achieve.

**Mrs Jillian Skinner:** Point of order. Mr Acting-Speaker, I ask you to direct the Minister to withdraw his inaccurate statement of what I said.

**Mr ACTING-SPEAKER (Mr Paul Lynch):** Order! That is a point of debate, not a point of order.

**Mrs Jillian Skinner:** I made no reference to wanting to remove child protection. I read what was said by the bishops of Sydney, et cetera.

**Mr ACTING-SPEAKER (Mr Paul Lynch):** Order! The Minister has the call.

**Dr ANDREW REFSHAUGE:** I welcome the support of members from both sides of the House, and I am delighted that there will be no division on the bill.

**Motion agreed to.**

**Bill read a second time and passed through remaining stages.**

### **BILLS RETURNED**

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

Local Government Amendment (Cudgegong (Abattoir) County Council Dissolution) Bill  
Funeral Funds Amendment Bill  
Hairdressers Bill  
Industrial Relations Amendment (Public Vehicles and Carriers) Bill

### **SPECIAL ADJOURNMENT**

**Motion by Dr. Andrew Refshauge agreed to:**

That the House at its rising this day do adjourn until Thursday 30 October 2003 at 10.00 a.m.

**The House adjourned at 11.30 p.m. until Thursday 30 October 2003 at 10.00 a.m.**

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