LEGISLATIVE ASSEMBLY

Tuesday 9 November 2004

———

Mr Speaker (The Hon. John Joseph Aquilina) took the chair at 2.15 p.m.

Mr Speaker offered the Prayer.

ASSENT TO BILLS

Assent to the following bills reported:

Administrative Decisions Tribunal Amendment Bill
Classification (Publications, Films and Computer Games) Enforcement Amendment (Uniform Classification) Bill
Professional Standards Amendment Bill
Retail Leases Amendment Bill

ELECTORAL DISTRICT OF DUBBO

Issue of Writ

Mr SPEAKER: I inform the House that on 1 November 2004 a writ for the vacant seat of Dubbo was issued with the following particulars: date of writ, 1 November 2004; date of nomination, 4 November 2004; polling day, 20 November 2004; and return of writ, 17 December 2004.

DEATH OF MR JOHNNY WARREN

Ministerial Statement

Mr BOB CARR (Maroubra—Premier, Minister for the Arts, and Minister for Citizenship) [2.20 p.m.]: While it is, of course, now common knowledge, it is my sad duty to advise the House officially of the death of Mr Johnny Warren. I also advise the House that his family has accepted the Government's offer of a State funeral, which will be held next Monday at noon at St Andrew's Cathedral, Sydney. Johnny Warren's contribution can be summed up in one phrase that was always used to describe him, that is, "Mr Soccer". No-one loved the game more, no-one had more passion for it and no-one was more responsible for the game flourishing in a country where its claims were difficult to establish. In fact, I just made the very mistake Johnny so often deplored: he hated the use of the word "soccer". It was always football, which, he said, was the world game. Johnny Warren played 42 international matches for the Socceroos in an international career that spanned 10 years. He captained Australia from 1967 to 1970 and played in our only World Cup appearance in 1974.

His entertaining autobiography is the only sporting autobiography I have read. He presented it to me after having undertaken some valuable work for the State Government in 2002. He accepted my invitation to become the Premier's special adviser on soccer development and to chair a task force that reported directly to me on good initiatives to further develop elite soccer talent in New South Wales. I was honoured to stand with him only last month and announce the establishment of the Johnny Warren Soccer Academy, the culmination of his work. The academy will be an enduring legacy of, and a memorial to, this great Australian. His brave and relatively lonely battle against cancer was in the back of our minds when we decided to give the academy his name. I honour his memory and share the sadness felt by his fans across the nation at the untimely death of the best friend the game has ever had.

COMPACT DISC SALES AND ALCOHOL PROMOTION

Ministerial Statement

Mr GRANT McBRIDE (The Entrance—Minister for Gaming and Racing) [2.25 p.m.]: I would like to detail a promotion which runs until 23 November and which links the sale of compact discs [CDs] to alcohol and targets young drinkers. Some Sanity and Virgin stores are offering free alcoholic drink vouchers with any purchase of CDs costing more than $20, including Hilary Duff CDs. The message seems to be: Get your Hilary

Duff CD and your double shot of vodka. Hilary Duff is a pop idol for young people. She is only 17 years old and her fans are even younger. I have heard her hit single "So Yesterday", and it is not to my taste—nor is this promotion.

Vouchers are being handed out for the popular ready-to-drink product Smirnoff Ice Double Black; they are redeemable at Woolworths. That product is the equivalent of almost two standard drinks. A snap weekend investigation by the Department of Gaming and Racing in Sydney's northern and eastern suburbs found that the rules of the promotion are not being strictly adhered to. Teenagers ranging from 15 to 17 were provided with free drink vouchers by music stores when they bought their CDs. That is totally unacceptable. Only one teenager was refused a voucher. The promotional material clearly states that the offer is available only to residents of Australia aged 18 years and over. However, that is not happening. It is important to note that the teenagers were legally entitled to take part in the investigation and did not break any laws.

Section 117J of the Liquor Act provides the Director of Liquor and Gaming with the power to prohibit an undesirable liquor promotion. In addition, there could be problems of secondary supply if teenagers pass on their vouchers to older friends or relatives and get them to redeem the product on their behalf. That offence carries a fine of $5,500. Yesterday, the director wrote to the company involved, Diageo Australia Ltd, explaining its obligations. It has been told in no uncertain terms that it is not properly monitoring its campaign and it now has 24 hours in which to respond. The company has been requested to respond to the department by noon tomorrow. The Government has already put manufacturers of ready-to-drink products on notice. It will not tolerate marketing campaigns directed at under-age drinkers.

NSW OMBUDSMAN

Report

Mr Speaker announced the receipt**,** pursuant to section 23 (1) of the Law Enforcement (Controlled Operations) Act 1997, of the special report to Parliament entitled "Law Enforcement (Controlled Operations) Act Annual Report 2003-2004", dated 29 October 2004

POLICE INTEGRITY COMMISSION

Report

Mr Speaker announced the receipt, pursuant to section 103 of the Police Integrity Commission Act 1996, of the report entitled "Annual Report 2003-2004".

CHILD DEATH REVIEW TEAM

Report

Mr Speaker announced the receipt, pursuant to part 5 of the Commission for Children and Young People Act 1998, of the report entitled "Annual Report—January-December 2003".

LEGISLATION REVIEW COMMITTEE

Report

The Clerk announced the receipt, pursuant to section 10 of the Legislation Review Act 1987, of the report entitled "Legislation Review Digest No 15 of 2004" dated 8 November 2004.

AUDIT OFFICE

Report

The Clerk announced the receipt, pursuant to section 38E of the Public Finance and Audit Act 1983, of the performance audit report of the Auditor-General entitled "Shared Corporate Services: Realising the Benefits, Including Guidance on Better Practice".

PETITIONS

Wagga Wagga Electorate Schools Airconditioning

Petition requesting the installation of airconditioning in all learning spaces in public schools in the Wagga Wagga electorate, received from **Mr Daryl Maguire**.

Mature Workers Program

Petition requesting that the Mature Workers Program be restored, received from **Ms Clover Moore**.

Skilled Migrant Placement Program

Petition requesting that the Skilled Migrant Placement Program be restored, received from **Ms Clover Moore**.

Gaming Machine Tax

Petitions opposing the decision to increase poker machine tax, received from **Mr Greg Aplin**, **Mr Andrew Constance**, **Mrs Judy Hopwood**, **Mr Malcolm Kerr**, **Mr Steven Pringle** and **Mr Andrew Tink**.

Road Tunnel Air Filtration

Petition asking the Government to ensure that all Sydney road tunnels are fitted with air filters, received from **Ms Clover Moore** and **Mr Michael Richardson.**

Old Northern and New Line Roads Strategic Route Development Study

Petition requesting funding for implementation of the Old Northern and New Line roads strategic route development study, received from **Mr Steven Pringle**.

Heavy Vehicle Speeding and Tailgating Penalties

Petition requesting amendments to the Motor Traffic Act to penalise heavy vehicle speeding and tailgating, received from **Mr Andrew Stoner**.

Greater Murray and Southern Area Health Services Merger

Petitions opposing the merger of the Greater Murray and Southern Area Health Services, received from **Mr Greg Aplin** and **Mr Daryl Maguire**.

Batemans Bay Hospital Bed Numbers

Petition opposing any reduction in the number of beds at Batemans Bay Hospital, received from **Mr Andrew Constance**.

Yass District Hospital

Petition opposing the downgrading of existing services at Yass District Hospital, received from **Ms Katrina Hodgkinson**.

Breast Screening Funding

Petition requesting effective breast screening for women and maintenance of funding to BreastScreen NSW, received from **Mrs Judy Hopwood**.

Alcohol and Drug Services

Petition requesting increased and expanded inner city alcohol and drug services, received from **Ms Clover Moore**.

Mental Health Services

Petition requesting improvements to the mental health system, received from **Ms Clover Moore.**

Cremorne Community Mental Health Centre

Petition opposing the proposed relocation of health services provided by the Cremorne Community Mental Health Centre, received from **Mrs Jillian Skinner**.

CountryLink Rail Services

Petitions opposing the abolition of CountryLink rail services and their replacement with bus services in rural and regional New South Wales, received from **Mr Daryl Maguire**, **Mr Andrew Stoner** and **Mr John Turner**.

Country Rail Booking Offices

Petition opposing the closure of country rail booking offices, received from **Mr Daryl Maguire**.

Murwillumbah to Casino Rail Service

Petition requesting the retention of the CountryLink rail service from Murwillumbah to Casino, received from **Mr Neville Newell**.

Water Carting Restrictions

Petition opposing the decision by Sydney Water Corporation to restrict the operating times for water carters and not allow Sunday cartage, received from **Mr Steven Pringle**.

Hawkesbury Electorate Sewerage

Petition praying that funding be provided to construct a reticulated sewerage system for Glossodia, Freeman's Reach and Wilberforce, received from **Mr Steven Pringle.**

Isolated Patients Travel and Accommodation Assistance Scheme

Petition objecting to the criteria for country cancer patients to qualify for the Isolated Patients Travel and Accommodation Assistance Scheme, received from **Mr Andrew Stoner**.

Brothel Control

Petition opposing the establishment of brothels in the Hills district, received from **Mr Steven Pringle**.

Sullage Removal Subsidy

Petition requesting that the subsidy for sullage removal be extended to residents in the Hawkesbury local government area, received from **Mr Steven Pringle**.

Business Enterprise Centres

Petition requesting the reinstatement and funding of business enterprise centres, received from **Mr Andrew Stoner**.

Temora Agricultural Research and Advisory Station

Petition opposing the closure of the Temora Agricultural Research and Advisory Station, received from **Mr Ian Armstrong**.

Feral Deer Management Plan

Petition requesting a plan to manage the impact feral deer are causing in the Sutherland shire, received from **Mr Barry Collier**.

Sow Stall Ban

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

Cat and Dog Meat Sale

Petition requesting legislation banning the sale of cat and dog meat for human or animal consumption, received from **Ms Clover Moore**.

Hawkesbury-Nepean River System Weed Harvester

Petition requesting the purchase of a weed harvester for the Hawkesbury-Nepean river system, received from **Mr Steven Pringle**.

Water-Access-Only Property Policy

Petition requesting a review of the water-access-only property policy, received from **Mr John Brogden**.

LEAVE OF ABSENCE

Motion by Mr Daryl Maguire agreed to:

That leave of absence for the present session be granted to Katrina Ann Hodgkinson, honourable member for Burrinjuck.

QUESTIONS WITHOUT NOTICE

CITYRAIL SERVICES

Mr JOHN BROGDEN: My question without notice is directed to the Premier. How can the Premier claim that the buck stops with him for Sydney's rail crisis when what he has really done is pass the buck to rail commuters, who will now have to pay higher fares because of his failed attempt to bribe the rail unions? Why do rail commuters have to pay for the Premier's failure?

Mr BOB CARR: What is the Leader of the Opposition suggesting? Is he suggesting that rail workers alone, of all government employees, do not get the pay increase of 12 per cent over three years that has been awarded to everyone else? Is that what he is suggesting? That is a remarkable position: In other words, not more than teachers or less than nurses or the same as other employees in the public sector. That is his position, that rail employees should not get the standard 12 per cent over three years flowing to the public sector work force. That is a shocking position and it fits in with the proposition he advanced the other day, which was that there ought to be a Maritime Union of Australia [MUA]-style response to the industrial dispute.

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

Mr John Brogden: Point of order. How do you know? You were in India. You were in India instead of doing your job! How are you going to pay for the wage increase?

Mr SPEAKER: Order! The Leader of the Opposition will resume his seat.

Mr BOB CARR: I was in India, but there has been an important invention by Alexander Graham Bell. The Leader of the Opposition wants an MUA-style dispute. Let us just refresh our memories. What was the MUA dispute? First, the sacking of the entire work force: every union member was sacked by Corrigan on the wharves, and then expelled from the work force by dogs and goons in balaclavas. That was the first ingredient. The second ingredient was the employment of scabs. They went out and recruited a scab work force and brought them in. Their one qualification was that they could not be union members.

[*Interruption*]

The Leader of the Opposition says "Cheers! Hear! Hear!" *Hansard* should note that the Leader of the Opposition cheered that solution. That is his contribution to the industrial dispute in rail: have an MUA-style dispute.

Mr John Brogden: What is your contribution, what is your solution?

Mr BOB CARR: What is our solution? To take it to the Industrial Relations Commission where it can be dealt with under the industrial law of Australia—not to haul in a scab work force, not to sack every union member, because those were the hallmarks of what was attempted on the waterfront and to which the Leader of the Opposition says, "Hear! Hear!"

PAYDAY LENDERS

Mr KEVIN GREENE: My question without notice is directed to the Minister for Fair Trading. What is the Government's response to community concerns about payday lenders?

Ms REBA MEAGHER: Payday lending is a growing industry that provides personal loans for a period of less than 62 days. These loans are often promoted as easy cash for people who are financially strapped until their next payday. Research indicates that these products are aimed at people who are usually disadvantaged, people who need cash quickly, or families whose budgets are stretched and do not qualify for normal credit products. In a meeting with the Consumer Credit Legal Centre concerns were raised with me regarding the practices of some parts of this industry. According to the Consumer Credit Legal Centre some payday lenders have been skirting the law by increasing the terms of their loan, allowing them to charge unwary consumers exorbitant fees. Under current New South Wales law, consumers are protected by a mandatory maximum annual interest rate and the prohibition of any fees on short-term loans of less than 62 days.

Some payday lenders have been increasing the term of their loan products—in many cases by just one day—to subvert the legislation. By extending a loan, payday lenders have had a free rein to impose excessive fees and charges. The Government will introduce new laws to stop payday lenders charging exorbitant fees and charges. The new laws will extend the maximum annual percentage rate, inclusive of fees and charges, to credit providers who have increased the term of their loan products. Under New South Wales law, lenders are already required to fully disclose the annual percentage rate, to give consumers a copy of the contract and to give borrowers 30 days notice, should they default on a loan, before acting to repossess security. Breaches of these laws attract penalties of up to $500,000.

Prior to the introduction of these laws the Office of Fair Trading had received reports of exorbitant fees being charged on small loans and interest rates. These have ranged from 500 to 2,500 per cent. In the past, consumers had no option but to grin and bear these costs. The Office of Fair Trading even had reports of consumers being required to provide their key card and PIN number as security, only to see money withdrawn from their accounts by the lender, further exposing them to a cycle of debt. Our new laws will ensure that payday lenders will no longer be able to exploit vulnerable consumers.

I commend the Consumer Credit Legal Centre for its ongoing assistance to consumers caught by these unscrupulous lenders. Representatives from the centre have met with me to discuss the cost of credit provided by payday lenders and other fringe lenders and I share their concerns over the current practices of these lenders. In the past 12 months the Office of Fair Trading has received more than 890 complaints about credit and finance and continues to keep this sector of the industry under close scrutiny. The Government will release draft legislation that will bring these changes about for public comment. I invite both consumers and industry to participate in the public consultation process and provide comment on the draft bill.

CITYRAIL SERVICES

Mr JOHN BROGDEN: My question without notice is directed to the Premier. Now that the buck stops with the Premier for Sydney's rail crisis, for how much longer will rail commuters have to put up with the officious and heavy-handed tactics of CityRail transit officers while, at the same time, having to put up with a rail system in shambles?

Mr BOB CARR: The Leader of the Opposition talks about "heavy-handed", having just endorsed again a Maritime Union of Australia [MUA]-style solution to the rail dispute.

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

Mr BOB CARR: Let me quote from the transcript of 2 November. The Leader of the Opposition says:

> We ought to emulate the Howard Government, which took the waterfront to task.

Yet he is here saying we are the ones who are heavy-handed. As I have already said today, we do not want a strike to proceed.

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

Mr BOB CARR: That is why we are doing the right, responsible and decent thing and taking it to the umpire, which is the Industrial Relations Commission. I said I am willing to sit down and talk to the unions about the non enterprise bargaining agreement [EBA] matters.

Mr Andrew Tink: Point of order: Just to remind the Premier that while he was away, the unions named the problem as Labor—that's you!

Mr SPEAKER: Order! The honourable member will resume his seat. I place the honourable member for Epping on two calls to order. I call the honourable member for Bathurst to order.

Mr BOB CARR: I said I am happy to talk about the non-EBA matters with the unions, including some of those matters referred to by the Leader of the Opposition. The pay offer by the Government is in line with what has flowed to the rest of the public sector work force, with this exception: there is an additional element for self-funded productivity improvements, and none of them are onerous. There is also the offer of backdating, provided there is no industrial disputation. To seek to avoid the colossal inconvenience of a one-day rail strike we are taking this matter to the Industrial Relations Commission.

What does the Opposition leader advocate as his alternative? An MUA-style dispute, which means the sacking of every unionist in the rail system—and there are 14,000 rail workers who would be sacked—with scabs being brought in, with dogs and balaclavas, as on the wharves in 1998. That is his solution. He says, "Take on the rail unions, as John Howard took on the waterfront." Today there is a unionised work force on the waterfront because the unions won that battle.

MENTAL HEALTH SERVICES

Miss CHERIE BURTON: My question without notice is directed to the Minister for Health. What is the latest information on mental health beds and the court liaison program?

Mr MORRIS IEMMA: I thank the honourable member for Kogarah for her question, her work in the area of mental health and her ongoing advocacy for those who suffer mental illness. All measures of psychological distress in the community have increased but the one thing that could not have been reasonably predicted is the increase in the use of stimulant drugs. This has meant that for people with a mental illness who take those drugs, their exacerbations have become more severe and more frequent, requiring more intensive treatment. As a result, mental health services have had to adapt, and the Government is doing just that, but this means that the challenges are all the greater.

The mental health budget for the current year stands at $783 million, an increase of 121 per cent on 1995. That record budget was enhanced by the Treasurer in the April mini-budget, with an additional $241 million for mental health services. That investment is translating into real increases in mental health beds and services across the State. I would like to give the House a rundown on what that investment is translating into. In the past two years 115 additional beds and 118 supported accommodation places have been added to our system. A further 290 beds have been approved and are now being planned or built through to June 2008.

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

Mr MORRIS IEMMA: By the end of the current financial year we will have 20 per cent more acute mental health beds and 100 per cent more beds for acutely unwell children and adolescents than we had four years ago. Some of the new acute beds are servicing a range of areas, including Wollongong, Taree, Tamworth, Coffs Harbour, Tweed Valley, St George, Parramatta—

Mr Andrew Stoner: What about Kempsey?

Mr MORRIS IEMMA: Kempsey, Sutherland and Dubbo. The planned new beds cover the full spectrum of care needs and will continue to reach a wide range of locations throughout urban, regional and rural New South Wales. For example, 43 additional acute in-patient beds are soon to be commissioned this financial year in Western Sydney at Cumberland, Nepean, Westmead and Liverpool hospitals. These beds follow the staged commissioning of a new 50-bed mental health unit at Wyong Hospital, which opened in May. Four acute mental health beds will open at Wagga Wagga, two more at Broken Hill, and Dubbo will open a new acute mental health unit. Next year an additional 15 acute beds will open in the Blue Mountains, with six more acute beds at Liverpool Hospital.

Mental health services for young sufferers have also been improved. In the past 12 months two additional child and adolescent mental health units have been opened at Sydney Children's Hospital and Westmead Children's Hospital. This adds to the 22 beds that have been operating at Newcastle and Campbelltown. These beds provide involuntary as well as voluntary in-patient care for children and adolescents from the age of five. In relation to subacute care, 48 additional beds have opened at Bloomfield, Macquarie and Prince of Wales hospitals in the past year and 20 more subacute beds are planned to open at Campbelltown Hospital next year. An older persons mental health unit is scheduled to open in Wollongong in the financial year 2006-07. This year's budget also includes the first of the $25 million, that is $1.1 million, for the completion of planning and the start of work on Lismore's redeveloped Richmond Clinic, adding an additional 15 beds in that facility. These additional beds will provide much-needed support for patients who require a hospital stay and the specialist staff who treat them.

I also inform the House of some very encouraging results that have been achieved in the provision of key community mental health services and that those services will be expanded. The record investment that I mentioned earlier also involves the successful rolling out of the housing accommodation and support initiative. I am advised that 118 people are currently doing well in the supported accommodation provided by the Department of Health, NSW Health and the mental health community sector. Preliminary outcomes from one provider, Neami, indicate that the program has been successful in significantly decreasing the number of in-patient bed days required for patients over a 12-month period.

Mrs Jillian Skinner: It is like community mental health.

Mr MORRIS IEMMA: Like community mental health. For example, in the Illawarra in-patient bed days for patients participating in the program have decreased from 185 days to 73 days. In south-eastern Sydney in-patient bed days have decreased from 197 days to 32 and in south-western Sydney in-patient bed days for enrolled patients as part of that program have decreased from 101 days to just 18. I also inform the House of a further initiative to identify and support people in the community with a mental illness or disorder that is producing similarly encouraging results. The New South Wales Community and Court Liaison Service was formally introduced at 12 courts in April 2003.

The courts at which the service was introduced include central Sydney, Liverpool, Lismore, Wyong, Parramatta, Sutherland, Campbelltown, Tamworth, Dubbo, Gosford, Penrith and Burwood. I advise the House that two more courts have been added to the list, that is, Manly and Coffs Harbour, with the service commencing on Monday 1 November. I advise the House that recruitment is under way to extend the service further to Nowra, Blacktown and Wagga Wagga in the near future.

The Community and Court Liaison Service is part of the statewide forensic mental health service. It aims to do three things: first, to screen all detainees and identify those individuals who require psychiatric assessment and evaluation to detect possible mental illness or disorders; second, to provide clinical recommendations to the courts and provide the courts with a range of options to assist the person appearing before a magistrate; and, third and most important, to link the person appearing before a magistrate to support and services in the community. This important information is being made available to magistrates and courts to assist those with a mental illness appearing before a magistrate. The staff required for the service will be clinical nurse consultants, who will work with forensic psychiatrists to assist magistrates, solicitors, police prosecutors and other court staff to help those with a mental illness appearing before the court. The service is available to those who are charged with relatively minor offences and where the process of prosecution has begun at the Local Court.

As I indicated earlier, the results are encouraging. In the 12 months to July 2004, 18,900 clients were screened for mental health problems under the court liaison program and 1,945 people, or just over 10 per cent,

were referred for a comprehensive mental health assessment, 1,400 of whom were assessed as having a severe mental illness or disorder. As a result, 204 were diverted to hospital for mental health treatment; 702, or just under half, were diverted to community care; and 507 were referred to custodial mental health services as per magistrate orders. It is important to add that at no time is the safety of the community compromised, and where community care is not possible, referrals are made to appropriate mental health services within the prison system.

These statistics clearly show a high level of success in identifying people with a mental illness and integrating them into local area mental health services and community mental health services. A tele-health model of the Community and Court Liaison Service has been funded for Griffith court and an expansion of this model to courts including Bourke, Walgett, Queanbeyan, Batemans Bay and Bathurst is under consideration. The Government will continue its commitment to providing a range of mental health services for those suffering mental illness. I look forward this afternoon to welcoming members who have formed the Parliamentary Friends of Mental Health and to constructively working with the co-conveners, the honourable member for Hornsby, the honourable member for Strathfield and the Hon. Dr Arthur Chesterfield-Evans, to address the challenges that mental illness presents. Also I offer my congratulations to the honourable member for Manly on his initiative in establishing this group and for helping to raise awareness about this very serious issue and the challenges that it poses.

DUBBO POLICE STATION

Mr ANDREW STONER: My question is directed to the Premier. Now that the buck stops with the Premier, will he give a firm commitment and time frame to finally build a new Dubbo police station, given that his State Infrastructure Strategic Plan 2002 stated that work for the construction of a new police station would commence two years ago, yet today a site has not even been identified?

Mr BOB CARR: With questions of that quality, it is not at all surprising that members opposite are conspiring to bring Larry Anthony into the State Parliament. That is the game plan for the future—Larry Anthony must be found a seat—because even someone at the absolute tail end of the Federal ministry is considered an improvement on the Leader of The Nationals in this Parliament.

Mr Andrew Tink: Point of order: It is the people of Tweed who are conspiring to bring Larry Anthony into the Parliament to get rid of Labor's hopeless local member.

Mr SPEAKER: Order! There is no point of order. I call the honourable member for Epping to order for the third time.

Mr BOB CARR: Then there is the Ross Cameron entry into State Parliament. He must be brought in. The Liberal Party needs some mental firepower on its front bench because every Liberal Party officer in the parliamentary party knows that they have not got it in this team. We know the message that emerges in the boardrooms: This is far inferior to Nick Greiner's front bench in opposition.

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

Mr BOB CARR: So bring Ross Cameron back to provide some mental firepower for the Liberal Party and the great advent of Larry Anthony to provide a new leader for The Nationals. After that question, which the Minister has already answered in this House, is there any doubt as to why they want to do it? I thank the House for its attention.

Mr Andrew Stoner: Point of order: On a point of relevance. The question was about a police station at Dubbo. The Premier might think it is a joke but the people of Dubbo do not.

Mr SPEAKER: Order! The Premier has concluded his response.

NATIVE VEGETATION MANAGEMENT

Mr MILTON ORKOPOULOS: My question without notice is directed to the Minister for Natural Resources. What is the latest information on native vegetation in New South Wales?

Mr CRAIG KNOWLES: As the honourable member knows, we learned a lot from the Wentworth group and the Sinclair group—Ian Sinclair would be a better leader than the current Leader of The Nationals.

We learned from him that native vegetation management could be handled differently and better. By farmers, scientists and conservationists working together, we managed to get results which now allow us to end broadscale land clearing unless it maintains or improves the environment, cut out miles of red tape, and hand over money that has been locked up for years in Sydney and Canberra to local communities for on-ground and on-farm works to improve productivity and the environment.

It is fair to say that overwhelmingly farmers manage their farms with great skill and care. They understand the need to manage their properties sustainably for the long term and not destroy the land. They want to pass something on to their kids and grandkids. In that sense, farmers hold the key to restoring and maintaining our environment, but they can do that only with the necessary support, information and funding to invest in the task. That is why, over the past year, we have established three key pieces of legislation: the Natural Resources Commission legislation, the catchment management authorities legislation and the native vegetation legislation.

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

Mr CRAIG KNOWLES: We have transferred more than $400 million—$436 million, to be precise—of Commonwealth and State funds to local catchment management authorities. We have cut the number of committees—cutting red tape out of the organisations—from 72 statewide committees to 13. As everyone understands, we are in the process of reducing the size of the Department of Infrastructure, Planning and Natural Resources [DIPNR] by 500 people and transferring another 250 people into the regions, the catchment management authorities—that was endorsed prior to the last election—and the task is well under way towards completion. Without doubt this has been a massive reform agenda and we now move to the next stage. Today we begin the public exhibition of the regulations that underpin the Native Vegetation Act.

The draft regulations will be available for public comment until the end of the year. They have been built over the past 12 months by the farmers, conservationists, scientists and my department in one of the most collaborative efforts I have ever seen in natural resource management. As part of the exhibition process, both New South Wales Farmers and the Total Environment Centre—just one example of that collaboration—will conduct approximately 30 information sessions around the State. That is another first. Rather than sending out the bureaucrats to conduct the town hall meetings, because of the work done by organisations such as New South Wales Farmers and the Total Environment Centre, they will conduct the consultation with communities throughout the State as part of these reforms.

I stress that while the regulations are not yet set in stone, we are always willing to continue to refine them and make them better as part of the public exhibition process—a logical thing to do. It is fair to say that the work done by those organisations thus far gives us an excellent chance of making a major shift in how we manage the natural resources in this State. For our farmers, these regulations provide greater certainty for them to invest and to do the work they do. Property vegetation plans [PVPs] provide farmers with the right to manage native vegetation, and once a PVP is established those rights cannot be affected for 15 years. A property vegetation plan produced under these regulations lifts what many farmers regard as the dead hand of the Threatened Species Conservation Act. As the Minister for the Environment said only a couple of weeks ago during his second reading speech on the Threatened Species Legislation Amendment Bill:

> Farmers can access a single comprehensive approval mechanism, in effect "switching off" the Department of Environment and Conservation's regulatory role in regard to threatened species.

That switching off of the Threatened Species Conservation Act is extremely important and extremely good news for the farming community, the production community, in this State. It underpins just how far we have come in the past decade when it comes to managing biodiversity and all those imperatives that underpin the Native Vegetation Act.

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

Mr CRAIG KNOWLES: The benefits to farming communities do not end there. Property vegetation plans allow farmers to use appropriate offsets to balance negative impacts of proposed clearing and flexibility to clear unprotected regrowth and manage routine agricultural activities without the need for government approval. Because this work is being done at the local level, through catchment management authorities, with the $436 million I mentioned, there are opportunities to support the work of farmers to conserve and repair damaged

rivers and their landscapes. One of the big benefits of the efforts is the move to an objective test to determine the impact of land clearing. Property vegetation plans are developed using a new tool called the PVP Developer, an on-farm, state-of-the-art software system to assess and, where necessary, modify a farmer's plan to improve his or her property.

The trials of the PVP Developer thus far over a number of sites throughout the State have been encouraging. However, in addition to having those stakeholder groups conducting community consultation meetings, during the period of exhibition we will also establish 100 on-farm trials of the PVP Developer and feed those results into the final regulations, which are expected to be enacted early next year. This is undoubtedly good policy matched by good science and a lot of goodwill. There has been strong support from the various groups, and I place on record my thanks particularly to Mal Peters and Rob Anderson from New South Wales Farmers, Jeff Angel from the Total Environment Centre, Russ Ainley from the Forest Products Association, Phyllis Miller from the Local Government and Shires Association, as well as Craig Tate and Craig Smith from the Australian Workers Union and the Construction, Forestry, Mining and Energy Union for their efforts and co-operation in building this model with the DIPNR professionals and the Wentworth scientists.

Each of those organisations now has a big stake in the success of this new way. Everyone understands that the Forest Products Association [FPA] is not necessarily a friend of Labor. It has fought against us over the past decade on these sorts of issues—management vegetation and management of our forests. But, as Russ Ainley, the executive director of the FTA, says:

> Property vegetation plans will provide long-term certainty that good farm practices will be maintained … the Act replaces a plethora of restrictive regulations, administered by a number of agencies, which have previously been imposed on farmers. It fairly places the responsibility of production and environmental outcomes onto the landowner and provides assistance, financial incentives and self-management to achieve a healthy balance. No longer will specific approvals be required for farmers to do their normal routine work.

The granddaddy of them all is Ian Sinclair, the man we brought in at the start of this process, at the start of this term of government, to build up the property vegetation plan model off the back of the Wentworth group—a new opportunity for The Nationals leadership if only they would bring him back. This is what Ian Sinclair had to say:

> Minister Knowles' policies have followed the paths my committee recommended and his changes are sympathetic to enhanced native vegetation management without prejudicing normal farming practices nor rotational agricultural land use.

I note that, in the context of the speech by the current Leader of The Nationals on the threatened species legislation three weeks ago, that statement by Ian Sinclair is a sensible, rational understanding of the Government's legislation, unlike the extraordinary scare campaign by the Leader of the Nationals and a couple of other Opposition members—for example the honourable member for Coffs Harbour—and their stupid propaganda, which, as the Minister for the Environment said, goes absolutely nowhere in the bush, because there they understand that this whole debate has moved on.

The people left way behind are the fraudsters over there from The Nationals, who are left with nothing else but to try to scare the insides out of honest, hardworking farmers who want to sustain their land. When a bloke like Ian Sinclair is saying this, one can see just how out of step The Nationals are. Naturally, we all look forward to the work of the various groups around the State over the coming weeks. This has been good work thus far and demonstrates what one can get when one works together with all those groups.

SPEED CAMERAS

Mr DONALD PAGE: My question without notice is directed to the Premier. Now that the buck stops with him, does he agree with the chairman of Staysafe, sitting behind him, that "We rely too much on speed cameras" and "There is no doubt they are a revenue maker"?

Mr BOB CARR: They have all been working at their desks, working on their little co-ordinated question time. Why can there not be a debate about speed cameras or about any other matter related to road safety? The more debate the better. I am happy to debate it. As it happens, I am persuaded by the evidence that speed cameras save lives. But, if the chair of Staysafe wants to take a different view, this is hardly a matter of ideological principle. Is the Government about to fall over the question of speed cameras?

Mr SPEAKER: Order! I call the Leader of The Nationals to order.

Mr BOB CARR: As for my position on speed cameras—

Mr SPEAKER: Order! There is too much interjection and too much general noise in the Chamber.

[*Interruption*]

Mr SPEAKER: Order! The next person who speaks while I am on my feet will be thrown out of the Chamber immediately. The short period of question time that remains will be conducted in the proper way, and the standards of the Chamber will be upheld.

Mr Barry O'Farrell: Point of order: In the same tenor as your ruling, you had no sooner said that the next person who speaks while you are on your feet will be thrown out than the Minister for Gaming and Racing said, "Throw him". I know no offence is taken when—

Mr SPEAKER: Order! The Deputy Leader of the Opposition will resume his seat.

Mr BOB CARR: I am quite happy on any matter of road safety to have a public debate and look at the evidence, the only test being: does it save lives? That is a tradition that goes back in this Parliament to a parliamentary committee taking the lead on random breath testing. These things ought to be canvassed across and within the party political divide. This is what shapes my view, the advice I find conclusive: An independent evaluation of 28 sites with speed cameras found that they had been effective in reducing road deaths. Of those 28 sites—14 in Sydney and 14 in regional areas—there had been 21 fatalities in the three years before the cameras were installed, and in the two years since their installation there has been only one road fatality.

[*Interruption*]

Can't you be serious! This is why they are trying to replace you, because you cannot be serious about saving lives.

Mr SPEAKER: Order! I place the honourable member for Bega on three calls to order.

Mr BOB CARR: I am advised by the Minister for Roads that apart from school sites they are deliberately placed in areas where there have been serious accidents. Are members opposite arguing that there should not be speed cameras on approaches to schools? Let us continue to debate within our parties and across the party divide how we can more effectively manage road safety in this State, and with one test above all—that is minimising the number of fatalities and minimising the number of catastrophic injuries.

REDFERN POLICING

Ms KRISTINA KENEALLY: My question without notice is addressed to the Minister for Police. What is the latest information on the Government's anti-crime initiatives in Redfern?

Mr JOHN WATKINS: In July, the commissioner and I announced a major plan to fight crime and provide enhanced policing in Redfern. The 32-point plan will make Redfern police, and the community they patrol, much safer. This plan is based on advice from operational police, from advice received from the upper House inquiry and the internal Coburn report provided to the commissioner. It provides NSW Police with additional resources and strategies to drive down crime and help officers in Redfern get on with their onerous job.

Honourable members would be aware that a central plank of our plan—and one of the most important initiatives for local officers—was the building of a new police station in Redfern. Six million dollars has been allocated to this project and I can today announce that a lease for seven floors of one of the TNT towers has been secured and the contract for its fit-out has been signed. I am advised that Redfern police should be able to move into their new home in early 2005—a station that will finally be as good as the police work that is done from it. Trinity Quality Interiors has been contracted to provide this modern headquarters, and work began yesterday. The new police station at Redfern will include secure undercover car parking; extended ground floor space, with security features including bullet-proof glass, airconditioning, a secure van dock, designated lifts for police and prisoners, and an external ramp entry for disabled access.

At the time of the riot, Redfern local area command had 170 officers working within it. Our plan is taking the number of officers available to the command to around 220. Much of the package has already been

implemented, with a number of other initiatives ongoing. Since the commissioner and I unveiled the Redfern plan in July, 12 additional officers commenced duties as part of the high-visibility Operation Concertinas, which patrols the railway precinct, and officers have begun operation support group training as part of the Vikings street crime unit, which will provide NSW Police with an enhanced public order capacity—24 hours a day, seven days a week. Reviews have also begun to assess future operation support group capacity. New and additional riot equipment has been provided to Redfern local area command, while regular inspection of the gear is now mandatory. At the end of October, 80 Redfern officers had undergone additional riot training, while exercises will now take place with police from adjoining commands.

Five new general duties positions and three new detective positions have been created, and six additional criminal investigator positions have been seconded into the local area command. Beginning with the August attesting class at the New South Wales Police College, no probationary constables will be assigned to Redfern so as to boost the experience levels of the officers at that station. Also, new cultural awareness training is being provided to Redfern officers and 120 police officers will have completed this course by the end of this year. A new command-and-control vehicle has been fitted out and has been used by police at five major incidents across Sydney in recent months.

The implementation of this plan has already delivered real outcomes to the Redfern community. Senior police report major declines in assault, break and enter and stealing offences. A major Aboriginal football tournament was held on the October long weekend without incident. Its planning involved close co-operation between Police, local authorities, a range of government agencies and the Redfern-Waterloo community. The Redfern crime plan response to community concerns sends a strong message of deterrence to those engaged in criminal and antisocial behaviour. The initiatives allow a greater concentration on both pro-active policing and investigation of offences. As a result we can look forward to improved results from sustained attention and additional resources.

These initiatives are working due in large part to the fantastic efforts of the men and women working in New South Wales Police at Redfern. As promised, the plan will be reviewed in the New Year to ensure that police at Redfern are getting all the support and resources they need. The police have done the heavy lifting at Redfern for far too long. The Government is committed to lightening their load.

JUSTICE JEFF SHAW POLICE INTEGRITY COMMISSION REPORT

Mr ANDREW TINK: My question without notice is to the Minister for Police. Given the Police Integrity Commissioner's admission in his letter that the relationship between the Police Integrity Commission [PIC] and the Minister for Police is "by no means an entirely arm's length one", will the Minister guarantee that the PIC report on the disappearance of Justice Shaw's blood sample will be delivered directly to the Parliament and not submitted in advance to him, his office or his department to vet, amend or release at a time of his choosing?

Mr Richard Amery: Point of order: I draw your attention, Mr Speaker, to questions 3106 and 3107 placed on the notice paper by the honourable member for Epping which ask for information, firstly, about the accident involving the Hon. Jeff Shaw—

Mr Andrew Tink: What have you got to hide?

Mr Richard Amery: It is your question. Paragraph (5) of question 3106 relates to when the outcome of the investigation will be publicly available. When the questions on notice are answered, particularly paragraph (5), the information sought by the honourable member for Epping will be provided. Therefore, his question is out of order.

Mr ANDREW TINK: To the point of order: The questions are entirely different. My question without notice relates to a letter from the Police Integrity Commission. To uphold the point of order would be to uphold the ongoing cover-up by the Government into the disappearance of Justice Shaw's blood sample. The point of order is an attempt at a cover-up on an issue that requires maximum exposure and transparency and that my question without notice be answered by the Minister for Police. Mr Speaker, do not let yourself become a party to a cover-up to protect the former Attorney General and the Minister for Police.

Mr SPEAKER: Order! While the Chair acknowledges the relevance of some of the matters raised by the honourable member for Mount Druitt in his point of order, the thrust of the question asked by the honourable

member for Epping is what will happen to the report when it is prepared by the Police Integrity Commission, not when it will be publicly available, which is the thrust of the question upon notice. There is no point of order.

Mr JOHN WATKINS: As I have often said, the Police Integrity Commission [PIC] is one of the most important institutions in New South Wales. It is entirely independent of Government. To suggest otherwise is a deeply offensive and dangerous accusation to be made by the Opposition, especially when it is the honourable member for Epping who called on the PIC to take over this investigation. I agree with the honourable member for Epping that the PIC was the most adequate and appropriate institution to take on this investigation, and it will do so according to its normal forms. It is independent of me and of the Government. This is an independent investigation. The PIC must be allowed to get on with its work, and I would encourage the Opposition to allow that to happen. The PIC will report on this matter in the manner the PIC believes is appropriate: at arm's length from me and from the Government.

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

Mr ANDREW TINK: I ask a supplementary question. In light of the Minister's answer and the letter from the Police Integrity Commission to the Leader of the Opposition dated 6 July 2004, in which the Commissioner states, "The relationship between the Commission and the Minister for Police is by no means an entirely arm's length one", will the Minister make sure it is at arm's length on this occasion?

Mr SPEAKER: Order! That is not a supplementary question.

BRICK AND BLOCK COMPANY

Ms NOREEN HAY: My question without notice is directed to the Minister for the Illawarra. What is the latest information on the Illawarra Advantage Fund?

Mr DAVID CAMPBELL: I thank the honourable member for Wollongong for her question and her ongoing interest in the Illawarra's economic strength. I am delighted to inform the House that a revolutionary new company is establishing itself in the Illawarra with the help of the Illawarra Advantage Fund—a Carr Government initiative to support the region as it continues to grow and diversify its economy.

Mr SPEAKER: Order! I remind honourable members that question time has not yet expired. They will resume their seats and maintain order in the House.

Mr DAVID CAMPBELL: This new company, the thirty-eighth company to be assisted by the Illawarra Advantage Fund, will use a by-product of steel making to manufacture building products, namely, bricks and blocks. The aptly named Brick and Block Company plans to establish a manufacturing plant at Port Kembla by late 2005 and hopes to reach full production by 2008. The company plans to initially invest more than $10 million in the plant and create 69 new direct jobs over the next five years. This means jobs for 39 workers on site, with 30 dedicated contract delivery drivers needed to deliver product by 2007-08.

The Brick and Block Company is a brand new business and has not yet started operations. It chose Port Kembla because it is near the greater Sydney metropolitan area and other major east coast towns and cities. The company will produce bricks and blocks for the construction of home units, factories and the like. It plans to use slag aggregate, a by-product of steel making, from BlueScope Steel. The product will be competitive with conventional concrete blocks and clay bricks. The material is very strong, fire-resistant and sound proof. The bricks and blocks can be produced in a range of colours to meet different tastes. It is a great way to use a by-product of one of our region's traditional industries: turn it into an everyday construction material for which there is continuing demand.

Almost all the Brick and Block Company's work force will come from the Illawarra. As well as the creation of the 69 jobs that I have already referred to, there will be a flow-on benefit with the creation of employment in other businesses. It is expected Brick and Block will support another 50 jobs in the Illawarra in its first five years. The Government continues to demonstrate its commitment to economic growth in the Illawarra. Through the Illawarra Advantage Fund the Government has generated investment in the Illawarra of more than $100 million.

DUBBO POLICE STATION

Mr JOHN WATKINS: As to the earlier question about Dubbo police station, improving accommodation for New South Wales Police is one of my highest priorities. That is why I have announced the allocation of $40 million per annum, beginning in 2005-06, for the replacement and refurbishment of 27 Police

properties across the State. As previously announced in this House, the Dubbo police station is on a priority list of 27 police stations designated for replacement. The promise to rebuild or refurbish the police station is rock solid and preliminary planning is already under way. Officers from the ministry's properties unit and the Department of Commerce have already visited Dubbo to talk to local police officers and to inspect potential sites for the new station. Local police officers and the Police Association will be consulted at every step of the way to ensure that the upgraded station meets operational requirements. The properties unit, the Department of Commerce and NSW Police are looking at issues such as demographics, crime statistics, predicted population and response times. Once this process is completed, I look forward to announcing more specific details and timetables for the development.

Questions without notice concluded.

CONSIDERATION OF URGENT MOTIONS

Doctors Fees

Miss CHERIE BURTON (Kogarah—Parliamentary Secretary) [3.31 p.m.]: The notice of which I have given notice reads:

> That this House expresses its opposition to plans by the Australian Medical Association to increase doctors' fees.

This motion is urgent because the Australian Medical Association has recommended to general practitioners across New South Wales that they should increase their fees by $5. This matter is urgent because such a move would wipe out the Federal Health Minister's $5 increase in the Commonwealth Medicare rebate due to take effect from 1 January 2005. This matter is urgent because the increase would cause continued pressure to be placed on our busy hospital emergency departments, which are already under pressure because of the Commonwealth's failure to manage primary and aged health care properly. Dedicated staff in our hospitals are already under pressure.

Independent Commission Against Corruption Assistant Commissioner Harrison

Mr ANDREW TINK (Epping) [3.35 p.m.]: Earlier I gave notice of the following motion for urgent consideration:

> That this House:
>
> (1) notes with grave concern Independent Commission Against Corruption [ICAC] Assistant Commissioner Harrison's public comments that it may be that "some well-meaning person managed to, in inverted commas, disappear this sample", referring to Justice Shaw's blood;
>
> (2) further notes that it is a serious criminal offence under section 88 of the Independent Commission Against Corruption Act to destroy a thing relating to an investigation;
>
> (3) calls on Assistant Commissioner Harrison to be removed from the ICAC's Orange Grove inquiry.

This matter is urgent because on 702 ABC Sydney at 9.00 a.m. on 3 November 2004 Assistant Commissioner Harrison told Sally Loane that some well-meaning person may have managed to "disappear this sample". It is urgent because Sally Loane then asked whether the assistant commissioner really meant "well meaning". He responded that he meant "well meaning, according to their own lights". The motion is urgent because Mr Harrison, for whom I generally have a great deal of respect, has committed a grave error, especially because he is the assistant commissioner of the Independent Commission Against Corruption [ICAC] responsible for the Orange Grove inquiry. The motion is urgent because an assistant commissioner of the ICAC—a quasi-judicial official—has effectively said that one can be well meaning and destroy evidence. That is why this matter is so serious.

Mr Harrison then used the words "in inverted commas". Without splitting hairs, that relates to the words that follow—that is, "disappear the sample", not "well-meaning". The motion is urgent because, according to the assistant commissioner, one can be well meaning and destroy evidence. It is absolutely untenable for any judicial or quasi-judicial officer to make such a statement, but it is particularly untenable for an assistant commissioner of the ICAC to do so. The matter is urgent because section 88 (2) of the Independent Commission Against Corruption Act provides that a person who, with intent to delay or obstruct the carrying out by the commission of any investigation, destroys anything relating to the subject-matter of the investigation is guilty of an indictable offence punishable by five years imprisonment. Given Mr Harrison's comments, we

must ask if during the Orange Grove inquiry someone is required to give evidence or to produce something and is accused of destroying that, will Mr Harrison uphold section 88 of the Independent Commission Against Corruption Act or not?

Mr Alan Ashton: Point of order: I note that the honourable member has used the word "urgent" several times. However, he has weaved into his contribution the issues that he presumes he will debate in a few moments. The Orange Grove matter has nothing whatsoever to do with the motion.

Mr ANDREW TINK: To the point of order: The motion refers to Orange Grove. The honourable member should read it.

Mr SPEAKER: Order! The honourable member for Epping may proceed.

Mr ANDREW TINK: The motion is urgent because Mr Harrison has not only condoned but also positively approved—

Mr Steve Whan: Point of order: I have been listening very carefully and the honourable member seems to be inferring that a judicial authority has approved that course of action. I suggest that that is not what the person meant and that that interpretation is a reflection on that person. I do not think that is allowed.

Mr SPEAKER: Order! The honourable member for Monaro is debating the issue with the honourable member for Epping. I do not uphold the point of order.

Mr ANDREW TINK: The honourable member for Monaro has just made my point. I regret to say this because in general terms I have respect for Mr Harrison, but his position is utterly untenable in the context of the Orange Grove inquiry. The matter is urgent because this House, which established the ICAC, is now witnessing an officer exercising powers that may well result in honourable members being called to give evidence and saying that it is acceptable for people to destroy evidence. It is untenable for someone exercising power under the ICAC Act to take that position. The Leader of the Opposition has written to Irene Moss, the ICAC Commissioner, asking that Mr Harrison be removed. Every honourable member would agree that that is what should happen. [*Time expired*.]

Question—That the motion for urgent consideration of the honourable member for Kogarah be proceeded with—agreed to.

DOCTORS FEES

Urgent Motion

Miss CHERIE BURTON (Kogarah—Parliamentary Secretary) [3.37 p.m.]: I move:

That this House expresses its opposition to plans by the Australian Medical Association to increase doctors' fees.

Since the Howard Government was elected in 1996 the rate of bulk-billing has fallen by nearly 10 per cent. In some parts of New South Wales bulk-billing is not simply at an all time low, it is in free fall. John Howard and Tony Abbott have spent the past year pretending that they are strong supporters of Medicare. They have travelled the country proclaiming loudly that the Federal Coalition Government believes in Medicare. The Prime Minister and his Health Minister are not fooling anyone. They have never supported Medicare or had any great interest in our public hospitals. The House will never forget the former Federal Minister for Health, the Hon. Kay Patterson, and her failed package to rescue Medicare—the first in a long string of attempted bandaids. When she was unable to arrest the decline in bulk-billing and the growing community pressure, the Prime Minister dumped her.

In came Tony Abbott—the Prime Minister's political fix-it man—who was appointed to keep health issues off the front pages in the lead-up to the election and to prevent the implementation of any serious reform. His offer to increase the Medicare rebate by $5 has failed because 60 per cent of doctors are saying that they will increase their fees by $5, thereby offsetting any benefit for patients. Tony Abbott's political bandaid of $5 is being swallowed up, and health costs will continue to rise for the people of New South Wales. Terrified that people might find out about the crisis in bulk-billing, early this year Tony Abbott stopped publishing bulk-billing data by region. I have no doubt that Mr Abbott was keen to hide the damage that he and his Government are causing to communities across New South Wales.

New South Wales public hospitals are under pressure for one reason and one reason only: a lack of commitment from the Federal Government. First, through the Australian Health Care Agreement the Federal Government carved out $1 billion from our public hospital system. It put a gun to the States' heads, forcing us to accept less funding or incur financial penalties. Let us look at how the failure of the Commonwealth is affecting the New South Wales public health system. More and more people are turning up to our hospital emergency departments because they cannot find a doctor who bulk-bills. This is especially the case for older people on fixed incomes. With bulk-billing in decline, people on low incomes simply have no choice but to present at a hospital emergency department.

In 2002-03 around two million people sought treatment at New South Wales hospital emergency departments. My local hospital, St George, is one of many hospitals in the State facing this problem. In September this year, for example, 1,579 patients who presented to the St George Hospital emergency department—that is, 43 per cent of all people who presented to emergency—were in the lower-urgency, triage 4 and triage 5 category. This is of grave concern, given that St George Hospital is a major trauma centre, with many critical life-saving operations taking place in its emergency department. Of all those who presented to the St George Hospital emergency department, 43 per cent could have been seen by a general practitioner [GP], but instead they had to wait in the emergency department while our busy doctors and nurses frantically tried to save lives as a result of accidents throughout the State. The demand on the St George Hospital emergency department is horrendous, and it is made even worse by the fact that people cannot get access to bulk-billing.

The New South Wales Government proposed a series of after-hours GP clinics in our busy hospital emergency departments, a plan that would reduce waiting times by having less serious cases seen by GPs. The Commonwealth agreed to fund only three of those clinics. Other hospitals missed out, including Tweed Heads District Hospital. Larry Anthony is probably now cursing the Federal Minister for Health for having made such a ridiculous decision. More and more elderly people are unable to access primary care at an early stage, and because of the Commonwealth's failure to provide adequate primary care they turn up to the State's hospital emergency departments with more complicated medical conditions which could have been avoided had they been able to see a GP in the first place.

I have seen this happen at St George Hospital emergency department, particularly during winter, when elderly people seem to suffer from more chronic conditions. Their medical condition worsens because they cannot afford to see a GP, particularly after hours. They are forced to wait until it becomes so critical—perhaps life threatening—that they have no alternative but to show up to a hospital emergency department. It is a deplorable situation. I have spoken to many people in hospital emergency departments, particularly the families of elderly patients, and they have told me that the problems could have been avoided had the patient been able to see a GP in the first place. The Commonwealth's refusal to provide more aged care places is another example of how little regard it has for New South Wales citizens. At any given time more than 900 beds in the New South Wales hospital system are taken up by people who should be receiving appropriate nursing home care. The Commonwealth's failure on bulk-billing, primary care and aged care is hurting the people of this State.

This Government desperately needs the co-operation of the Commonwealth on primary care. The State Opposition could give the New South Wales Government a helping hand. If members opposite were genuinely interested in improving our public hospitals, they would pick up the phone and call their colleagues in Canberra and encourage them to work with the State Government. As I have said on other occasions, this is not about buck-passing or trying to play politics; it is about the need for adequate Commonwealth funding to support the public hospital system, adequate funding for GPs to increase the incidence of bulk-billing, and adequate funding to ensure that GPs keep their practices open after hours. Particularly in rural areas, GPs are the gateway not only to hospital emergency departments but also to many other services, including mental health services.

Members opposite will no doubt speak about the State Government's responsibility for public hospitals. I say to them: We have lived up to our responsibilities tenfold regarding funding for public hospitals and looking after the people of New South Wales. The responsibility for public hospitals lies with the Commonwealth. Members opposite can issue as many press releases as they like. They can cry their crocodile tears and say it is the State Government's responsibility. This is a classic example of the Commonwealth's failure to look after the people of New South Wales—the elderly, and people on lower incomes who need to have access to GPs.

This Medicare quick-fix bandaid measure will not work. The Federal Government's agenda is to get rid of Medicare by stealth. It is slowly doing that, and I condemn it for that. If members opposite were interested in improving our public hospitals they would pick up the phone and call on the Federal Government to start

supporting health care in New South Wales, start supporting our hospitals, and give us back the money we are rightly owed. No member of this House can deny that money has been taken from this State that should not have been taken, that money has been ripped from public hospitals, and that the Federal Government should adequately fund Medicare, because the result is the constant pressure that our health system is under.

We want to support the people of New South Wales. We want to give everybody access to equal and proper health care, which they deserve. But it is becoming impossible, because the Federal Government is not committed to supporting our public health system. It believes in every person looking after themselves—"If you can afford it, good luck to you." The Federal Government is trying to get this country to follow the American system. I urge the House to support the motion. [*Time expired.*]

Mr BARRY O'FARRELL (Ku-ring-gai—Deputy Leader of the Opposition) [3.47 p.m.]: I was genuinely impressed by the contribution of the honourable member for Kogarah. For the first time I thought she sounded every bit a ministerial aspirant—especially in the way she told half-truths and only half the story about what is going on in the health system in New South Wales. I remind the honourable member for Kogarah that the Federal election took place a month ago. The people of Australia passed judgment on the Howard Government's health policies and, as I remember, the majority enjoyed by the Howard Government in both Houses actually increased.

More importantly, I recall that after the Federal election, members of the Labor Party, including the Leader of the Labor Party, the friend of the honourable member for Liverpool, said, "The electorate got it right. I trust in the judgment of the electorate, and I can't see other than the electorate got it right." I make the point that the honourable member for Kogarah and her factional colleague the Federal member for Werriwa disagree fundamentally, because on 9 October, having thankfully re-elected the Howard Government and given it a majority in the Senate for the first time in 25 years, the people have endorsed the Howard Government's program.

Miss Cherie Burton: Point of order: My point of order relates to relevance. The Deputy Leader of the Opposition is going a long way off the track. He should confine his comments to the motion and the debate. There has been no mention of the member for Werriwa, and if the Deputy Leader of the Opposition is saying that what the Federal Government is doing to health care in New South Wales is acceptable, he is a disgrace.

Mr DEPUTY-SPEAKER: Order! I am sure the Deputy Leader of the Opposition will return to the leave of the motion.

Mr BARRY O'FARRELL: The honourable member for Kogarah makes so many points for our side of this debate. In response to her statement that the Federal Government has "ripped money out of public hospitals", I would like her to take any opportunity, following my contribution—particularly in her rebuttal of it—to prove that money has been pulled out of New South Wales public hospitals. I remember that the agreement signed last August represented a 30 per cent increase on the previous five-year Commonwealth-State Health Agreement. However that is presented, at the poor, parochial Catholic school that I attended for my education, a 30 per cent increase indeed represents an increase.

The honourable member for Kogarah failed to mention an issue on which we are almost in agreement: the number of aged people in our hospitals. As I have said in this House previously, and at media conferences, that is not a single-sided coin: there are 2,000 disabled people with brain injuries housed in the State's nursing homes because this Government will not provide support for disability and group homes in the community to service those people. If those 2,000 people were taken out of the State's nursing homes—where the Council of Social Service of NSW [NCOSS] and others argue they are inappropriately housed—not only would pressure on the hospital system be relieved but also waiting lists for aged-care accommodation would be shortened.

The Opposition does not support the approach of the Australian Medical Association to increase general practitioners' [GPs] fees. That is in line with the position taken by the Federal Health Minister, Tony Abbott, who has also condemned the proposed increases in fees. The Federal Government went to the election with an incredibly generous health care package. Members need not take my word for that; the *Medical Observer* of 8 October published an analysis of those policies that affect the capacity of GPs to earn an income and policies that reflect their capacity to increase their fees. Whether it is the Medical Benefits Schedule rebates, the bulk-billing incentives, the Medicare Safety Net or the reimbursements for after-hours service, the Liberal Party and The Nationals, on 9 October, presented a far more comprehensive program than was put forward by the Labor Party, which cost more and delivered more benefits to doctors, among others.

That is why, when this issue of doctors' fees was raised, Tony Abbott said that the planned fee hikes were not justified because GPs' incomes would be boosted as a result of the $5.1 billion that the Howard Government is going to put into the health system. During the election campaign the Liberals and The Nationals announced plans to increase the Medicare rebate for standard GP visits by $4.50 and to encourage more doctors to bulk-bill children and concession card holders. As a result of those policies the average GP will be $30,000 a year better off. Next week Federal Parliament will sit for the first time in the fourth Howard Government, and that legislation will be presented. I would hope that in her speech in reply the honourable member for Kogarah, on behalf of her Federal Labor colleagues, will commit to the safe passage of that legislation through the Senate, thereby providing relief to GPs and removing, once and for all, the need for them to increase their fees.

The Opposition will not stand by whilst GPs increase their fees. It is certain that if, in its last six months of having the balance of power and control of the Senate, Labor seeks to delay the proposals put forward by the Howard Government in the Federal election campaign, it will provide GPs across this State and nation with an excuse to put up their fees. I move:

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

"this House condemns the Government's attempts to blame doctors for the crisis in the State's hospitals."

Today the honourable member for Kogarah trotted out the old furphy that our emergency department crisis is due to people with coughs and colds, sniffles and sneezes and low-level ailments filling up our emergency departments.

Ms Angela D'Amore: That's 50 per cent—

Mr BARRY O'FARRELL: I was waiting for that interjection. The annual reports of the Department of Health for the past four years represent, in both quantum and percentages, those people who presented to emergency departments across the State in the triage level 5 non-urgent category. In July 2000 it was 14 per cent of all those who presented; last year it was 12.7 per cent. That is nothing like the 50 per cent erroneously quoted in the figures thrown around by members opposite. The Department of Health figures show a decrease in those numbers. It is a complete abrogation of its responsibility for the State Government to refuse to accept that the crisis in our hospital system is due to its deep and dramatic cuts in available beds.

If beds are not available in a hospital and people present to an emergency department—and we know that more and more of those people require hospital beds for follow-up treatment—they clog up the emergency department, preventing others from coming into that department. Ambulance officers are under pressure because they cannot get people into hospitals. Doctors and nurses in emergency departments are under pressure because they cannot get people through those emergency departments. Our hospitals generally are under pressure because there are simply not enough beds. At every stage those staff not only have to cope with their everyday tasks, but have to live with the pressure, knowing that, because of the delays, more people may die. It is unfair to ambulance officers, it is unfair to our emergency specialists, and it is unfair to all those who work in hospitals.

But it does not have to be so. This Government has the power to relieve the pressure on our hospital system. It was not told by the Federal Government to close those 5,000 hospital beds. It has the power to reopen those beds, relieve the pressure and provide the people of New South Wales with the service they deserve and the service that our hardworking and well-trained doctors and nurses ought to be able to give them. I say to the honourable member for Kogarah that we agree on the substance of this debate, which is that GPs should not put up their fees—and I am grateful for the Howard Government policies, which hopefully, with the support of the Federal Labor Party, will sail through the Senate and will deliver real benefits of up to $30,000 a year for GPs and thereby avoid the need for fee increases—but we will not agree with the Carr Government's repeated attempts to blame others for problems of its own making.

We will not resolve the crisis in our public hospital system until the Minister for Health and the Premier accept that the Premier's policies over the past nine years have got us into this mess, and only through State Government action will we get out of this mess. Only then will we do right by the patients and the public in this State; only then will we protect those hardworking doctors and nurses whom we need not just to recruit into our hospital system but also to retain in our hospital system.

Ms ANGELA D'AMORE (Drummoyne) [3.57 p.m.]: Bulk-billing in Australia is in crisis. The Commonwealth stopped releasing area-specific data in December 2003 because it demonstrated the extent of the

collapse in bulk-billing. But the last publicly available area-specific data shows that in the 12 months to December 2003 bulk-billing was rapidly decreasing. In particular, in Newcastle bulk-billing fell from 70.5 per cent to 61.8 per cent; on the far North Coast around Tweed, in the Federal electorate of Richmond, bulk-billing fell from 69.3 per cent to 62.9 per cent.

These figures show that patients are increasingly unable to find a bulk-billing doctor. Their only alternative is to go to a public hospital emergency unit. My local hospital, Concord hospital, is a 550-bed teaching hospital in the inner west that has a population catchment of 152,000 people. In September this year 1,052 patients, or 58 per cent of patients, presenting to Concord hospital emergency department, fell within triage categories 4 and 5. I wonder what the Leader of the Opposition has to say about that when one considers his latest comments in my local papers. It is the reality that if people had access to general practitioners and after-hours services they would not attend the Concord hospital emergency department. Patients in categories 4 and 5 would be more likely to receive treatment from general practitioners if they were available. The collapse of bulk-billing and the limited availability of after-hours general practitioners in my local area has led to many patients presenting to Concord hospital emergency department.

I note recent media comments by the Leader of the Opposition in relation to pressure on the emergency department of Concord hospital and code red. He failed to identify the shortcomings of the Federal Government and pressures placed on nurses and ambulance drivers at that hospital. It seems that the Opposition has little understanding of how emergency departments come to be declared code red. Code red is a system that applies when pressure is placed on emergency departments so that ambulance crews know that they must spread their patient load more evenly across the hospital system. The code red system is an appropriate and effective way of dealing with extra pressure and safeguarding patient care.

The collapse of bulk-billing has put additional pressure on our public hospital system, not merely because of the decline in bulk-billing but because of the availability of after-hours general practitioner services. Not only is there no incentive for doctors to bulk-bill, there is no incentive for them to keep their practice open after hours. This has forced residents to attend the emergency departments of public hospitals, without those hospitals receiving additional funding from the Federal Government. Instead of making a genuine commitment to rebuild primary care, the Commonwealth has offered a $5 increase in the Medicare rebate, an increase that will now disappear in higher general practitioner fees. That is not surprising when one considers that the Federal Government has starved general practitioners for far too long. Indeed, 60 per cent of general practitioners have indicated they will increase their fees by $5, which will swallow the higher Medicare rebate, thereby making it irrelevant.

The Commonwealth's bandaid solution for the primary care crisis has already failed to staunch the bleeding. New South Wales has developed a successful model that is providing improved after-hours general practitioner care to thousands of people in the Hunter Valley. The five after-hours general practitioner clinics in the Hunter are models of success. Up until August this year these five clinics saw 40,000 patients and undertook 560 home visits, including visits to 346 nursing home residents who may otherwise have required ambulance transport to hospital, and 232 general practitioners have been recruited to work across the clinics. There has been a reduction of 18 per cent in low-urgency triage categories at John Hunter Hospital and a reduction of 39 per cent at Belmont Hospital during the operating hours of the clinics.

I am sure that the honourable member for Swansea, who is in the Chamber, is very pleased with that result. Instead of supporting this successful primary care model, the Commonwealth Government has cynically offered to fund the clinics only until 2006. That is extremely short-sighted. This model of after-hours primary care is a proven winner, which the Commonwealth chooses to ignore. However, the New South Wales Government will continue to highlight it. Indeed, it has taken only a few weeks for the Commonwealth's dismal $5 patch-up for general practitioner services to be exposed for the sham it has always been, and it is not good enough. The Federal Government should support our public hospitals, doctors and nurses, and cough up something better.

Mr ANDREW FRASER (Coffs Harbour) [4.02 p.m.]: The hypocrisy of the two Government speakers is breathtaking. I draw to their attention a proposal by Woolgoolga and District Retirement Village Ltd for an after-hours care unit. That company wrote to the Premier on 23 August advising him that the Government's actions in regard to Rural Fire Service restrictions on the proposed site, which have since been overturned, had cost it a grand total of $735,227. The proposal was for doctors to operate an after-hours clinic to take the pressure off the Coffs Harbour Base Hospital health campus and ensure that residents received immediate attention, were triaged and sent to the health campus or, alternatively, diagnosed, treated and sent home.

As a result of this Government's policies and proposals, not only has the clinic not gone ahead, but it has cost the Woolgoolga and District Retirement Village Ltd $735,000 in missed opportunities—an escalation in construction costs of $412,000, withdrawal by the Commonwealth Government of funding of $200,000 and a reduction in grant funds per bed as at June 2004 of $122,500. The hypocrisy of honourable members opposite is beyond comparison.

I also bring to the attention of the House and members opposite, who do not consider regional New South Wales, that the Coffs Harbour health campus has a bed block of 18 per cent—not because of general practitioners sending people to the campus but because 20 beds have not been opened. When the shadow Minister and I visited the emergency department, the head of that department, accompanied by the chief executive officer of the hospital, told us that the bed block was caused by the closure of 20 beds because the New South Wales Government will not fund regional health services at the same per capita level as it funds city services. Last week the Minister for Health visited the area in response to my representations on behalf of a constituent in Bellingen. On that occasion the Minister wrote out a cheque to enable the hospital to be airconditioned for the comfort of patients.

Mr Steve Whan: That was very responsive.

Mr ANDREW FRASER: It was very responsive, and I am thankful that he took action in response to my representations. It is interesting to note that on the day the Minister visited my electorate he waxed lyrical about specialist services that had been attracted to the Coffs Harbour electorate, including a new ear, nose and throat specialist. Dr Adrian Hulcombe currently has a waiting list of six months just to see patients. Those who require an operation, such as a tonsillectomy, will have to wait more than two years. Dr Hulcombe and Dr Bill Ross, on an area-for-need basis, have enlisted the services of a surgeon from South Africa. That surgeon has sold his home, will move to Australia and will bring money to the area.

Miss Cherie Burton: Point of order: My point of order relates to relevance. I accept that the honourable member is passionate about this topic, but the motion deals with general practitioners increasing their fees. I ask that you draw the member back to the leave of the motion. He is not even speaking to the amendment.

Mr DEPUTY-SPEAKER: Order! The point of order has some merit. The honourable member for Coffs Harbour should perhaps speak to the amendment, which seeks to condemn attempts by the Carr Government to blame doctors for the crisis in the State's hospitals. His remarks so far have related only to Coffs Harbour.

Mr ANDREW FRASER: It is good to see partisanship in this House! The Minister tried to blame local people or give an undertaking that there was no Federal funding, yet the Health Department said there would be no money for visiting medical officer fees for ear, nose and throat services. The Government is playing games with health services in my electorate. Government members are hypocrites. [*Time expired*.]

Mr STEVE WHAN (Monaro) [4.07 p.m.]: Residents in rural New South Wales are also worried about the potential for the cost of visiting a doctor to increase. Although I do not support the comments of the Australian Medical Association, I do not blame rural doctors for wanting to improve their lot. In many cases they find it very difficult to make a living and pay their expenses. Most of them do a good job and they deserve our support. However, for a long time the Medicare rebate and bulk-billing have dramatically decreased, and that is particularly evident in rural New South Wales, which has experienced a horrendous drop in the level of bulk-billing. The area that I represent, the State seat of Monaro and the Federal seat of Eden-Monaro, has the second lowest rate of bulk-billing in the country of around 37 per cent. That is a disgrace. The people of my electorate need a Federal member who can better represent them. In response to an earlier comment from the Opposition, the Carr Government has doubled rural health funding. The Government now spends $2.78 billion on rural health, a 106 per cent increase since 1995. That shows the priorities of the two governments.

Bulk-billing has fallen dramatically in rural New South Wales because of the Howard Government's deliberate neglect of Medicare. These figures have been presented for some years, and just before the election the Howard Government finally acknowledged that there was a problem. Yet again we got a clayton's solution: we had an offer of an increase in rebates. However, like the private health insurance rebate, which has failed so miserably in Australia, the evidence of the Australian Medical Association [AMA] is that the increase in rebates is simply enabling providers to put up their prices. Consumers continue to pay and the Government essentially puts subsidies straight into the pockets of private providers.

A rise in Medicare rebates was needed, but that need has been present for a long time. That is why doctors in the area I represent have been critical in the media. Dr Peter Davis from Queanbeyan criticised the fact that the Medicare rebate has dropped back further and further over the years. In the *Sydney Morning Herald* before the Federal election Janet Watterson, the East New South Wales Division of General Practice Chair, was quoted as saying that general practitioners [GPs] in the Eden-Monaro area had continued to shun bulk-billing and that the extra $5 and $7.50 incentives were inadequate. As I said, this is another clayton's solution from the Howard Government, which does not address the need to boost bulk-billing. If bulk-billing is not given a boost, people in rural communities will not get the care they deserve.

People in rural communities need to be able to see a GP regularly, but members opposite overlook that important point. Unless people see their GPs regularly, they do not build up a case history, which means that some conditions that can lead to long-term health problems are missed. A recent publication from the area health service in the area I represent stated that about 40 per cent of premature deaths in the region were a result of conditions that related to lifestyle factors, such as heart disease, smoking, being unfit, et cetera. If people build up long-term regular relationships with their GPs they can have the warning signs pointed out to them. However, if people turn up at an emergency department to get treatment they will not get that long-term continuity of health care. They will get good care for the condition with which they present at the emergency department, but they will not get good long-term care.

Previous speakers mentioned that one problem with emergency departments is that they deal with far too many category 4 and 5 cases. In the Queanbeyan-Tallaganda-Yarrowlumla health council area about 82 per cent of the people who go to the emergency department at Queanbeyan hospital are in category 4 or 5, people who could generally see a GP with their problem. Earlier, the potential leader of the Liberal Party, the leader in waiting, made a fundamental mistake when he said that doctors' incomes were being increased by the Federal Government by way of the rebates. However, doctors do not increase their income unless they increase their fees; otherwise, it is simply a transfer of money to the patient. If doctors are to increase their income they must increase fees along the lines suggested by the AMA, and that is the key thing we are trying to avoid. If the Medicare rebate is increased the Federal Government must also put in place measures to ensure that doctors will bulk-bill as well. That is why it is necessary for the Howard Government to look back at the policies that Federal Labor took to the election, including incentives to bulk-bill as well as increased rebates. [*Time expired.*]

Miss CHERIE BURTON (Kogarah—Parliamentary Secretary) [4.12 p.m.], in reply: I thank the honourable member for Drummoyne and the honourable member for Monaro for their positive contributions to this debate. The honourable member for Monaro is a wonderful advocate for the people of his electorate and continually brings to our attention the dilemma faced by his constituency because of the decline in bulk-billing. First, I refer to the comments of the Deputy Leader of the Opposition, who used insults and showed his lack of research—"When I wake up in the morning I will eat my fruit loops and make up some figures that I will read out in the House". I shall point to some real figures, and they are these. Since 1995, State Government funding for health has increased by 79 per cent or $4.4 billion. The health budget for New South Wales is at a record $10 billion, which is a third of the State's budget.

The Deputy Leader of the Opposition claimed that there has been a 30 per cent increase in Federal funding to New South Wales. If he got up early enough in the morning to do his research and looked at the Federal budget papers, he would see that the Federal Government has ripped $1 billion out of its forward estimates for public hospital funding. It is there in black and white in Budget Paper No. 2. This means $278 million less for the people of New South Wales. But it does not stop there. That decrease is coupled with a decrease of $105 million for changes in indexation under the health care agreement. Members opposite say that we signed off on that agreement. We had no choice! A gun was being held to our head and we had no choice but to sign off on that agreement. As for blaming doctors, the only people I blame are the members of the Federal Government, because history shows that the rates of bulk-billing started to plummet under the Howard-Costello Government, and they continue to do so.

The doctors say that they have had to increase their fees because the Medicare rebate has been neglected for so long under the Howard-Costello Government. In the lead-up to the Federal election the Howard Government decided to offer a quick five bucks to fix the problem temporarily until the election was over. The Howard Government knew full well that that would go nowhere near meeting the costs that GPs face and that it was still drastically underfunding the Medicare system. The only people who lose out are those on low incomes, the elderly of New South Wales and people in rural and regional areas who cannot either access bulk-billing or after-hours care because there is no incentive. That is the real issue today.

Tony Abbott, the Deputy Leader of the Opposition and the Opposition can cry crocodile tears in here and in Canberra, saying, "What an outrage that GPs will put up their fees!" But the reality is this: Bulk-billing is declining and Medicare is in a disgraceful situation nationwide because the Howard-Costello Government wants to get rid of Medicare. It wants to dismantle Medicare—members opposite cannot run away from that. There are no members of the Opposition in the Chamber because they are running scared. They know that that is the Howard-Costello Government's agenda. Now that the Federal Government has its mandate, I am more afraid than ever that it will start to dismantle Medicare. I refer to another foible from the Opposition about the closure of beds. The Fahey-Greiner governments closed 7,000 beds in seven years—that is 1,000 a year. That is fantastic! The Carr Government has opened beds through the sustainable access plan. We have 973 winter beds and more than 500 of them will become permanent. During the seven years members opposite were in Government they either closed or downgraded 30 hospitals. Since 1995, nearly every major public hospital and emergency department has been rebuilt or refurbished by this Government. Compare that commitment!

Amendment negatived.

Motion agreed to.

WESTERN NEW SOUTH WALES MINING INDUSTRY

Matter of Public Importance

Mr KERRY HICKEY (Cessnock—Minister for Mineral Resources) [4.19 p.m.]: I am pleased to present to the House an update on the State of the minerals industry in western New South Wales as a matter of public importance. The minerals sector is a continuing success story, particularly in western New South Wales, where it has sustained the economies of many communities and towns during the drought. Many people think the New South Wales mining industry begins and ends in the Hunter Valley, the South Coast and the Illawarra. However, western New South Wales has a proud tradition and a bright future in the mineral resources sector. Since becoming Minister I have travelled the length and breadth of the State, inspecting mining projects and talking with operators, workers and residents of those mining communities. Many of those trips have been to regional centres in western New South Wales, which clearly demonstrates the importance of this vast region to our industry.

In the past couple of weeks, there have been exciting developments at a number of western New South Wales mining projects. Firstly, BeMaX Resources Ltd has secured financing for its Pooncarie mineral sands project, near the Darling River township of Pooncarie, about 240 kilometres south of Broken Hill. With initial capital investment costs estimated at $117 million, the Pooncarie project will focus on the recovery of high-value heavy minerals, including zircon and rutile. I inspected the trial pit at the world-class Ginkgo deposit in early October. This is the most advanced mineral sands project in the New South Wales part of the Murray Basin. The confidence shown by the financial markets in backing BeMaX means the project remains on track, with production at the Ginkgo mine expected to commence in the fourth quarter of 2005.

After the development of Ginkgo, BeMaX will focus on the nearby Snapper deposit, which is currently undergoing an environmental impact statement process. If all necessary approvals are obtained, Snapper will be further developed at a cost of $70 million, thanks to the existing infrastructure at Gingko. BeMaX estimates that the Pooncarie project will produce some 400,000 tonnes of mineral sands concentrate a year, generating annual revenues of about $100 million. The project will employ 150 operational staff. Those people will need purpose-built accommodation and all the services that go with the running of the mine and a small town, and it will be a cash bonanza for the people in the Murray-Darling electorate. I cannot stress too much the importance of the Pooncarie project. People who have been to Pooncarie will realise it is a major boon for that area, especially to the agricultural industry.

Currently, New South Wales does not produce any rutile or zircon concentrate or leucoxene, and the prices of those minerals have soared. In its June quarter Australian mineral statistics report, the Australian Bureau of Agricultural and Resource Economics [ABARE] estimates bulk leucoxene concentrate prices at $509 a tonne, compared with $189 a tonne in the March quarter. While not as dramatic, prices for rutile and zircon concentrates are increasing as well. Rutile was up $85 a tonne on the March quarter price to $744 a tonne in June, while zircon was up $56 a tonne to $768 a tonne over the same period. Copper prices are also on the march. ABARE's June 2004 quarterly report shows the London Metals Exchange cash copper price at US$2,787 a tonne, up US$321 a tonne on the March quarter. Those prices are paying dividends for the north-west of New South Wales, particularly the Cobar-Nyngan areas.

Tritton Resources Ltd has almost completed construction of its $39 million copper mine near Hermidale, 50 kilometres west of Nyngan. The company reports that major works at the site are on schedule, with commissioning of the Tritton processing plant expected early in December. The three existing copper and gold operations around Cobar—CSA, Endeavour and Peak—are also doing well. The mine operators have a strong commitment to their work force. I saw that first-hand in September, when I opened the inaugural New South Wales Mines Rescue Challenge. The three mines have a partnership approach to mine safety, sharing ideas and expertise, and I commend them for that. The mine operators' commitment extends across the Cobar area. Cobar Management's CSA mine employs about 250 people. The mine's record production last year was valued at $140 million. The company is hoping to grow over the next decade, with an active exploration policy that has already extended the mine's life to 2012-13. The company is investing in the future of Cobar through its employment policy. Two hundred direct employees earn a total of $12 million a year in salaries. A further 50 people are employed by local contractors, who pump a further $9 million into the town's economy.

CBH Resources Ltd posted a maiden after-tax profit of $5.25 million for the year to 30 June 2004 after only nine months of operation at the Endeavour mine and at its 100 per cent-owned Newcastle concentrate ship loader. The ship loader handles current production from the Endeavour, CSA and Peak mines, and has secured the Tritton contract as well. CBH continues to explore around the Endeavour mine, and also around Broken Hill. I am particularly pleased to report that the company is one of many to take advantage of the work of the geological survey arm of the Department of Primary Industries. In the September 2004 quarterly report of CBH Resources, Managing Director Robert Besley writes:

> The Broken Hill District has been the subject of extensive recent government geological and geophysical surveys designed to assist mineral explorers to better interpret geology and target deposits. CBH is using this valuable information as the basis for directing and focusing its exploration efforts. Exploration models … offer the Broken Hill District new potential for the discovery of major new ore bodies.

That is a terrific endorsement of the Government's seven-year, $30 million Exploration NSW Program. Mining companies big and small appreciate the commitment of the Carr Government to encouraging minerals exploration and its decision to focus on western New South Wales during the past year. There are now 24 small or "junior" exploration companies active in New South Wales. A few weeks ago I had the pleasure of presenting the New South Wales Explorer of the Year Award to Perth-based Alkane Exploration. Alkane is a good example of a junior company. On my visit to Dubbo and Parkes in August I was briefed by Alkane's Technical Director, Ian Chalmers, on the company's activities and future direction. Firstly, the company has identified a massive gold deposit at Tomingley. It estimates the size of the deposit at 500,000 ounces worth about $275 million. Already, Alkane has spent $4.5 million on drilling alone.

Another $4.5 million has been spent over the past eight years on the so-called Dubbo zirconia project. Progress has been slow, but the estimated $100-million development is based on one of the largest resources of its type in the world. In fact, it would be capable of supplying the current world demand for zirconia, as well as rare earth products for hundreds of years. The Central West goldfields go from strength to strength. Alkane has struck copper and gold at its Wellington project, located 15 kilometres south of the township. Further south, at Orange, Newcrest Mining Limited has uncovered a major increase in resources at its Cadia East deposit, with an additional 8.4 million ounces of gold and 1.2 million tonnes of copper in situ since the 2003 resource statement. In-situ resources at the combined Cadia Ridgeway site total more than 29 million ounces of gold and a whopping 3.89 million tonnes of copper. As can be seen, the mineral resource boom throughout New South Wales is immense and is being generated by the geological and geophysical surveys that have been undertaken by the Department of Mineral Resources over the past five years.

Mr ADRIAN PICCOLI (Murrumbidgee) [4.29 p.m.]: I thank the Minister for Mineral Resources for raising this matter of public importance. It is unfortunate, but not unusual, that the Government continues to take credit for mineral exploration and development in western New South Wales which is mainly the result of private investment and the work of private companies. The discovery of gold and other precious metals is of great benefit to western New South Wales and has resulted in job opportunities in the region, particularly at Broken Hill, Cobar and other parts of the Central West. As members of Parliament we should be talking about what the Government can do to assist mining in New South Wales. The Minister spoke about the geological survey undertaken by the Department of Mineral Resources and referred to the support of the Government for Exploration NSW. The program has, indeed, assisted mineral exploration and development in western New South Wales, but it should be acknowledged that it was begun by the Greiner-Fahey Government.

Since it came to office in 1995 the Labor Government has introduced measures that have impeded the development of mineral resources in western New South Wales. The most recent of those occurred only a week

or so ago when the Special Minister of State tabled a draft occupational health and safety bill in the Legislative Council. The provisions in the bill have frightening consequences for mining not only in western New South Wales but right across the State. Within an hour of the bill being tabled in Parliament I received a number of calls from representatives of the mining industry.

Mr Kerry Hickey: Name them.

Mr ADRIAN PICCOLI: Nicki Williams. The Chief Executive Officer of the New South Wales Minerals Council and representatives from Coal and Allied have also contacted me. Yesterday I was at North Parkes mine and serious concerns were raised about the occupational health and safety bill, which has the potential to devastate the mining industry. I will not go into detail about the bill, but a significant consequence will be that people will be reluctant to take jobs as mine managers. If the bill is introduced as currently drafted, an executive or a mine manager of a mining company will be potentially liable if someone is accidentally killed at a mine site. The bill relates to all industries—farming, building, local government—but we are talking about mining. It is hard enough to get mining engineers to fill vacancies at mines in western New South Wales, but this legislation provides that a mine manager may be potentially liable for mine accidents and could spend a couple of years in gaol if someone is killed at a mine site.

I am confident that in the tragic circumstances of someone being killed at a mine site the manager will be automatically charged and spend the next year or two defending himself against that charge. I am sure that no member of this Chamber would claim that a person who negligently caused someone to be injured or killed in the workplace should not be charged, convicted and punished. I certainly would not. But the Government is extending liability beyond what is reasonable, so that even the general manager of a mine site will be potentially liable. The bill will have significant consequences for mining across New South Wales.

The Government has introduced the proposed legislation to placate the Construction, Forestry, Mining and Energy Union because the union was so angry about the workers compensation legislation that was introduced by Labor a few years ago. The Labor Party promised the union it would pay it back, and this is its payback. The Government is in so thick and so deep with the unions that it is prepared to sacrifice the industry. The Labor Party must satisfy its chief financial backers: the unions. The Government will frighten off companies from employing people. If mines are closed down because the companies cannot get mine managers, the people who will lose their jobs will be the very people the Labor Party is supposed to represent: the workers—the bloke who goes out and gets dirty, the bloke who goes home every fortnight to his wife and kids with his pay packet, the bloke the Labor Party has historically represented but does not represent anymore. The Labor Party now represents the unions and will do anything to keep them happy.

Another example of what the Carr Labor Government has done to mines and the people who work in them was the introduction in June 2001 of sweeping reforms to workers compensation which sought to deprive people injured at workplaces, such as mines sites, from accessing compensation. We saw the response of the unions to those reforms. I vividly recall the thousands of people who staged a massive protest out the front of Parliament.

Mr Thomas George: The biggest crowd I have ever seen.

Mr ADRIAN PICCOLI: As the honourable member for Lismore said, it was the biggest crowd we have ever seen in front of Parliament. They blocked members of the Labor Party from entering Parliament. From memory they let left-wing members enter, but not the right-wing members because they would not stand up to the Premier. They were not going to let the Premier in, but he managed to sneak in the back door. That is what the Labor Party has done to the mineworkers of New South Wales. I want to refer to a couple of other ways the Government has inhibited mining in New South Wales. I refer particularly to the way the Department of Mineral Resources was absorbed into the Department of Primary Industries and the reforms to that department. The Department of Mineral Resources is now a sub-department of the Department of Primary Industries. I do not know how many jobs will be lost. Perhaps it will be a couple of hundred.

Mr Kerry Hickey: Point of order: The honourable member for Murrumbidgee, who is supposedly the shadow spokesperson, is speaking about the amalgamation of the Department of Mineral Resources and the Department of Primary Industries—

Mr ACTING-SPEAKER (Mr John Mills): Order! There is no point of order. The Minister for Mineral Resources is debating a matter he can deal with in reply. The honourable member for Murrumbidgee may continue.

Mr ADRIAN PICCOLI: It is a significant issue. The Department of Mineral Resources has been absorbed into the Department of Primary Industries and there will be significant job losses. The Department of Mineral Resources has a number of regional offices. I can only assume there will be job losses, although the Minister denied it during budget estimates and said he was not aware of any such cuts.

Mr Kerry Hickey: Point of order: The matter of public importance relates to mining in western New South Wales. The shadow spokesperson has not raised one matter relating to mining in western New South Wales. I ask that he be drawn back to the subject of the debate.

Mr ACTING-SPEAKER (Mr John Mills): Order! I have the gist of the point of order. The honourable member for Murrumbidgee may continue, but I ask him to bear in mind the subject of the matter of public importance, which is mining in western New South Wales.

Mr ADRIAN PICCOLI: The topic of the matter of public importance is broad. The availability of Department of Mineral Resources staff in places such as Lightning Ridge is relevant. Any job cuts in the offices of the Department of Mineral Resources will have a significant impact on mining in western New South Wales. Honourable members should not forget that mining in New South Wales is not only a matter of finding the ore—although that is important—but also of attracting staff. A miner at Cobar told me that one of the most significant issues confronting them was that they could not attract a physiotherapist to Cobar and that that was badly affecting the rehabilitation of injured staff and, in turn, influencing their ability to attract staff. The Government must deal with this whole-of-government approach if it wants mining to continue in western New South Wales, and it has completely failed to do that.

Mr PETER BLACK (Murray-Darling) [4.39 p.m.]: Mr Deputy Speaker, as a fellow chemist, I stand before you as member No. 8480 of the Geological Society of Australia. I suggest that that affords me a position of knowledge of the mining industry. I have never heard so much twaddle in my life as that contributed by the pretend shadow Minister for Mineral Resources. He is the only honourable member who does not know the difference between a long drop and a mining shaft. My son was logging drill core last week in Adelaide for an exploration that we have encouraged at Tibooburra. I cannot reveal the results because that could influence the share price. However, it is evidence that the mining industry of western New South Wales will continue, irrespective of the honourable member's endeavours to burr the margins.

The minerals industry is a major contributor to the economy of western New South Wales in terms of investment, regional development, export revenue, job creation and business activity. As the Minister noted, the value of minerals and petroleum production is forecast to hit $8 billion this year. Ironically, we are no longer on the sheep's back; we are on the mining industry's back. This State is now the second largest and lowest-cost producer of gold in Australia, with a weighted average cash cost of production of $187 an ounce, compared with $241 an ounce in Queensland and $335 an ounce in Western Australia. We produce more than 40 per cent of the nation's coal and approximately one-third of New South Wales' exports are mining related. However, the honourable member for Murrumbidgee knows nothing about that. Clearly, many people in western New South Wales owe their livelihood to the mining industry, and I speak on their behalf.

Public exploration has proved extremely cost effective in stimulating private mineral and petroleum exploration investment in western New South Wales. I have been associated with the Broken Hill initiative since 1990. Over the past year, the bulk of the $5 million allocation from the State Labor Government's $30 million, seven-year Exploration NSW program was directed to the west, with $1.2 million for Broken Hill and surrounds, $1.1 million for Cobar and Bourke, $500,000 for the Central West, and $200,000 for the Murray Basin. A record number of new geoscience maps and CD-ROM packages are now available, covering western New South Wales areas such as East Lachlan, Inverell, Goulburn, East Cobar, Surat-Bowen Basin and Murray-Riverina.

The Canadian-based Fraser Institute has rated New South Wales as the world's third most attractive minerals exploration investment destination out of 53 nations or regions for 159 companies. The honourable member for Murrumbidgee should take that on board. The Government has sent delegations to and backed exploration investment conventions such as the world's premier event held by the Prospectors and Developers Association Convention in Toronto, Canada. This year, the Government has highlighted the investment potential of western New South Wales. The Lachlan Fold Belt is a world-class porphyry gold-copper area, and is also prospective for zinc, silver, lead, lateritic nickel and platinum.

The Curnamona Province contains the giant Broken Hill zinc, lead and silver deposit, which is the biggest line load of its type in the world. One of the most exciting recent developments has been Havilah

Resources' drilling results for copper and gold at its 6,000 square kilometre Kalkaroo deposit. Overall, the results indicate a several million tonne a year operation on a gold-copper ore body potentially worth $1.5 billion. The results also show the presence of molybdenum, a metal used to strengthen steel, which is worth a whopping $50,000 a tonne and which can potentially be extracted as a by-product of copper and gold mining. I do not have time to dwell on the exploration initiatives in the platinoid mineral area, but that will be mentioned later.

The Minister has already spoken about BeMaX's Pooncarie project, but Iluka Resources is also active in the Murray Basin. BeMaX will be exporting black sand through Broken Hill. The New England Fold Belt is an intensely mineralised terrain, with major gold systems as well as sapphires, diamonds and rubies. This year the Minister visited the Inverell area and launched the Geological Survey of New South Wales new diamond exploration data, aimed at encouraging niche opportunities for this relatively underexplored area. This is happening because this Minister is keenly involved in supporting the minerals industry of western New South Wales and the Government knows the value of the industry. Clearly the Opposition knows very little about it.

Mr KERRY HICKEY (Cessnock—Minister for Mineral Resources) [4.44 p.m.], in reply: Where is the Opposition spokesman for this portfolio area? He strolled into the Chamber halfway through the debate. He had been up in his room sipping his cappuccino and writing snippets for the *Daily Telegraph*.

Mr Thomas George: Point of order: The shadow Minister is in a meeting with Mr Speaker. He did not simply walk out of the Chamber.

Mr DEPUTY-SPEAKER: I thank The Nationals Whip for that information.

Mr KERRY HICKEY: Where was he during the debate? He did not walk in until it was half over. I do not believe that the shadow spokesman for Mineral Resources can come into this place and put a positive slant on this issue.

Mr Thomas George: Point of order: The Minister must be deaf. The shadow Minister has an appointment with Mr Speaker that he must keep.

Mr DEPUTY-SPEAKER: Order! We have been given that information. The Minister is in order in criticising the contribution made by the shadow Minister.

Mr KERRY HICKEY: It is even more shameful that he is a country member. He does not adequately represent rural businesses or rural people. He is more interested in what he writes about the "ruro-sexuals" for the *Daily Telegraph*.

Mr Thomas George: The rural what?

Mr KERRY HICKEY: He calls them "ruro-sexuals". He wrote an article about them that I will provide to the honourable member. The State Government is appropriately taking credit. Over the past year the bulk of $5 million allocated to the State Government's $30 million, seven-year Exploration NSW program was directed to the west, with $1.2 million for Broken Hill and surrounds, $1.1 million for Cobar and Bourke, $500,000 for the Central West and $200,000 for the Murray Basin. A record number of geoscience maps and CD-ROM packages are now available covering western New South Wales areas such as East Lachlan, Inverell, Goulburn, East Cobar, Surat-Bowen Basin and Murray-Riverina. This Government is working hard, hand in hand with private industry.

The shadow spokesman has demonstrated his ignorance of his shadow portfolio responsibilities. The swamp fox—the honourable member for Gosford—must have written his speech. The honourable member for Gosford should watch his back—the rising star of The Nationals may end up looking after the shadow industrial relations portfolio. Once again the honourable member for Murrumbidgee has come into this place and ranted on about industrial relations but said nothing about his shadow portfolio area.

The Department of Primary Industries [DPI] is the same as government agencies at the Federal level. The Commonwealth Department of Agriculture, Fisheries and Forestry is very like the DPI. The Federal Government has exactly the same set up as New South Wales. The honourable member talked about why we should be worried about the DPI in Sydney when he knows that there are regional offices at Lightening Ridge and elsewhere. He was up there looking after farmers' interests, but he does not care about mineral resources.

I point out to the honourable member for Murrumbidgee that there are also regional offices and mineral resources staff in Broken Hill, Armidale, Lithgow, Singleton, Orange and Wollongong. Perhaps the honourable

member and other members opposite could get out of their offices and have a look around. The honourable member for Murrumbidgee is supposed to be the shadow spokesperson on mineral resources issues, but he really does not care about them. He is too busy planting onions and making sure the pickers are picking them. He wanders into the Chamber whenever it suits him, and he writes little life snippets for the *Daily Telegraph*. It is about time he realised there is a big world out there in mineral resources, and he needs to get out and have a look.

Discussion concluded.

PREVENTION OF CRUELTY TO ANIMALS AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

Ms ALISON MEGARRITY (Menai—Parliamentary Secretary) [4.54 p.m.], on behalf of Mr Kerry Hickey: I move:

That this bill be now read a second time.

The Prevention of Cruelty to Animals Act 1979 is the principal Act concerning the welfare of animals in this State. Its objects are to prevent cruelty to animals, and promote the welfare of animals through proper care and humane treatment. In terms of its practical application, much of the work under the Act is done by officers of the RSPCA and the Animal Welfare League. Both organisations are independent, approved charities, and they rely almost entirely upon community donations to fund their activities, including their enforcement and compliance activities under the Act. It should be noted that NSW Police officers also have enforcement powers under the Act.

The amendments will significantly improve the Act's operation and the officers' enforcement capabilities. The bill extends the powers of officers, introduces a system of penalty notices for offences, makes a number of amendments to improve the efficiency of enforcement and prosecutions, and also clarifies a number of provisions. The major aim of the bill is to allow early intervention, with greater powers being given to officers to prevent harm to animals in the early stages. Perhaps most importantly, the bill gives officers the power to issue directions to people to care for their animals. To a certain degree, the amendments are about education. By giving officers the power to intervene, they can provide essential welfare information about the specific needs of individual animals. Often, the cruelty that animals suffer is due to ignorance. The amendments will help overcome that ignorance by providing officers the ability to give directions about the care and welfare of an animal.

The other major aim of the bill is better responses once offences have been committed. In particular, the powers of police officers and inspectors are being expanded. The rules for conducting prosecutions are also being addressed. Overall, the amendments will significantly improve enforcement and compliance powers, as well as ensure efficiency in procedures when matters come before the courts. The bill therefore provides a dual approach to improving animal welfare. On the one hand, there will be greater early intervention and education and, on the other, there will be improved enforcement and compliance provisions.

Before I explain the details of each amendment, there are two general points I wish to make. The first concerns the consultation that was conducted in preparing the bill. There are several groups with an interest in this bill, including the farmers of New South Wales, the RSPCA and the Animal Welfare League. I am advised that talks were held with the RSPCA and the Animal Welfare League on a number of occasions, and that the New South Wales Farmers Association was consulted. I am further advised that there were positive responses to the bill. Additionally, the professional association of this State's vets, the New South Wales Division of the Australian Veterinary Association, was consulted. Once again, I am told that there was positive feedback.

The bill is the result of a review and improvement process, which the Department of Primary Industries conducts on an ongoing basis in conjunction with stakeholders. In recent years various shortcomings in the Act have been identified, and new and better ways of preventing cruelty to animals have been considered. As I have indicated, officers of the department routinely meet with staff of the RSPCA and the Animal Welfare League, as well as other groups. Many of the amendments in the bill have come about from discussions at those meetings.

The bill is a collection of sensible and practical reforms that have taken several years to develop. The Government has taken time to make sure that the changes are correct, and that proper consultation has taken place. The recent 2003 penalty amendment bill and the tail docking bill were required quickly to comply with election promises and other government commitments to the Commonwealth and the States, so those changes were introduced separately. Prior to that, the last time the Act was significantly amended was 1997. So, although recent amendments to the Act have been split into three bills, they should be seen as one package. It is a comprehensive and sensible package, and one that is aimed at improving the welfare of animals.

I will now deal with each of the amendments, beginning with the changes to the powers of police officers and inspectors. These changes are perhaps the most significant reforms in the bill. They expand the powers to investigate offences and to protect animals from abuse. As well as adding new powers, the bill amends the existing provisions—such as those dealing with search warrants and seizure of animals—to make them more appropriate to the job of animal welfare. The provisions under part 3 of the Act dealing with officers' powers have also been rewritten and revised. This was necessary because a number of ad hoc amendments to the Act, which have been made over the years since it was enacted in 1979, have seen its structure and wording become cumbersome and unclear. The amendments clarify the provisions of part 3.

Turning now to each of the amendments, the bill expands the current power under section 27A for an officer to require a person's name and details. At present, the Act provides that an officer can demand the name and address of people who are committing an offence, or who are suspected of committing an offence. The bill extends this power to include the names and addresses of drivers committing an offence involving a vehicle, or drivers who are suspected of committing an offence involving a vehicle.

A related amendment is a new power to require disclosure by the person responsible for a vehicle, or another person who might have information, concerning the name and address of a driver who is thought to have committed an offence. This could apply, for example, where there is a failure to tether a dog on the back of a utility, or where heat-stressed dogs are locked in cars. It could also apply where a driver fails to alleviate the pain of an animal that they have hit, or to stop animals falling from a moving truck due to poor containment. This power is needed because alleged offences under the Act often involve a vehicle, but the only information available to identify the alleged offender is the registration number of the vehicle. The number discloses the owner, but not necessarily the alleged offending driver.

A further amendment improves police officers' current power to stop vehicles. Under the amendment in this bill, the police will have the power to stop vehicles and direct the driver to move the vehicle so that it can be inspected. These powers will apply where an animal is thought to be in distress as a result of cruelty or where an animal has not been provided with proper food, water or shelter. The extended powers might be used, for example, in relation to stock transport vehicles where animals have collapsed, or they might be used where pigs are sunburned, or where animals have not received water in 24 hours. Where such cases come to the notice of inspectors, they will call the police and seek their help. These are sensible amendments, which will help to ensure that people provide the basic care and protection to animals under their control while the animals are in transit.

The bill makes several other amendments to powers under the Act. These powers will apply to both police officers and inspectors appointed under the Act, such as officers of the RSPCA and the Animal Welfare League. Beginning with the power of entry, the amendments in this bill extend the power for police officers and inspectors to enter private property. At present, section 26 gives them the power to enter premises if they suspect that an animal is being treated cruelly, or if an animal is going to be treated cruelly. In section 4, "premises" is defined as any place that is not a public place. The amendment in this bill expands the definition of "premises" to cover vehicles and other forms of transport.

Members would be aware that animals, particularly dogs, are sometimes left in cars. They can suffer heat exhaustion, or even stroke. Livestock too can be confined in vehicles such as trains, trucks, ships and planes. Under current provisions, police officers and inspectors do not have the power to enter the vehicles or vessels to examine animals or to relieve their suffering. The amendment in this bill fixes that problem. Under this amendment, officers and inspectors will be able to enter or forcibly enter a vehicle if a cruelty offence is suspected. This provision will allow dogs to be rescued when locked in cars on hot days, something that is not legally possible at the present time. As everyone would agree, this is a much-needed power.

However, not all the changes to officers' powers in this bill involve extensions. One of the amendments will restrict an existing power. Currently, officers have an unrestricted ability to enter residences in the exercise

of their duties. Under this bill, that power is to be limited to situations where the owner has given consent, or when the officers are authorised by a search warrant, or when it is likely that an animal welfare emergency exists. These emergencies will include situations where the officer believes that an animal has suffered a serious injury, or is in need of urgent veterinary treatment, or where the officer requires entry to prevent an animal suffering serious physical injury. This amendment will assist in protecting privacy, while still allowing officers to look after the welfare of animals in need. I must point out that the amendment does not change the law in relation to non-residential places, where there is no need for a search warrant.

The next amendment also concerns search warrants. Under the Act, a search warrant can be obtained in relation to a search for an animal. The amendment in this bill extends the current provision to cover searches for things such as prohibited electrical devices, cock fighting spurs, incriminating documents or the carcass of an animal, in addition to searches for live animals. Another amendment concerns officers' powers to seize animals. Under the current provisions of the Act, officers can seize an animal that has been treated cruelly and take it elsewhere, but they cannot seize the animal and keep it where it is. This is a serious omission in the officers' powers, and it could result in even greater suffering for the animal. Imagine stock animals that were not fed or given water, or were very ill through poor treatment. In these cases, if the animals were moved, they would be put through additional distress and could even die. It would be much better to water, feed or treat the animals where they are found. This bill will allow that to happen. By treating and caring for an animal where it is found, the distress, suffering and possible death associated with transporting the animal will be avoided. The care for the animal by the enforcement agency on the owner's land would terminate when the animal's proper care and health were ensured, or when they could be safely moved.

The last of the amendments concerning officers' powers that I will address is the power to give directions on the care of animals. This is a very important and useful amendment. Currently, the only enforcement tool in the Act is a prosecution. This necessarily presumes that poor treatment or cruelty has already occurred. It is, therefore, a backward-looking means of protecting animals. There is no tool in the Act that is preventative in nature. The amendment in this bill fixes that shortcoming. A new power will allow inspectors to give directions to those responsible for animals. For example, an officer will be able to direct that an animal receive medical treatment, or water, or be provided with shelter. The range of possible directions to ensure the animal's wellbeing is very broad. It is likely that this power will be used for first offenders, or in cases of less serious breaches of the Act. It gives people the chance to fix the problem. The power to issue directions will provide a new, more appropriate tool for inspectors to use in the care of animals. It also brings New South Wales into line with the approach in Western Australia, the Northern Territory and Queensland. Importantly, these directions will prevent serious cruelty from occurring in many cases.

A related amendment is the change to the definition of "veterinary treatment". It is being expanded to cover consultations and diagnostic procedures. When read with the directions powers, this change will allow inspectors to direct people to have their animal properly examined and its condition diagnosed. In turn, this will improve the chances of the animal receiving effective treatment. I need to point out some limitations on the directions power amendment. Let me assure members that the power will not be a free-for-all. The bill introduces several safeguards to make sure the power is used properly. Firstly, the power to give directions can be used only if an officer has reasonable grounds to think that a person has committed an offence under the Act. Officers will not, therefore, be free to make orders without some objective grounds for thinking that cruelty has already occurred. Secondly, a failure to follow a direction will not be an offence in itself, and there will be no penalty. Failure to follow a direction could, however, be considered in court proceedings for an offence arising from the situation or a similar matter.

Looking more generally, the bill introduces other safeguards on the powers I have described so far. These safeguards were developed in consultation with the Attorney General's Department. In exercising the powers, officers will be obliged to identify themselves. They will have to inform the person why they are using the power, and they will have to warn that a failure to comply with an order could be an offence. Also, as I have previously noted, only police officers will have the power to stop and direct drivers of vehicles. Therefore, even though many of the powers are being broadened, there will be appropriate protection for the public.

The next amendment relates to penalty notices. Under the Act as it currently stands, the only way to penalise a person is through court proceedings. Therefore, enforcement agencies are obliged to mount a prosecution if an alleged offender is to be penalised. But prosecuting offenders, particularly when an offence might be considered in the lower range, imposes a considerable burden on enforcement agencies. There are costs in time and money, particularly legal costs. Therefore, enforcement agencies may exercise a discretion to refrain from bringing proceedings where the alleged offence is regarded as less serious in nature. Consequently,

the alleged offender is left unpenalised and deterrence is not achieved. To overcome this shortcoming in the Act, the bill introduces a system of penalty notices. Members would be aware of the many other statutes that have adopted the penalty notice system. It has proven extremely successful in dealing with less serious offences by avoiding the costs of court proceedings.

The amendments to the Act currently before the House bring the benefits of the penalty notice system to the protection of animals. Under a new section 33E, inspectors or police officers will be able to issue penalty notices where the facts are clear and it appears to them that a person has committed an offence. For example, a penalty notice could be issued where someone failed to tether a dog in the back of a utility, or where someone has not provided proper water, food or shelter for an animal. Penalty notices could also be used for first offences where the offence has been committed through ignorance or carelessness. I must stress, however, that penalty notices will not replace prosecutions as an enforcement tool. Agencies will still be able to bring proceedings for offences, particularly serious offences.

The amendment does not specify the offences covered by the penalty notice system. These will be addressed in the regulations and will include a number of the offences under the Act. Similarly, the amount of the penalty notice will be set in the regulations. At this stage I can indicate that they will range from two penalty units or $220 to five penalty units or $550. This is in line with the amounts set for offences under other statutes. It is expected that a full public review of the regulations will occur during 2005. The recommended amendments to the regulations following this review should include a number of penalty notice offences.

The penalty notice amendment will greatly increase the efficiency of the Act's administration. The system will cover many types of offences that were often not prosecuted in the past. It will also free up resources that would be tied up with court proceedings, allowing these resources to be directed to more serious cases. However, the amendment will not take away a person's right to defend himself or herself in court. A person who is given a penalty notice will be able to defend it in the Local Court and the matter will then be heard before a magistrate in the usual way.

The next amendment concerns guidelines. The bill amends section 34A to clarify the use of guidelines for the welfare of farm and companion animals. This amendment is required because there has been some doubt expressed about whether codes of practice can be considered as guidelines. It is a technical amendment, but it will make sure that the various national codes of practice for the care and welfare of animals come within section 34A. This also means that any reference to guidelines or codes of practice within the Act can be easily found.

Another amendment in this bill removes the existing defence for veterinary surgeons against charges of cruelty under the Act. This change is consistent with national competition policy. A review of the Act found that veterinarians were unnecessarily protected from prosecution if they were involved in the treatment of an animal or if they were conducting surgery. This defence also provides a significant barrier to disciplinary procedures against vets by the Board of Veterinary Surgeons. The defence provision once served a purpose, particularly when painful operations were performed without pain relief. This was at a time when the techniques of analgesia were less advanced and public expectations were lower. For example, the firing of horses' legs was done without painkillers. In such cases it would have been inappropriate to charge the vet with an offence under the Act.

However, times have changed, and there have been major improvements to animal care. Veterinary science and public expectations regarding professional behaviour and the humane treatment of animals have greatly progressed. It is no longer acceptable to exempt vets from prosecution for cruel treatment of animals during a medical treatment or surgical procedure. Therefore, this bill removes that defence. Discussions with members of the New South Wales Division of the Australian Veterinary Association have raised no significant concerns about the repeal of the defence. This change will bring New South Wales into line with Tasmania, Victoria, Queensland, South Australia, the Northern Territory and the Australian Capital Territory.

The removal of the defence is not significant in practical terms. Animal welfare concerns and contemporary standards of veterinary practice are intimately related and are not at odds with each other. Indeed, the Australian Veterinary Association has recently redrafted its code of practice and this is now under consideration by the association's members. In the code the foremost principle of practice states:

> Veterinarians shall always consider the welfare of the animal first in the provision of veterinary services.

The Act also contains a variety of modifications and other changes. Members can consider these for themselves, but I will point out a few. Firstly, the bill introduces changes to the reporting obligations of charities, providing

that they can report at the end of September instead of the end of July. Secondly, the power of the courts to prohibit convicted offenders from having animals is expanded to cover any person who is convicted under the Act. Thirdly, the limitation period for prosecutions is extended from 6 months to 12 months and the requirement that a separate summons for each offence is modified so that a court can consider whether an offence involved more than one animal. In this way the court will be able to examine the seriousness of offences where they relate to herds, flocks or other groups of animals of the same species at the same place.

Fourthly, the requirements for charities to advertise animals for sale are being replaced by other more cost-effective and appropriate means of publicising that the animal is to be sold. Fifthly, a defence of feeding predatory animals live food is being introduced. However, this defence is subject to several safeguards to ensure that only predatory animals are given live food. Sixthly, the definition of "stock animal" is being expanded to include deer, which are currently included by means of regulation. This change recognises that deer are commonly farmed these days. However, the amendment has no bearing or influence on other legislation where deer may be separately considered as pest animals or as wild game. Also, the word "swine" is being changed to "pig" to bring the Act up to date.

The seventh change concerns the tethering of birds. Section 10 of the Act currently provides that where an animal may be lawfully tethered, the animal must not be tethered for an unreasonable length of time or by means of an unreasonably heavy or unreasonably short rope, chain or cord. However, the words in section 10 are inadequate. They mean that animals can still be improperly tethered by means of other materials, which may include a leather thong, a fishing line or wire. The bill amends section 10 so that specific mention of tether material or construction is omitted. In this way the full intention behind the prohibition will be reflected in the wording.

Another section of the Act dealing with tethering is also being amended. Section 21D prohibits the chaining of a bird by the use of a leg ring and chain. It, too, is inadequate at present. For example, cock-fighting birds can be tethered with a number of different materials and methods that are not presently caught by the words of the Act. To overcome this problem the bill extends section 21D to make it an offence to fasten a bird by any kind of tethering device. These amendments will not affect the proper use of jesses for birds of prey. In fact, there will be a specific defence for the use of jesses. In case members do not know, a jess is a strip of leather attached to the leg of a raptor. However, the defence is to apply only when a raptor is tethered to its handler. Also, as a matter of housekeeping, the two provisions concerning tethering will be incorporated in section 10.

The last amendment I wish to address concerns the prohibition in section 21 of the Act. This is the prohibition against sporting-type activities, such as coursing, where an animal is kept or confined and then released so dogs can chase, catch or confine the animal. There has been concern expressed that the word "used" in relation to a chased animal, which currently appears in section 21, could broaden the scope of the section so that vertebrate pest control and other legitimate activities are caught by the section. For example, it is possible that the section covers the chasing of rabbits by dogs to confine the rabbits in burrows before warren destruction, or it could cover the moving of sheep during dog trials or mustering.

To make sure that there is certainty as to the scope of the offence, the section is to be amended by replacing the word "used" with the more specific words "released from confinement". In this way the offence will be limited to sporting-type activities where animals are kept and released to be chased, caught or confined by dogs. There will also be a specific exemption for sheep dog trials, mustering of stock, working of stock in yards and other animal husbandry activities. This bill brings a number of significant improvements to the Act. It allows for early intervention and greater public education. But the bill does not ignore the powers of compliance. As I have explained, the powers of officers, inspectors and the courts are to be improved and expanded. It is expected that the combination of the two approaches will greatly improve the welfare of animals. I commend the bill to the House.

Debate adjourned on motion by Mr Thomas George.

Pursuant to sessional orders business interrupted.

PRIVATE MEMBERS' STATEMENTS

HUNTER ESTUARY WETLANDS AND KUSHIRO WETLANDS SISTER RELATIONSHIP

Mr JOHN MILLS (Wallsend) [5.15 p.m.]: I was pleased to attend on Sunday morning a celebration of the first 10 years of the Sister Wetlands Relationship between the Hunter Estuary Wetlands of New South Wales and the Kushiro Wetlands of Hokkaido, Japan, which was held at the wetlands centre at Shortland. The

affiliation of these two wetlands, which goes back to 1994, was renewed by the three mayors of the local government areas involved: Yoskitaka Itoh, the Mayor of Kushiro City; John Tate, the Lord Mayor of Newcastle; and Craig Baumann, the Mayor of Port Stephens. The master of ceremonies for the occasion was Christine Prietto, who is the chairman of the board of the wetlands centre and principal of the Awabagal Environmental Education Centre at the wetlands centre. Mayor Itoh, who is the President of Kushiro International Wetlands Centre, said:

> It is important to educate people that preservation and rehabilitation of wetlands will contribute to the economic success of the community. The sister wetlands relationship has given 10 years of friendship, an exchange of information and experiences, an exchange of scientists and students. Our hope for the future is to work together to make a difference for a sustainable future.

Mayor Craig Baumann said:

> We are acting locally to ensure these global treasures are preserved.

The Secretary-General of the Ramsar Convention, Peter Bridgewater, sent a message which stated:

> The on-ground involvement of local communities is the basis of success of the Ramsar Convention. It has been an inspiration to the world from the Hunter estuary and Kushiro on education for the wise use of wetlands.

In August this year there was a world child summit in Kushito, Japan, which focused on the natural environment. Five students from Callaghan College, Jesmond campus, who attended the summit, addressed our assembly on Sunday regarding pollution problems in the Hunter, including excessive nutrients and the impact of coalmining, in particular, ships at anchor. Also, five representatives from Tomaree High School in the Port Stephens electorate—I note the presence of the honourable member for Port Stephens in the Chamber—also addressed the assembly. The affiliations are assisted by there being a special bird. The Kushiro profile states:

> Sister School Affiliation
>
> The Latham's snipe [otherwise known as the Japanese snipe] is a representative bird which lives in Hokkaido's fields. It arrives here late in April as a summer bird and migrates to Australia late in the summer. The outdoor science club of Kushiro Nishi High School has been involved in researching and studying the Latham's snipe. It is no exaggeration to say that their activities led to the sister-wetland affiliation between the two regions as well as to the sister-school affiliation between their school and Jesmond High School.

A Guide to Kushiro Shitsugen, which is the booklet that was available, contains some interesting information about the snipe. I suggest that members opposite do not interject here. The booklet states:

> In the breeding season, they fly high in the sky and nose-dive, and make a strong "ga-ga-ga" sound by trembling tail feathers, which are opened in a fan shape.

Quite an exciting bird! By way of background, the Ramsar Convention is an international treaty to protect wetlands. It protects 111 million hectares of internationally significant wetlands throughout the world. In Australia, 64 wetlands have been listed on the Ramsar List of Wetlands of International Importance, covering a total of about 7.3 million hectares. The Hunter estuary wetlands are on two sites: Kooragang Nature Reserve, which became a designated Ramsar site in 1986, and the Shortland wetlands. The two sites are about 2.5 kilometres apart and are connected by a wildlife corridor. The wetlands are important as a roosting and feeding site for migratory shorebirds, including the bar-tailed godwit, the greenshank, the terek sandpiper and the eastern curlew. Some 190 species use the site.

Koshiro marsh is situated on the Pacific coast in eastern Hokkaido, and now consists of 18,290 hectares. Most of the marsh is included in the big Kushiro Shitsugen National Park, which was designated in 1987. In May this year a grant of more than $31,000 was made to the wetlands centre at Shortland under the State Government's Developing Regional Resources program to assist the wetlands centre's promotion as the gateway to the Hunter estuary. The Hunter wetlands conservation park concept has been proposed to the New South Wales Government by the wetlands centre. Developed over the past few years through discussion with many agencies, the concept of a conservation zone embracing the significant internationally recognised wetlands of the Hunter estuary has captured the public imagination in our region. We need to preserve our sensitive wetlands in the Hunter estuary. The Carr Government has been spending money to rehabilitate the wetlands. We need to secure the future of these estuary wetlands, many of which are not yet protected. [*Time expired.*]

RAIL SERVICES

Mr BARRY O'FARRELL (Ku-ring-gai—Deputy Leader of the Opposition) [5.20 p.m.]: Rail commuters do not ask for much. Basically, they want a train system that gets them to and from their destinations on time. They want to undertake their travel safely, and they prefer clean trains and seats in their carriages. In

return, they offer their patronage and their money for fares. They also offer this city a lifeline from the traffic that clogs our streets and the air pollution that afflicts the Sydney Basin. They should be treasured. They should be encouraged. They should have their basic needs met. Regrettably, events over the past year have demonstrated that their hopes for a safe, clean and reliable rail system are in vain. Worse, their plight is either ignored or not understood by the man appointed to preside over the State's rail system, the Minister for Transport Services, Michael Costa, as evidenced as recently as Mr Costa's interview with Alan Jones on 2UE this morning, where there was neither sympathy nor hope offered to rail users experiencing the sub-standard train services now available in Sydney. Mr Costa's response to the criticisms was to blame the managers.

How disingenuous! Who appointed these senior managers? The senior railway jobs in New South Wales have been like revolving doors, and each time a new appointment is made commuters are told that they can expect better services. Similarly, on each occasion the Carr Government has increased rail fares above the rate of inflation or the consumer price index, rail users have been told that the increased revenues will be used to improve service standards. Almost 10 years after Labor was elected on a promise to boost public transport, our rail system is on its knees. And it is there for one reason alone: the failure of this Government, firstly, to understand what commuters want from a rail system and, secondly, to adequately maintain and invest in the rail network.

Brian Langton set the tone for the former, and until he was forced to resign he never appreciated the safe, clean and reliable services that commuters longed for. His successor, the Minister for Roads, is in my mind the most negligent. The underinvestment and inadequate maintenance occurred on his watch. Even his Australian Labor Party colleagues have publicly said so. Despite the wake-up calls of the deaths in the Glenbrook accident, and the reports calling for more investment, better maintenance and the warning of a looming shortage in train drivers, nothing was done. That is probably unfair. While it is true there was no rail renaissance under the former Minister, the public relations division of the railways experienced a boom. Forests were sacrificed to the Minister's still unfulfilled promises of new lines, better stations and improved services. But as commuters bitterly know, such promises are yet to be delivered.

And now we have Michael. The wunderkind of the Carr Ministry last term has morphed into the blunderkind of this term. He seems to have left his mojo in the Police portfolio and commuters and other rail users can attest to the mess and chaos he has brought to rail. Like most members of Parliament, I have no shortage of feedback from local residents on the state of rail services. What Mr Costa fails to understand is the impact the delays, skips and cancellations have upon people's lives. They eat into family time, create tensions in the workplace and have recently created real problems for students sitting Higher School Certificate exams. Look at recent on-time running figures for the North Shore line! Over the past four months the afternoon peak has been above 50 per cent on only one occasion. Last week it was at 22.7 per cent; the week before it was at 16.4 per cent. The combined on-time running for the North Shore line over the past four months has reached 70 per cent on one occasion, is most often in the 50s and is a long way short of the 92 per cent or 93 per cent that the Carr Government allegedly demands.

Those figures fail to tell the story of the station skipping, cancellations and late runnings that now characterise our rail system. I am appalled that on Melbourne Cup day it is alleged that 22 drivers based at Hornsby collaborated to take a day's sick leave, thereby worsening the situation. I was doubly appalled this morning to read of the Premier's offer to these and other train drivers of a massive pay increase that will reward drivers for working an average of six hours a day with a total annual salary package that outstrips that paid to hardworking nurses and police, many of whom are required to work 12-hour shifts. On the weekend I spoke to a former senior rail manager, a refugee from the crisis the Carr Government has delivered to commuters and the rail system—one of those forced out. This person said:

> Barry, I can't understand why they aren't recruiting drivers from overseas and interstate and putting them through bridging courses to relieve the current problem.

After all, that is what we do with overseas-trained doctors when so-called areas of need, either in metropolitan areas or rural areas, cannot be serviced by local doctors. But it seems that this Government's historic connections to the union movement and the fact that the Minister is a former president of the train drivers union is stopping the Government from pursuing policies that are prudent and would offer hope to long-suffering commuters. I regret that this is a Government bereft of either sympathy or ideas when it comes to running the rail system. It is turning people off the rail system. Local stations in my electorate show a decline of up to 10 per cent in ticket sales, and for the long-term future of this city this shift away from rail is a disaster.

Many of the passengers lost because of the current sub-standard services will never return. Over the past decade of this Government, annual revenues have increased by a massive 80 per cent, and it has received a $7 billion windfall from stamp duty receipts. When its history is written it will be a history of missed

opportunities to invest in the rail system and to provide Sydney with the public transport system a modern city and its people deserve. Josh Scepps on 2GB this morning characterised them as "the throw money at the problem and hope it goes away" party, refusing to engage in fundamental reform to deliver better services to the people of Sydney.

NELSON BAY ROTARY CLUB AWARDS

Mr JOHN BARTLETT (Port Stephens) [5.25 p.m.]: Port Stephens electorate has an enormous number of volunteers, who work hard to make their community strong and vibrant. Today I acknowledge four community-minded individuals who recently were honoured by the Nelson Bay Rotary Club for their contribution to the Tomaree Peninsula. The Four Avenues of Service Citation was given to Lue Fagan. That citation is given to a Rotarian who has consistently shown exemplary effort in all avenues of service. Lue works tirelessly for the community and unobtrusively in all avenues of service. Her attention to detail in the execution of the task allows for a well-balanced and organised function whenever she is involved. The lend-a-hand philosophy is evident in all aspects of her vocational, community, international, club and youth work. Lue is involved in the Port Stephens RAAF Williamtown Support Group, the Port Stephens Sister Cities Committee, the Tomaree Public School and now the Tomaree High School. She is involved with the Chamber of Commerce and constantly helps neighbours through her good works.

Carolyn Lane was awarded a Paul Harris Fellowship. Carolyn is an Anna Bay resident, who is presently employed at the Anna Bay Medical Centre. Carolyn is renowned for the help she has given hundreds of people in family crisis. I often chat to her on our early morning walks along Birubi Beach. Parents and single mothers who have difficulty managing their newborns and who have nowhere to turn have had the benefit of Carolyn's loving care. She helps these people after hours and at no cost to the recipients. Carolyn was actively involved in raising money for the Nelson Bay polyclinic and the police boys club. She does a great amount of work for the Tomaree Peninsula, and especially the Anna Bay community.

Nola Lawler was also awarded the Paul Harris Fellowship for her leadership in organising the Tomaree breast cancer support group and in recognition of the worthwhile work carried out by all members of that group. Nola is president of the Tomaree subgroup of the Hunter Breast Cancer Foundation. Nola, together with Annette Cowling, formed the Tomaree breast cancer subgroup of the Hunter Breast Cancer Foundation on 23 February 2001. The aims of this group are to help women with breast cancer with transport—often to hospitals in Newcastle—cooking, babysitting, home counselling and just being there for a cuppa. Nola is the head of the steering committee and leads by example in all events and services performed by the Tomaree breast cancer group. Nola Lawler does a wonderful job for those people who suffer because of the problems involved in being located on the Tomaree Peninsula, a great distance from Hunter support services.

Last, but not least, I mention Greg Flux, who was also awarded the Paul Harris Fellowship for his dedication to the youth exchange program. I have known Greg quite a few years as past president of the Nelson Bay Rotary Club. He was always interested in the Rotary youth exchange program. As the international director, he encouraged the club to host at least two exchange students each year. He and his wife, Paula, have hosted many exchange students. They have taken them on holidays and generally been excellent hosts. In turn, they have visited some of the students in their countries of origin. Because of his dedication to the youth exchange program, Greg was invited to be a member of the district committee for youth exchange and is still active at both district and club levels.

On behalf of the Port Stephens community I say to these four people, and the many like them in Nelson Bay Rotary who work quietly and efficiently for their community, that Port Stephens would not be the community it is without their dedication. It is wonderful to be able to acknowledge in Parliament today those four people—one who received the Four Avenues of Service Citation and the other three the Paul Harris Fellowship—for their contributions to the Port Stephens Community.

COWRA TOURISM

Mr RUSSELL TURNER (Orange) [5.30 p.m.]: Tonight I refer to the tourism exposure received by Cowra in the past few days. The *Cowra Guardian* of 5 November carried the headline, "Award will provide statewide exposure for Cowra." It reminded me of the wonderful tourism exposure the city of Cowra received last year, when it sponsored the food supplied for Sculptures by the Sea, a highly successful event that is held each year between Bondi and Tamarama. I was proud to be a co-sponsor of last year's event. This year's event is being held at present.

Also highly successful was Cowra Tourism Corporation, which has taken out the trifecta with its latest addition to its awards cabinet. The corporation won the Events and Tourism Enterprise Award for its population category at the New South Wales and Australian Capital Territory Community Enterprise Awards presentation in Coffs Harbour on Saturday. The Manager, Ruth Fagan, is ecstatic. I acknowledge the presence in the House of the Minister for Tourism and Sport and Recreation. The article in the *Cowra Guardian* stated:

> Although the trophy and industry recognition is obviously important, the bonus of twenty 30 second Prime Television slots to feature CTC advertisements is what Mrs Fagan is really excited about.
>
> "It's really terrific for Cowra, as the advertisements will be used in Canberra and Wollongong to create broader exposure of Cowra to those markets."
>
> Television advertising is something the Corporation had already planned, so the win will allow it to channel pressures of financial resources to other areas.
>
> Mrs Fagan said she and her staff were so enthusiastic about the inaugural award that the submission was entered three weeks before the deadline.
>
> "It's really great to win, because it's right up our alley, working with local business and community.
>
> "We have done lots of innovative promotional campaigns, the Acoustic Guides at the Japanese Gardens, the new Phone Guide system, the Peace Bell audio system, the Visit Cowra campaign."
>
> Beating traditional tourism heavyweight, The Hunter, was another feather in the Corporation's cap, she believed

Speaking of the Cowra Japanese Gardens, the *Cowra Guardian* this week recognised two wonderful Cowra citizens and long-time supporters of Cowra-Japan relations—Tony Mooney, OAM, and Don Kibbler, AM—who are to receive a prestigious award from the Japanese Emperor in recognition of their contributions. On behalf of his Majesty the Emperor of Japan, the award of the Order of the Rising Sun, Gold and Silver Rays, will be conferred upon the two men at a presentation ceremony in the Japanese Embassy in Canberra on 6 December. The Japanese Government first presented Mr Mooney and Mr Kibbler with a letter of commendation and citation in 1995 and 2002 respectively, in recognition of their remarkable achievements towards promoting good relations between Japan and Australia.

Both men have played an integral part in the establishment, maintenance and expansion of the Japanese Garden and the Cultural Centre in Cowra. Mr Kibbler first proposed establishing the garden in 1973 and was largely responsible for the successful completion of the project. In 1988 he also proposed the creation of Sakura Avenue, which connects the cemetery, prison camp and the garden, lined by 2,000 cherry trees. Since then another 1,000 trees have been donated, including some from the Japanese royal family and parliamentarians. In 1995 Mr Kibbler established the Saburo Nagakura Foundation**,** named after the president of the Kyusyu Electric Company. Mr Kibbler is a director of that foundation.

Mr Mooney has also been an integral force, travelling to Japan in 1984 to seek funding assistance for the garden, visiting Jyoetsu City, site of the Naoetsu prison camp, where Australians were detained during World War II. He explained to city council members the purpose of the garden, and the exchange between the two cities began with Mr Mooney planting a eucalyptus tree in front of Jyoetsu City Hall as a symbol of peace. The Naoetsu prison camp later developed into a peace memorial park.

Ms SANDRA NORI (Port Jackson—Minister for Tourism and Sport and Recreation, and Minister for Women) [5.35 p.m.]: I appreciate the support of the honourable member for Orange for the tourism industry, as expressed in his contribution tonight. I too am pleased about the positive developments in Cowra. The region of Cowra, Orange and Mudgee is what I would call the next rim outside Sydney to benefit from tourism. Ms Ruth Fagan refers to the Hunter as the tourism heavyweight, and I agree with her. Although tourism in the Orange-Cowra-Mudgee district is strong and growing, over time it will become more of an icon and perhaps receive the status that the Hunter now enjoys.

Ms Fagan is a strong supporter of tourism. If she were not, she would not be on the board of Tourism New South Wales. I look forward to joining her this Thursday night for the New South Wales tourism awards. I sincerely hope that every member has a tourism product win in a category. Our main objective is to have New South Wales do well in the national awards. Honourable members will be pleased to know that in accepting the award for Sydney as best city in the world at the Condé Nast *Traveler* Awards a couple of weeks ago I took the opportunity to tell the audience to consider visiting places like Orange, Mudgee and Cowra.

BANKSTOWN CHRISTMAS CELEBRATIONS

Mr TONY STEWART (Bankstown—Parliamentary Secretary) [5.37 p.m.]: Christmas is alive and well in the city of Bankstown and surrounding region. I say that in light of the usual spate of rumours and calls

to talkback radio that occur at this time of year in the lead-up to Christmas that Christmas carols are not being played, Christmas decorations are not being hung, and Santa Claus is not being celebrated in Bankstown. The rumours circulate almost by stealth—the talkback callers have not been to Bankstown but they have heard about it third-hand. I can put a stop to those rumours by simply saying they are not true. The reality is very different. Despite Bankstown being one of Sydney's most ethically and religiously diverse areas, Christmas and what it stands for is a huge celebration in my local area and we are proud of it.

That celebration is not limited to local Christian communities. Rather, the festive season values of peace, harmony and goodwill to others are shared and celebrated by all members of the community, whether they are of Christian, Muslim, Hindu, Buddhist or other faiths. We all come together as one family and share those values, which is what Christmas stands for. A good barometer of our Christmas celebrations can be seen at the region's largest shopping complex, Centro Bankstown. Last week, in preparation for Christmas, Centro Bankstown put up nearly $200,000 worth of Christmas decorations. That was aimed at fostering the notion of Christmas as a time of celebration, regardless of religious background. It is an opportunity for a great area to show its Christmas spirit. In this context Centro's New South Wales State Marketing Manager, Mr Ron Glasel, said last week:

> In a contemporary society we thought it was important to show that we can embrace all cultures and still celebrate Christmas in that unique way that Australians do.

I commend Centro Bankstown for celebrating Christmas in Bankstown and for taking a stand and acknowledging the importance of the Christmas spirit to our community. Last week I visited Centro Bankstown to see the Christmas decorations and to say hello to Santa Claus. The Centro Bankstown Santa Claus, who sits in the centre court, is one of the best I have seen.

Mr Thomas George: Did you get a present?

Mr TONY STEWART: We have our wish: four more years after this term—and beyond, if the way Opposition members are behaving is anything to go by. The Centro Bankstown Santa Claus wears a beautiful suit that was imported specially from Europe. Tugging on his beard will prove that he is real. He has assured me that numerous children have tugged on his beard to no avail; his beard is there to stay. I am proud to celebrate Christmas in a multiculturally diverse community. We are often stereotyped by the media and talkback radio. Let me set the record straight. About three years ago I said in this House that the former owners of Bankstown Square had done the wrong thing by downgrading Christmas. They had decided not to hang the decorations that had been hung in previous years. The message was heard loud and clear. Centro Bankstown has set the bar for the rest of the community to follow. I lay upon the table a list of 226 Christmas carols that are being played during every hour of shopping time at Centro Bankstown.

Mr Thomas George: What are they?

Mr TONY STEWART: *Six White Boomers*, *The Spirit of Christmas*, *Santa Claus is Coming to Town*, *We Wish You a Merry Christmas*, *Oh Christmas Tree*, and so on. Christmas is alive and well in Bankstown, and I am proud to represent a diverse community that celebrates peace, harmony and goodwill.

SUTHERLAND SHIRE WATERFRONT RENTALS

Mr MALCOLM KERR (Cronulla) [5.42 p.m.]: Last night both the honourable member for Miranda and I attended the launch of a book on the Sutherland shire by John Veage. We had previously attended the launch of the black-and-white edition, and the latest edition is an excellent pictorial representation in colour of Cronulla and its surrounding districts. Some of the pictures relate to the water. As members would be well aware, the rivers and surf are an important part of the Sutherland shire. It is significant that the Carr Government's tentacles have now reached the owners of waterfront properties. The Carr Government has introduced new rents for people who have jetties, ramps, boat sheds and other amenities on public waterways. In some cases the rents have tripled. The Independent Pricing and Regulatory Tribunal released a recommendation in May this year that waterfront rentals should be increased.

Not surprisingly, the Minister for Local Government jumped at the recommendation and immediately issued a press release adopting the price increases. Access to our beautiful waterways is part of the lifestyle of thousands of shire residents, as is depicted in the book. Many waterfront properties are occupied by aged pensioners who settled in their homes more than 50 years ago. What is particularly offensive about these price rises is that while the Minister says that the taxpayers of New South Wales should be compensated by those who

use public land for private purposes, no remediation proposals have been forthcoming. Instead, all revenue will be retained by the government agencies responsible and dividends paid to the Carr Government. That is another example of the Carr Government ripping dividends out of government trading enterprises and allowing infrastructure and necessary works to deteriorate.

The book depicts a number of senior residents of Cronulla. Perhaps some of those residents or constituents have received letters of investigation from the Office of State Revenue inquiring about their liability to pay land tax. People who have contacted my office include a 68-year-old war veteran who resides in an over-55 villa and owns no other property, a 101-year-old resident of Stella Maris, whose 80-year-old totally and permanently incapacitated son lives in her family home in Cronulla, a gentleman whose only other address is a post office box and a 78-year-old widow whose husband died in April and owns no other property. The only title change was when probate was granted. As I said, these are some of the people who will be greatly affected by what is happening.

John Veage's book also contains pictures of the development that has occurred in Cronulla. That is important because we may lose the character of the area if a local environmental plan [LEP] being exhibited is approved. I urge all residents to look at the plan. The LEP was introduced when Tracie Sonda was the mayor and the Shire Watch Committee was controlled by the Labor Party. The State Government has said that it wants a massive increase in the population of the Sutherland shire and a proliferation of villas and townhouses. No doubt there will be many other editions of John Veage's book. It would be sad if he were to record a pictorial history of overdevelopment. The council should clarify its vision for the future. I have said previously that it would be a good idea to revert to civic design awards, because they demonstrate what is acceptable and reward high-quality development. The awards process was instigated by Michael Tynan when he was the president of the Sutherland Shire Council. It was an excellent idea and the council should reinstate it.

LIVERPOOL ELECTORATE EDUCATIONAL ACHIEVEMENTS

Mr PAUL LYNCH (Liverpool) [5.47 p.m.]: I speak to the House about significant commemorations and celebrations of educational achievements in Liverpool. I will refer to two events held at the Liverpool Catholic Club on consecutive nights, Friday 29 October and Saturday 30 October. The first of those was the celebration of 40 years of public education by Ashcroft High School. The reunion dinner held that night involved 500 guests; it was an enormous affair. Dignitaries present included Department of Education and Training District Superintendent, Larissa Treskin, and John Norris, who had been principal from 1999 until 2003. Construction of Ashcroft High School commenced in 1963. It was the first of the high schools to be built in the new housing estate of Green Valley. Its establishment coincided with the development of that new estate and other new suburbs. It was officially opened in May 1964 and approximately 138 students were enrolled. There were initially 14 teachers and Arthur Rhodes was the first principal.

The school is very proud of its work with the indigenous community. It acknowledges the Cabrogal people as the custodians of the land on which the school is built. The school also acknowledges the Gandangara, Darug and Tharawal people, who also lived in the region. There are many other notable features of the school. For example, from 1980 to 1993 it was the site for an intensive language unit that catered mainly for refugees. Outside Liverpool, the school is probably best known for its extraordinary success in schoolboy rugby league. From the beginning of the school, there were rugby league achievements.

In 1968 the school won the Parramatta district rugby league knockout, and it won again in 1973, 1974 and 1975. In 1976 it won the Forbes international carnival, the Parramatta knockout, the Penrith invitation carnival and the University Shield competition. It was runner-up that year in the Amco Shield competition. It subsequently won the University Shield again and the Forbes knockout trophy. It also won the University Shield in the 1980s, and went on to win the Commonwealth Bank Cup, which was previously called the Amco Shield. In 1985 five of the school's players were selected to play in the New South Wales State rugby league team and three were selected to play in the Australian schoolboys rugby league team. On the night a number of heritage awards were presented to those associated with the school. In the light of this rugby league history, it was appropriate that one of the heritage awards went to a former student, the well-known rugby league player Jason Taylor.

Ashcroft High School is now also a centre of excellence in the performing arts. In the first half of the 1970s it was successfully involved in dramatic and musical stage performances. The school and actors won the Arts Council of New South Wales High School Drama Festival and best actor and actress awards in 1975 and 1976. In the second half of the 1970s it established an important music program with special government

funding. In the 1990s this program was extended to dancing and the school won awards at the Rock Eisteddfod. Appropriately, a heritage award was also presented to the members of Mahogany, a group of professional performers educated at Ashcroft High School. They also performed on the night in their usual impressive manner.

There were many other highlights on the night, including a speech by the 1969 school captain, Walter Vanderpoll. The school has had the benefit of two important deputy principals, both of whom were present on the night. One is Gary Joannides, who was deputy from 1998 to 2004 and who is now a principal at a newly established high school nearby. The other is Davern Lewis, who was deputy from 1994 until 2004. He was not only present on the night; he was also central in organising the event. His contribution was warmly and deservedly recognised on the night. I have been involved with the school for many years and have been to many of its events. I look forward to continuing this relationship in the future.

On the following night I attended the golden jubilee dinner celebrating 50 years of All Saints Catholic Boys College at Liverpool. The school was previously known as the Patrician Brothers High School, and this event celebrated 50 years of Patrician Brothers education in Liverpool. The Patrician Brothers are a Catholic order that originated in Tullow in Ireland. They came to Liverpool in 1954 following population movements. They commenced with a classroom and playground provided by the Sisters of Charity. The first stages of the present primary school were completed in September 1955. A residence for the brothers was opened only in December 1958, and the school has grown steadily since. A number of significant guests were present on the evening, including Father Robert Fuller, parish priest of Liverpool; Brother Paul O'Keefe, Provincial of the Patrician Brothers; the current principal, Mr Tim Logue, and some previous principals—in particular, the well-known Brother Basil Downey, and Brother Matthew Mahoney, who gave a particularly entertaining address. Also present was the recent Liverpool parish priest, Father Phil Linder, and representatives of the Catholic Club, including, among others, Sylvio Marucci and Phil Coleman. Also there was Brother Higgins, who originally came from County Galway, which is important to anyone called Lynch.

Several hundred people were present, including many former students and supporters. The school has had a proud sporting tradition, in more recent years excelling at soccer. It has had a strong rugby league heritage. Its former students include well-known player Paul Minichello. Another of its former students who was present at the event and who spoke on the evening was Michael Wenden, an Olympic gold medal winning swimmer, who is well known in Liverpool. The newest building at the school is a creative and performing arts centre. The school's achievements are not restricted to the sporting field. It was a pleasure to attend this event and I look forward to working with the school in the future.

LISMORE ELECTORATE FUNDRAISING EVENTS

Mr THOMAS GEORGE (Lismore) [5.52 p.m.]: I speak about two fundraising events. I was a member of the official party at the Relay for Life that was held recently at Lismore. The event was organised by Don Whitelaw and John Bancroft and their team of willing workers. It attracted 37 teams, including families, footy clubs and workplace teams. Three people walked for 24 hours from 10.00 a.m. on Saturday until 10.00 a.m. on Sunday. That achievement demonstrates the Lismore community's spirit. Apparently the event raised between $35,000 to $40,000. A couple of weeks later, on Saturday 30 October, I attended another Relay for Life walk at Casino. Charlie Cox, the mayor of Casino, and his helpers attracted 37 teams.

Each event involved nearly 500 people, including cancer survivors, their families and friends. It was an inspirational event held to raise money for cancer research and to give hope to people battling the disease. The Casino organisers raised $30,000 before the walk started. I understand that they have now raised more than $40,000. The walk held three years ago at Casino began with a ribbon being cut by baby Olivia Transton with her mother's help. I know the Transton family very well. It was touching to see Olivia walk up and cut the ribbon on 30 October with the assistance of Ben Cowen, who attends the Casino Christian Community School at Casino. That school is behind Ben and his family with prayers and support. I congratulate and thank all those who took part in the Relay for Life walks in Casino and Lismore.

Last Sunday the 2004 2LM Children's Christmas Appeal was conducted. In my electorate the beneficiaries of the appeal are Jumbunna Early Intervention Centre in Casino, Wilson Park Public School in Lismore, Child and Adolescent Specialist Programs and Accommodation [CASPA] in Lismore and Summerland Early Intervention Program in Lismore. Each year the appeal raises money for much-needed children's services. This year I thought I had better do my bit for the appeal, so I rang the honourable member for Ballina and told him I would challenge 10 people to raise $500 each and we would walk from the 2LM studios to the airport, a distance of 12 kilometres down a steep hill.

I wanted to walk up the hill, but I could not get any challengers to walk up the hill with me. We ended up with 19 people supporting us and we raised $12,500. Everyone laughed at us when we suggested the idea, but at the end of the day it was for a good cause. In the electorate of Ballina, the beneficiaries of the appeal were Byron Shire Early Childhood Intervention Centre, Biala Special School in Ballina, and Ballina Early Intervention Centre. The people who accompanied me on the walk included Nyoli Scobie from The *Northern Star*, the honourable member for Ballina, Superintendent Bruce Lyons—

Mr Richard Torbay: He got me for some money too.

Mr THOMAS GEORGE: Yes. It was great that the honourable member for Northern Tablelands and the honourable member for Tamworth put in $50 each. I still have to collect the donations, so I am pleased that the honourable member for Northern Tablelands reminded me. Other walkers included Malcolm Marshall from the Southern Cross University; Dr Chris Ingall, a paediatrician; Rodney Johnson from Beach Buddy Security Box's; Neil Boyd from Westpac; Barry Edmonds from Farmer Charlie's; Brian Grant from George and Fuhrmann Real Estate; Bernie Hauville from Video Ezy; Lisa Lees from Rodney Lees Cabinet Making—her husband put up $500 so she could walk; Warwick Macdonald, Pam Basso and Lisa Waugh from The Professionals Bishops Real Estate; Trevor Sanders from St Vincent's Hospital; and Councillor John Chant. I thank all of them and their sponsors. It has been for a good cause and we have supported some very good organisations within our community.

BUNDALEER COMMUNITY CENTRE FUNDING

Ms NOREEN HAY (Wollongong) [6.57 p.m.]: I draw to the attention of the House the effect of the Federal Government's actions on the constituents of my electorate, particularly those who live in low socioeconomic areas. Recently the community development worker, Naomi Konza, made me aware of the troubles currently facing Bundaleer Community Centre in Warrawong. The centre is operated by Barnardos, Australia's leading children's charity, which provides services that successfully help prevent and reverse the effects of abuse, neglect and homelessness on children and young people. Barnardos develop three-year corporate plans within the context of the current Australian society. The values and principles of Barnardos drive key goals in services to children and young people, child and adolescent sector development, community support, and services and financial management. These key values and principles have made the Bundaleer Community Centre a great success.

Situated in the Bundaleer public housing estate at Warrawong, the centre has been the hub of a struggling community for four years. It has strong child protection concerns and deals with a high proportion of children who do not attend school, whether it be at primary school or high school level. Child health on the estate is an ongoing concern, with malnutrition, scabies, head lice and impetigo being some of the typical problems preventing children from attending school. Bundaleer Community Centre has been operating under a three-year federally funded Stronger Families grant and provides child and family community development services to help identify and apply workable solutions to the problems faced daily by the public housing estate community. However, the funding is to come to an end on 3 December this year. The closure of the on-site community centre will have a far-reaching effect on a community that has few alternatives.

Service data collected by Barnardos for 2003-04 in relation to the Bundaleer Community Centre revealed that the programs in operation are currently servicing 161 children and 62 adults—71 people were referred for financial hardship, 55 people for family social isolation, 51 people for child isolation, 28 people for parental stress, and 13 people for child neglect. If the community centre closes on 3 December 150 children will have nowhere to go after school each week except back onto the streets, 50 children will lose their home work-help programs each week, adults will lose their family nutrition and craft groups, and the estate will lose the family breakfast program, which feeds up to 40 families a week. The community worker will no longer be based on the estate and accessible to the community for information and referral services.

It is regrettable that many programs that were provided with funding under the guise of the Federal Government's Stronger Families Program seem to be coming to an end at the same time. The Federal Government is simply washing its hands of such programs and is once again, soon after the recent Federal election, trying to place responsibility for them on the State Government. It certainly has not taken into account the moneys New South Wales has missed out on, both prior to and since the Federal election, as a result of funding anomalies. I commend the Bundaleer community for not simply accepting the loss of Federal Government funding. In the last day or so the Bundaleer community has organised rallies and other events in an effort to raise the funding that is needed to keep this worthwhile project going. It is essential that these kinds of projects continue in the lower socioeconomic areas of my electorate such as Warrawong, Port Kembla and Berkeley, and that those who run them are acknowledged for their extremely worthwhile work.

HAWKESBURY VALLEY MUSHROOM INDUSTRY

Mr STEVEN PRINGLE (Hawkesbury) [6.02 p.m.]: It is important to place on the public record the enormous contribution of the mushroom industry to the Hawkesbury Valley, Sydney, New South Wales and Australia as a whole. The impetus for this private member's statement is the recent launch of John Miller's excellent chronicle of the industry, *Reminiscences of Fungi*. John and Beryl Miller were some of the pioneers of industry. In the 1950s John and Beryl Miller owned a dairy on 100 acres of land at Sackville on which they grew citrus, stone fruit and vegetables. Their entry into the mushroom industry, like that of many others, resulted from extreme desperation. In 1955 there were a massive seven floods of the Hawkesbury River. If only that amount of rainfall were around today! Not surprisingly, many farmers, including vegetable growers, dairy farmers, and so on, faced financial ruin. Alternative sources of income took on a particular significance. Mushrooms were a quick cash crop and looked promising as an income producer.

In those days mushrooms were mainly grown in the open on raised ridge beds. Those beds consisted of a compost base, 18 inches high and 24 inches wide, made from wheat straw or stable bedding with cow and a little poultry manure added, and covered in soil. The spawn seed was then inserted and covered with straw and hessian bags. The hessian bags provided a bit of a challenge, because under them there were lots of snakes and mice. Some people grew their crops in the old poultry sheds, or any other farm shed that would give protection from the weather. Some of the Hawkesbury pioneers of the industry were Roy Sanders, Wally Hanckel, Mary and John Daley, George and Norm Johnson, Mike Milczakowskyj, Rob and Geoff Tolson, and Eric Marland. The emerging mushroom industry was a boon for the Hawkesbury Valley, providing work for relatively isolated people. It provided work for builders, electricians, plumbers, chiropractors and physiotherapists, unfortunately, as well as accountants, transport drivers, farm machinery businesses, and many others.

Mushrooms also had a major impact on the post-World War II European migrants, many of whom were housed in the migrant hostel that is now the centrepiece of the Scheyville National Park. These hard-working migrants made themselves available as casual workers and were picked up by farmers on a daily basis to work on the various farms and were returned to Scheyville at night. Others walked to their employment. Many of these people working on mushroom farms turned compost by hand and also picked mushrooms by hand. This gave them experience in the industry and helped them later on to establish themselves, buy farms and be able to contribute to the industry.

Hawkesbury mushrooms also had a major impact on the well-known Australian brands of Edgell and Big Sister, with their trucks delivering from Oakville to Cowra on a twice-weekly basis. Of course, mushrooms were grown mainly outdoors. It was the Hawkesbury that pioneered the then novel indoor growing method, which included using the American double shed technique: a shed on two levels with a shelf system and a hot water boiler heating the sheds with pipes fixed to the walls on each side. Hawkesbury growers also made a significant contribution to the Australian industry as a whole. They established the Australian Mushroom Growers Association, which pioneered the promotion of the product through the *Australian Women's Weekly*, through Bernard King, and through lots of other well-known identities of the time.

Since its inception the association has always had its headquarters in the Hawkesbury. It works very closely with growers in other States and is the conduit for the Australian mushroom industry. I acknowledge well and truly the work of its current general manager, Greg Seymour, and his predecessor, the well-known and indomitable John Miller, and the inaugural chairman of the research and development committee, Norm Johnson, who was so keen on making sure that the industry grew up on a well-researched basis and one that would sustain itself in the long-term. I also pay tribute to Rob Tolson, chairman of 10 years standing and head of a family that has had three generations involved in the industry.

I wish all the Hawkesbury mushroom growers well in the future. May they continue to contribute very strongly to the Hawkesbury economy and to Australia as a whole. In particular, I congratulate John Miller on his book, which will provide a record of such an outstanding industry for future generations.

TAMWORTH ELECTORATE RESPITE CARE SERVICES

Mr PETER DRAPER (Tamworth) [6.07 p.m.]: Today I draw attention to the pressing need in my electorate of Tamworth for respite services for families of people with physical and mental disabilities. There is currently a desperate need for planned and emergency respite for families and carers in communities across the north-west area, particularly in the centres of Tamworth and Gunnedah. The major provider in the area is Challenge Disability Services, which was established in Tamworth in 1958 and today supplies a wide range of

disability services including emergency, overnight and holiday respite to families and carers of over 100 clients with intellectual and physical disabilities. Covering an area including Tamworth, Barraba, Nundle, Gunnedah, Narrabri, Manilla, Quirindi and Werris Creek, Challenge not only provides respite for people linked to its direct services, but for all community members with disabilities. The service caters to many single parent families and families who do not have outside support and who are in dire need of a reprieve from the demands of caring.

People seek respite for many reasons, from attendance at a function through to the basic need of a good night's sleep uninterrupted by the constancy of 24-hour care. A carer I was in contact with recently vividly conveyed her sense of despair as she detailed her life in Werris Creek, 76 kilometres from Tamworth, caring for her 14-year-old grandson who has a genetic disease and needs a high level of support. This wonderful woman is also raising her 13-year-old grand-daughter, is caring for her husband who has a heart condition, and is subsequently suffering poor health herself. Besides limited respite accessed through special funding, she is able to access Challenge's respite service just one weekend every three months. The ideal would be one to two weekends per month. As she explained:

> Otherwise I've got to grin and bear it, it does get very frustrating, when it all gets too much me I just have to go outside take a deep breath.

This is a situation understood and appreciated in full by those who live it, and I can only imagine how wearing the role of a full-time carer must be. Every day Challenge receives applications for respite services and, unfortunately, management is forced to select the most needy of many worthy applicants. This is because their facilities are inadequate to cope with the high demand. As I mentioned earlier in the case of the Werris Creek client, the lack of a venue designed specifically for people with disabilities means Challenge can only offer respite on a rotational basis for one weekend every three months for each client. Alternatively, there is a private respite service in Tamworth, which recently opened, and another facility in Armidale, which is not practical for families due to the travel involved. Gunnedah does have a day program and, through a bequest, respite is available for one weekend a month, but this is limited due to inadequate staffing levels.

Challenge accommodates clients in respite care from Friday night to Sunday afternoon at a facility called Patterson House, which was built 35 years ago. The difficulty with Patterson House is that it can only accommodate three people for a weekend with an extra bed left open for emergency respite. Bedrooms at present are partitioned only with curtains, due to the facility being a temporary stopgap for respite, which is not at all satisfactory for the clients or staff. In my opinion, the bathrooms at Patterson House are well below standard, being in need of renovation, lighting and heating. The women's bathroom was only recently heated with a bar heater, due to the generosity of a community member's donation. The shower recesses are dark, cold and narrow, and there is insufficient room for staff to help high-support clients bathe. Challenge also offers a school holiday program where children spend time at Bullimbal School, next door to Patterson House, but this is an onerous arrangement for staff as equipment has to be transported there and back, and children are not able to use the play equipment due to insurance issues.

Challenge would also like to be able to offer after-school care but cannot due to the non-availability of a venue. The good news is that Challenge Disability Services has put a plan in motion to build a new purpose-built respite facility for children anal adults. Named Allawah House—the Aboriginal word for "come in, sit down and rest"—this facility has been costed at about $400,000. The centre will be constructed on a block Challenge already owns right next door to the current facility and Bullimbal School, placing it in an ideal position to provide after-school care for students with disabilities. The plans reveal a homely-looking facility of five bedrooms, three bathrooms, a kitchen, a living room and quiet room, as well as a staff bedroom, ensuite and office. A large cost saving is the fact that the land is secured, while Challenge itself has already raised $100,000 with support from its fundraising arm, Friends of Challenge. Celebrating their 100th year of Rotary, the Combined Rotary Clubs of Tamworth have selected the respite centre as their major fundraising project for their centennial year this year and they aim to raise another $100,000.

Publicity for the project has also received strong support from country music star Adam Brand, local media outlets and the McDonald's restaurant chain's McHappy Time fundraiser. This is truly a community project with its sense of urgency and worthiness clearly motivating organisations such as Rotary to commit support. I believe Allawah House to be a project the Department of Ageing Disability and Home Care should consider supporting financially, given the level of community initiative and financial commitment. Earlier this year Challenge provided respite to a woman whose son spent his first time away from her in 12 years. Allawah House is clearly a project long overdue and it is a project the department would do well to see fit to expedite.

ARMIDALE HOSPITAL INTENSIVE CARE UNIT PROPOSAL

Mr RICHARD TORBAY (Northern Tablelands) [6.12 p.m.]: Today I call for a new intensive care unit [ICU] for Armidale hospital. It is a matter of extreme urgency and I would urge the Government to commit to building a NSW Health level-four facility, equipping it to a high standard and providing recurrent funding for the unit to be staffed at an appropriate level. I see the establishment of this new ICU as the first stage of an ongoing redevelopment of Armidale hospital. Since the establishment of the New England Area Health Service in 1995 Armidale has been the poor sister of the Tamworth Base Hospital and has seen its resources and facilities dwindle.

At a recent meeting with local doctors I heard that a specialist in the current intensive care unit was forced to spend two hours using a hand-operated ventilator to keep a patient alive because the other two ventilators were in use. The ventilators at the hospital are so old that Tamworth Base Hospital has offered Armidale hospital two units that it is retiring. The rationale for this is that although these ventilators are old, they are better than those currently being used at Armidale. For several years Armidale has been losing specialists at an average rate of two each year. In the last year it lost a physician, a gynaecologist-obstetrician, an orthopaedic surgeon and an anaesthetist. All of these losses can be attributed in some part to the rundown state of the intensive care unit and its inadequate staffing levels.

Quite recently a highly qualified intensivist with an interest in living and working in Armidale spent a week working in the intensive care unit with a view to taking up a position. After that experience he informed the hospital that he would not take on the job because it would not be professionally satisfying. His analysis of the situation is that the unit is too old and too small, and that all the equipment needs replacing and staffing is inadequate to meet 2004 standards of health delivery. This damning indictment is reinforced by local specialists, who have made the same point for some years. Unless Armidale hospital has a high standard ICU it will be unable to deliver high-level services to people living in the region and will be unable to attract or replace the specialist doctors and nurses that are required.

The New England north-west region urgently requires another high-grade intensive care facility. In my view Armidale hospital should be brought up to the standard of Tamworth Base Hospital. The intensive care unit of Tamworth Base Hospital is overloaded. Patients are being transferred to Sydney and there are some terrible stories about how the lack of local intensive care facilities is impacting on individual patients in emergency situations. With the recent merger of the New England Area Health Service and the Hunter Area Health Service the fear is that Newcastle, as the power base, will extract the bulk of the health funding for the region. These fears are not unfounded as Armidale hospital was in that situation when Tamworth became the health headquarters of the New England north-west region.

The loss of local autonomy has been occurring since the 1970s when hospitals had local health boards that were elected by the community and held the purse strings. Innumerable restructures since that time have seen local autonomy eroded to the stage where power politicking within the empire building central health bureaucracies is starving smaller centres of funds. I believe this Government is sincere in its wish to cut administrative costs and deliver better clinical services to the community. Health funding has increased substantially but the benefits are not percolating out to the country in the way they should. This is at a time when technology is creating better communications and when innumerable excellent schemes are in place to attract more doctors, nurses and other health professionals to regional areas.

However, if facilities are not up to scratch these recruitment schemes will be a waste of time. As we have seen in Armidale, medical specialists are not prepared to sacrifice their professional standards to work in out-of-date, inefficient, downgraded and inadequate facilities. A NSW Health level four—equivalent to a national standard level one—intensive care unit would restore the capacity of Armidale hospital to offer high-quality care to the people who live in the northern part of the State. It would reduce the load on Tamworth and the hard-pressed hospitals in Sydney. I ask the Minister to enter into immediate negotiations with the specialists, visiting medical officers and staff specialists in Armidale regarding the equipment and staffing requirements for a new intensive care unit at the hospital. In my view it is essential that these doctors be an integral part of the consultation and planning of this new and much-needed facility.

Private members' statements noted.

[*Madam Acting-Speaker (Ms Marie Andrews) left the chair at 6.17 p.m. The House resumed at 7.30 p.m.*]

TEACHING SERVICES AMENDMENT BILL

Second Reading

Debate resumed from 26 October.

Mrs JILLIAN SKINNER (North Shore) [7.30 p.m.]: I lead for the Coalition in debate on this legislation, and I indicate at the outset that we will not be opposing it. The bill amends the Teaching Services Act. It relates particularly to the appointment of people to senior positions in the teaching service, that is, principals and other people who are promoted. The definition of "senior position" is:

> … any position in the Teaching Service to which a person employed in the Teaching Service could be promoted.

The bill provides for merit appointments to senior positions in the teaching service, and allows for appointments from outside the New South Wales public education system, including persons from interstate or from the non-government school sector. I have seen an earlier draft of this bill, and I am pleased that the Government did not proceed with that earlier draft. A great deal of anxiety was expressed by stakeholders, individual teachers, union members and members of various principal organisations—and there is some residual concern—about the context in which this legislation was first floated. For example, they were worried about the proposal to put principals on contract at a time when there is considerable pressure on principals to toe the line, to not speak to anyone. They were afraid that pressure would be applied to principals, through these contractual arrangements, to keep silent on issues critical of the Government.

There is still some residual fear about this legislation. The stakeholders are concerned that such pressure might be applied through the performance evaluation process. I simply put it on the record—because I think it is a matter of grave disquiet to many people—that the Government and people at certain levels in the department already pressure principals, teachers, and even sometimes parents, to be quiet. I have experienced this myself. I am religious about following the protocols established by the Minister about seeking his permission to attend a school; I always do so. In recent days I visited a school where the principal spoke candidly to me. I quoted the principal afterwards, and the principal was hauled before the local bureaucrats and asked to explain.

If the Parliamentary Secretary or any of the Minister's advisers want information about that, I suggest they speak to the Teachers Federation, because the federation told me about the carpeting of this principal. On another occasion recently I made arrangements with the Minister to visit a school. At the eleventh hour there was an attempt to change those plans. When I got to the school I was asked to keep my visit brief. Honestly, the teachers who spoke to me were frightened; they were totally intimidated. I left the school without visiting their classrooms, as I had been advised I was able to do.

The same thing has happened to parents who have written to their local member and to me to raise concerns; they have got principals in trouble. Such scenarios have led members of the New South Wales Teachers Federation and the various principal groups to fear that in this context pressure will be able to be applied to principals to remain silent, to be servants of the Government, rather than speak up when they genuinely believe it is necessary for them to do so to raise issues about the provision of education to students, their workplace and so on. I shall deal with the bill in some detail. Besides providing for appointments on merit and defining those who will be affected by the bill, it mostly deals with the performance framework. It separates performance issues from conduct issues for principals in government schools, and introduces a new performance management framework, including annual performance reviews, implementation of performance improvement programs and streamlined procedures for dealing with unsatisfactory performance.

I turn now to the performance management framework. Although not covered in the bill, the following details are outlined in the Minister's second reading speech and are included in the draft Principal Assessment and Review Schedule, known as PARS. I have a copy of PARS. I did not get it from the Government; I received it from stakeholders and others in the field. The management accountabilities included in the PARS framework are educational leadership; management and implementation of curriculum; learning outcomes; management and implementation of programs for student welfare and child protection; establishment of effective decision making and communication procedures within the school and community; enhancement of the performance development and welfare of staff; implementation of equal employment opportunity principles; whole-school planning and risk management, including occupational health and safety; participation of the school community in developing and achieving the school's goals and purposes; and promoting the development of constructive professional relationships amongst staff.

All those accountabilities are admirable. Principals are expected to be accountable. Various principal councils have commented that there is little change to these accountabilities. Indeed, they are already in place, as is a performance review process. This is about demonstrating that principals are accountable. Principals do not object—nor does the Coalition—because it is important to send that message to the community. It will not be the first time that principals have been appointed on merit. It will not be the first time that principals have been expected to meet such criteria, although the criteria have been expanded somewhat.

In the process outlined in the framework, principals are required to undertake an annual review. If they do not meet the required level of performance they will be required to undertake performance improvement programs designed around identified concerns. If at the end of that program a principal's performance is still not satisfactory, the director-general is empowered to take appropriate action, including dismissal or demotion—the Teachers Federation and others have provided me with the previous protocols in relation to the performance of principals. This has always been possible but there is very little will to make it happen. The bottom line is that if the community believes that a principal or a person in a promotion position does not meet the expectations there is a mechanism to ensure that they are given a fair go, and if, after an evaluation, they are found to be wanting, supports are put in place.

This is a great coup for the Public Schools Principals Forum, which has promoted the idea of support and development for principals for a number of years. I have seen its papers, which have been submitted to the Government and the Coalition. The forum deserves brownie points for being able to persuade the Government that this important move is necessary, and I support it. It means that new school education director appointments will be made. These positions were advertised in the *Australian Financial Review* on 31 October this year, even before the legislation came before Parliament. The Government must have been confident that we would support it. These senior officer grade two positions will be very important. The principals forum believes, and I agree, that the success of this project will depend on the quality of those who are appointed to the positions.

The appointees must have recent experience as principals. It is no use finding somebody who is on the list of people in head office or the bureaucracy who are not needed in the position any longer. They have to be able to demonstrate to principals in schools how things can and should be done. As was said at the principals forum, it is not jobs for the boys—and I use those words advisedly; we want more females in these positions—but for highly skilled people who have had recent experience as principals, who can demonstrate how things should be done, and who can provide assistance to principals who are not measuring up.

The legislation provides for a five-year review of a principal's appointment to a particular school. The review will consider the principal's performance since being appointed at the school against the major areas of accountability for principals—the development of skills and abilities necessary to drive continuous improvement—and feedback from parents, caregivers, students and staff. Following the five-year review, principals will be transferred to new schools or retained at their current schools, depending on the determination of the review committee as to whether they have completed their task of bringing the schools up to the goals they set or whether work still has to be done.

The Public School Principals Forum, the New South Wales Secondary Principals Forum and the Teachers Federation have all expressed concerns about this part of the bill. They generally support the five-year review but they all say it is sketchy as to how it will work. The principals forum has submitted a paper to the department for consideration as to how it will work. I have read that paper and commend it to the department. It is an extremely good paper. It states that it is no use waiting until the five years, or 4½ years, are up. The mechanism should be put in place now to ensure that it works smoothly.

The Teachers Federation has expressed concerns about the requirements of principals in relation to occupational health and safety. No-one is suggesting that principals should not meet their obligations, but that must be in the context of resources supplied by the Government. The Teachers Federation has been working closely with the department to develop the wording to clearly indicate that occupational health and safety responsibility is linked to resources being available to enable principals to meet their obligations. That is a very important part of legislation. Whenever I visit schools I am told by parents, principals and teachers of the shocking state of our schools. I am told of the lack of maintenance, torn carpets, walls that are out of alignment, and bricks that have moved. These are all potentially occupational health and safety issues, and if the Government fails to provide principals with the money to upgrade those schools it is unfair to expect principals to be accountable for occupational health and safety provisions. Of course, no-one would question the fact that they have to make sure that power boards are not across floors, and so on.

The Coalition supports the bill, which will make principals accountable. The bill is about appointment on merit, and providing principals with support should they need it. The only other point I would make is that it is all very well making principals accountable, but how about giving them more authority, and more autonomy in the appointment of staff so they can select teachers who truly meet the expectations and needs of their individual schools? We look forward to the Government introducing policy and programs in line with the Coalition's policy.

Miss CHERIE BURTON (Kogarah—Parliamentary Secretary) [7.47 p.m.], in reply: I thank the honourable member for North Shore for her contribution.

Motion agreed to.

Bill read a second time and passed through remaining stages.

HEALTH LEGISLATION AMENDMENT (COMPLAINTS) BILL

HEALTH REGISTRATION LEGISLATION AMENDMENT BILL

NURSES AND MIDWIVES AMENDMENT (PERFORMANCE ASSESSMENT) BILL

Second Reading

Debate resumed from 26 October.

Mr BARRY O'FARRELL (Ku-ring-gai—Deputy Leader of the Opposition) [7.48 p.m.]: This legislation represents the latest stage in the saga that has been Camden and Campbelltown hospitals, the saga characterised by promises of improved care through hospitals in south-west Sydney which, in reality, delivered substandard care resulting in the investigation of a number of deaths. The three bills seek—in the wake of the scandal that is, and I would argue remains, Camden and Campbelltown hospitals—to improve the mechanisms surrounding the delivery of health services in New South Wales to ensure a better focus in relation to the investigation of complaints and better outcomes following those investigations and dealings.

I will not go at length through the saga of Camden and Campbelltown hospitals, except to say that it is an example of politics at its worst. It is certainly an example of politics that appalled the late Liz Kernohan, the former member for Camden, who always took the promises of the former Minister for Health, Craig Knowles, with a grain of salt. The people who live in south-west Sydney in Camden and Campbelltown were provided with impressive-looking buildings but, like the movie sets of old time westerns, what you saw from the outside was not actually there. Despite the best efforts of the doctors and nurses who worked in those hospitals, it has come to light through inquiries and revelations, and through admissions by the Minister for Health, that the hospitals were never equipped with the resources required to deliver the highest standard of care that those new buildings demanded.

That was not the Government's primary intention. Its primary intention was to use improvements to Camden and Campbelltown hospitals for basic political purposes. One can argue that they were rewarded, because following the retirement of the late Liz Kernohan the seat of Camden changed hands from the Liberal party to the Labor Party. Despite the promise of improved maternity services in Camden, we see today that maternity services for most people living in the district have to be provided through Campbelltown hospital. We heard grand promises about the new emergency department at Camden, but the situation is that if you have a heart attack within a block of Camden hospital and are attended to by ambulance officers, they are not allowed to take you to Camden emergency department: you have to go to Campbelltown hospital.

To this very day we continue to see the results of the very cynical political planning that the former Minister for Health supported and put in place, aided and abetted by those who worked in the area health service and the Department of Health. Hospitals are struggling to provide the quality of care and the level of service that the current Minister for Health has been promising since he was forced to blow the whistle on the scandal that is Camden and Campbelltown hospitals over a year ago. As late as last Friday the honourable member for Southern Highlands and I highlighted a case involving a 78-year-old woman who entered hospital seven weeks ago with a broken leg and who, seven weeks on, was still in that hospital suffering further complications and certainly not getting the improved quality of care one would expect from Camden and Campbelltown hospitals if one listened to the rhetoric of the Premier or the Minister for Health over the past 12 months.

If ever there were hospitals that should be rolled in gold and delivering the finest health care in this State, it is those two hospitals, given their sorry history. Yet today there is still an enormous gulf between the reality and the rhetoric in the delivery of health care in both hospitals. That is despite the best efforts of the dedicated doctors and nurses who function within those hospitals. These failures will continue to be a matter of shame—and should be, for all of us in this Chamber—but, more importantly, they will continue to hang like a millstone around the neck of the Government right up until the next election.

Central to the failures at Camden and Campbelltown hospitals was the failure of the Health Care Complaints Commission under Commissioner Amanda Adrian, who was appointed by former Minister for Health Craig Knowles to effectively address, investigate and act upon the complaints that were received not just about Camden and Campbelltown hospitals but also about hospitals across the New South Wales public health system. Commissioner Amanda Adrian had a decidedly different perspective on the way in which the Health Care Complaints Commission, one of the State's investigative bodies, would operate—an approach that was not clearly an act that could be commonly termed by the *Daily Telegraph* the "name and shame" approach of other inquisitions and bodies.

Commissioner Adrian's approach was an attempt to be more educative and not to lay blame, which is very difficult in an area where the cause of a complaint may be substandard practice by an individual, whether it is a doctor, nurse or allied health professional. If you are not prepared to lay the blame, how on earth do you solve the problem? I am still convinced that Ms Adrian—who made clear her views during the interview process and publicly before and after her appointment, and was endorsed not only by the Department of Health and the Minister for Health but by the Government—was appointed because she suited the Government's approach to managing the Health portfolio during the last Parliament, to keep the lid on things and to allow it to get through the last election.

The failure of the Health Care Complaints Commission itself brings into stark relief the failure of the oversight committee, which was chaired for the entirety of the Carr Government's term by the honourable member for Lake Macquarie. He has been assiduous in taking overseas trips with that parliamentary committee but was found wanting through the evidence that has come out of the Camden and Campbelltown inquiry. His first adverse report about the Health Care Complaints Commission under Commissioner Adrian was released after the Government was forced, in August-September last year, into admitting that significant problems had occurred at the hospitals.

I have said before, and I restate again tonight, that the honourable member for Lake Macquarie ought to repay all the additional allowance he received as chairman of that committee because he did not do his job. As a member of another oversight committee I know that such committees rely on the vigilance and activity of their chairs to ensure that they fulfill their charter and obligations. Clearly, the Health Care Complaints Commission oversight committee did not. As a result those who sought to blow the whistle—whether they were the families of those who died, the whistleblower nurses, or others within the health system—received no satisfaction from the Health Care Complaints Commission.

I want to use this opportunity this evening to pay tribute to two individuals without whom this sorry saga would never have come to light. We have heard much about the whistleblower nurses, and the Leader of the Opposition and I on other occasions have paid tribute to them for their courage and their convictions. Their efforts will stand for all time. But tonight I want to single out two other individuals—Anna Patty from the *Daily Telegraph* and Alan Jones from radio station 2GB. When these issues arose late in 2002, as is often the case, questions were asked in this Parliament by the Opposition. I acknowledge the contribution of the honourable member for North Shore and the Leader of the Opposition in pursuing this matter from the very first moment that evidence came into their hands. The honourable member for North Shore did so in the face of severe personal criticism from some people within the Department of Health and others sitting on area health boards. They sought not only to denigrate the nurses but to personally attack the motives and actions of the honourable member for North Shore. I am proud that in the face of such criticism she stood tall and continued to press her case.

As I said, tonight I want to mention Anna Patty and Alan Jones. In the face of those questions the Government, through the Minister and the director-general, promised an inquiry. Indeed, experts were brought from interstate. We all recall that time. The election was in the offing, things got busy for many of us, election preparations were under way. In February 2002 the whistleblower nurses got wind of the fact that the so-called team who had been sent to investigate their complaints and review the situation for the department were about to leave Sydney, and the whistleblower nurses had not been interviewed.

They made contact with Anna Patty and, in particular, Alan Jones. In his best style, Alan Jones forced the then Minister for Health onto his program and put to him the discrepancy between the fact that the team was leaving town and what the Minister had claimed would happen: that a full and independent review of the situation would be conducted. If Alan Jones had not pursued the issue and Anna Patty had not continued to report on it, I do not believe we would have found out about the full extent of the goings on at the Camden and Campbelltown hospitals. We ended up with the special commission of inquiry and we have before us three pieces of legislation clearly designed to improve a situation that was found seriously wanting.

People died when they should not have because of the systems at those hospitals and because they were let down by a Department of Health that, in the words of John Menadue, was too busy managing the political problems of the Minister to concentrate on patient outcomes, and the health and welfare of individuals presenting to hospitals across the State. The department had become so politicised under Minister Craig Knowles that hospital deaths as a result of preventable occurrences were not deemed important enough to warrant attention. The department was not committed to accountability and transparency and it failed what should be the first test of any health department—that is, what health care protection can offer the citizens of the State and how it can improve the quality of health care and wellbeing in this part of Sydney.

Because of the actions of Anna Patty and Alan Jones, and because of the tenacity with which the honourable member for North Shore and the Leader of the Opposition pursued these matters from late 2002, through the election campaign and after it, a year ago we ultimately saw confirmation of the extent of the problem. Eventually, in December last year, the Minister confessed with great fanfare. He talked about the extent of the problem, removed a couple of heads, tried to transfer a few others, put in place an alternative administration, and said that the Government was committed to improving the situation at Camden and Campbelltown hospitals. As I said earlier in relation to the 78-year-old woman who entered hospital seven weeks ago, there is an enormous gulf between the Government's rhetoric and reality when it comes to health care, not only in south-west Sydney but also across the State.

One of the consequences of the Minister's December announcement was pressure from the Opposition, the media and others for some form of inquiry. I must be up front and say that the Opposition was pressing for a royal commission because it was clear to many members of the Opposition who have dealings with their hospitals that the same sorts of flawed systems and lack of accountability and transparency that led to the crisis in care at Camden and Campbelltown hospitals exist across the hospital system. The nature of administrative and bureaucratic arrangements is that they grow like duckweed across a pond. The systems we see at Campbelltown and Camden hospitals are likely to exist in other hospitals. Unless the Government makes fundamental reforms to those systems it will continue to do what it does best—that is, to treat the symptoms and patch the problems but not address the underlying and fundamental problems in the health system.

The Opposition was disappointed when the Walker inquiry was established. That is no reflection on Mr Walker, who by any assessment—if one assesses lawyers to be beneficial to society—is a qualified and distinguished member of the bar who has diligently and professionally applied himself to the various inquiries over which he has presided. That is not to say that members of the Opposition agree with all that he did or reported upon. However, a feature of the inquiry was the very limited terms of reference. They were limited to ensure that the system-wide problems we had been pointing to, and continue to point to almost weekly, would not be investigated. Unlike his colleague the Minister for Transport Services, the Minister for Health was not prepared to draw a line in the sand and admit that the former Minister had made a complete hash of the Health portfolio and to seek to move forward. The new Minister and the Premier determinedly stated that it was an isolated problem and was unconnected to problems in other hospitals and other parts of the health system. We fundamentally disagreed with the narrowness of Mr Walker's terms of reference.

That stance was confirmed when, after Mr Walker's appointment, we highlighted in this place the case of a baby who died as a result of inadequate care and who was not covered by Mr Walker's terms of reference. We hope that this legislation will ensure that no other family faces what the families of the people who died at the Camden and Campbelltown hospitals have faced and continue to face. We hope that the legislation improves the quality of care for everyone. Understandably, the Opposition will not oppose the legislation. Honourable members on this side will never oppose legislation which seeks to improve transparency and accountability in any State mechanism and which shines light into dark places in the interests of the wider community. However, as we debate this legislation the families who were caught up in the tragedy of Camden and Campbelltown hospitals still do not have answers and remain unsatisfied. A year after the first pronouncements on the matter by the then new Minister for Health that things would change for the better, nothing has happened. That is a great pity, and it causes great disquiet and anguish to the husbands, wives, children and other relatives of those who died.

Legislation that seeks to govern professions is always difficult to address. I do not believe anyone enters a profession covered by this legislation without the best of intentions. I certainly do not believe that there are many, if any, in our health system who deliberately set out to harm those in their care. Nevertheless, in seeking to apply standards and to deal with complaints, there will be anguish and heartache for individual members of the health professions. It is the job of those who seek to represent them to raise those concerns. The Australian Medical Association, the Australian Salaried Medical Officers Federation and United Medical Protection/Australasian Medical Insurance Ltd have a number of concerns about this legislation. One concern relates to the fact that the legislation proposes amendments to permit representation by an adviser other than a legal practitioner when appearing before a professional standards committee that deals with complaints that may prompt disciplinary action other than deregistration.

The New South Wales branch of the AMA is supportive of that and says it restores balance to the process, because complainants to such committees are represented by a trained commission advocate. However, the AMA also believes that practitioners should be able to seek leave to allow representation by a lawyer before a professional standards committee if the issues are complicated. The AMA considers that non-legal representation is a good step forward, but that it ultimately adds to the cost of proceedings. In reality, the practitioner will usually have engaged a solicitor as well as a non-legal person, both of whom attend. However, because the Government proposes that legal representatives shall not attend before the committee, the legal counsel sits there providing advice to the non-legal representative who acts on behalf of the practitioner.

The AMA rather colourfully describes that circumstance as a circus, which is understandable. It is no secret that I am not a fan of lawyers. However, if we are to end up with a process that artificially restricts lawyers from representing a practitioner but in practice we end up with a lawyer and a non-legal representative before the committee, with the legal representative on complicated cases providing briefs, as well as asides, whispers and comments to the non-legal adviser, it is a nonsense. I regret that to date the Cabinet Office has rejected the proposal on the basis that it would lead to too much legalism. I do not understand that. Ultimately, if a determination is made that in complicated matters practitioners can choose to have a legal adviser or a non-legal adviser represent them, that is fairly straightforward. I am sure there are analogous situations elsewhere, and I urge the Government to further address the issue.

The AMA retains significant concerns about the fact that the bill does not deal with representation before a section 66 inquiry by the Medical Board. The AMA requested the right to legal representation or, at a minimum, non-legal representation, for practitioners in inquiries under section 66 of the Medical Practice Act. Section 66 allows the Medical Board to suspend the practitioner, or impose conditions on his or her practice, to protect the public, pending investigation of a serious complaint, which may lead to deregistration, or an appeal being heard before a medical tribunal. That process can take some time, during which a practitioner remains suspended from practice.

One of the issues Commissioner Walker had to deal with in the course of his inquiry was that from time to time at the conclusion of various reports adverse comments were made about unidentified practitioners and inevitably the media would ask Commissioner Walker, and then other players, including the Government and the Opposition, whether those practitioners should be stood down. In most cases the commissioner recommended that the practitioners should not be stood down. By contrast, under section 66 inquiries practitioners can be stood down. The AMA accepts that the principle of suspending a practitioner or imposing conditions upon his or her practice is an important measure to protect the public, but it considers it inconceivable not to entitle a practitioner to representation when he or she faces the possible loss of his or her ability to earn a living.

The honourable member for Liverpool, who is in the chair, is a person of a legal bent. He would appreciate the point the AMA seeks to make. It is a significant matter when a practitioner's loss of income is in question and the Medical Board will ultimately decide, on balance, whether to suspend or put conditions upon that practitioner's rights to offer services. There is no proposal in the amendments to grant any right of representation, legal or non-legal, to a practitioner before such an inquiry. Whilst many practitioners are polymaths—and whilst I am always amazed at the doctors I meet who, as well as being superb in their field, are great painters, poets, or composers of classical music, and have many other skills—not all of them are equipped to advocate their position in what is essentially a semi-judicial forum. The AMA, understandably, is concerned about this lack of representation.

I understand that the Cabinet Office did not adopt the proposal, on the grounds that the Medical Board currently has the discretion to allow legal representation in section 66 inquiries. However, whether a practitioner

receives the right of representation currently depends on it being permitted by the board members sitting on the section 66 inquiry. As the AMA points out, it is a simple reality that when there is a potentially serious outcome, practitioners will generally obtain legal advice. However, they may not be able to articulate to the best advantage their submissions about what ought to happen, particularly during what is a stressful situation. That is even more so when the practitioner is from a non-English speaking background. As the Parliamentary Secretary at the table, the honourable member for Kogarah, agreed with me today, at a time when areas of need across our city and State are increasing and she contends the Federal Government ought to do something about it, more and more overseas-trained doctors are coming to Australia to practise medicine. They are appropriately checked on their arrival in the country, but, particularly given the constituencies they service, they do not always have the best English or the ability to represent themselves adequately. The AMA simply emphasises that point.

The AMA considers that the public and the board are better served and protected if the practitioner has the basic right of representation and, ideally, the right to apply for legal representation. The AMA regards it as unacceptable that the bill allows a greater right of representation before a professional standards committee, where the potential outcomes for a practitioner are far less serious than before a section 66 inquiry. Whatever one's views on the merits of individual cases, comparing the two bodies the provision appears nonsensical and unbalanced.

With regard to the amendments to the Health Care Complaints Act, the associations consulted are pleased about the proposed new objects of the Act, which place the appropriate emphasis upon the Health Care Complaints Commission's role of receiving, assessing and investigating complaints against practitioners, prosecuting serious complaints, and overseeing the resolution of complaints. That is a long way from where the organisation was going under the leadership of Commissioner Adrian. While the AMA is generally supportive of the new provisions surrounding the Health Conciliation Registry, it submitted that the registry should be a separate statutory entity from the Health Care Complaints Commission. The association notes that perceived and actual independence of the Health Care Complaints Commission is crucial.

The AMA sought to have included in the definition the words "seriously deficient", as occurs in the English statute, but it has indicated that it is content with the definition as currently proposed, namely "significantly below", and considers it should raise the bar in relation to complaints, and distinguish between performance and disciplinary issues. The AMA would have preferred the requirement for a statutory declaration to accompany complaints remain, but it accepts that this has previously caused administrative difficulties in a small number of complaints. The AMA would prefer an amendment requiring the Health Care Complaints Commission and the board to advise complainants that penalties apply to the provision of false or misleading information. The Australian Dental Association is also concerned about the removal of the requirement to lodge complaints by way of statutory declaration. The Australian Medical Association states that as long as it is made clear to complainants, both in the literature that informs people how to complain about health services and in subsequent communications, that making false claims potentially may attract a penalty, it will reluctantly accept the provision.

In conclusion, I make two points, one of which is relevant. The second, if the honourable member for Kogarah will allow me, relates to a wider issue in the health portfolio, and I put her on notice of that. After talking to the various health constituent bodies over the past year or so as the events of Camden and Campbelltown have unfolded and the failures of the Health Care Complaints Commission under Minister Knowles were revealed, my belief that the Government could not have helped but know what was going on was more than reinforced. That was principally because those involved in pharmacy made the point that the arrangement that they previously had, which I understand the current commissioner either has reinstated or is about to reinstate, under which the industry body provided input into the assessment review and disciplinary proposal in a constructive and almost co-regulatory, as opposed to self-regulatory, way, existed prior to and after Amanda Adrian's appointment as commissioner, but did not exist during the time she was there.

The point was made that one of the consequences of that was what has subsequently been revealed: the inordinate delays by the Health Care Complaints Commission in processing complaints and, as Commissioner Walker found in his reports on this whole affair, completely uninvestigated complaints had simply lain with the Health Care Complaints Commission in relation to Camden and Campbelltown hospitals. I make the point again that if constituent bodies in the health portfolio understood that there had been a change that was leading to worse outcomes from their perspective—because pharmacists were waiting years for complaints to be finally remedied—it must have been within the ken of Government to know that the public, from a patient perspective, was also not getting the deal to which they were entitled. I believe that it has been a fundamental failure.

The other issue is that in the third paragraph of the Minister's second reading speech—and the honourable member for Hornsby will be interested in this, given her former occupation—the Minister noted the concerns of the Pharmacy Board of New South Wales and the Australian Psychological Society about the issue of professional conduct. The Minister said:

> Those organisations considered that all practitioners should be judged by the entry level standard for practitioners and should not be judged by the differing levels of training and experience, which practitioners acquire over time.

For the honourable member for Hornsby I will just repeat those last words:

> … should not be judged by the differing levels of training and experience, which practitioners acquire over time.

The Minister went on to say that the Pharmacy Board of New South Wales and the Australian Psychological Society suggested that practitioners should be able to treat all conditions, regardless of their level of experience. But the Minister then went on to reject those concerns and said:

> The Government does not support that view. A practitioner who has only recently commenced practice should not be held to the same standard as a more experienced practitioner and be expected to treat all conditions.

He cited an example:

> It would be unfair to expect a registrar to be able to treat a condition that should be treated only by a specialist.

I am sure I speak for the honourable member for Hornsby, who led so brilliantly and comprehensively for the Opposition in relation to changes last year to podiatry, when I say that she would applaud those comments of the Minister. As a consequence of those changes to podiatry, a profession that will fall within the ambit of this complaints legislation, the right of trained podiatrists, who undergo training for four years, to attend to the podiatry needs of patients was debated in this Chamber and passed through the upper House. But what do we see of late? We see the Government seeking to provide to another profession, a profession that does not undergo four years of training in relation to podiatry and related issues, the same rights to effectively practise podiatry on citizens of this State. The Minister for Health has admitted to the Podiatry Association that he is reviewing the exclusion of nurses from the right to undertake procedures that previously only podiatrists could undertake as a consequence of their four years of training. The Minister should remember the words he quoted when he introduced these changes to the health care legislation. He said:

> The Government does not support that view. A practitioner who has only recently commenced practice should not be held to the same standard as a more experienced practitioner and be expected to treat all conditions.

We say amen to what the Minister said when he introduced this legislation, but, regrettably, once again there is an enormous gap between what the Minister says, what the Health Department is doing and what the public and patients are about to be exposed to. The Minister, in a letter to the Podiatry Association, has revealed that in relation to podiatry he is about to propose amendments to allow those who are less qualified and without experience to be treated in exactly the same way as those who have undertaken four years of training to qualify in podiatry. That is as important an issue for that profession as the saga that resulted in this legislation: the quality of care and the death of patients at Camden and Campbelltown hospitals. I commend the bill to the House in the unfortunate circumstances created by Minister Knowles and the Carr Government that the families and victims of Camden and Campbelltown hospitals still live with to this day.

Miss CHERIE BURTON (Kogarah—Parliamentary Secretary) [8.26 p.m.]: I support the bills. The Health Services Amendment (Complaints) Bill aims to refocus the Health Care Complaints Commission [HCCC] on its role of investigating serious complaints about health service providers, to improve the operation of the complaints-handling process and to give proper protection to complainants, practitioners and the general public within this framework. Commissioner Walker noted that the statutory system was essentially sound but recommended that amendments be made to give the HCCC the flexibility it requires to be an effective and efficient complaints-handling body. The bill clearly outlines the roles of the HCCC, the Director-General of the Department of Health, health organisations, service providers, and relevant registration authorities in the complaints-handling process. It is proposed to increase the broad powers of the HCCC to require the production of hospital, medical and practice records during the assessment and investigation of a complaint. Safeguards have been put in place, of course, so that information which might be self-incriminatory cannot be used against a person in criminal or civil proceedings where the person objects.

It is important that the requirement for a statutory declaration is removed prior to the investigation of a complaint. The request for a statutory declaration only discourages people with poor literacy, a non-English

speaking background, or those who may not be familiar with such a process from proceeding with complaints about the health system. That was a recommendation of the Special Commission of Inquiry and brings the HCCC into line with other investigation bodies such as the Independent Commission Against Corruption. To ensure that false or misleading statements are not made, the HCCC has been asked to administratively inform complainants that it is an offence to knowingly provide false information. Complainants who make a complaint in good faith will be protected from liability. The Camden and Campbelltown investigation taught us the importance of informing next of kin of HCCC investigations.

The bill requires the HCCC to use its best endeavours to contact next of kin, as identified on hospital records, about an investigation into a relative, should they be deceased or incapable of understanding the notification. The bill makes the current statutory complaints system fairer by ensuring that doctors and nurses are promptly informed of a complaint or allegation made against them. Furthermore, this system, which constantly reviews complaints, also allows the HCCC to refer complaints about other relevant bodies, such as the director-general, a health organisation or a registration authority, at any point in time. Placing the Health Conciliation Registry within the independent statutory body for investigating complaints not only makes sense but will also provide greater efficiency in the complaints-handling process. The bill will safeguard the independence of the registry within the HCCC whilst ensuring that the existing service is a better utilised. The creation of the position of a Director of Proceedings will provide a clear delineation between investigations and prosecutions.

I am pleased to note that the stakeholders who were consulted were generally supportive of the role. To ensure that a co-regulatory framework exists between the HCCC and other registration authorities such as the New South Wales Medical Board and Nurses Board, the Director of Proceedings will be required to consult with the relevant board about its views prior to proceeding with a prosecution. I commend the Government for the bill, which aims to strike a balance between ensuring that health complaints are dealt with in a timely fashion whilst ensuring fair treatment for patients, complainants and health professionals.

Ms PETA SEATON (Southern Highlands) [8.30 p.m.]: Every member of the Opposition was shocked by the findings of the Walker report into the handling by the Health Care Complaints Commission of cases from Camden and Campbelltown hospitals. Many in my community were also shocked because they rely on organisations such as the HCCC to finally get to the truth of what is normally a distressing matter that often involves the death of a loved one or pain and suffering as a result of allegedly inappropriate treatment in the hospital system. Many people were shocked to discover that complaints that had been referred to the HCCC in good faith had been dealt with in a cursory manner, not investigated at all or investigated in an incompetent and incomplete fashion, with the result that no-one could get the necessary closure through this so-called independent body.

Last week I received a letter from a woman in my electorate who wrote on behalf of her elderly mother, Mrs Curtis, who is 78 years old. The letter clearly illustrates the ongoing failure of the Carr Labor Government to satisfactorily ensure high standards of accountability in our health system. The letter stood out amongst the many letters I receive from patients and family members. Reading the letter was a confronting experience. It tells the story of a 78-year-old woman who is completely defenceless, having entered the hospital system at Campbelltown Hospital suffering what, sadly for many old people, is a frequent injury: a broken leg. She expected to be in and out of that hospital within a couple of weeks because prior to the accident she had been a fit, active, determined, spirited woman who enjoyed life.

The letter demonstrated that everything the Carr Government has said about the future of Camden and Campbelltown hospitals since the appalling revelations in recent months cannot be believed. The experience of Mrs Curtis is proof that everything the Premier, the Minister for Health or any other Labor member has said is simply spin and public relations. The reality is very different. The truth is revealed in this letter. Mrs Church wrote to me on 29 October, and I rang her the moment I received a letter. She also sent a copy to the Minister for Health, and it is disappointing to note that as at Friday of last week the Minister had not replied to that letter. If we are to believe everything the Carr Government has said about things being right at Campbelltown and Camden hospitals, I would have thought that the Government would have been keen to ensure that any difficulty at either hospital would be dealt with immediately. However, this problem was dismissed and ignored—thrown away in a pile of papers presumably—because the Carr Government simply does not care.

Mrs Curtis's daughter, Marcia Church, believes that the story needs to be told so that others do not have to undergo a similar dreadful experience. She said it breaks her heart to see her elderly mother suffer in this way. It is now more than seven weeks since Mrs Curtis entered hospital with a simple break in her leg, yet she is

now in a worse condition than she was when she entered hospital. She has suffered many complications, all of which can be attributed to lack of staff and proper care resulting from the inability to properly resource Camden and Campbelltown hospitals. Those hospitals are in the fastest growing areas of our State and thousands of people in my electorate, Camden and Campbelltown rely on the hospitals to get the health care they deserve. I hope the honourable member for Camden and the honourable member for Campbelltown will speak in the debate because I would like to hear their comments about this situation.

Mrs Church further stated that her mother had virtually lost the will to live. She was distressed by her experience and was feeling very depressed. That is not surprising as she has been in and out of Camden hospital, Campbelltown Hospital and now Liverpool Hospital for a period of eight weeks. I have referred this entire nightmare to the Health Care Complaints Commission, in line with the wishes of her family. To ensure that honourable members understand exactly the level of distress and trauma Mrs Curtis has suffered, I shall outline some of the details of her experience. It began on 12 September when she was brought into Campbelltown Hospital with a broken leg, which caused her enormous pain. She lay on a stretcher for seven to eight hours before she was attended to. Because Mrs Curtis is a woman of determination and stoicism she was moved from No. 6 on the list to No. 12, as people with apparently more serious injuries arrived. Because Mrs Curtis did not scream out in pain she was considered to be not as seriously injured as the others, even though the bones at the top of her right leg apparently appeared to be almost protruding through her trousers as a result of the break.

Mrs Curtis was eventually X-rayed, and the X-ray showed a severe break of the femur. She was told that an emergency operation would take place the following day when the orthopaedic team had assessed the situation. She was later told that the operation would not take place for another two days or so. During that time she developed a urinary tract infection and bed or pressure sores on her body as a result of not being turned at regular intervals because of the lack of staff. The lack of human resources resulted in this elderly lady not receiving the individual attention she needed and she developed a much more chronic and painful condition, leading to further complications, one of which was a golden staph infection, which she is still struggling to beat.

An error was also apparently made in the surgical ward because no blood pressure medication was given to her, especially prior to surgery, nor was any asthma medication sent down to the theatre with her. That medication had to be retrieved. The family noted also that on at least two occasions patient observations were incorrectly recorded on wrong charts and that dedicated nurses were working 16 hours in back-to-back shifts. Mrs Curtis goes to great lengths in her letter to say that as a family they are grateful to the number of nurses who have been kind, caring and compassionate to her mother and the family. She thinks, as do I, that it is a great shame that many nurses who take their job seriously, who become extremely close to their patients and who genuinely want to do the best for them simply cannot do so because there are too few of them in the ward to help.

Mrs Curtis also suffered a near fall in a bathroom on a particular day, partly because the nurse looking after her was suddenly called to deal with another drama. That led to other problems that later occurred to Mrs Curtis. After surgery she was transferred to the rehabilitation ward at Camden hospital, where she encountered further concerns about the swelling in her leg, further problems with bed and pressure sores and then the appearance of what was apparently a fungal infection. She was at Camden rehabilitation ward for 14 days, during which time she encountered more and more pain in her leg, which was not attended to. However, some days later the hospital arranged an immediate transfer of Mrs Curtis to Campbelltown Hospital, where an X-ray that was done showed that her right hip and the screw in her leg had been displaced.

It appears that Mrs Curtis had been suffering for at least 14 days from this break which was never detected because of lack of detailed attention to her situation. Why were these X-rays not done when she left Campbelltown Hospital to go to Camden hospital, and why was the pain she was in not given greater attention and the source of it detected? There was then some confusion about when a partial hip replacement would take place, and there was a failure to write up in her notes when antibiotics were started. Indeed, there was some concern about incorrect note-taking about her situation on her patient notes. There was also concern that the pressure bandages on her legs had not been replaced after she had been showered, and that led to even further complications for Mrs Curtis.

The nurses simply said that they did not have time to put the pressure bandages on her legs because they were so strapped with other demands on their time in the ward. Nurses told Mrs Church that they were simply too busy to do it. About 21 October Mrs Curtis developed an extremely high temperature. She developed further infections and there was concern that a urine analysis which was meant to be done to detect what was wrong with her on this occasion had not been done simply because they were very short-staffed that night and

did not have the time to do it. Staff told Mrs Church and her daughter that unfortunately that is the way the system is; they do not have the time to provide even basic care to elderly patients like Mrs Curtis who have complicated problems.

There was then further concern and complications which resulted in a code blue being called for Mrs Curtis when her blood pressure plummeted. Not long after that the state of the pressure sores was discovered. The area around the pressure sores had broken down quickly and she was told that she had to be taken to the plastic surgery team at Liverpool Hospital because they could not be dealt with at Campbelltown Hospital. Mrs Church was horrified that the pressure sores had to be cleaned out and vacuumed to remove as much of the dead flesh and mess as possible and that her further treatment involved possible skin grafts. Mrs Church made the point that her mother, Mrs Curtis, was a spirited and determined woman. She had served our country admirably during World War II when her husband went off to war. He was in the Royal Australian Air Force in Borneo, and Mrs Curtis and her sister worked at Hawker de Havilland at Bankstown, wiring cockpits and making parachutes.

This woman is very resourceful. She does not give in easily. She has successfully raised a happy family. She has worked hard and paid taxes all her life. Now, at the time when she most needs the hospital system to do the right thing by her for a relatively simple situation, she now finds herself in an immensely complex and potentially life-threatening health situation which has caused her to become depressed and to become a shadow of her former self, which is having an enormous impact on her daughter and grand-daughter. I have referred this dreadful episode to the Health Care Complaints Commission. I hope that it will receive the attention it deserves and that the Curtis and Church families will be able to come out of it knowing that, because they were brave enough to stand up and reveal what are essentially personal and private details about their personal health situation, they will force the Carr Government to improve the resourcing of our local hospitals, particularly at Campbelltown and Camden, so that other people do not have to go through this sort of nightmare ever again.

Mr JEFF HUNTER (Lake Macquarie) [8.45 p.m.]: As Chairman of the joint parliamentary Committee on the Health Care Complaints Commission, I have had substantial involvement with this legislation. During the committee's 10 years of continuous oversight of both the Health Care Complaints Commission and the Health Conciliation Registry it has made numerous recommendations regarding legislative changes to the statutory framework which governs the making and receipt of health care complaints in New South Wales. This piece of legislation is the first time that any significant amendment has been made to the Health Care Complaints Act 1993 since it was introduced into Parliament more than 10 years ago. In accordance with the provisions of section 104 of the Health Care Complaints Act, a review of the Act was undertaken by John Cornwall in 1997. However, none of the recommendations made as part of that review resulted in any legislative change.

I am pleased that three bills now before the House enact a significant amount of the recommendations put forward by our committee over the years, especially those from the committee's recent report into investigations and prosecutions undertaken by the Health Care Complaints Commission. The committee strongly believes that legislative change is necessary if the commission is to operate effectively. It is heartening to see that the Cabinet Office considered so many of the joint committee's recommendations worthy of inclusion in the legislation. The following sections of the Health Legislation Amendment (Complaints) Bill directly reflect recommendations made by my committee concerning the procedures of the commission.

Schedule 1 [6] reflects a recommendation by the committee that practitioners be given notice of a complaint within 14 days of assessment. Schedule 1 [12] extends the power of the commission under new section 34A to obtain documents for the purpose of assessing whether a complaint should be investigated. Schedule 1 [22] requires the commission, when seeking expert advice from a person concerning a complaint, to give the person all the relevant information that it possesses concerning the complaint. Schedule 1 [29] inserts new section 34A, which gives the commission new powers to compel the production of documents and attendance of people before them. The committee has some concerns about the commission being given such strong powers. However, this was a recommendation of the Walker inquiry and the committee accepts that it may cut down on complaint handling times.

The committee recommended a number of changes to this section in its comments on the draft legislation which have been incorporated in the final bill. The section now specifies that when the commission requires the production of documents or the attendance of practitioners who are the subject of a complaint, the time period in which practitioners or providers are to respond and the place they are to attend should be

reasonable. On the recommendation of the committee, failure to comply with this section can now constitute unsatisfactory professional conduct. Originally the proposed sanction was only 20 penalty units. As was discussed in its recent report on alternative dispute resolution, the committee has many reservations about the incorporation of the Health Conciliation Registry into the commission. It has long been the opinion of the committee that the registry should remain separate and independent. There are clear conflicts, or at the very least perceived conflicts, with an investigator and prosecutor conducting conciliation.

The committee also waits to be persuaded of the commission's commitment to alternative means of resolving complaints. However, the committee accepts that it is difficult for a small agency like the registry to remain independent once it is moved out of the administration of NSW Health. There is also a lack of appropriate alternative agencies to house it. That was clearly outlined in our report to Parliament. Therefore, the committee has accepted that the registry will be merged with the commission. Proposed section 65 (1) (a) reinforces the committee's powers to oversight the operations of the registry. This is a role the committee will take very seriously, particularly in the next few years. The committee wants to be satisfied that the registry is operating as effectively and independently within the commission as it did under NSW Health. In the final paragraph of the chairman's foreword to our most recent report to Parliament, tabled just last month, into alternative dispute resolution of health care complaints, I said this:

> Finally, I would like to take this opportunity to compliment the Registrar, her staff and the conciliators on the good work they are doing. The Registry has improved it performance considerably over the past few years. It is held in high regard by all relevant stakeholders that the Committee has spoken with during the course of the inquiry.

I look forward to that good work continuing when the registry is combined with the commission by the passage of this legislation. The Health Legislation Amendment (Complaints) Bill reflects a number of recommendations the committee made regarding the registry in its 2002 report entitled "Seeking Closure: improving conciliation of health care complaints in New South Wales". Proposed section 46 reflects a committee recommendation regarding the draft legislation that the Health Conciliation Registrar should be able to appoint any number of conciliators to a matter as is deemed fit. Proposed section 47 requires the registrar to give notification of the referral of a complaint for conciliation in line with a previous committee recommendation.

Proposed section 50 reflects a recommendation of the committee that complainants should be entitled to a support person as of right and respondents should be similarly entitled when it is appropriate. Proposed section 55 requires the registrar to make six-monthly reports to the registration authorities providing specified information about complaints dealt with by way of conciliation. This provision reflects recommendation 8 of the committee's "seeking closure" report.

The Health Registration Legislation Amendment Bill, which is cognate to the Health Legislation Amendment (Complaints) Bill, implements two very important recommendations of the committee. It was a recommendation of the committee's report of the inquiry into procedures followed during investigations and prosecutions undertaken by the Health Care Complaints Commission that doctors and nurses be allowed non-legal representation before professional standards committees. The committee was clearly of the view that the current system unfairly favours the prosecution. Professional standards committees proceed in an essentially adversarial manner and currently the commission uses officers to prosecute who have been specially trained and who have built up a considerable amount of experience before these committees. It is inequitable to ask practitioners who are not legally trained, particularly in relation to the rules and processes of examination and cross-examination of witnesses, to defend themselves in such a forum. Allowing practitioners to be represented by non-legally qualified but experienced advocates merely places the practitioner on an equal footing with the commission.

The bill also excludes members of the Medical Board from sitting on the Medical Tribunal and a professional standards committee and members of the Nurses and Midwives Board from sitting on a professional standards committee. This was also a recommendation of the committee's report of the inquiry into procedures followed during investigations and prosecutions undertaken by the Health Care Complaints Commission. In this report the committee took the view that it was not appropriate that members of these boards sit on these disciplinary panels. The practice often tended to create a perception amongst practitioners that the adjudication process was not entirely impartial. The committee observed that it did not happen in most other jurisdictions of Australia or overseas. Further, the practice was not consistent with other health professional Acts within New South Wales such as the Dental Practice Act.

Finally, a number of important recommendations of the committee have not been included in these bills. I hope that they will be considered in any future, more comprehensive review of the legislative framework.

They have been outlined in reports tabled in Parliament and were acknowledged by the Cabinet Office in its review of the draft exposure bill. Ultimately, I believe that all the amendments contained in the bills currently before the House will tighten up our system of dealing with health care complaints in New South Wales. I believe that it is a testament to the joint parliamentary committee's hard work over the years that so many of its recommendations have been included in these pieces of legislation.

New South Wales is unique in that it establishes parliamentary committees to oversight its watchdog agencies. I believe that these bills reflect the importance of these committees. However, I note that this view does not seem to be shared by the shadow Minister for Health, the honourable member for Ku-ring-gai. Even tonight he could not refrain from trying to criticise the work of the committee. By his criticising the work of the health care complaints committee he not only criticises government members but also criticises members from his own political party, from The Nationals and the crossbenches who have worked for 10 years oversighting the Health Care Complaints Commission. I acknowledge the presence in the Chamber of the honourable member for Wallsend, who was chairman of the committee from 1995 to 1999. I am sure he would be as insulted by the comments that have come from the shadow Minister over the past nine months or so criticising the work of the committee.

I could name all those Liberal and National members—very esteemed members of this House and of the other place—who have worked tirelessly over the past 10 years on the committee, but I will not take up the time of the House to do that. I point out to the honourable member for Ku-ring-gai that he should look at the report the committee tabled in June this year, "History and Roles of the committee on the Health Care Complaints Commission 1994-2004", which includes the period when the Coalition was in government. On page 12 of that document the shadow Minister will see the annual reviews the committee has done on the operations of the Health Care Complaints Commission. I suggest he spend a few days—because it would take that long to read the reports—reading about the work the committee has done over the past 10 years and reading about the concerns the committee has raised in almost all those reports about different sections and operations of the commission. He is plainly wrong to say in Parliament that the committee has failed in oversighting the commission. He has not done his research. He has just gone for the headline to give himself a bit of publicity and he did not mind insulting members of his own party in the process.

Throughout its life the committee has provided much-needed scrutiny of the operations of the Health Care Complaints Commission. It has been fearless in reporting upon the commission's failures as well as its successes in a non-political, bipartisan manner. The committee is very pleased to have worked, over the past few months, with Judge Taylor, who has taken control of the commission as acting commissioner. The changes Judge Taylor has implemented will see a much better health care complaints commission, a commission that is gaining the respect of everyone in the health sector. The introduction of these pieces of legislation are testament to the good work of the committee, not over the past five years while I have been chairman but over the past 10 years while the committee has been oversighting the operations of the commission. I commend the bills to the House.

Mrs JUDY HOPWOOD (Hornsby) [8.58 p.m.]: I wish to speak about the Health Legislation Amendment (Complaints) Bill, whose object is to amend the Health Care Complaints Act 1993 to enable the Health Care Complaints Commission [HCCC] to focus on dealing with serious complaints concerning health practitioners, health service providers and the provision of health services; to establish the Health Conciliation Registry as a separate unit within the HCCC to deal with the conciliation of complaints; to enable the HCCC in appropriate circumstances to deal with complaints through alternative dispute resolution procedures, and to require the HCCC to appoint a member of staff as director of proceedings to exercise the function of the HCCC in determining whether a complaint should be prosecuted before a disciplinary body.

The object of the Health Registration Legislation Amendment Bill is to amend various Acts which provide for the registration of health practitioners. The amendments will standardise, as far as practicable, the concepts of professional misconduct and unsatisfactory professional conduct where used in those Acts so that they relate to conduct that demonstrates that the knowledge, skill or judgment possessed or care performed by the relevant health practitioner in the practice of his or her profession is significantly below the standard reasonably expected of such a health practitioner of an equivalent level of training or experience. The bill also amends the Medical Practice Act 1992 and the Nurses and Midwives Act 1991 to enable a person to be represented before the relevant professional standards committees by a non-legal adviser and to ensure that members of the New South Wales Medical Board or the Nurses and Midwives Board cannot sit on the relevant professional standards committees. The Nurses and Midwives Amendment (Performance Assessment) Bill amends the Nurses and Midwives Act to include provisions enabling the performance assessment of nurses and midwives, which mirror those provisions in the Medical Practice Act.

As to the background, the Minister noted that the main objects of the bills are to refocus the Health Care Complaints Commission [HCCC] on investigating serious complaints about health service providers, to improve the operation of the complaints handling process to make the process faster and more effective, and to make the complaints system fairer for all parties by giving proper protection to practitioners, complainants and the general public. If the situation does not change on the hospital scene, this legislation will be well used. I have first-hand experience at Hornsby hospital where on a night last weekend there was a great reluctance to change from a code amber to a code red, despite the accident and emergency ward being completely full. A patient with chickenpox in the lungs required intubation and special care, which changed the structure of the entire staffing, and four patients who presented with mental illness needed to be placed in a separate part of the accident and emergency ward. The staff were run off their feet and found it very difficult and frustrating to provide the level of care they wished to. They have been told not to call the situation dangerous, but it is dangerous.

Unless something drastically changes in our hospitals in the near future, there will be more situations along the lines of the occurrences at Camden and Campbelltown hospitals—but obviously with new legislation to deal with them. It was a very grim situation in the accident and emergency department during the last weekend at Hornsby. The Opposition does not oppose the bill. There will be increased access to records, which may assist the HCCC in a more timely assessment of complaints. There are concerns as to the impact of exempting the HCCC from freedom of information laws. The agreement by the Opposition to the bills is subject to our being satisfied that the amendments to the freedom of information provisions do not diminish the public accountability of the HCCC in its processes, procedures and efficiency.

Mr MORRIS IEMMA (Lakemba—Minister for Health) [9.03 p.m.], in reply: I thank honourable members for their contributions to the debate. The proposed amendments will refocus the Health Care Complaints Commission [HCCC] on investigating serious complaints about health service providers, improve the operation of the complaints handling process and give proper protection to complainants, practitioners and the general public within this framework. These bills have been the subject of extensive consultation with the stakeholders and careful consideration has been given to the views of all those stakeholders. In many instances in response to stakeholders' submissions changes have been made to these bills, and those changes have been debated here tonight.

I would like to address a couple of points that were made in the course of the debate. The first point involves comments about the removal of a requirement in the Act for a statutory declaration. This provision will assist in streamlining the complaints handling process of the HCCC. The Special Commission of Inquiry identified the practical problems with requiring a statutory declaration and the fact that it contributes to delay. That is the reason why that requirement is in this legislation. A request by the HCCC for a statutory declaration may discourage those with poor literacy skills or persons from particular cultural backgrounds who are reluctant to approach government agencies from pursuing complaints. The Special Commission of Inquiry recommended removing the statutory declaration from that requirement. The Government is committed to implementing that part of the recommendations of the Special Commission of Inquiry. The amendment clearly stems from the work of the special commission and that is the reason it is being addressed in this bill.

The second point is in relation to legal representation before a professional standards committee. The bill provides that health practitioners will be allowed to be represented by a non-legal adviser when appearing before a professional standards committee. The purpose of this amendment is to ensure that practitioners are not disadvantaged before the professional standards committee in situations where an experienced representative of the HCCC argues a case against a practitioner. It is not appropriate to extend this right by allowing practitioners to seek leave to be legally represented, as this would make the process more legalistic and could change the inquisitorial approach of the professional standards committee, which has been a successful way to run proceedings.

The third major point related to representation before a Medical Board inquiry under section 66 of the Medical Practice Act. An inquiry under section 66 of that Act provides for the emergency suspension of a practitioner or the imposition of conditions to protect the public. The Medical Board advises that the current arrangements allow an inquiry to be progressed urgently with minimum formality to ensure detection of the public. The rights of practitioners are already adequately protected. The Medical Board has the discretion to allow legal representation at a section 66 inquiry. Furthermore, any suspension following a section 66 inquiry only applies for eight weeks at a time and can only be extended by order of the board. In addition, the Medical Practice Act gives the practitioner the right to appeal any decision of a Medical Board inquiry to the Medical Tribunal. I believe I have adequately answered the three points made in particular by the shadow Minister for Health. I support the bills and thank honourable members for their co-operation and contribution to the debate.

Motion agreed to.

Bills read a second time and passed through remaining stages.

CRIMES (ADMINISTRATION OF SENTENCES) AMENDMENT (PAROLE) BILL

Second Reading

Debate resumed from 27 October.

Mr ANDREW HUMPHERSON (Davidson) [9.08 p.m.]: I speak on behalf of the Opposition and indicate in advance that the Opposition will not be opposing the bill. Whilst there are some aspects of the bill that we are disappointed with, which I will reflect on in my comments, we do not intend to stand in the way of the legislation. I indicate at the outset that I seek an indication, if not in this Chamber then certainly in the upper House when the legislation is debated there, as to when the Minister will be proclaiming the legislation. As of last week, legislation that this Minister presented to the House in March—eight months ago—restricting compensation payable to inmates in correctional centres remained unproclaimed. The Minister owes an explanation not only to this House and the other House but also to the wider community about why he has not had the fortitude and commitment to ensure that legislation is proclaimed as law. I assume it has not been proclaimed over the past two working days. That calls into question his commitment to reform and his honesty with regard to improving the laws of this State.

The Opposition believes that this bill should not be regarded as reforming legislation. It proposes a number of amendments and largely redrafts the existing legislation—arguably tidying it up—but it does not make any substantial changes. I will outline the key aspects of the legislation and relay the Law Society's views, which were communicated to the Minister today and which I received late today. The primary objectives of the legislation are to reconstitute the Parole Board and to change its name to the Parole Authority. A number of the procedures and objects of that portion of the legislation applying to the Parole Board have been restated and reformatted. Among other things, the legislation restates the authority's obligations with respect to submissions from the State about an offender's parole and provides that such submissions may be made in relation to all offenders, not only serious offenders. It also extends the period that must elapse between the date on which the Parole Authority decides to release an offender on parole and the date on which the offender is released.

The legislation also empowers a judicial member of the Parole Authority in urgent circumstances to suspend an offender's parole pending an inquiry about whether the order should be revoked. It restates the entitlements of the Minister or victims to be given access to documents held by or on behalf of the authority. The Opposition supports the right of victims to have access to documents and information. I note the constraints in section 194 of the Act in relation to what victims may access, but there is no restriction on what the Minister is entitled to access. That is ironic given that the Minister has said on numerous occasions publicly that it is an independent authority. Not only does he appoint the members—and I understand he wants to appoint a number of members as soon as this legislation is passed—but he will also have unfettered access to any information or reports held by the authority. In some respects, and certainly in the Law Society's opinion, that will be in conflict with the authority's independence. The legislation restates a number of obligations and procedures with which the authority must comply.

The legislation does not make substantial changes to the Act. In essence, it proposes the renaming of the Parole Board as the Parole Authority and contains more explicit definitions of some matters the authority must consider before making parole determinations. It does not change the authority's discretion in making decisions. It simply states it more explicitly and in that respect does not change the situation a great deal. As I said, the legislation allows registered victims to access more information, but that may or may not change outcomes. The Law Society has reservations about that access. The legislation precludes access to an offender's address. Of course, release of that information could pose safety problems for an offender on parole. The Law Society's concern should be unfounded. The legislation also provides for the possibility—it is not an absolute—of longer advance notice of the intended parole of offenders than is currently the case. Because of the many caveats and qualifications in the legislation it cannot be regarded as a substantial reform measure.

I am disappointed and concerned about the deliberately missed opportunity to provide greater transparency and accountability. The Opposition believes that far more information should be made available to the public to protect the public interest. Offenders, particularly those oversighted by the Serious Offenders Review Council, should have their hearing dates advised in advance. The authority's decisions and the reasons for them should also be made available. Given that the authority should be accountable to the public, there is no reason for it not to disclose the reasons for its decisions. The public expects the authority to be more transparent in its dealings. Victims of serious crime and their associates—that is, family, friends or near neighbours of registered or unregistered victims—who would like to be made aware of parole hearings should be informed.

There is no appropriate mechanism for potentially affected people to make submissions about the conditions that should be applied to parolees. Those who may be adversely affected should be considered. They may want to propose conditions such as precluding an offender from being in close proximity to a place of residence or work.

That is not an unreasonable proposition. In the case of offenders who comply with their parole conditions, I believe that until such time as their parole period has expired many potentially affected members of the community would maintain concern about their own safety. That concern may well ease over the period of parole, but it is not unreasonable that provision should be made for the community to have a voice or an avenue through which to put to the Parole Authority that additional conditions should be applied. The Opposition believes that parole should not be regarded as a right. In many respects parole is a privilege that should, and must, be earned. Before parole is granted it is important not only that offenders have completed the minimum term of imprisonment but that they have participated in programs that seek to remedy the behaviour that led to their offence or offences and ultimate conviction. Obviously, they should have complied with correctional centre rules and expectations, and they should not in any way have been an excessive burden on the Government maintaining their incarceration.

We believe it should not be an offender's automatic right to obtain parole at the time of completion of their minimum sentence. I note that the period of time between a minimum sentence and a maximum sentence is overseen by the Government through a process of administration, and that that administration, by virtue of this legislation, is oversighted by the Parole Authority. The Parole Authority, or the Parole Board as it was known hitherto, does not have a proud record over the past decade. Recidivism rates in this State have increased from 34 or 35 per cent 10 years ago to more than 45 per cent today. In other words, more than 45 per cent of released offenders will be caught, reconvicted and returned to gaol within two years of their release. New South Wales has one of the worst recidivism rates of any jurisdiction in the Western world.

That high recidivism rate highlights the fact that the Parole Authority has not adequately oversighted its responsibilities in protecting the community from crime. The legislative changes proposed by the bill are minimal and marginal. Regrettably, I do not believe they will have an effect on the outcomes. The Parole Authority and the Government have an obligation to ensure that the risk of offenders reoffending is minimised. I believe there was scope, which the Minister has not taken up, to give the Minister authority to direct a refusal of parole under certain circumstances. I note that about a week ago the Government released information about sympathy towards terrorism amongst a limited number of offenders in the State's correctional system.

There is evidence of people having demonstrated sympathy towards terrorism, and I would therefore conclude that they have been identified as a potential terrorist threat or accessories to terrorism. The Opposition believes that if there is the scope to deny such people parole, they should be denied parole. Given that the response of the Minister—who released that information and said there is such a concern—is simply to monitor the offenders' activities, and given the opportunity which he has under this legislation to deny those offenders parole to ensure they serve their maximum sentence, and therefore provide maximum protection for the community, it is extraordinary that that opportunity has been missed. I question the Minister's commitment in tackling a potential terrorist threat that he has identified as existing within the State's prison system.

The Law Society has today written to the Minister outlining its concerns about the legislation, and I thank it for providing me with a copy of that letter. I shall place on record the Law Society's concerns, a number of which the Opposition does not share. With regard to parole decisions the Law Society wrote:

> There is no need to specifically legislate that the Board must consider safety of the community, public confidence and the circumstances of the offence.

In the interests of ensuring community safety, the prospect of recidivism on the part of a parolee should be a primary consideration in the granting of parole. Parole is not a right; it should be earned. Therefore the prospect of recidivism should be of paramount importance in determining the level of risk in approving an offender's parole.

The Criminal Law Committee of the Law Society criticises as arbitrarily unfair the restrictions on applying for parole once parole has been refused. In simple terms, offenders are given an opportunity annually to apply for parole. There is a provision, under extraordinary circumstances, for an offender to be granted parole outside what is, in effect, a nine-month process. But, again, parole should be earned. It should also be made clear that parole is not available at whim, and that if offenders comply with the rules and earn the right to parole they will have a greater prospect of being granted parole. The Law Society also wrote:

> There is no justification for authorising an offender to be detained for up to 35 days after parole has been granted.

I understand this relates to the ability of the Parole Authority to defer the paroling of an offender to ensure that a post-release plan involving parole supervision is in place, which is a sensible provision. The Law Society is also concerned about the provision that allows the commissioner to make submissions concerning the release on parole of any offender. The Opposition does not share its concern in that regard. The definition of "community member" is to be extended to include "a person who in the opinion of the Minister has an appreciation or understanding of the interests of victims of crime", which we believe to be a sensible provision. It is important that the interests of victims of crime be taken into account in the parole process. In summary, the Opposition does not oppose the legislation. However, given that the Minister indicated he would be far more robust in his amendments to the legislation, I am disappointed that he did not go further. I can only presume that he had either a lack of desire or a lack of intent, or that Cabinet simply rolled him.

Ms KRISTINA KENEALLY (Heffron) [9.29 p.m.]: I support the Crimes (Administration of Sentences) Amendment (Parole) Bill. These reforms are largely intended to assist the newly named State Parole Authority [SPA] with its decision-making process and ensure that its independent status is maintained and enhanced. The legislation builds on the New South Wales Government's improvements to the operation of the parole system and incorporates reforms that are much more sympathetic to the situation of victims. It is worth reflecting on what those reforms have been. The Sentencing Amendment (Parole) Act 1996 gave a statutory right to a victim of a serious offender to make a submission to the Parole Board.

Five years later, the Criminal Legislation Amendment Act 2001 required the Parole Board to take into account the potential trauma to the victim and the victim's family if the offender is released on a particular day. The Justice Legislation Amendment (Non-association and Place Restriction) Act 2001 clarified and re-enforced existing laws whereby the Parole Board may impose no association and place restriction conditions on a parolee. The Crimes (Administration of Sentences) Amendment Act 2002 removed the requirement of a victim of a serious offender to obtain approval to make an oral submission about the release of the offender. And, most recently, the Crimes Legislation Amendment (Parole) Act 2003 made the Parole Board accountable to the public that it serves by requiring it to give explicit reasons why it has decided to release an inmate to parole and increase the number of parolees under supervision.

Parole is a conditional liberty whereby the State Parole Authority, the representative of the wider community, places a certain amount of trust in an offender allowing him or her to prove his or her intention to behave lawfully. It is important that this trust is not given flippantly. Whilst the offender must have manifested a desire to make amends for his or her wrong-doings, there must also be a mechanism in place to protect the community in cases where the offender does not honour the trust offered by the SPA. Therefore, the legislation incorporates proposals in respect of the suspension of a parole order and the issue of a warrant as a suitable response in relation to unsatisfactory behaviour on the part of an offender who is on parole.

The unsatisfactory behaviour may be behaviour for which there is little or no evidence to support a criminal charge, yet which engenders serious concerns on the part of correctional authorities. The need for such a mechanism is evident from the number of parole revocations handed down in 2003 by the Parole Board which were the result of a breach of a condition of parole other than the commission of another crime. Of the 1,125 parole orders revoked in 2003, 360 were revoked in cases where no crime per se was committed. Such breaches include failure to abstain from alcohol, frequenting prohibited places, meeting old criminal associates, and failure to accept supervision or to attend appointments.

These breaches often adumbrate criminal conduct and are unacceptable among offenders who are on conditional release and have been offered the trust of the community. Any suspension under new section 172A will be subject to a review decision by the SPA within 28 days of the offender being returned to custody. I support the Crimes (Administration of Sentences) Amendment (Parole) Bill and I congratulate the Carr Labor Government for its astute approach to parole reform.

Mr BOB DEBUS (Blue Mountains—Attorney General, and Minister for the Environment) [9.33 p.m.], in reply: I thank honourable members who have contributed to this debate, in particular the honourable member for Heffron. This latest stage in the Government's reform of the parole system will variously improve the modus operandi and strengthen the effectiveness of what will henceforth be known as the State Parole Authority. The decision-making processes of the Parole Authority will now be overtly and acutely focused on community safety without disregarding the vital importance of parole as a pivotal phase in the rehabilitation of an offender. The onus will be on the parolee to have addressed his or her offending behaviour and thus have demonstrated his or her willingness to re-enter society as a law-abiding citizen. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

JURY AMENDMENT BILL

Second Reading

Debate resumed from 27 October.

Mr ANDREW TINK (Epping) [9.35 p.m.]: The Coalition does not oppose the Jury Amendment Bill, the purpose of which is to prohibit improper inquiries by jurors and the disclosure of information by jurors. The Opposition has been calling for this bill for some time. The latest demonstration of the need for this legislation occurred fairly recently, when a trial in the District Court was aborted after 24 days because jurors had disregarded the direction of the judge not to search the Internet or do other things.

My personal belief is that juries are vital to the criminal justice system and I believe they have an integral role to play. They are an important safeguard, especially in the criminal law, and it is important to have jurors making findings of fact rather than judges alone. Of course, if somebody elects to have a judge alone hear their case that is another matter, but the ordinary course should be for jurors to be involved in serious criminal trials. It is in everyone's interests to make the jury system work. Of course, we must be mindful of the way in which information these days is far more available and accessible to people than it was in the past—as is obviously the case with searches on the Internet.

It is vital that jurors confine their deliberations and their assessments of material before them to what is permissible—basically, material that has been put before them by leave and concurrence of the trial judge—and that things extraneous to that material are not taken into account. That, of course, precludes Internet searches. I suspect that the tendency, perhaps the temptation, to do this is in some cases overwhelming, and it is regrettable but necessary that we need this criminal sanction in place for those who have a sworn duty as jurors and who engage in this behaviour. It is a scheme that has been recognised and has indeed been in force for some time in other jurisdictions, particularly, I believe, in Queensland, and it is time that it was in place in New South Wales.

At the same time, it is very important to understand that most jurors—in fact I would say the overwhelming majority of jurors—try to do the right thing. But there are cases in which jurors do the wrong thing, quite possibly with a mistaken sense that they are simply trying to better inform themselves and that, as a result, they will be better able to perform their duty as jurors. I do not know whether that has been the case in recent situations, but it is very clear that whatever the motive, such actions simply cannot occur and that if a criminal sanction is required to get the message through, regrettable as it may be, that is what must be done, and that is what this bill does. Jurors might listen more appropriately and comprehensively to the judge's direction and take it on board if it includes the comment that failure to comply with it will render them liable for prosecution for a serious criminal offence.

If that is what it takes for jurors to pay attention to their duties, so be it. One thing is certain: the disruption and inconvenience caused to people when a trial that has lasted 24 days is brought to an abrupt halt and started again are enormous. All honourable members would be mindful of the impact that will have on victims of crime, and that alone is reason to go down this path. The cost of a retrial is prohibitive and unacceptable, especially when it includes the cost of attendance of a number of police, law enforcement officials, witnesses and others involved in the criminal justice process. In my view the directions given to jurors can be improved, although it is difficult to imagine how a judge could state more plainly that jurors must not access the Internet other than by simply stating that warning. However, valuable work has been done in other jurisdictions with respect to plain English directions to juries, particularly in Queensland, which seems to be an innovative jurisdiction in relation to a number of matters.

The Chief Justice of Queensland, Justice de Jersey, sponsored a successful program and engaged the services of an English literature expert to rewrite the bench book in plain English so that all the standard directions by Queensland judges will be given in plain English. I attended a seminar at which this expert said, in respect to one direction in the Queensland bench book that related to a Commonwealth drug conspiracy, that it was estimated that only people who could comprehend the Gettysburg address could understand the direction to the jury for the offence. Every member in this Chamber would probably understand the Gettysburg address and would have no trouble with that jury direction, but I dare say many jurors would have difficulty with that level of English.

I do not want this to be taken the wrong way, but the strength of the jury system is that it has ordinary and good people on juries. We must accept that some people will not have a good level of understanding of

written, and even spoken, English and it is important that the system accommodate them at all times. The system should not exclude anyone because of a lack of comprehension when complex English can be written in a more simple form. It requires some effort to do that. The Chief Justice of Queensland understood that and acknowledged that often lawyers are the worst people to be given that task. Lateral thinking, such as engaging the services of an English literature scholar, would not go astray and is an acknowledgement of the fact that we can do better. The Opposition supports the bill without amendment. However, I conclude by reading a letter dated 3 November, addressed to the Attorney General from the President Elect of the Law Society of New South Wales, John McIntyre. I ask the Attorney General to address in reply the points raised in the letter, which states:

> I refer to the Jury Amendment Bill 2004, which you introduced in the Legislative Assembly on 27 October 2004. Generally, the Bill reflects the proposals that were canvassed with, and supported by, the Law Society's Criminal Law Committee earlier this year.
>
> Practitioners on the Criminal Law Committee have considered the substance of the Bill and make the following comments and suggestions for improvement:
>
> - Section 55DA(1) provides that a judge may examine a juror to determine whether a juror has engaged in certain conduct that may constitute an offence. If it is the intent of this provision that the judge may elicit information from a juror about his or her own conduct, or the conduct of another juror, the Criminal Law Committee suggests that the section should be clarified. For example:
>
>   (1) A judge may examine a juror on oath to determine whether that juror or any other juror has engaged in any conduct that may constitute a contravention of section 68C. OR
>
>   (1) A judge may examine a juror on oath to determine whether any juror has engaged in any conduct that may constitute a contravention of section 68C.
>
> - Section 55DA (2), (3) and (4) remove a juror's privilege in respect of self-incrimination, while providing a protection by way of a certificate from the judge that the evidence given by the person cannot be used against the person in any proceedings for an offence against section 68C. While you indicated in your Second Reading speech that the proposed certificate procedure is modelled on the provisions of the Evidence Act, the protection proposed in the Jury Amendment Bill only partially reflects section 128(7) Evidence Act. That section provides:
>
>   "128(7) In any proceeding in a NSW court:
>
>   (a) evidence given by a person in respect of which a certificate under this section has been given, and
>
>   (b) evidence of any information, document or thing obtained as a direct or indirect consequence of the person having given evidence, cannot be used against the person. However, this does not apply to a criminal proceeding in respect of the falsity of the evidence."
>
>   The Criminal Law Committee is concerned that section 55DA appears to conflict with section 128(7) Evidence Act, which specifically applies to any proceeding in a NSW court, in that section 55DA fails to provide protection from the derived use of any self-incriminating evidence given by a juror.
>
>   The abrogation of the fundamental privilege against self-incrimination by a court is an extraordinary extension of the law in New South Wales. While a number of investigative bodies, such as the ICAC and the NSW Crime Commission, do not extend the full Evidence Act protections to people under investigation, the Committee notes that both the direct use and derivative use protections were included in the Coroners Act 1980 when it was amended in 2000 to provide that a witness at an inquest or inquiry may be required to give incriminating evidence so long as the coroner gives a certificate.
>
>   The Criminal Law Committee believes that section DA(4) as presently drafted provides no protection and no incentive for jurors to give accurate testimony. As you also note in your Second Reading speech, a juror may still be prosecuted on the basis of other evidence, such as the testimony of other jurors. The Committee is of the view that any subsequent prosecution of a juror should only be permitted if it is founded upon evidence that has been obtained independently of testimony about his or her own conduct.
>
>   Accordingly, the Committee submits that section 55DA(4) should be amended by inserting the words "or evidence obtained as a consequence of evidence given by the person" so that it reads:
>
>   (4) In any proceedings for an offence against section 68C, evidence given by a person, *or evidence obtained as a consequence of evidence given by the person,* in respect of which a certificate under this section has been given cannot be used against the person.

I interpose that honourable members would not want that to be a direction to a jury. The letter continues:

> - Section 68C creates a new offences prohibiting inquiries by jurors. The Criminal Law Committee notes that the Bill as drafted differs from the scope of the offence originally proposed, which extended to inquiries about the history of the offence and its investigation. The Committee is concerned that it could be argued that inquiries of this nature could be lawful as they might not necessarily relate to "any matter relevant to the trial". It is suggested that consideration should be given to clarifying the meaning of "relevant to the trial", either by amendment or by way of Ministerial comment on

the Bill in Parliament, to ensure that prohibited inquiries clearly include all aspects of an offence, its investigation and the entire court process.

- The new section 68C offence provides for a maximum penalty of 50 penalty units or imprisonment for 2 years, or both. Section 71 Jury Act provides that proceedings for offences against the Act shall be disposed of summarily unless otherwise indicated in the Act, and the Criminal Procedure Act provides for section 68A Jury Act offences to be Table 1 offences. The Committee suggests that the Bill should indicate whether the proposed new offence will be a Table 1 or Table 2 offence.

- Section 73A(1) provides the sheriff with power to investigate suspected improper conduct by a member or members of a jury, with the consent of, or at the request of, the relevant court. However, there is no indication as to how an investigation will be initiated. The Criminal Law Committee suggests that it should be clarified from whom the sheriff should seek consent to investigate. That is, whether the sheriff should approach the head of the relevant jurisdiction, or any judge of the relevant court, or the trial judge.

- Section 73A(4) has the effect of requiring the sheriff to administer a caution when questioning a person to ensure the admissibility of evidence of a statement made. However, the wording of the section is clumsy. It applies section 139(2) Evidence Act (improperly obtained evidence during official questioning) which itself refers back to section 138(1)(a) Evidence Act (exclusion of improperly or illegally obtained evidence). In the Criminal Law Committee's view, it would be preferable if section 73A(4) itself clearly expressed the cautioning requirement.

- Part 8—Transitional and savings provisions provide that the amendments will not apply in respect of a trial commenced before the commencement of the Jury Amendment Act 2004. While it is presumed that commencement of the trial means that the accused has been arraigned before the jurors in waiting, the Criminal Law Committee notes that section 130(2) Criminal Procedure Act could be used to argue that the trial commences as soon as the indictment is presented and the accused person is arraigned in the District Court or the Supreme Court. The Committee suggests that the provisions should clearly indicate if they are intended to apply to trials in which accused have been arraigned before the commencement of the amendments, but not to trials where the accused has been arraigned before the jurors in waiting.

I trust that the Criminal Law Committee's suggestions will assist in clarifying the legislation …

That letter is important for a few reasons. First, it is written against the background of the Law Society's support for the bill, which I welcome. Second, in various parts it suggests that the bill is unclear. The Law Society asserts that at least one of the sections is clumsy. It would be disappointing if legislation that is clumsy went through the Parliament, that is, it could be better put if more clearly drafted. I suspect that one underlying public policy problem with the whole issue is jurors not understanding their duties and responsibilities. In terms of legislation that penalises jurors for conduct that I suspect often has its origin in the fact that they do not understand their obligations, it would be a strange irony if this bill is clumsy and could be better written.

The final point relates to the previous point, that is, in such legislation it is important that the Parliament speaks as clearly as possible, as communication plainly is one ongoing issue and problem that jurors face. Allied to that, I regret that penal sanctions are required. I suppose in one sense every member regrets that. For some time now I have been strongly on the record as saying that penal sanctions are necessary. It is important to remember that, in a way, this is a serious form of criminal misconduct, but it is different to other forms of criminal misconduct. It is important also to fully consider the Law Society's concerns relating to evidentiary issues, bearing in mind the class of people that this bill is targeting. The Law Society's letter makes a number of references to concerns about the operation of the Jury Act and the Evidence Act, which I also think need clarification. The Opposition is not proposing to move any amendments. I do not necessarily believe that any amendments arise out of this letter. However, I respectfully ask the Attorney General to address the issues raised by the Law Society. If amendments arise from the letter, obviously we will look at them in a constructive way. On that basis, the Opposition does not oppose the bill.

Mr BARRY COLLIER (Miranda) [9.53 p.m.]: The object of the Jury Amendment Bill is to amend the Jury Act 1977 so as to prevent jurors in a trial of any criminal proceedings from making inquiries about the accused, or matters relevant to the trial, except in the proper exercise of functions as a juror; to prevent a person soliciting information from, or harassing, a juror or former juror for the purpose of obtaining information about how a juror, or the jury, formed any opinion or conclusion in relation to an issue arising in a trial or coronial inquest; to prevent a person from disclosing such information in certain circumstances; and to allow the sheriff to investigate any irregularities in the conduct of jury members in a trial of criminal proceedings that may affect or have affected the jury verdict.

The main purpose of the bill is to deter jurors from conducting their own experiments or making inquiries outside the evidence that is admissible in a trial. The bill makes it in an offence for a juror to make an inquiry for the purpose of obtaining information about an accused or matters relevant to a trial except in the proper exercise of his or her functions as a juror. It provides a maximum penalty for this offence of two years imprisonment or 50 penalty units, that is, $5,500. That is proposed section 68C. The bill defines "making an

inquiry" as including asking a question of any person, for example, asking a police officer outside the jury room whether the accused has a record. It defines an inquiry as including conducting any research, which would include making inquiries on the Internet or through law books or newspapers about the history of a case or perhaps, a psychiatric illness or the law on the subject.

"Making an inquiry" also includes viewing or inspecting any place or object, for example, viewing the crime scene or conducting an experiment at the crime scene itself. It also includes causing a third person to make an inquiry. The prohibition on making inquiries applies from the time the juror is sworn in and until the court having conduct of the proceedings discharges the juror at the end of the case, or the jury of which he or she forms part. At the end of the day the judge sums up the evidence in the trial and the jury retires to consider its verdict. The judge gives direction as to how they are to apply the law in particular cases, for example, the law in relation to how they are to treat complaints by an alleged victim of sexual assault. The jury then applies its commonsense and every day experience of life to the facts. When I say "facts", I mean the evidence which is admissible in law, evidence which has been thoroughly tested by cross-examination and evidence upon which the judge has given the jury directions or instructions according to the law. The jury must consider the admissible evidence as one group, not as a fragmented group, and it is important that they all consider the same evidence at the same time.

The bill exempts from the scope of the offence under section 68C the making of an inquiry to the court or other member of the jury, or the making of an inquiry authorised by the court, such as the handling of exhibits in the exhibit room. It is important to realise as well that jurors can always ask the judge a question about a particular piece of evidence through their foreman. They can also seek directions from the judge as to the way in which a particular piece of evidence should be treated, and the jury takes into the jury room any relevant documents, weapons, videotapes of police interviews, photographs and transcripts which had been admitted into evidence. It is also significant that during a trial counsel may ask the judge for a view. A view involves the judge, counsel for the accused, the Crown Prosecutor, the accused and the jury, who are in the charge of the sheriff, together with the court reporters, visiting the crime scene and asking relevant questions. That ensures that all jurors are informed and that they all consider the same evidence, rather than one or two jurors making their own independent inquiries.

From time to time as well, the judge may agree to a demonstration taking place according to the strict rules of evidence, but again the judge, the jury, counsel for the accused, the accused and the Crown are present. Again, they consider the same evidence at the same time. So it is not as though there are insufficient opportunities for jurors to question the evidence. It is open for them to have doubts on the evidence, for the Crown to prove the offence beyond reasonable doubt and for the defence to raise doubt, but it is not for individual jurors to make their own independent inquiries to dispel or to confirm that doubt, or to conduct inquiries or investigations which are beyond their scope of authority as jurors and beyond their scope of authority according to law.

The bill is in response to two recent Court of Criminal Appeal cases in which retrials were ordered as a result of jury misconduct. In one case jurors went to a park were an alleged sexual assault had occurred to view the lighting conditions for themselves. In the other case a juror had made independent inquiries on the Internet. Of course, significant financial costs are incurred as a result of retrials. Trial by jury is a central tenet of our criminal justice system. Another tenet of our criminal justice system is that the conduct of any trial should be fair. However, when jurors disregard the instructions given to them by the trial judge, or make their own independent inquiries, the accused person does not receive a fair trial.

Jurors must decide their verdicts on the evidence given in court when the accused is present. The accused is entitled to hear that evidence and, through counsel, to test that evidence by cross-examination. When a juror or juries conduct their own inquiries, the integrity of the trial process is clearly undermined. Neither the accused nor the Crown is present when jurors view a particular area or conduct their own experiments. Making inquiries about the accused such as by accessing the Internet allows jurors to access strictly inadmissible material according to the laws of evidence and the laws of the land. When an accused is not given a fair trial there will necessarily be a retrial. That is not only costly for the community, it is also extremely stressful for victims, particularly in cases that involve serious personal violence such as alleged sexual assault in company. In addition to the effect on the victim, a retrial is costly for the community in monetary terms.

The cost of a retrial resulting from the discovery of a juror misbehaving or because of a jury not following a judge's direction is extraordinarily high for the Crown, the Legal Aid Commission and the people of New South Wales. The offence which is created under this legislation, with penalties of imprisonment or

monetary fines, is designed to act as a deterrent to jurors who are determined to ignore the directions of the judge, who requires them to make their decision according to the evidence and exercising their commonsense of everyday life that they bring with them to the jury room. The jury is not the investigator; that is the function of the police.

The legislation provides for the judge to make inquiries of and to examine a juror on oath to determine whether that juror has engaged in any conduct that may constitute a contravention of proposed section 68C. In that case, the juror is not excused from giving evidence on the basis that the evidence may incriminate him or her. The judge may give an evidentiary certificate that may be produced in subsequent proceedings to the effect that evidence given to the judge in the course of the inquiry will not be admissible against the juror in a criminal prosecution. That makes good sense. As I have said, trials are costly. The sooner it is discovered that a juror has made inquiries contrary to the directions given by a judge, that they have gone outside the scope of their function and made independent inquiries, the better. For that reason alone judges should be able to cross-examine jurors to bring those facts to light as soon as possible. The certificate, in effect, preserves the position of the juror when it comes to criminal prosecution.

The report of the Legislation Review Committee reminds us that in this country there is a right to silence. That is a fundamental human right; it should only be eroded when it is overwhelmingly in the public interest to do so. In this case the limitation on the use of self-incriminating answers and the significant public interest involved in a fair trial are such that the committee takes the view, which I support and for which I commend the committee, that a judge's power to compel answers under proposed section 55DA (2) does not unduly trespass on human rights and personal liberties. This is good legislation; it is timely. It is designed to provide a meaningful deterrent to abuse and infringement by jurors, however publicly minded and well-intentioned. I commend the bill to the House.

Mr PAUL LYNCH (Liverpool) [10.04 p.m.]: I support the Jury Amendment Bill, which introduces changes to the Jury Act, including the creation of an offence of jurors conducting inquiries outside the evidence in a trial, amending existing offences and allowing the sheriff powers to investigate jury misconduct. There are certainly a number of cases where jurors have behaved in a way that has created miscarriages of justice and caused trials to be aborted. That leads to considerable extra expense. It is obviously distressing for witnesses and alleged victims. It is to no-one's benefit and certainly does not assist in the smooth and speedy operation of the criminal justice system.

The most spectacular case of juror misconduct that I have come across in my reading was the English case of *R v Young* [1995] QB 324. That was a murder trial. The jury stayed overnight in a hotel. To assist with their task the jury used a ouija board to consult with the deceased murder victim to ask him who his killer was. Believing that they had made contact, the jury was informed by the spirit, or whatever, of the deceased that the accused was indeed the murderer, and he was duly convicted. Not surprisingly, the court regarded that as a material irregularity in the deliberations of the jury. Two recent cases in New South Wales have brought the issue to a head. *R v Skaf and Skaf* [2004] NSW CCA 37 involved convictions for aggravated sexual intercourse without consent and for being an accessory before the fact. Those convictions were quashed and new trials were ordered for reasons that included jury misconduct. That misconduct involved the jury foreman and another juror making their own private trip to a site where certain incidents were alleged to have occurred and where matters such as lighting and identification seem to have been an issue.

R v K [2003] NSW CCA 406 was a case in which a conviction for murder was quashed and a new trial ordered. It involved instances of juror misconduct. Specifically, a number of jurors acquired knowledge about the accused and his history from Internet searches. These instances were clearly breaches of the rules relating to how juries must operate. The current rules make sense. The various acts of misconduct created what can only be termed as miscarriages of justice. The information obtained by the jury was not tested by either Crown or defence. There is no way of knowing whether it was correct, let alone relevant. The process is equally unfair to the Crown and the defence. There is thus a powerful incentive to prevent the recurrence of such juror misconduct. There are already possibilities available for contempt of court charges against such jurors. In the Skaf matter, the joint judgment of the court said, amongst other things:

> We put aside the issue whether the conduct of the jurors amounted to a contempt of court. That matter lies outside the questions for determination in these appeals. We mention it only to indicate, for the information of jurors in other trials, the potential seriousness with which the law views this type of misconduct.

However, it is self-evident that that disincentive of contempt proceedings has not prohibited juror misconduct. Certainly contempt charges are a fairly blunt and cumbersome mechanism if a criminal penalty for juror

misconduct is wanted. Of course, the issue for consideration prior to that is whether there ought to be a criminal sanction. That issue is one of balance. Serving on a jury can be an onerous responsibility. It is, however, in my view an important component of our justice system. It is a basic protection for ordinary citizens to be tried by their peers. The removal of juries is often a sign of severe problems within the criminal justice system resulting in many negative consequences. In that regard I would refer to the appalling precedent of Diplock tribunals in what some people call Northern Ireland and others call English-occupied Ireland.

Mr Bob Debus: Including the member for Liverpool.

Mr PAUL LYNCH: As the Attorney says, including the member for Liverpool. If juries are important in our structure, it follows logically that we should not make serving on them any more difficult or unattractive than is absolutely necessary. Following that logic, there would be a case for not introducing criminal offences such as those referred to in this bill. It is a question of competing priorities. Whilst it should be a priority to encourage citizens to fulfil jury duty, it must also be a priority to try to prevent juror misconduct that would lead to a miscarriage of justice and thus to a new trial. In defence of this legislation it can also be said that it cannot be regarded as too onerous to require jurors to follow simple instructions, such as not to go ferreting out information not presented as evidence in court.

Also in defence of the criminal sanctions in this bill, as I indicated earlier, some criminal sanctions already exist in the context of the law of contempt. Following the recent miscarriages of trials, suggestions for change have come from a number of sources. There has been reference in the debate already, in the second reading speech to the jury task force. This bill has certainly benefited from extensive consultation. It is worth noting in relation to Internet searches comments from the Chief Judge at Common Law, Justice Wood, who in the course of his judgement in *R v K* said:

> The case is one of potential ongoing importance, having regard to the extent of the information which is now available on the Internet, concerning criminal investigations and trials, not only via online media reports and services, but also via legal databases and the judgment systems of the courts. The problem is compounded by the greater familiarity, which the current generation has with the use of information technology, and the ever-reducing cost of acquiring and using that technology.
>
> It may well become the case, as a matter of habit arising out of the way that ordinary affairs are conducted, that the inevitable reaction of any person who is summonsed as a juror will be to undertake an online search in relation to the case to ascertain what it may involve.

Following from those observations, His Honour went on to speak about some proposed amendments to the law. He referred to extending the power of the Office of the Sheriff to investigate irregularities in the jury process. He also pointed to perhaps introducing provisions similar to those in the Queensland Jury Act, although his proposal was somewhat broader than the current Queensland provisions. I believe all of those points have been dealt in the legislation currently before the House. Proposed section 68C makes it a criminal offence for jurors to make unauthorised inquiries, and that includes Internet searches or viewing or inspecting any place or object. Proposed section 73A extends the power of the sheriff to investigate jury irregularities. A judge is also given increased powers to examine a juror on oath to determine whether irregularities have occurred.

On the other hand, the legislation also strengthens provisions to protect jurors from harassment and from being solicited for information. Publicity concerning these numerically small numbers of jury misconduct cases may lead to efforts by the unscrupulous to ferret out information about the deliberations of a jury to try to create a ground of appeal. Such behaviour ought to be discouraged and would be a serious assault on the principles of the jury system. I believe this provision is a useful balance to the introduction of new criminal offences directed against jurors who misbehave. I commend the bill to the House.

Mr BOB DEBUS (Blue Mountains—Attorney General, and Minister for the Environment) [10.11 p.m.], in reply: I thank honourable members who have contributed to the debate: the honourable member for Epping who constructively supported the legislation, and my comrades the honourable member for Liverpool and the honourable member for Miranda. Both those members are experienced in trial appearances, as has been evidenced in their learned remarks. Trial by jury is a central tenet of our criminal justice system. However, when jurors, well-intentioned or not, disregard the clear instructions given to them by a trial judge, then an accused person is not being tried by a fair process. When a juror or juries conduct their own inquiries, the trial process is undermined. Neither the accused nor the Crown is present when juries undertake these experiments. Making inquiries about the accused, such as by accessing the Internet, allows juries access to material that is strictly inadmissible according to the laws of evidence.

As several members have already indicated during the debate, the case of Skaf provides a good example. In that case two jurors went to the scene of a crime and conducted experiments in relation to the lighting. The judge was not there, nor were the remaining jurors, the accused, their representatives or the Crown. The experiment may have been inaccurate. For example, the lighting may have changed since the incident, with the construction of additional lights. In any event, because the experiment was not known to the court, the accused or the Crown, they were unable to comment upon it. When an accused is not given a fair trial there is a necessity for a retrial. This is extremely costly for the community and, perhaps most importantly—as was certainly the case in the matter I have just referred to—extremely stressful for the victims. It is particularly distressful when the crime involves serious personal violence.

For this reason, the offence we have discussed tonight needs to be created. It will be a clear deterrent to jurors who are tempted to ignore the directions of the judge which require them to make their decisions according to the evidence. The bill will also allow courts to be informed when an irregularity has occurred. Expanding the prohibition on the disclosure of jury deliberations will protect jurors from inquiries about their decision making from inappropriate channels. I will briefly make a number of points in response to questions raised during the debate. The honourable member for Epping raised the issue of a jury being given clearer directions. I point out that directions of instruction about the offences we are debating, including the fact that this type of behaviour now constitutes an offence, will be rewritten in clear and concise language by the Judicial Commission of New South Wales and included in the trial court bench book.

I also point out that a considerable amount of information is already available to jurors. A video "Our Jury Our Values" is shown to all jurors attending for jury service. It provides an overview of the jury system in New South Wales, the lead-up to attending at court, the empanelling process, the trial, the deliberation and the discharge. The video is also used in schools and tertiary institutions. A brochure is sent to people with their notice of inclusion on a jury roll, and that brochure is presently being updated. A jury summons brochure is sent to people with their summons for jury service. A handbook for empanelled jurors, which is being finalised, will provide information about the trial process and will reinforce the warnings that are given to jurors about not accessing the Internet. Further, information about jury service is available on the web site of the Office of the Sheriff. It is permissible to access the Internet for that purpose. The jury support program provides free and confidential counselling for jurors after they have been discharged.

A combination of already existing material available to jurors, new information that will soon be available and the new and clearer directions to the jury by a judge, which will be included in the trial court bench book, will provide the type of information that is necessary if we are to introduce the offences included in this bill. I will respond, as the honourable member for Epping requested, to points raised by the Law Society in a letter sent to me about the provisions of the bill. In its letter the Law Society suggested that section 55DA, which relates to the examination of jurors, should be clarified so that it is clear that a judge may examine one juror about whether another juror has made inquiries in contravention of section 68C. I assert that this is clearly the case. Section 55DA provides that a judge may examine a juror to determine whether a juror has engaged in conduct which might breach section 68C.

The Law Society further suggested that the protection against self-incrimination included in the bill should extend to all evidence obtained as a result of a disclosure made by a juror in answer to a question from a judge, rather than just the testimony itself. While ensuring that a person cannot incriminate himself or herself, it is considered appropriate to fetter investigations that may arise from a disclosure in court. If the court becomes aware of an offence through the testimony of a juror, that will not prevent the Office of the Sheriff from further investigating the matter.

Of course, to prove an offence, evidence from other jurors or witnesses will be necessary. It must be recognised that an offence under section 68C is a very serious one, and it may be difficult to detect given the secrecy of jury deliberations. The Law Society has also suggested that the scope of the prohibition in section 68C may not include the investigation of the offence or the history of the offence. It is inconceivable that any juror who makes an inquiry during a trial about the investigation of an offence or the history of its prosecution is not making an inquiry about the accused or a matter relevant to the trial. I believe that matter is clearly enough set down.

I refer also to the question of jurisdiction. The offence under section 68C is a summary offence. That is clear from section 71, which provides that all offences under the Jury Act are summary unless otherwise provided. I mention also that it is considered appropriate that both the trial judge and any judge of the Supreme Court have the power to request or authorise an investigation by the Sheriff. When the Sheriff hears about an

irregularity and seeks the consent of the court to investigate the matter, it will be the court with jurisdiction over the matter that will consider the issue. Irregularities that arise during a trial may be referred to the Sheriff for investigation by the trial judge.

If a matter is the subject of an appeal—as was the case in the *R v K* and *R v Skaf* matters—it will be a judge of the Supreme Court or the Court of Criminal Appeal who will consider a referral of a matter to the Sheriff. There is no good reason to fetter the referral power as has been suggested by the Law Society. The submission from the Law Society suggests that the effect of section 73A (4) is to require the Sheriff to caution a person before questioning a suspect in relation to an offence under section 68C. That fact is abundantly clear and there is no need to make any amendment to the subsection. Nevertheless, by making these observations in response to the society's inquiries we will ensure that future interpretation of the legislation is appropriate.

Finally in respect of points raised by the Law Society, I refer to the question of commencement. I have seen the case relied upon for the society's view that section 132 of the Criminal Procedure Act 1986 suggests that a trial commences at the time a person is arraigned or formally asked to plead. However, that view is contrary to commonsense. A trial does not in any realistic sense commence on the first mentioned date in the District Court if by chance the accused formally enters a plea. The comments in the case concerned were in any event not material to the decision made and they remain the comments of a single judge of the District Court.

A preferable view is the one expressed by the Chief Justice in *R v Nicolaidis* (1994) 72 A Crim R 394, a decision of the Court of Criminal Appeal. In that case it was said that a trial commences when an accused is arraigned in front of the jury. The purpose of providing that the offences apply only to trials commenced after the commencement of this legislation is so that jurors are warned not only not to conduct their own inquiries, but also that if they do so they could be prosecuted for an offence. I again thank honourable members who have contributed to this debate in such a constructive and well-informed fashion. I have great pleasure in commending the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

SPECIAL ADJOURNMENT

Motion by Mr Carl Scully agreed to:

That the House at its rising this day do adjourn until Wednesday 10 November 2004 at 10.00 a.m.

The House adjourned at 10.25 p.m. until Wednesday 10 November 2004 at 10.00 a.m.