

# LEGISLATIVE ASSEMBLY

Tuesday 13 September 2005

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

**Mr Speaker** offered the Prayer.

## LEGISLATIVE ASSEMBLY CHAMBER SOUND SYSTEM

**Mr SPEAKER:** As members are aware, during the adjournment a new sound system has been installed for the Chamber and the galleries. The new system completely replaces the system that was installed in 1980, when the Chamber was refurbished, upgraded in 1988. I draw members' attention to the fact that it has been necessary to remove the ceiling microphones for maximum sound clarity to be achieved. Accordingly, members are asked to utilise the microphones at the table whenever possible. Over the next few sitting weeks the new system will be monitored and, as with any new system, there will be a period during which adjustments will be required to the system itself and by its users.

I ask all members to be patient during this settling-in period. I also recommend that they read the note sent out this morning that explains in more detail the changes that have been made. It has been particularly challenging to design and install a sound reinforcement system for a Chamber in a heritage-listed building. On behalf of the House I would like to commend all those involved in the project, including Mr Glenn Leembruggen and Mr David Gilfillian from Acoustic Directions, Mr Chris Dodds and Mr Chris Steele from The PA People, Mr Bruce Pettman and Ms Melina Crawford from the Government Architect's office and the project team comprising representatives of the Legislative Assembly, Parliamentary Building Services, the Department of Commerce, the Government and the Opposition.

## ELECTORAL DISTRICT OF MAROUBRA

### Resignation of Robert John Carr: Issue of Writ

**Mr SPEAKER:** I have to inform the House that on 3 August 2005 I received a letter from Robert John Carr resigning his seat as member for the electoral district of Maroubra. In accordance with section 70 of the Parliamentary Electorates and Elections Act 1912 I issued a writ on 29 August 2005 for the election of a member to serve in the room of Robert John Carr, resigned. The particulars of the writ are as follows: nomination day, 2 September 2005; polling day, 17 September 2005; and return of the writ: 7 October 2005.

## ELECTORAL DISTRICT OF MACQUARIE FIELDS

### Resignation of Craig John Knowles: Issue of Writ

**Mr SPEAKER:** I have to inform the House that on 10 August 2005 I received a letter from Craig John Knowles resigning his seat as member for the electoral district of Macquarie Fields. In accordance with section 70 of the Parliamentary Electorates and Elections Act 1912 I issued a writ on 29 August 2005 for the election of a member to serve in the room of Craig John Knowles, resigned. The particulars of the writ are as follows: nomination day, 2 September 2005; polling day, 17 September 2005; and return of the writ: 7 October 2005.

## ELECTORAL DISTRICT OF MARRICKVILLE

### Resignation of Andrew John Refshauge: Issue of Writ

**Mr SPEAKER:** I have to inform the House that on 10 August 2005 I received a letter from Andrew John Refshauge resigning his seat as member for the electoral district of Marrickville. In accordance with section 70 of the Parliamentary Electorates and Elections Act 1912 I issued a writ on 29 August 2005 for the election of a member to serve in the room of Andrew John Refshauge, resigned. The particulars of the writ are as follows: nomination day, 2 September 2005; polling day, 17 September 2005; and return of the writ: 7 October 2005.

## MINISTRY

**Mr MORRIS IEMMA:** I have to inform the House that on 3 August 2005, the Hon. Robert John Carr submitted his resignation as Premier, Minister for the Arts, and Minister for Citizenship and member of the Executive Council to Her Excellency the Governor, an action which involved the resignation of all Ministers. Her Excellency then commissioned me to form a new ministry. On the same day as I was sworn in as a member of the Executive Council and as Premier, Treasurer, and Minister for Citizenship, 17 persons were appointed by Her Excellency as members of the Executive Council and to ministerial offices. By leave I incorporate the list of Ministers appointed on 3 August 2005 into *Hansard* and the *Votes and Proceedings*:

The Hon. John Joseph Della Bosca, MLC,  
Special Minister of State, Minister for Commerce, Minister for Industrial Relations, Minister for Ageing, Minister for Disability Services, Assistant Treasurer, and Vice-President of the Executive Council;

The Hon. Robert John Debus, MP,  
Attorney General, Minister for the Environment, and Minister for the Arts;

The Hon. Patrick Carl Scully, MP,  
Minister for Police, and Minister for Utilities;

The Hon. John Arthur Watkins, MP,  
Minister for Transport, and Minister for State Development;

The Hon. Carmel Mary Tebbutt, MLC,  
Minister for Education and Training, and Minister for Aboriginal Affairs;

The Hon. Michael Costa, MLC,  
Minister for Finance, Minister for Infrastructure, Minister for the Hunter, and Minister for Ports and Waterways;

The Hon. John Hatzistergos, MLC,  
Minister for Health;

The Hon. Frank Ernest Sartor, MP,  
Minister for Planning, Minister for Redfern Waterloo, Minister for Science and Medical Research, and Minister Assisting the Minister for Health (Cancer);

The Hon. Reba Paige Meagher, MP,  
Minister for Community Services, and Minister for Youth;

The Hon. Sandra Christine Nori, MP,  
Minister for Tourism and Sport and Recreation, Minister for Women, and Minister Assisting the Minister for State Development;

The Hon. Ian Michael Macdonald, MLC,  
Minister for Natural Resources, Minister for Primary Industries, and Minister for Mineral Resources;

The Hon. Anthony Bernard Kelly, MLC,  
Minister for Justice, Minister for Juvenile Justice, Minister for Emergency Services, Minister for Lands and Minister for Rural Affairs;

The Hon. Diane Beamer, MP,  
Minister for Western Sydney, Minister for Fair Trading, and Minister Assisting the Minister for Commerce;

The Hon. Joseph Guerino Tripodi, MP,  
Minister for Roads and Minister for Housing;

The Hon. David Andrew Campbell, MP,  
Minister for Regional Development, Minister for the Illawarra, and Minister for Small Business;

The Hon. Grant Anthony McBride, MP,  
Minister for Gaming and Racing, and Minister for the Central Coast; and

The Hon. Kerry Arthur Hickey, MP,  
Minister for Local Government.

I have to also inform the House that on 10 August 2005 Her Excellency the Governor accepted the resignations of:

The Hon. Carmel Mary Tebbutt, MLC, as Minister for Aboriginal Affairs;  
The Hon. Michael Costa, MLC, as Minister for Ports and Waterways; and  
The Hon. Joseph Guerino Tripodi, MP, as Minister for Housing

On 10 August the following persons were appointed by Her Excellency as members of the Executive Council and to the offices indicated:

The Hon. John Arthur Watkins, MP,  
Deputy Premier;

The Hon. Eric Michael Roozendaal, MLC,  
Minister for Ports and Waterways;

The Hon. Cherie Ann Burton, MP,  
Minister for Housing, and Minister Assisting the Minister for Health (Mental Health); and

The Hon. Milton Orkopoulos, MP,  
Minister for Aboriginal Affairs, and Minister Assisting the Premier on Citizenship.

### PARLIAMENTARY SECRETARIES

**Mr MORRIS IEMMA:** I also have to inform the House that, with effect from 4 August 2005, the following members were appointed as Parliamentary Secretaries to the offices indicated. By leave I incorporate the list of members appointed as Parliamentary Secretaries on 4 August 2005 into *Hansard* and the *Votes and Proceedings*:

Mr Bryce James Gaudry, MP,  
Parliamentary Secretary Assisting the Deputy Premier;

Ms Alison Patricia Megarrity, MP,  
Parliamentary Secretary Assisting the Attorney General, Minister for the Environment, and the Minister for the Arts;

Mr Neville Joseph Newell, MP,  
Parliamentary Secretary Assisting the Minister for Justice, Minister for Juvenile Justice, Minister for Emergency Services,  
Minister for Lands, and Minister for Rural Affairs;

Mr Anthony Paul Stewart, MP,  
Parliamentary Secretary Assisting the Minister for Police, and Minister for Utilities

The Hon. Henry Shiu-Lung Tsang, MLC,  
Parliamentary Secretary Assisting the Premier on Trade and Investment; and

Mr Graham James West, MP,  
Parliamentary Secretary Assisting the Premier in his role as Treasurer and to assist the Minister for Finance.

I further have to inform the House that, with effect from 5 September 2005, the following member has been appointed to the office indicated:

Ms Linda Jean Burney, MP,  
Parliamentary Secretary Assisting the Minister for Education and Training.

### REPRESENTATION OF MINISTERS IN THE LEGISLATIVE COUNCIL

**Mr MORRIS IEMMA:** I also inform the House of the representation of Legislative Council Ministers in the Legislative Assembly. By leave I incorporate the list of ministerial representations into *Hansard* and the *Votes and Proceedings*:

The Special Minister of State, Minister for Commerce, Minister for Industrial Relations, Minister for Ageing, Minister for Disability Services, and Assistant Treasurer will be represented in the Legislative Assembly by the Deputy Premier, Minister for Transport, and Minister for State Development;

The Minister for Justice, Minister for Juvenile Justice, Minister for Emergency Services, Minister for Lands, and Minister for Rural Affairs will be represented in the Legislative Assembly by the Attorney General, Minister for the Environment, and Minister for the Arts;

The Minister for Finance, Minister for Infrastructure and Minister for the Hunter will be represented in the Legislative Assembly by the Minister for Planning, Minister for Redfern Waterloo, Minister for Science and Medical Research, and Minister Assisting the Minister for Health (Cancer);

The Minister for Health will be represented in the Legislative Assembly by the Minister for Planning, Minister for Redfern Waterloo, Minister for Science and Medical Research, and Minister Assisting the Minister for Health (Cancer);

The Minister for Ports and Waterways will be represented in the Legislative Assembly by the Minister for Roads;

The Minister for Natural Resources, Minister for Primary Industries, and Minister for Mineral Resources will be represented in the Legislative Assembly by the Minister for Regional Development, Minister for the Illawarra, and Minister for Small Business; and

The Minister for Education and Training will be represented in the Legislative Assembly by the Minister for Regional Development, Minister for the Illawarra, and Minister for Small Business.

**LEADER OF THE OPPOSITION**

**Mr DEBNAM:** I inform the House of the resignation of John Gilbert Brogden as Leader of the Opposition on 1 September 2005. I also inform the House that I was elected unanimously as Leader of the Opposition on 1 September 2005.

**LEAVE OF ABSENCE**

**Mr PETER DEBNAM** (Vaucluse—Leader of the Opposition) [2.24 p.m.]: I move:

That leave of absence for the present session be granted to the honourable member for Pittwater, John Gilbert Brogden.

On behalf of all honourable members, I wish John a full and early recovery and stress that all our thoughts are very much with John and his family for the support, care and privacy they need.

**Motion agreed to.**

**ASSENT TO BILLS**

Assent to the following bills of the previous session reported:

James Hardie Former Subsidiaries (Special Provisions) Bill  
Legal Profession Amendment Bill  
Workplace Surveillance Bill  
Poultry Meat Industry Amendment (Prevention of National Competition Policy Penalties) Bill  
Local Government and Valuation of Land Amendment (Water Rights) Bill  
Prevention of Cruelty to Animals Amendment Bill  
State Revenue Legislation Amendment Bill  
Superannuation Legislation Amendment Bill  
Surveying Amendment Bill  
Terrorism Legislation Amendment (Warrants) Bill  
Transport Legislation Amendment (Waterfall Rail Inquiry Recommendations) Bill  
Brigalow and Nandewar Community Conservation Area Bill  
Building Legislation Amendment (Smoke Alarms) Bill  
Crown Lands Legislation Amendment Bill  
Local Government Amendment Bill  
National Parks and Wildlife (Further Adjustment of Areas) Bill  
Passenger Transport Amendment (Maintenance of Bus Services) Bill  
Pawnbrokers and Second-hand Dealers Amendment Bill  
Security Industry Amendment Bill  
Statute Law (Miscellaneous Provisions) Bill  
Sydney 2009 World Masters Games Organising Committee Bill

**UNPROCLAIMED LEGISLATION**

**Mr SPEAKER:** Pursuant to standing orders I table a list detailing all legislation unproclaimed 90 days after assent as at 13 September 2005.

**INDEPENDENT COMMISSION AGAINST CORRUPTION****Reports**

**Mr Speaker** announced the receipt, pursuant to section 78 of the Independent Commission Against Corruption Act 1988, of the following reports:

Report on Investigation into the University of Newcastle's Handling of Plagiarism Allegations, dated June 2005.  
Report on Investigation into Planning Decisions Relating to the Orange Grove Centre, dated August 2005.

**Ordered to be printed.**

**INSPECTOR OF THE POLICE INTEGRITY COMMISSION****Report**

**Mr Speaker** announced the receipt, pursuant to section 103 of the Police Integrity Commission Act 1996, of the report of the Inspector of the Police Integrity Commission for the year ended 30 June 2005.

**Ordered to be printed.**

**AUDIT OFFICE****Reports**

**The Clerk** announced the receipt, pursuant to section 63C of the Public Finance and Audit Act 1983, of the following performance audit reports of the Auditor-General dated July 2005:

Coordination of Rescue Services: State Rescue Board of New South Wales  
In-year Monitoring of the State Budget

**NSW OMBUDSMAN****Report**

**The Clerk** announced the receipt, pursuant to section 21 of the Police Powers (Drug Premises) Act 2001, of the report entitled "Review of the Police Powers (Drug Premises) Act 2001", dated January 2005.

**COMMITTEE ON THE OFFICE OF THE VALUER GENERAL****Report**

**The Clerk** announced the receipt of report No. 53/02, entitled "Report on the Second General Meeting with the Valuer General", dated July 2005.

**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. 9 of 2005", dated 12 September 2005.

**PUBLIC BODIES REVIEW COMMITTEE****Report**

**The Clerk** announced the receipt of report No. 2/53, entitled "Interstate Study Tour 17-20 May 2005", dated June 2005.

**PETITIONS****Gaming Machine Tax**

Petition opposing the decision to increase poker machine tax, received from **Mrs Judy Hopwood**.

**Land Tax**

Petition opposing the current method of calculating land tax, received from **Mr Robert Oakeshott**.

**Stamp Duty Reduction**

Petition supporting a reduction in stamp duty, received from **Mr Barry O'Farrell**.

**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 Steve Cansdell** and **Mr Andrew Stoner**.

**Newcastle Rail Services**

Petition requesting the retention and improvement of Newcastle rail services, and implementation of an integrated public transport plan for the Lower Hunter, received from **Mr Bryce Gaudry**, **Mr Kerry Hickey** and **Mr John Mills**.

**Pets on Public Transport**

Petition requesting that pets be allowed on public transport, received from **Ms Clover Moore**.

**Murwillumbah to Casino Rail Service**

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

**Blacktown to Richmond Night Bus Service**

Petition requesting a bus service from Blacktown along the Richmond line between midnight and 5.00 a.m., received from **Mr Steven Pringle**.

**Mid North Coast Airconditioned School Buses**

Petition opposing the removal of airconditioned school buses from the mid North Coast, received from **Mr Andrew Stoner**.

**Same-sex Marriage Legislation**

Petitions opposing same-sex marriage legislation, received from **Mr Greg Aplin, Mr Ian Armstrong, Mr Steve Cansdell, Mr Thomas George** and **Mr Russell Turner**.

**Anti-Discrimination (Religious Tolerance) Legislation**

Petitions opposing the proposed anti-discrimination (religious tolerance) legislation, received from **Ms Linda Burney, Mr Steve Cansdell, Mrs Dawn Fardell, Mrs Judy Hopwood, Mr Robert Oakeshott, Mr Barry O'Farrell, Mr Ian Slack-Smith** and **Mr Andrew Stoner**.

**Whale Protection in Australian Waters**

Petition requesting that whales are protected in Australian waters, received from **Mrs Judy Hopwood**.

**Recreational Fishing and Diving**

Petition requesting the preservation of fishing rights and opposing any ban or surcharge on recreational fishing or diving, received from **Mr Andrew Stoner**.

**Albury Electorate Policing**

Petition requesting an increased physical police presence in the Albury electorate, received from **Mr Greg Aplin**.

**Yamba Policing**

Petition requesting an increase in police numbers for Yamba, received from **Mr Steve Cansdell**.

**Wyong Policing**

Petition requesting an increase in police numbers for Wyong, received from **Mr Paul Crittenden**.

**Kurnell Desalination Plant**

Petition opposing the construction of a desalination plant at Kurnell, received from **Mr Malcolm Kerr**.

**Hastings Water Supply**

Petition opposing the fluoridation of the Hastings water supply, received from **Mr Robert Oakeshott**.

**Gresford Policing**

Petition requesting that a permanent police officer be stationed in Gresford, received from **Mr John Price**.

**Kempsey Water Fluoridation**

Petition opposing the addition of fluoride to the Kempsey and district water supply, received from **Mr Andrew Stoner**.

**Skilled Migrant Placement Program**

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

**Colo High School Airconditioning**

Petition requesting the installation of airconditioning in all classrooms and the library of Colo High School, received from **Mr Steven Pringle**.

**Breast Screening Funding**

Petitions requesting funding for BreastScreen NSW, received from **Mr Ian Armstrong, Mr Steve Cansdell and Mrs Judy Hopwood**.

**Campbell Hospital, Coraki**

Petition opposing the closure of inpatient beds and the reduction in emergency department hours of Campbell Hospital, Coraki, received from **Mr Steve Cansdell**.

**Lismore Base Regional Hospital**

Petition requesting additional funding for Lismore Base Regional Hospital, received from **Mr Donald Page**.

**Kurnell Sandmining**

Petition opposing sandmining on the Kurnell Peninsula, received from **Mr Barry Collier**.

**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**.

**Imlay Special Needs Parenting Resource Van and Mobile Toy Library**

Petition requesting funding for the Imlay special needs parenting resource van and mobile toy library, received from **Mr Andrew Constance**.

**Hawkesbury Electorate Youth Transport Services**

Petition requesting affordable transport options for youth in the areas of Maraylya, Scheyville, Oakville and Cattai, received from **Mr Steven Pringle**.

**Recreational Diving Tax**

Petition opposing the introduction of a recreational diving tax to inspect grey nurse sharks, received from **Mr Andrew Constance**.

**Recreational Fishing**

Petitions opposing any restrictions on recreational fishing in the mid North Coast waters, received from **Mr Steve Cansdell and Mr Matthew Morris**.

**Water-Access-Only Property Policy**

Petition requesting a review of the water-access-only property policy, received from **Mrs Judy Hopwood**.

**Burwood Colliery Bowling Club Crown Land Site**

Petition opposing the sale of the Burwood Colliery Bowling Club crown land site to the club for the purpose of a joint venture development, received from **Mr Matthew Morris**.

**Willoughby Traffic Conditions**

Petition requesting a regional traffic plan for the Pacific Highway at Willoughby, received from **Ms Gladys Berejikian**.

**Edinburgh Road, Willoughby, Traffic Conditions**

Petition requesting a right turn arrow for traffic travelling west on Edinburgh Road, Castlecrag, turning north onto Eastern Valley Way, received from **Ms Gladys Berejikian**.

**F6 Corridor Community Use**

Petition noting the decision of the Minister for Roads, gazetted in February 2003, to abandon the construction of any freeway or motorway in the F6 corridor, and requesting preservation of the corridor for open space, community use and public transport, received from **Mr Barry Collier**.

**Princes Highway Upgrade**

Petition requesting safety improvements to the Bawley Point Road and Princes Highway intersection, received from **Mr Andrew Constance**.

**Berowra Heavy Vehicle Rest Area**

Petition requesting community consultation by the Roads and Traffic Authority prior to the construction of the heavy vehicle rest area at Berowra, received from **Mrs Judy Hopwood**.

**Woodburn to Ballina Pacific Highway Upgrade**

Petition requesting the removal of route options 2A and 2B from the Woodburn to Ballina Pacific Highway upgrade proposals, received from **Mr Donald Page**.

**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**.

**Wee Waa Traffic Conditions**

Petition opposing the upgrade of the corner of Mitchell Street and Maitland Street in Wee Waa, received from **Mr Ian Slack-Smith**.

**Forster-Tuncurry Cycleways**

Petition requesting the building of cycleways in the Forster-Tuncurry area, received from **Mr John Turner**.

**Pacific Highway Overpass**

Petition requesting that an overpass be constructed with the present upgrade of the Pacific Highway and the Myall Way, received from **Mr John Turner**.



**Business Enterprise Centres**

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

**Small Business Overregulation**

Petition opposing the overregulation of small business, received from **Mr Steven Pringle**.

**Great Lakes Council Rate Structure**

Petition opposing a 30 per cent rate increase proposed by Great Lakes Council, received from **Mr John Turner**.

**Macdonald River Signage**

Petition requesting that the Macdonald River be provided with signage stating "4 or 8 knots, no skiing, no wash", received from **Mr Steven Pringle**.

**Public Housing Tenants Rights**

Petition requesting amendments to the Residential Tenancies Amendment (Public Housing) Act to provide public tenants with the same rights as other tenants and to protect their security of tenure, received from **Ms Clover Moore**.

**LEGISLATION REVIEW COMMITTEE****Report**

**Ms Virginia Judge**, on behalf of the Chairman, tabled report No. 3, entitled "Annual Review July 2004—June 2005", dated 13 September 2005.

**Ordered to be printed.**

**QUESTIONS WITHOUT NOTICE**

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**STATE FINANCES**

**Mr PETER DEBNAM:** My question without notice is directed to the Premier, and Treasurer. Given that he has been briefed by Treasury and has publicly admitted that New South Wales is stuck in a debt trap, will he immediately release an up-to-date report on the State's deteriorating finances?

**Mr MORRIS IEMMA:** Before I provide an answer to the question asked of me by the Leader of the Opposition I would like to make a few comments. I wish to reflect, first, on the extraordinary events of recent weeks. I know that the Leader of the Opposition has already made some remarks, but on behalf of the Government and the Parliament I wish John Brogden a swift and complete recovery. I note that the honourable member has taken leave and I hope he will be able to return to his duties as soon as possible. I welcome the Leader of the Opposition to his position and look forward to the challenge. It is a great honour and a privilege to lead the Labor Party and to be the fortieth Premier of New South Wales. This Government will be an energetic and reforming Government that delivers for the people of New South Wales.

I welcome the question directed to me by the Leader of the Opposition. This State's finances are sound and they are in good hands. We know that the State's budget is under pressure. The principal reason the budget is under pressure is because of the GST distribution deal. New South Wales taxpayers send \$13 billion to Canberra and get back \$10 billion. Later today Opposition members will get a chance to tell the people of New South Wales whose side they are on. Will they join with us to get a better deal for the GST or will they be on the side of party politics and sell out the people of New South Wales? The budget is under pressure. The principal reason it is under pressure is because of that unfair GST distribution. The second reason, of course, is the downturn in the property market as a result of Commonwealth Reserve Bank interest rate rises, despite the promise at the Federal election that there would be no interest rate rises.

**Mr SPEAKER:** Order! The Premier will be heard in silence.

**Mr MORRIS IEMMA:** The downturn in the property market placed pressure on the State's revenue. However, the State's balance sheet has never been stronger. The State's net worth also has never been stronger. When it comes to debt, net debt as a proportion of gross State product is 1 per cent. In 1995 when we came into office it was 7½ per cent. This Government has paid back \$10 billion of the debt of the former Government. Net State debt, as a proportion of gross State product, was 7½ per cent. Today it is 1 per cent. We have paid off more than \$10 billion of the debt of the former Government. This Government has delivered eight successive budget surpluses. When it comes to budgets I am surprised Opposition members even want to enter into this debate. In their term of office—

**Mr Peter Debnam:** Point of order: My point of order relates to relevance. The question was very simple. Will the Premier table the secret Treasury report or not?

**Mr SPEAKER:** Order! There is no point of order. The Leader of the Opposition will resume his seat.

**Mr Peter Debnam:** Is it going to stay secret or is it going to appear on the table so that the people of New South Wales can see it?

**Mr SPEAKER:** Order! If the Leader of the Opposition wishes to answer his own question there is another way of doing so. The Premier has the call.

**Mr MORRIS IEMMA:** I will give the Leader of the Opposition plenty of information about the State's finances. He should relax; plenty of information is coming. When it comes to budget deficits, the former Government had six budget deficits in the seven years it was in office. It had a budget deficit of \$515 million for the 1989-90 financial year followed by a budget deficit of \$1.2 billion for the next financial year. The former Government got really clever at adding up the dollars. The deficit was \$1.6 billion in 1992 and on it went, budget deficit after budget deficit. The record of this Government has been to deliver eight successive surpluses. The former Government had six budget deficits in its seven years in office.

As I said, the State balance sheet has never been stronger and net debt has never been lower. Actually, net financial liabilities—if we want to get into that—are 8 per cent, which is way down on what they were. What are the Commonwealth net financial liabilities? What is Peter Costello's net financial liabilities figure? It is 13 per cent. Those opposite should not come into this Chamber and ask questions about the State's finances, because they are being managed well. The pressure on the budget is caused principally by the unfair GST distribution imposed by the colleagues of Opposition members in Canberra.

We will always be about putting the back-office administration that supports the front line under the microscope to reduce inefficiency and duplication. That is what our audit will do. Opposition members want full details, and they will be released. There is no problem about that whatsoever. We are about ensuring that the taxpayers get maximum value for their money in front-line health, education, police and rail services. We will do that through a careful, microscopic examination of all areas of government expenditure. What we will not do is take an axe to all public servants and sack 29,000 of them. That is the Opposition's policy. We will not do that. The Opposition might tell us in the process which public servants it will junk and which it will not.

In response to the question from the Leader of the Opposition, the Government will ensure that maximum resources flow to front-line services—health, education, and law and order—that the people of New South Wales expect from government. Unlike the Opposition, we will not do that by getting rid of police, teachers and nurses. In light of the Coalition's seven-year record, questions about the budget and the State's finances are the last things that its members should ask about anywhere.

### GOODS AND SERVICES TAX REVENUE DISTRIBUTION

**Ms KRISTINA KENEALLY:** My question is directed to the Premier. What is the Government's response to the Commonwealth's redistribution of GST revenue to the States?

**Mr Chris Hartcher:** Point of order: Standing order 137 states clearly that a question cannot anticipate a matter that is before the House. Notice has been given of the intention to move an urgent motion on this issue in the House. The Premier should read the standing orders of this House and gain some understanding of them. The standing orders state quite clearly that he cannot anticipate debate in this place.

**Mr SPEAKER:** Order! The honourable member for Gosford is mistaken. Notice of the motion has been given but there has been no determination as to which motion for urgent consideration will have priority. Therefore, there is no motion before the House. The Premier has the call.

**Mr MORRIS IEMMA:** The honourable member for Gosford should direct his energy at getting a magnetic resonance imaging licence for the hospital at Gosford. He has had six months and he still has not made a telephone call.

**Mr Chris Hartcher:** I'll ring you.

**Mr SPEAKER:** Order! The honourable member for Gosford will come to order.

**Mr MORRIS IEMMA:** No, ring Tony.

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

**Mr MORRIS IEMMA:** We have done our bit: We built the thing and bought it. The most pressing issue for New South Wales is the raw deal that the people of this State get from the GST. Every year the families of this State pay \$13 billion in GST and get back \$10 billion. To put it another way, for every litre of petrol that people buy to fill their petrol tanks they pay 13¢ in GST but only 10¢ comes back to pay for roads, teachers, nurses and police in New South Wales. The rest goes to subsidise other States thanks to the Commonwealth's refusal to give New South Wales a fair deal. I am sure that I speak for New South Wales taxpayers when I say that we can make a case for helping out Tasmania or for topping up the Northern Territory. We could also make a case for benefiting South Australia. But I cannot see any case for funnelling our tax dollars to resource-rich, booming Queensland or Western Australia.

**Mr SPEAKER:** Order! The honourable member for North Shore will come to order.

**Mr MORRIS IEMMA:** Indeed, so much of our money is going to Queensland that Queenslanders can afford to subsidise every litre of petrol by 8¢.

**Mr SPEAKER:** Order! The Leader of The Nationals will come to order. The Premier has the call.

**Mr MORRIS IEMMA:** Queensland subsidises every litre of petrol by 8¢. At Campsie this morning unleaded petrol cost \$1.30 per litre.

**Mr George Souris:** Peter Beattie is your problem.

**Mr Andrew Stoner:** Go and talk with Beattie and stop whingeing.

**Mr MORRIS IEMMA:** He is not the person who makes the decision. At Brisbane airport unleaded petrol cost \$1.23 a litre.

**Mr SPEAKER:** Order! The honourable member for Upper Hunter will come to order.

**Mr MORRIS IEMMA:** The Queensland Government does not decide the distribution of the GST; that is my point. Not Peter Beattie, not the Queensland Government but Peter Costello decides the GST carve-up. That is a decision solely for Peter Costello, not Peter Beattie. We will not be able to squirm out of it by doing that; the decision rests solely with Peter Costello. When I was elected Premier I said that I would take the case to Canberra for New South Wales to get a fairer deal. I can report that I have written to the Prime Minister seeking a meeting on this crucial issue. I am keen to have a constructive discussion with the Prime Minister on the distribution of the GST and on getting New South Wales a fairer deal. I am keen to see a way through for the people of New South Wales. Opposition members should be interested in that as well. I am keen to set aside political differences—let us see whether Coalition members can do that—so that we can get a fairer deal for the people of New South Wales.

The challenge for the Opposition is to put political issues aside, take a bipartisan approach on this issue and stand with us for the people of New South Wales to get them a better deal on the GST. The challenge is not to the Prime Minister; it is a challenge to those opposite to stand with us and get a fairer and better deal for the people of New South Wales. The question that those opposite need to answer is: Where do they stand? Do they

stand with the people of New South Wales, who deserve a better deal, or will they put internal politics first? Will those opposite stand up and defend the policies of the Federal Government at the expense of the people of New South Wales? Where do they stand? Do they stand for giving New South Wales taxpayers a fairer deal or will they stand with their friends in Canberra and see New South Wales duded when it comes to the GST?

### STATE TAXES

**Mr PETER DEBNAM:** My question is directed to the Premier, and Treasurer. Will the Premier rule out any new taxes and any increases in taxes and charges to fund Labor's budget black hole?

**Mr MORRIS IEMMA:** What about abolition of stamp duty for first home buyers and legislation to scrap the vendor duty? One of the first actions we took when we came to office was to reduce payroll tax. The Coalition left office with payroll tax at 7 per cent and one of our first actions in government was to reduce payroll tax.

**Mr Peter Debnam:** Point of order: My point of order is about relevance. This is the next 10 years, not the past 10 years. What are you going to do?

**Mr SPEAKER:** Order! There is no point of order. The Leader of the Opposition is well aware of my rulings in relation to the use of spurious points of order as debating points.

**Mr MORRIS IEMMA:** One of the first actions was to reduce payroll tax and abolish stamp duty for first home buyers. This Government's approach is always to keep taxes as low as possible. The first decision was to scrap the vendor duty.

**Mr SPEAKER:** Order! The honourable member for Southern Highlands will come to order.

**Mr MORRIS IEMMA:** The Opposition can stand with us to get a fairer deal on the GST distribution and that will provide scope to reduce taxes even further.

### TRAIN TIMETABLES

**Mr GRAHAM WEST:** My question is directed to the Deputy Premier, and Minister for Transport. What is the Government's response to community concerns about rail reliability?

**Mr JOHN WATKINS:** Early indications are that the new slower and safer CityRail timetable is improving reliability of our rail system. That improvement is very welcome but there is a long way to go before I am prepared to declare with confidence that reliability has been returned to our rail network, and the timetable by itself will not do that. The chief executive officer of RailCorp has advised me that the preliminary data indicates that 99 per cent of this morning's peak services ran on time, and 95 per cent across last week. But as I have said on numerous occasions I will not be satisfied until our customer satisfaction level returns.

The results so far are encouraging but the new timetable remains largely untested by a major incident. I am advised, for example, that a bomb threat was made to Central Station in the early hours of this morning. RailCorp instigated its response procedures, and the matter was resolved in less than 40 minutes, but a more serious incident during peak periods would have disrupted services no matter how robust the new timetable. In fact, if this morning's incident were just half an hour later our operational crews would have had to contend with potential delays right across the system. Last week's reliability figures indicate how service interruptions can still interrupt train services. Even with the very strong on-time running results of 95 per cent, 83 services were delayed or interrupted out of the total 427 peak services operating each day. The causes of those delays varied but included a mechanical breakdown in a City Circle tunnel and, sadly, a suicide on the south line.

It should be noted that a new timetable for the Eastern Suburbs/Illawarra South Coast lines will not be introduced until March 2006, when the Bondi turnback is completed. Some of last week's delays actually occurred on the Illawarra line, which proves that the old timetable is less able to recover from incidents that occur in the daily running of a network. Let us put this into perspective. No matter how reliable a train network there will always be some unavoidable delays, but our aim is to build a strong timetable and improve the network to the point that delays can be minimised as far as possible.

I place on record my thanks to commuters for their patience during this past week. This is the biggest overhaul of train services for 13 years. The last timetable was introduced in 1992 and commuters have navigated

their way through the changes admirably. They have been assisted by our enthusiastic front-line staff—guards, drivers, station staff, transit officers—and 200 corporate staff who stepped out from behind their desks and volunteered to be on the stations in the mornings and evenings to assist with customer questions. Their teamwork is to be commended, as is the hard work of management. Staff have welcomed the new timetable and the improvements that safe operations are bringing. A train guard emailed 2UE's Mike Carlton last week and said:

I have to tell you from my point of view our new train schedule should never be compared against schedules of the past. The dwell times at busy stations is fantastic—

This is one of the crew—

It enables passengers to get on and off without the frantic pressure to move on.

I have worked trains to our new timetable since Sunday, the day of its introduction ... without incident or complaint, and I might add, all on timetabled time—

This is the guard—

It is fantastic to be able to achieve timetabled running. I believe morale amongst my colleague train guards is on the increase as a result.

The safety focus of the new timetable is evident in the longer journey times and dwell times referred to by that train guard. The Opposition has said for months that all recommendations from the inquiry into the Waterfall train accident should be introduced, without question, and in the same breath criticised the slower and safer operating conditions that the new timetable creates. The Opposition is simply unable to make the logical link between safety and speed that was made by Justice McInerney in the Waterfall recommendations.

Yesterday I chaired a meeting of the high-level timetable working party that was convened by the former Premier, and continued by Premier Iemma, and which has met regularly since May this year. It includes representatives from RailCorp, the Ministry of Transport, the Independent Transport and Safety Reliability Regulator, the Premier's Department and the Premier's Office. I told the working group that the true test was yet to come, that is, sustaining these improvements. One week will not do it. It is sustained improvements over weeks and months that will make a difference to the travelling public of New South Wales.

To that end, a number of initiatives introduced in the lead-up to the new timetable are now permanent fixtures. They include: the provision of stand-by replacement trains to move quickly onto the network if a mechanical fault cannot be fixed on the spot; overnight use of maintenance teams to inspect, identify and fix faults on trains whilst they are in the stabling yards; greater crew supervision; reduced crew changeovers at Central Station in the afternoon peak; increased surveillance of signal box fire alarms; and increased focus on critical signalling locations. These measures will assist in sustaining improvements in the short term. In the medium term, the Government's major rail infrastructure plans will make those improvements long-lasting, which is what the travelling public demand. Hence, the Government is spending \$1.5 billion investing in new rolling stock to replace old and less reliable trains and to increase the system's capacity. There is also a \$1 billion clearways plan to untangle the network.

Rail is the Iemma Government's top priority, and I will continue to closely monitor the progress of the new timetable. The people of New South Wales deserve better rail services. The new timetable is just one of our major plans designed to help deliver it—95 per cent on-time running last week and 99 per cent on-time running this morning. That is good so far. But we will not accept it until we get commuter satisfaction levels back up where they belong when the commuters of New South Wales can rely on good on-time running week in, week out.

#### **M4 AND M5 CASHBACK PROGRAM ABOLITION**

**Mr ANDREW STONER:** My question is addressed to the Premier. When will the Premier come clean with the people of Western Sydney about the Government's secret plan to slug motorists an extra \$83 million by abolishing the M4 and M5 cashback scheme?

**Mr MORRIS IEMMA:** The Leader of The Nationals has done it again! He has a track record of distorting information and attempting to mislead the House. We all saw examples when he raised cases in health.

**Mr SPEAKER:** Order! The Leader of The Nationals has asked the question and will listen to the answer.

**Mr MORRIS IEMMA:** We heard his comments about infrastructure, and he got that issue wrong. We heard his comments about the plans for development of his local hospital and how he got that wrong. Constantly, time and again, he gets it wrong. Whether it is an individual case that he brings to the House, he gets it wrong. Whether it is a policy area, when he comes into the House he gets it wrong.

**Mr SPEAKER:** Order! The Leader of The Nationals will contain himself.

**Mr MORRIS IEMMA:** When he asks a question in the House, the information on which he bases his question is wrong. So, in answer to the honourable member's question, he is wrong; we have no such plans.

### INVESTMENT PROPERTY TAX ABOLITION

**Ms ANGELA D'AMORE:** My question without notice is directed to the Premier. What is the latest information on vendor duty?

**Mr MORRIS IEMMA:** I thank the honourable member for Drummoyne for her question and commend her ongoing interest in this issue. One of our key priorities was to address the issue of generating economic activity, so that New South Wales remains the economic powerhouse of the nation. Achieving that goal requires a healthy property industry and a healthy construction industry. That is why my first act as Premier was to abolish the vendor duty. Abolition of the vendor duty is designed to generate activity to maintain New South Wales as the economic powerhouse of the nation. The duty was introduced at a time when the property market was starting to cool.

**Mr SPEAKER:** Order! The honourable member for Coffs Harbour will come to order.

**Mr MORRIS IEMMA:** The overheated market that existed prior to 2004 was squeezing out first home buyers, in favour of investors. In the April 2004 mini-budget we introduced the duty—not because we wanted to, but because we had to as a result of the \$400 million that the Grants Commission took from New South Wales funding. By July 2005 it had become clear that the vendor duty was acting as a brake on activity in the property market; market conditions had become very different.

**Mr SPEAKER:** Order! The honourable member for Murrumbidgee will come to order.

**Mr MORRIS IEMMA:** There was a booming property market in the years leading up to the end of 2003, but as we entered 2004 the property market was starting to cool. Then came the Reserve Bank decision to increase rates and the Grants Commission decision that took \$400 million from New South Wales, and the vendor duty became a decision that we had to take, not one that we wanted to take. There have been very different market conditions since then. With a continuing cooling of the property market, it was becoming clear that the vendor duty was acting as a brake on activity and it was time that it went. I am very proud that our first decision was to scrap the vendor duty. The positive reaction from peak bodies in the property industry and from ordinary mum and dad investors confirms that that was a wise move.

**Mr SPEAKER:** Order! There is too much calling out from the Opposition benches.

**Mr MORRIS IEMMA:** Don't they just hate hearing this! We have just heard the transport Minister provide an updating report on improvements in our rail system, but not a word of recognition of any improvement was heard from the Opposition.

**Mr SPEAKER:** Order! The honourable member for Coffs Harbour will come to order.

**Mr Andrew Fraser:** Even he said it was too early to tell.

**Mr SPEAKER:** Order! The honourable member for Coffs Harbour will come to order.

**Mr MORRIS IEMMA:** That is right, it is. But there are encouraging signs of improvement, and the Opposition refuses to acknowledge that. It hates to hear about improvement—there is still a long way to go—because it denies Opposition members an opportunity to use that issue for their base political motives. That is

why they will not acknowledge any sign of improvement. So it is with the vendor duty: just whinge and complain all the time! Did the decision to scrap the vendor duty draw one positive word, one positive comment from the Opposition? No—nothing, not a word! The encouraging signs of improvement in our rail services are met with not one word of encouragement.

*[Interruption]*

We saw one policy: 29,000 public servants out the back door. That is, 29,000 teachers and police out the back door. But not a word of encouragement or even a thought for the people of New South Wales. Opposition members are lamenting the fact that they cannot exploit this issue for political purposes. From them we have had not a word of encouragement, not one positive comment. Positive comments are coming from bodies such as the Property Council. I quote what was said by the executive director of that body, Ken Morrison, in August this year:

The first move as Premier shows that the Government is prepared to make bold decisions to ensure New South Wales remains the leading State.

Perhaps the Leader of The Nationals might heed his words. He continued:

The Government has made an excellent first impression on the business community by moving swiftly to abolish the vendor duty.

There are some words of encouragement. But we will not hear that from those opposite. Rohan Kelly from the Real Estate Institute said:

The decision was a positive one for the New South Wales economy.

Hear! Hear! So it was. That was positive feedback, words of encouragement. This is what Mr Joseph Chidiac of Westmead, who works for Pat Fraser Real Estate, and a real estate agent for some 16 years, had to say about the Government's decision:

Since the abolition of exit duty it has been a real relief for vendors. Investors are back out there.

He says that since August many vendors who took their investment properties off the market have now relisted their properties. That is, since the decision, investors have started to relist their properties. Confidence is starting to return. These are encouraging signs of improvement, but we have not a positive word from the Opposition. Joseph and his colleague George Jushan are in the gallery today. Welcome, George, and welcome, Joseph—representing the hundreds of real estate agents who are grateful at the Government's swift decision to abolish the vendor duty and are saying how that has benefited ordinary investors. Take David Levitt. He worked hard to buy an investment property in Wentworthville, and was intending to sell it. Mr Levitt was going to exchange contracts before the announcement on abolition of the vendor duty. Due to work commitments in Broken Hill, he missed the appointment with his real estate agent. What a great stroke of luck for him! His luck was in.

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

**Mr MORRIS IEMMA:** The two-day delay saved him \$7,200 in vendor duty.

**Mr SPEAKER:** Order! The honourable member for Murrumbidgee will come to order.

**Mr MORRIS IEMMA:** In fact, he is so happy with our decision that he is looking to buy another investment property on the northern beaches. That is a sign of investor confidence and a return of market confidence as a result of the Government's decision. The decision has been welcomed by the Property Council, the real estate industry and small investors, but not by the Opposition—not one word of encouragement. Joseph Chidiac and David Levitt have welcomed the decision. David Levitt is looking to buy another property and make further investments. His colleague Joseph Chidiac and other colleagues in the investment industry tell us that confidence is returning as a result of the decision by the Government to boost activity and to keep New South Wales as the powerhouse of the nation's economy.

## SKILLS SHORTAGE

**Mr DONALD PAGE:** My question without notice is to the Premier. Given the critical skills shortage in the manufacturing, automotive and construction trades, will he now follow Queensland's lead and accept the Federal Government's offer to fund more than 42,000 new training places in New South Wales in these vital areas?

**Mr MORRIS IEMMA:** The Minister for Education and Training is in negotiations with the Commonwealth. The one obstacle to signing the TAFE training agreement is the Australian workplace agreement [AWA]. The Commonwealth wants to use its funding to insist that we insert AWAs into the TAFE conditions.

*[Interruption]*

It is no surprise that those opposite are keen to ask such questions. They want workers' conditions downgraded and removed. Whether it is about signing up AWAs, the Commonwealth's outrageous proposals to insert its industrial relations codes on our funding agreements, or its proposals to dismantle the industrial relations system for the whole nation and get rid of the State systems—which those opposite so happily agree with because it is so easy to hand over the State system—we will take the opportunity to try to convince the Commonwealth that young kids looking for a future through training are not the people to be used as a battering ram for AWAs in an attempt to downgrade the conditions of people working in the training and education system. The resolution is easy: amend the proposal. The AWAs are holding it up. We will take our opportunities to negotiate a better deal with the Commonwealth.

## PLANNING SYSTEM REFORMS

**Mr GERARD MARTIN:** My question without notice is directed to the Minister for Planning. What is the latest information on planning reforms in New South Wales?

**Mr FRANK SARTOR:** I thank the honourable member for Bathurst for his interest in these reforms. I am pleased to inform the House that the implementation of one of the State's most important changes ever to planning laws is taking place. It is a reform designed to remove the roadblocks from major projects in this State that are vital to our future. On 1 August, part 3A of the Environment Planning and Assessment Act came into effect—a single assessment and approval regime for major projects, which are projects of State significance. This is the Government's response to concerns about delays and uncertainty in getting decisions on major development and infrastructure projects.

The planning system was frustrating decision making sometimes because of lack of resources within local government, political dithering by local government, and the multiple approvals required by a whole range of State agencies. With the major projects State environmental planning policy listing all the types of development that would qualify under the amendment to part 3A, we now have a streamlined process. This is a truly integrated approach to development decision making, which preserves community consultation and allows a quicker resolution of issues and even faster rejections at an early stage if necessary. It provides also for independent hearing and assessment panels. I am pleased to inform the House of an infrastructure proposal that I consider of State significance. Today I have declared a new development at Kelso near Bathurst to be a major project under part 3A of the Act. The proponent, Solobax, will lodge the concept plan with me for consideration on its merits.

The proposal is for a new road and rail freight handling facility at Kelso. I hope this announcement is welcome news to the people of Kelso, who recently have been devastated by the loss of their school. This major project at Kelso is a new intermodal terminal, which will facilitate the transfer of goods between the Bathurst region and Sydney. It involves capital investment of more than \$100 million and it is expected to create up to \$300 million for the people of Kelso and Bathurst. The site is located on 30 hectares of land previously used for agriculture and a granite gravel quarry between the Great Western Highway and the Great Western Railway, east of the Bathurst town centre. It involves construction of a rail siding, a dedicated container storage and handling area, regional warehousing facilities, and support services such as bulky goods retailing, rural produce suppliers and fuelling facilities.

I am also pleased to inform the House of another project I consider to be of major significance to the people of New South Wales. Today I can announce that I will be the consent authority for a major expansion of



the medical research facilities associated with St Vincent's Hospital at Darlinghurst. This development, if approved, will create the largest medical research institute in New South Wales. The proposed first stage of the St Vincent's Research and Biotechnology Precinct Project involves \$56 million in capital investment, which includes \$25 million contributed by the New South Wales Government. It is a joint venture between St Vincent's, the Victor Chang Cardiac Research Institute and the Garvan Institute to construct a multipurpose biomedical research building to house up to 300 researchers and staff. By concentrating these first-rate researchers in one location we will create an opportunity for further brain gain to the State, foster communication between different fields of medical research, and share infrastructure and technology.

It will be an internationally competitive centre of excellence focusing on research into cancer, heart disease, Parkinson's and Alzheimer's diseases, HIV/AIDS, arthritis, asthma and diabetes. The facility will provide ancillary services as well. This is not only a project of State significance but it is a project also of national significance. Subject to approval, construction is expected to start in 2006 and be completed 1½ years later. It will generate 500 construction jobs. These planning laws are starting to have an effect on reducing roadblocks, and improving and streamlining major infrastructure and projects in the State while preserving important environmental goals, as well as providing important techniques for dealing with community concerns on a whole range of projects. I commend the legislation and these two projects to the House.

### CITYRAIL FARES

**Mr BARRY O'FARRELL:** I direct my question without notice to the Premier. Given that the new rail timetable has slashed services and forced Sydney commuters to endure overcrowded trains and longer journey times, will the Government rule out further punishing rail commuters by imposing fare increases?

**Mr MORRIS IEMMA:** The new timetable seeks to provide a safer and more reliable service for commuters. Encouraging signs of improvement have drawn no comment whatsoever from the Opposition—none, not one. As the Minister for Transport has said already, there is still a long way to go but there are encouraging signs of improvement. Currently there are no plans for a CityRail fare increase. The Minister made that statement over a week ago, as did I. I am glad the Deputy Leader of the Opposition has caught up and has said something. The statement is nearly two weeks old, so good on you, Barry. The Deputy Leader of the Opposition could have said something about the volunteers who have done such an outstanding job in the last week and a half with the new timetable, and he could have said something about the State Rail staff and the job they have done, but no—not a word. He has not uttered a word of encouragement for the volunteers who have done such an outstanding job, not a word of encouragement for the drivers and the other staff, and not one word of support for the commuters.

**Mr SPEAKER:** Order! The Opposition will come to order.

**Mr MORRIS IEMMA:** Instead he has asked a question that is nearly two weeks out of date and that the Minister and I have dealt with. I am glad the Deputy Leader of the Opposition has caught up. He had his chance but he has had nothing to say about an enormous change to timetables and scheduling that has occurred in State Rail. He has uttered not one single word of encouragement except to ask a question on an issue that has been around for two weeks and had been dealt with not once, but twice. It has been dealt with for the third time today.

### FOSTER CARERS ASSISTANCE

**Ms MARIANNE SALIBA:** My question is addressed to the Minister for Community Services. What is the latest information on the Government's efforts to assist foster carers?

**Ms REBA MEAGHER:** I thank the honourable member for Illawarra for her question and for her ongoing interest in this area of Government policy. This question is particularly relevant today because it is Foster Care Week—an annual event which gives us all an opportunity to recognise the commitment, dedication and compassion of the State's foster carers. Foster Care Week also marks the beginning of Operation Foster Care, which is the New South Wales Government's biggest ever recruitment drive for new foster carers. Underpinning our recruitment drive are new reforms to better support carers, their families and the children for whom they care.

I am pleased to advise the House that 50 new caseworkers will soon provide more support for kids in foster care. Recruitment for the front-line positions will be completed this month. The 50 new caseworkers will

complement the 50 caseworkers who are already employed to work with high needs children. By the time our reforms are complete, those caseworkers will be joined by 50 more. The new caseworkers will help to recruit, assess and train carers, and they will match children to carers as well as provide initial intensive and ongoing support for carers. The New South Wales Government is implementing other reforms to support them in this important job.

The New South Wales Government will provide a 4 per cent increase in allowances for foster carers which will be payable from 22 September. The increased payments for foster carers will mean an increase of up to \$21 a fortnight for each child, and it will apply to all allowances provided to foster carers as well as relative and kinship carers who are receiving equivalent allowances. For the first time, carer allowances will change in line with the cost of living. We want to ensure that carers receive appropriate financial support that better reflects the cost of raising a child. To that end the Department of Community Services will undertake a detailed review of carer allowances and other payments. The review will be completed next year.

Since becoming the Minister for Community Services I have made it a priority to meet as many foster carers and young people in foster care as is possible. The Government's reforms reflect the needs of many of the carers whom I have had the opportunity to meet. I was very pleased to discuss the issues with carers and their families at the annual Foster Care Week picnic last Sunday. I met some truly amazing carers, including Jill De'ath, who has been fostering children for more than 40 years.

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

**Ms REBA MEAGHER:** In that time she has had more than 100 foster children in her home in southwestern Sydney. Her motto is "Children need individual care", and that is why she says we need extra carers. I also met an extraordinary family from Ingleburn who are looking after four-year-old twin girls with cerebral palsy. This family loves and cares for these children as if they were their own. As new carers, they are making use of our ongoing training and support program to improve their parenting skills and give these young girls the best life possible. A number of Aboriginal foster carers told me at the picnic that they thought our new foster care and advisory groups, which will give foster carers a real voice in strengthening services, are terrific. Other foster carers told me that they thought our new 1800 line to help foster carers resolve their concerns and problems, and the new quarterly newsletter, will improve information for foster carers and help them with their task. We hope that those measures will encourage more people to become foster carers.

All our foster carers do an amazing job for the more than 10,000 children in New South Wales who are unable to live at home safely. These children and young people may have experienced traumatic family lives and suffered abuse or neglect, so the love, support and stability that a foster carer can offer is vital for giving kids the best possible start in life. On behalf of the New South Wales Government, I say thank you to every foster carer in the State for the tremendous and valuable role they play in our community.

**Questions without notice concluded.**

## **BUSINESS OF THE HOUSE**

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

**Mr CARL SCULLY** (Smithfield—Minister for Police, and Minister for Utilities) [3.35 p.m.]: I move:

That standing and sessional orders be suspended to permit:

- (1) at the conclusion of the debate on the motion for urgent consideration, business to be interrupted for the introduction of the Duties Amendment (Abolition of Vendor Duty) Bill, up to and including the Minister's second reading speech, notice of which was given this day for tomorrow.

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

**Mr CARL SCULLY:** I still intend to open the Gordon railway station.

[Interruption]

**Mr SPEAKER:** Order! The House will come to order. The Minister has the call.

**Mr CARL SCULLY:** The Deputy Leader of the Opposition wants me to open Gordon station and I have said, "Yes."

**Mr SPEAKER:** Order! The Minister will proceed with the motion.

**Mr CARL SCULLY:** The motion continues:

- (2) at 7.30 p.m., the introduction of the following bills, up to and including the Minister's second reading speech, notice of which was given this day for tomorrow:

Sporting Venues (Offenders Banning Orders) Bill  
Standard Time Amendment (Daylight Saving) Bill  
Defamation Bill  
Protection of the Environment Operations Amendment Bill  
Local Government Amendment (Stormwater) Bill;

- (3) at 10.00 a.m. on Wednesday 14 September 2005, the resumption of the adjourned debate and passage through all remaining stages of the following bills:

Duties Amendment (Abolition of Vendor Duty) Bill  
Sporting Venues (Offenders Banning Orders) Bill

- (4) from 7.30 p.m. on Tuesday 30 September 2005, no divisions or quorums being called for the remainder of this sitting; and

- (5) at the conclusion of the Ministers' second reading speeches on the aforementioned bills, the House adjourn without motion until Wednesday 14 September 2005 at 10.00 a.m.

**Mr ANDREW TINK** (Epping) [3.37 p.m.]: The bill to abolish vendor duty is a bill to clean up the mess created by this Government. It is a bill to clean up the mess that was created, founded and crafted by every member of the Government's front bench. Everyone in the Cabinet room signed off on it, and every member of the Cabinet sat in this Chamber when Michael Egan described the 2004 budget as being big, bold and, above all, fair. He set about introducing the vendor duty and the front bench has spent the last year mucking around in this Chamber trying to pretend that that did not happen and that it was not their fault. They are as responsible for it as anyone.

**Mr Carl Scully:** Point of order: Not only is the speech by the honourable member for Epping out of order, but also it is deceptive and mischievous, because the honourable member for Epping voted for it.

**Mr SPEAKER:** Order! The Chair will be tolerant on our first sitting day of the new session.

**Mr ANDREW TINK:** The interesting thing is that when the Opposition twice called a division on the legislation, the Premier, Morris Iemma, was not in the Chamber. He did not vote. We have checked this. He not only dipped out; he did not get the leave of the Parliament. He was missing in action—twice. For two divisions he was not here; he was not present, not paired and did not get the leave of the Parliament. No wonder half of his Government think that he is too lazy for the job. It is not as though the Premier does not believe in the vendor duty, because in subsequent divisions he turned up to vote for motions on the vendor duty that were opposed by the Opposition. The Premier is on the record of this Chamber as voting for the vendor duty. When we come down to the circumstances and machinations by which the Premier intends to abolish this tax, his actions can be seen to be absolutely disgraceful, because the timing of the abolition of this tax was not decided by the Premier; it was decided by Mark Arbib. Andrew West, who knows a bit more about the Labor Party and the Labor Party machinations than most people opposite, has written—

**Mr Alan Ashton:** Point of order: I remind the Leader of the Opposition, those on the Opposition benches and the shadow spokesman that we now have new microphones. If he could tone it down a bit we would understand more of what he is saying.

**Mr SPEAKER:** Order! The honourable member for East Hills should heed his own advice.

**Mr ANDREW TINK:** For once I agree with you, Mr Speaker. Andrew West, Bob Carr's biographer, wrote in the *Australian* that eight weeks before Bob Carr resigned, Walt Secord was putting it about that the vendor tax ought to go, but they would keep it as a tactical matter until the Premier's successor was chosen. Andrew West wrote:

Arbib believed that if the Government was going to scrap the levy, Carr should hold off. Arbib is a long-term strategist and he knew Carr's successor—and research into the popularity of various ministers had pretty much confirmed that it would be Iemma and not Police Minister Carl Scully—would need to make a big hit on his first day.

So what is he doing, in line with the Arbib strategy? He is trying to make a big hit on his first day by abolishing the vendor duty. This is very important, because the Premier said that the duty would be abolished only on the day he announced it, namely 3 August. So the delay until the announcement on 3 August was to suit Mark Arbib's timetable. That has meant thousands of people have paid vendor duty to suit Mark Arbib's political timetable, to make Graham Richardson's political retreat look good. It will take a lot of retreading to get beyond Graham Richardson's shadow, and it is a damned shame that people will be paying vendor duty because the Premier cynically delayed the announcement of the abolition until— [*Time expired.*]

**Motion agreed to.**

## CONSIDERATION OF URGENT MOTIONS

### Goods and Services Tax Revenue Distribution

**Mr MORRIS IEMMA** (Lakemba—Premier, Treasurer, and Minister for Citizenship) [3.42 p.m.]: My motion is urgent because there is no issue more important for families and taxpayers of this State than the loss of billions of dollars in GST revenue to other States as a result of the distribution by the Commonwealth Grants Commission, recommendations that are acted on by the Federal Treasurer. The time has come to redress that imbalance to get a fairer distribution for families and taxpayers of this State. The time has come also for the Opposition to tell the people of New South Wales where it stands: Does the Opposition stand with the families and taxpayers of New South Wales? Does the Opposition stand with the Government in getting a fairer distribution of the GST? Or does the Opposition stand with its political friends in Canberra?

My motion is urgent because the people of New South Wales deserve to know where the Opposition stands on this matter. The people of New South Wales deserve a better and fairer deal from the GST so that the Government can continue improving front-line services for the people of New South Wales. My motion is urgent because we need an urgent response; we need to know if the Opposition is going to back the Government and stand with us to get a fairer deal, or whether it is going to deny the families and taxpayers of this State their fair share of the GST. It is their money, it is not our money, and they deserve to have more of the GST money stay in New South Wales to be spent on health, schools, policing and infrastructure.

The people of New South Wales have earned the right to have that money spent in New South Wales because they have worked for it; it is their money and they are losing it because the Commonwealth Government is distributing it to other States. We do not mind it going to Tasmania, South Australia or the Northern Territory, but when it comes to resource-rich, booming States such as Queensland and Western Australia, the taxpayers and the families of this State deserve a fairer and better deal. There is no issue more urgent than determining whether the Opposition will stand with the Government, the families and taxpayers of New South Wales in getting that fairer deal so that we can spend more of the taxpayers' money on the services we want for them: better and more health services, schools and policing. That is what the Government wants to do.

We want to know whether the Opposition will put aside its political friends and stand with the Government to get the money back to the people of New South Wales. It is their money; they deserve a fairer deal. They do not deserve to see schools built in Queensland and not in New South Wales, they do not deserve to see their money going to Queensland hospitals instead of New South Wales hospitals, and they do not deserve to see their money spent on employing more police on Queensland beats rather than on New South Wales beats. The Government wants to know whether the Opposition stands with us on this. There is no issue more important than this.

**Mr Adrian Piccoli:** Why did Bob Carr sign off on it?

**Mr MORRIS IEMMA:** I will come to that later. This motion is urgent because the Government wants to be able to tell the people of New South Wales whether the Opposition is with us, and with them, or whether it is with its political mates in Canberra, who will continue to perpetuate this unfair and discriminatory distribution of New South Wales taxpayers' money to be spent on front-line services in other States, employing front-line staff in other States and improving the infrastructure of other States, not New South Wales.

### State Finances

**Mr PETER DEBNAM** (Vaucluse—Leader of the Opposition) [3.47 p.m.]: The Premier's motion is important, but it certainly is not urgent. There is one good reason it is not urgent. That is a piece of paper that was signed on 9 April 1995. The first signature on that paper is "Bob Carr, Premier of New South Wales". Government members, including the Attorney General, who was Minister for Finance in the previous Labor Government—

**Mr Tony Stewart:** Point of order: The Leader of the Opposition is in contravention of the standing orders. He is not here to debate an issue; he is here to debate the urgency of the motion before the House.

**Mr SPEAKER:** Order! I will hear further from the Leader of the Opposition.

**Mr PETER DEBNAM:** We are talking about two motions. The Parliamentary Secretary can vote on party-political grounds or he can vote with the community. He should come over to this side of the House and vote with the Opposition on its motion, which refers to the most important issue affecting New South Wales.

**Mr Tony Stewart:** Point of order: This is about the urgency of the member's motion, not the debate.

**Mr SPEAKER:** Order! At this stage the Leader of the Opposition is in order.

**Mr PETER DEBNAM:** My motion refers to the State's crumbling finances. I remind honourable members that the motion states:

That this House condemns the Labor Government's mismanagement of the New South Wales budget.

The Government does not talk about issues that have been on the table for 10 years. The former Premier and the Labor Party were the first to sign up to the GST agreement. Every day for the past 10 years Opposition members have reminded Government members that Bob Carr was the beep-beep Premier who raced down the highway and signed the GST agreement. His signature was the first signature on the paper. Today we are talking about the secret Treasury report that states that this Government is in a deep hole. It dug that hole. We want that report on the table. That is why this matter is urgent. We not only want that report on the table; we want the Premier to rule out any tax increases.

There is a very good reason for that. Let us go back to the Labor Party's first month in office in 1995. It started the treadmill by increasing every tax it could lay its hands on. It increased every charge in New South Wales. Throughout the period of the Carr and Egan Government every one of its budgets increased taxes and charges. I say to the people of New South Wales that they have no idea how much tax they are paying to the Labor Party. They would have to sit down with their accountants over a long weekend to work through all the taxes. Most of those taxes are hidden. They have no idea how many dollars are going out of their pockets and to this Labor Party.

[Interruption]

I refer Government members to the fishing tax, the septic tank tax, land tax increases, stamp duty changes and payroll tax changes. In every budget the Labor Party laid on another tax. It increased car-parking charges and it took every opportunity to increase taxes and charges.

**Mr SPEAKER:** Order! The Leader of the Opposition has the call.

**Mr PETER DEBNAM:** Sit down, Carl.

**Mr SPEAKER:** Order! The Leader of the Opposition has the call. He should not give directions to members of the Government.

**Mr PETER DEBNAM:** This motion is all about whether the Government will be open, honest and transparent with the people of New South Wales. The Premier has already admitted, on the front page of the *Sydney Morning Herald*, that this State's finances are crumbling. This motion is about whether the Premier—

[Interruption]

**Mr SPEAKER:** Order! The Leader of the Opposition is addressing the Chamber.

**Mr PETER DEBNAM:** For years I have asked Government members to ask me questions. I am happy to respond to that question. We all agree that Queenslanders are bludgers; we have said that forever. Soon we will debate the Government's motion but at the moment we are dealing with an urgent motion to address this State's crumbling finances. This motion is all about whether the Premier will come clean with the people of New South Wales in relation to the dire state of finances in New South Wales. Will he come clean with the people of New South Wales about ruling out tax increases and charges? No, he will not. Will he come clean with the people of New South Wales about abolishing the cash back? No, he will not.

At some time over the next 6 to 12 months he will sneak in those taxes. They will probably come in around Christmas as he is rushing through a lot of legislation. He is preparing a financial statement that he wants to delay until after New Year's Eve. We want to see it now. This matter is urgent and that is what this debate is all about. What will be the decision of people like the honourable member for Blacktown? Will he vote with the community or will he vote with the Labor Party? Will all those members in marginal seats vote with the community or will they vote with the Labor Party? [*Time expired.*]

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

**The House divided.**

**Ayes, 56**

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

**Noes, 28**

Mr Aplin	Mr Humpherson	Mrs Skinner
Mr Armstrong	Mr Kerr	Mr Souris
Ms Berejiklian	Mr Merton	Mr Stoner
Mr Cansdell	Mr O'Farrell	Mr Tink
Mr Constance	Mr Page	Mr J. H. Turner
Mr Debnam	Mr Piccoli	Mr R. W. Turner
Mr Fraser	Mr Pringle	<i>Tellers,</i>
Mr Hartcher	Mr Richardson	Mr George
Mr Hazzard	Mr Roberts	Mr Maguire
Mrs Hopwood	Ms Seaton	

**Pair**

Mr Price

Ms Hodgkinson

**Question resolved in the affirmative.**

## BUSINESS OF THE HOUSE

### Urgent Motion: Suspension of Standing and Sessional Orders

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

That standing and sessional orders be suspended to permit two additional speakers to the motion for urgent consideration as follows:

Member for Manly	5 minutes
Member of the Opposition	5 minutes

## GOODS AND SERVICES TAX REVENUE DISTRIBUTION

### Urgent Motion

**Mr MORRIS IEMMA** (Lakemba—Premier, Treasurer, and Minister for Citizenship) [4.02 p.m.]: I move:

That this House calls upon the Federal Government to revisit Commonwealth-State financial relations in regard to the State of New South Wales, and in particular review the unfair distribution of GST funds to our State.

Thanks to the world's most complex, arcane and archaic system of Federal-State financial relations, the people of New South Wales pay \$13 billion in goods and services tax [GST] to Canberra but get back only \$10 billion—or, as I mentioned earlier, they pay 13¢ GST per litre of petrol and get back only 10¢ for services such as roads, schools, hospitals and police. Why? It is because a body, the Commonwealth Grants Commission, established by the Commonwealth Government to advise how GST revenue should be divided among the States, has made the decision to take New South Wales money away from the people of this State and direct it to other States. Its advisory role and terms of reference are written by the Commonwealth Minister for Finance, not a State Minister, and distribution of the GST is determined by the Commonwealth Treasurer. Those two Ministers—the finance Minister and the Treasurer—are Commonwealth Ministers. The finance Minister has an advisory role and writes the terms of reference and the actual distribution is determined by the Commonwealth Treasurer, acting on the recommendations of the Grants Commission.

The Commonwealth Grants Commission believes New South Wales has 15,873 too many bus stops and an overinvestment of nearly \$800 million. It believes New South Wales has 1,270 too many buses and a half a billion dollars overinvestment. State Transit's current fleet numbers 1,970 buses, so the Grants Commission believes New South Wales has 1,270 buses too many out of a total fleet of 1,970. The Commonwealth Grants Commission believes New South Wales has 18 kilometres of underground rail track it does not need and 38 excess kilometres of standard rail track, with an overinvestment of \$1 billion. It believes New South Wales has seven railway stations it does not need, worth \$49 million—I will leave it to the Grants Commission to name them. The Grants Commission believes New South Wales spends \$90.76 more per person on health than we should. That is a classic: The Commonwealth Grants Commission is telling us how much we should spend on health. It believes New South Wales spends \$11.64 more per person on education than we should. So the Grants Commission believes we spend more on health and education than we should. The Commonwealth Treasury believes:

New South Wales has a relatively stronger capacity to raise revenue from land tax and stamp duty on property transfers and payroll tax.

That is a direct quote from Budget Paper No. 3 of *Commonwealth Budget Papers 2003/04*. The Commonwealth Treasury actually thinks New South Wales taxes should be increased. The Commonwealth Grants Commission bases its assessment on data that it admits is flawed and incomplete. It says:

Our processes are stretching the available data to the limit ... we are strongly of the view that methods should be changed rather than relying on data that might be inadequate for the purpose ... Against this background, we have serious concerns.

But that did not stop the Grants Commission from doing what it did and it did not stop the Commonwealth Treasurer from accepting its recommendations. So the people of New South Wales are being duded by a process that the body established to undertake it admits is flawed and that produces flawed results. But do we see the Grants Commission making any changes? No, we do not. That is why we need to drive home the message that this body is in need of reform, starting with the distribution of GST revenue so that New South Wales gets a fairer share. It is not, as the Opposition claimed in the *Daily Telegraph* of 4 September, that:

Queensland's been bludging off NSW for a long time. It's about time it stopped. NSW pays a lot of GST and we don't get all of it back. It's about time the Queensland Government stood on its own two feet and stopped taking our money.

How wrong can you be? The Opposition says that it is up to Queensland, but I have explained how the Commonwealth finance Minister provides the advice and the Commonwealth Treasurer makes a decision regarding the distribution of GST revenue, acting on the advice and the recommendations of a Commonwealth body, the Grants Commission. That body advises on the distribution of the GST, not Peter Beattie, not the Treasurer. The decision rests with Canberra. The Commonwealth Government, not the Queensland Government, takes money from the pockets of New South Wales taxpayers. The Commonwealth Treasurer, the Treasury and the Commonwealth Grants Commission work out the methodology for distributing the grants, calculate the payments to the States and collect GST from every business and family in the nation. In fact, the Commonwealth legislation provides:

... financial assistance payable to a State under this Act is to be paid in such amounts and at such times as the Treasurer determines in writing.

There is nothing to be gained by pointing the finger at Peter Beattie or at Queensland; the finger has to be pointed at Canberra.

**Mr Milton Orkopoulos:** It is the law.

**Mr MORRIS IEMMA:** That is right, it is black-letter law. A Commonwealth body, the Grants Commission, acts in an advisory role to a Commonwealth Minister, the Minister for Finance and Administration, and the Treasurer, who then makes the determination acting on the advice of the Grants Commission. Clearly, the legislation provides that the assistance comes in such amounts and at such times as Canberra determines—not Peter Beattie, the Queensland Premier and Treasurer, or the State of Queensland—and that is where we have to look for reform. That is where the decision will have to be made to change this outrageous distribution of \$3 billion in GST revenue that comes out of the pockets of New South Wales taxpayers and ends up in other States that do not require assistance.

That is a conscious and deliberate decision on the part of the Commonwealth Grants Commission, which provides advice to two Commonwealth Ministers. Those Ministers then act on those recommendations. The commission itself says its own processes and data are flawed. It does not have confidence in the way it works, but it undertakes the work and provides advice. Two Federal Ministers act on that advice and make the decision. Reform rests in Canberra, not in Queensland. Today the Opposition should take the opportunity to correct the record, not point the finger at Peter Beattie and claim it is the fault of the Queensland Government. The Opposition should join with the Government and support the people of New South Wales. [*Time expired.*]

**Mr PETER DEBNAM** (Vaucluse—Leader of the Opposition) [4.12 p.m.]: I welcome the opportunity to again discuss this motion, which we have discussed a number of times over the past decade. I would appreciate the Minister for Planning remaining in the Chamber and interjecting a little more; I will answer his questions. This motion is about an arrangement that has been in place for many years. That arrangement can be changed by negotiation. It is absolutely straightforward. If the Premier is serious about this motion he will take a team approach, join his Labor colleagues in Canberra and change the agreement. The Opposition is here to help the Premier. We are happy to facilitate those negotiations because, most importantly, it will only sort out one side of the State's finances—and that needs to be sorted out. As I have said a number of times in recent years, Queensland has been bludging on the taxpayers of New South Wales. The Opposition is happy to work with the Premier to highlight that fact to the people of Australia. If the Premier is genuine in moving this motion today I will work with him in a bipartisan fashion. For that reason I foreshadow an amendment to the motion to add the following paragraph:

- (2) requests the Premier to lead a bipartisan delegation of himself and the Leader of the Opposition to the Premier of Queensland, Peter Beattie, requesting the Queensland Government to return to New South Wales the excess GST funds it presently receives.

If the Premier is genuine he should treat this motion in a businesslike fashion and agree to that amendment. Then we can meet Peter Beattie on the Storey Bridge, on the Tweed River, or on Sydney Harbour Bridge. We can take the flag and discuss it with him. I am happy to explain to him why Premier Iemma and the Leader of the Opposition in New South Wales believe that Queensland has been bludging on New South Wales for years. Mr Beattie is a reasonable man and I am sure he will agree with us that a reallocation is needed. When that reallocation happens it will be good news for the people of New South Wales. Then we can deal with the most urgent issue in New South Wales, that is, the crumbling State finances under the Government's management.



They are not only crumbling today, they have been for years. That is something we have discussed in this Chamber many times, but the Government has refused to come clean. On 9 August the Premier told Alan Jones on radio 2GB:

Well, Alan, it is one of my objectives to be open and transparent and to be honest with the people.

Despite that, the Premier refuses to be honest and transparent. The Opposition wants the Treasury report on the table. We all know what it says but we need to see it—not after New Year's Eve, not on Australia Day in January but now. We are all aware that the State's finances are in disarray. Unbelievably, one of the Premier's senior colleagues, the Attorney General, Bob Debus, was the Minister for Finance in the Unsworth Labor Government. If one wants to know where all the problems started, they started with the two Bobs in that Labor Government. The Minister for Finance ran up the debt and provided a financial basket case to the Coalition in 1988. The Coalition had to repair the balance sheet and the finances of New South Wales and get the State working again.

We are clearly headed during the next 18 months into exactly the same position as the State was in in 1988. We are seeing a repeat of the Victoria situation with John Cain and Joan Kirner. That is why I suggest that the Premier bite the bullet, put the report on the table, take his medicine and show us see how bad the State's finances are. The Premier has got the report and has been briefed several times by Treasury about how bad the situation is. Bob Carr knew how bad it was. Michael Egan knew how bad it was and that is why he left. Andrew Refshauge knew how bad it was and that is why he was paralysed. We need the Premier to be open, honest and transparent and to put the report on the table. We also need the Premier to be absolutely straightforward with the people of New South Wales and rule out any tax increase, any new tax or charge.

**Mr Alan Ashton:** If you give us \$3 billion we will do that.

**Mr PETER DEBNAM:** As I said, the honourable member for East Hills can vote for our amendment. I have foreshadowed an amended to the motion to provide for an bipartisan delegation to tell that bludging Government north of the border, "We want to work with you, Peter Beattie".

*[Interruption]*

The Premier also said they are bludgers. The Opposition is happy to work with him. As I said, the Opposition wants to help the Premier. In the spirit of the new civil behaviour in the Chamber and taking a bipartisan approach to help the people of New South Wales, the Opposition is offering to support an approach to Peter Beattie to explain why he needs to renegotiate the agreement.

**Mr Frank Sartor:** As if he would do that.

**Mr PETER DEBNAM:** Of course he will. He is a responsible Premier, is he not? He can see that it is wrong; he can see that we are not getting our fair share of tax revenue. We need to sort it out as quickly as possible so we can get back to talking about the real issue in New South Wales, which is the way the Government has mismanaged the State's finances since April 1995. In the past 10 years in New South Wales there has been only one strategy out of Treasury for Michael Egan. Given the circumstances, and given he knew his colleagues, it was probably a sensible strategy. His strategy was absolutely straightforward: after shouting matches around Australia in 1995, he realised he could not get his spending Ministers to manage. He had only one strategy to deal with that: to outpace his colleagues in revenue collection. So in every single budget, mini-budget and other initiative, he took the opportunity to raise every single tax and charge in New South Wales. As well, he dreamt up new ones—for goodness sake, a fishing tax, a septic tank tax, a parking tax. Those were all dreamed up in an attempt to outpace spending Ministers, who were out of control.

The Treasury has acknowledged frequently that it has not been able to rein in the expenses of any department in New South Wales over the past 10 years. As a result, it has put in place a half-yearly fillip. All departments realised that all they had to do was keep absolutely quiet until Christmas-New Year, every year, and then they would be topped up by Treasury, because Treasury was getting an extra billion dollars a year over budgeted revenue and was pouring that into overspending. That happened year after year. Minister Sartor is not aware of that because he was not here in the relevant period, but every other Minister was here. The Premier was at the Cabinet table for the past six years.

**Mr Alan Ashton:** How much are you going to spend in the electorate of East Hills?

**Mr PETER DEBNAM:** I will spend money in the honourable member's electorate. I spend a lot of my time talking to his constituents, and they complain about his lack of work on the ground. I will meet the member at his local railway station any day and talk to residents there because I have had to work for the constituents of the honourable member for East Hills for the past 10 years while he has been lazy, as I did with Craig Knowles' constituents. I return to the real issue. We want to talk about getting Labor to agree with the Opposition amendment. Opposition members will work with the Government to sort out this red herring. We will get Peter Beattie to agree that an adjustment is needed. Then we will deal with the real issue, which is the subject of the urgent motion of which I gave notice.

That real issue is that the Labor Government has mismanaged this State for 10 years. It is now in a deep hole. It dug that hole with its vendor duty, yet now it is claiming credit for filling in that hole. Government members need to be honest and transparent with the people of New South Wales. They could start by tabling the secret Treasury report and telling us all about the briefings they have had from Treasury. They could also rule out point blank any increase in taxes and commit this Government to no new taxes and to no increases in taxes or charges. Do it!

**Mr GRAHAM WEST** (Campbelltown—Parliamentary Secretary) [4.22 p.m.]: The choice today for the Leader of the Opposition is clear. He can do the right thing by the people of New South Wales, or he can pursue his irrelevant amendment. He can do the right thing by commuters, and he can do the right things by mums and dads to help families using our hospitals, but to do that we need our fair share of the GST revenue, some of that \$13 billion paid by New South Wales to Canberra, along with income tax, petrol taxes and other Federal taxes. Canberra is awash with money. New South Wales just wants its fair share of those taxes returned by Canberra, especially GST revenue. This State gets only \$10 billion back, yet it pays \$13 billion.

If the Leader of the Opposition and the Coalition want to help New South Wales, if they want to help the mums and dads of this State, they should join the New South Wales Government and the businesses of this State who support our push to get a fair share from Canberra. They should join with the community, which wants better services delivered with the extra money that that push could achieve. They should join us in taking a message to Canberra—which is to the south, not to the north. Instead of approaching the decision-makers in Canberra, the Leader of the Opposition wants to go to Queensland. The GST legislation is Federal legislation, not Queensland legislation, and it is not Peter Beattie who makes decisions in relation to it. The New Tax System (Commonwealth-State Financial Arrangements) Act 1999 is an Act to provide financial assistance to the States, the Australian Capital Territory and the Northern Territory. That Act spells out in section 9:

- (1) The relativities factor for a State for a GST year is the factor determined in writing by the [Federal] Treasurer. The Treasurer must determine the factor before 10 June in the GST year.
- (2) Before making the determination, the Treasurer must consult each of the States.

But the decision is made by the Federal Treasurer in Canberra—not by Peter Beattie, or the New South Wales Government. Division 3 of that Act, which relates to payment of grants, provides in section 19:

**Treasurer may fix amounts, and times of payments, of financial assistance**

Financial assistance payable to a State under this Act is to be paid in such amounts, and at such times, as the Treasurer determines in writing.

That is the Federal Treasurer. This is Federal legislation, so the message needs to be taken to Canberra. The Leader of the Opposition and the Coalition should join with the Government and all the people in New South Wales who want a fair share from Canberra, particularly of our GST money. I assure the House that if a bipartisan approach results in New South Wales getting its fair share from Canberra, that money will be well managed by the Iemma Government and used for services in New South Wales—services like those provided by doctors, nurses, road workers, train drivers, police officers, public sector workers—and for the capital infrastructure we need. To get our fair share, to get the increased revenue that we need to pay for those services, which all cost money, I encourage the Coalition to join the New South Wales Government in taking the simple message to Canberra: Give New South Wales its fair share.

There is a saying in the union movement which the Leader of the Opposition may not have heard, given his stance on industrial relations: united we stand, and divided we fall. Here is the chance for the Leader of the Opposition and the Coalition to unite with the Government on this issue. It is not just the New South Wales Government but the people of this State they would be uniting with to take this message to Canberra. It is that Government that administers the GST legislation, and it is its Treasurer and Minister for Finance and

Administration who make recommendations and final determinations. The Coalition should join us in an attempt to overturn the crazy decisions being made by the Commonwealth Grants Commission, such as its decision that New South Wales has too many services, too much rail track, too many bus stops, and spends too much on health. It says we spend \$90.76 per person more on health than the people of this State deserve; it says New South Wales spends \$11.64 per person more on education than we should.

The Leader of the Opposition should join the New South Wales Government in rejecting the outrageous assertions of the Commonwealth Grants Commission and getting New South Wales its fair share. As the Leader of the Opposition pointed out, some of our State's share goes to Queensland. While people in New South Wales are paying \$1.30 a litre for petrol, some of our money is being given by the Federal Treasurer to Queensland, enabling Queensland to reduce its petrol by 8¢ a litre. How can Canberra justify such a move? The choice is clear. It is Canberra that should be receiving this message. This is Canberra legislation. The relevant Ministers are in Canberra. The Coalition should support the New South Wales Government, come with us to Canberra and ask the Federal Government to give New South Wales a fair share of the \$13 billion that the taxpayers of this State send to Canberra, to be maladministered by its Grants Commission.

**Ms PETA SEATON** (Southern Highlands) [4.27 p.m.]: This debate is more of the Labor blame game. The Government is in a corner, it is deep in deficit, and it is desperate. Now it is trying to blame absolutely anybody but itself. For 10 years the Labor Government has had the best economic activity that it could possibly have hoped for, yet there is absolutely nothing to show for it. There are more colourful expressions in the Australian vernacular to explain exactly what the Government has done with that money. I will not use those expressions in this House. This is a desperate Government. This State is deep in deficit. The Premier has fled the Chamber; he does not want to be held accountable and to accept responsibility for that deep deficit. He has left the Chamber because he has no answers. As was foreshadowed by the Leader of the Opposition, I move:

That the motion be amended by the addition of the following further paragraph:

- (2) requests the Premier to lead a bipartisan delegation of himself and the Leader of the Opposition to the Premier of Queensland, Peter Beattie, requesting the Queensland Labor Government to return to New South Wales the excess GST funds it presently receives.

I move that amendment as a meaningful and positive way in which to fix the current bludging of the Queensland Government on New South Wales taxpayers and to give us some capacity to restore financial stability to the State.

In 1999 Bob Carr signed the GST agreement. Since then it has been spend, spend, spend. We have had \$8 billion in windfall revenue since the Carr Government came to power, including GST windfall revenues, yet the Government has spent all of it. Every single year the Government has had to come back, via budget variations bills, for more and more money in pre-budget cash grabs that have appropriated \$1 billion in additional revenue each and every year. In additions, they have imposed new taxes on the people of New South Wales. Recently, new taxes have been imposed on put-and-call options, partitions and mortgage refinance. Taxation on general insurance duty has increased from 5 per cent to 9 per cent, and even more taxes are in store because today the Premier refused to rule out additional or increased taxes.

What does the State have to show for it? It has the lowest growth in the nation. Last month's Australian Bureau of Statistics figures show a growth in unemployment of 9,000, which outstripped growth in employment, which was only 8,200. It has the highest taxes in the country, including GST hidden taxes, which include stamp duty on non-quotable marketable securities, leases, mortgages, bonds, debentures and other loan securities, credit arrangements, instalment purchase arrangements, rental arrangements, and on cheques, bills of exchange and promissory notes. Every single business in New South Wales that leases a photocopier or a fleet vehicle pays hidden GST tax to the Premier. Anyone who hires a video tonight will pay 12¢ to the Premier. The list goes on; they are hidden burdens on New South Wales taxpayers.

We have heard a lot of bleating from the Government about how everyone, except the Government, is to blame for the parlous state of New South Wales finances. Andrew Refshauge, who knew the economic train wreck that was facing him, fled the jurisdiction, as Michael Egan did, when he saw that it was all falling apart around them because of their fiscal mismanagement. Not long ago Andrew Refshauge claimed that he had been fighting the good fight to get a better share of the GST for New South Wales. That is anything but the truth. We know that at its most recent meeting Ministerial Council considered the Commonwealth Grants Commission processes for determining the relativities used to distribute GST revenue among the States and Territories, that is, the famous item 5, for which Andrew Refshauge claimed he had been fighting the good fight. However, we

now have the evidence that this was all a lie, an absolute fabrication by Labor, who lifted not a single finger to try to fix the problem. A report from Federal Treasury says it all:

Mr Refshauge did not argue for a change to the formula for distributing GST revenue amongst the States, nor did he raise concerns with the shares of GST provided to NSW or any other State under the existing formula.

That is what happened, and Labor has been lying through its teeth about what it allegedly has been trying to do with Commonwealth-State funding. [*Time expired.*]

**Mr KEVIN GREENE** (Georges River) [4.32 p.m.]: John Howard, Morris Iemma and Kevin Greene have two things in common: we all love the St George Illawarra Dragons and we all love cricket. Losing the Ashes last night was sad. This morning I heard the Prime Minister talking about that loss and we all are sad about it. The Premier and I would love to have the Prime Minister come on board with us to change the way the Grants Commission distributes GST revenue. I have worked out that the honourable member for Southern Highlands's understanding of the GST is a giant serve of tripe. That is exactly what we got from her. She fails to understand the history of the GST and how its distribution has disadvantaged New South Wales, a State within which she has been elected to represent a number of its constituents. Obviously, she is more concerned about pitfalls and antiquated political argument than representing those constituents. That is a sad reflection on her and her party.

Today the Premier said the Government is about trying to get bipartisan support for the people of New South Wales and for a fair and equitable distribution of GST funding. I am sure the honourable member for Southern Highlands would love to hear that since the introduction of the GST in 2000, which was signed off in 1999, New South Wales has gained \$17.8 million. Where do I get that figure from? The figure is not from the New South Wales Government; it is from Professor David Collins, who quoted it at the Economic Society in February this year. He does not work for the New South Wales Government. When the honourable member for Southern Highlands goes back to 3<sup>rd</sup> class mathematics, as I am sure she will one day, she will understand that if there had been a fair and equitable distribution we should have gained \$714 million during that period. The honourable member admitted that Queensland is bludging off New South Wales. Why is Queensland bludging off New South Wales? Why has Queensland gained \$1.2 billion in that same period? It has done so because the Grants Commission produced some absurd formula for the distribution of GST, which was outlined by the honourable member for Campbelltown.

It is good to say goodbye to the honourable member for Southern Highlands, who is leaving the Chamber. She obviously has now been sufficiently educated. When the Grants Commission distributed the GST in 1994, New South Wales was disadvantaged by a further \$342.6 million per annum. That is a sad reflection on the Federal Treasurer's determination to take his advice from the Grants Commission. We have heard continually, not only today but over recent months, how New South Wales collects \$13 billion in the GST that goes to the Federal Government and is supposed to be given back to us. But what does it give back to us? It gives us \$10 billion. It is not fair.

Last year Professor Ross Garnaut of the Australian National University prepared a paper for the Economic Society on the efficiency, fairness, simplicity and accountability of the GST. His conclusion was that the present grants allocation system looks at equalising the States, whereas a fairer system is needed to achieve equitable outcomes for individuals. Therefore, the issue to be addressed is the importance of ensuring that all Australians have equitable access to all services. His basis of allocation would involve an increased share for New South Wales to give the people of New South Wales equitable access to services compared to people in other States. That is what the Premier is outlining today. We want the people of New South Wales to be represented in a bipartisan manner by the Liberal Party, the Labor Party and the Independents of this Parliament, so that we can go to the Federal Treasurer and the Prime Minister to say, "Let's support New South Wales as well as St George Illawarra and Australian cricket." [*Time expired.*]

**Mr ANDREW STONER** (Oxley—Leader of The Nationals) [4.37 p.m.]: The Premier started off by saying that the Commonwealth Grants Commission formula was a most complex and arcane formula. I agree with him. I cannot understand why the formula allows New South Wales to subsidise Queensland and other States to such a large extent. But the Grants Commission is a function of the State Premiers. The Grants Commission does what the Premiers tell it to do. That is why the distribution formula is the subject of this urgent motion. The State Premiers signed off on a formula on which they agreed. Who was the first Premier to sign off on the formula in 1999? The Premier of New South Wales, a bloke named Bob Carr.

It is rank hypocrisy for his replacement as Premier to come in here today to whinge and whine about the formula. He is whingeing and whining and playing political point-scoring games while conveniently ignoring the fact that New South Wales is getting record revenue from the Commonwealth under these

arrangements. In 2004-2005 New South Wales was \$208.5 million better off. In the financial year 2005-06, New South Wales is \$60.4 million better off. The Premier ignores the fact that after a decade of Labor government the State budget has increased from \$20 billion to over \$40 billion. Over the past 10 years, this Government has had a revenue windfall, mostly from stamp duty, in the order of \$9 billion. The problem is not a matter of revenue.

There is more tax money for New South Wales now than at any other time in history. The problem lies with the Labor Government's profligate spending, waste and mismanagement. That is exactly what the Queensland Premier, Peter Beattie, said when the Commonwealth Grants Commission's formula was discussed with him. He said that New South Wales should get its books in order. He has pointed the finger of blame at the waste and mismanagement of the New South Wales Government.

As I stated at the outset, personally I am not satisfied with the Commonwealth Grants Commission's formula that was signed off by Bob Carr in 1999, and I do not think anyone in New South Wales is, either. On behalf of non-metropolitan people in New South Wales, I ask for a better deal for this State. I also want the New South Wales Government to give a fairer share of its own budget to country areas, which have consistently been short-changed due to this Government's Sydney-centrism.

Let us have a review of the Federal grants distribution formula, but let us also have a review of the distribution of the State's budget. We also need to seriously attempt to cut the obscene waste and mismanagement that has been perpetrated by this State's Labor Government. Instead of whingeing and playing petty party politics, the Premier should take action on matters that are under his control. The Premier, Morris Iemma, should be jumping on the now slower XPT to see his Labor mate, Premier Beattie. He should be talking to his other Labor mates in the other States and Territories. They should all get together and go down to Canberra to tell the Commonwealth Grants Commission what they want in a new formula.

Today the Premier tried to attach blame to the Federal Treasurer, but the blame does not belong to him. The Federal Treasurer, Peter Costello, was interviewed by Alan Jones on 23 March this year, and he stated, "If the States decide to change the formula today, it will be changed." Moreover, on 6 July this year, the Prime Minister stated during a doorstep interview:

Well can I just say to Mr Carr and I'd say to all the other Premiers of Australia that if they go away in a corner and agree on a new carve up of the GST revenue and they all sign up to it, we'll agree to it. We have no argument with the new carve up if all of the States agree to it.

I'll be very happy to certify that new arrangement. But they've got to come to agreement first.

It is clear that a change in the grants distribution formula is within the control of the Premiers of Australia and is certainly within the control of the Premier of this State. That is how it is done. The Premier should stop wasting his energy on whingeing and whining and put his energy into negotiating a better deal than the one that Bob Carr obtained for New South Wales. Premier Iemma should fix up the appalling financial mismanagement so that New South Wales will have more money—more money for infrastructure, more money for front-line services, and more money for tax cuts.

**Mr DAVID BARR** (Manly) [4.42 p.m.]: I support the Premier's motion. First, I congratulate the honourable member for Lakemba, Morris Iemma, on becoming the Premier of this State and the honourable member for Vacluse, Peter Debnam, on becoming the Leader of the Opposition. I think they are both honourable and principled men. On this issue, when the Leader of the Opposition referred to a bipartisan delegation, I pricked up my ears and thought that was a good thing—until he referred to Peter Beattie, whereupon the suggestion became a gimmick.

The real culprit in this issue is the Federal Government. I do not believe that in the history of Federation there has ever previously been a Federal Government that has put such a squeeze on the States. The original Colonies would not have signed up to the existing Federation if they had known what it was to become. Basically the States are now merely agents of the Federal Government. The Federal Government takes tax revenue that is collected from the States and redistributes it under the principles of horizontal and vertical fiscal equalisation—the principle of services being pretty much equal in all States. We all agree with that as a principle. For example, we all agree that people living in Tasmania have as much right as the people of New South Wales to the level of services provided in this State, but the whole formula has come off the rails. Now the Commonwealth Grants Commission is totally out of date in its approach.

Basically Queensland receives \$829 million and Western Australia receives \$320 million of the goods and services tax revenue that is collected in New South Wales. There is no justification for those States receiving that level of funding. Currently they are both experiencing a resources boom and are doing extremely well. The Opposition has tried to say that it is a matter for the States to sort out, but the intergovernmental agreement makes it quite clear who has the final say: It is the Federal Treasurer. The agreement states:

The relativity factor for a State or Territory will be determined by the Commonwealth Treasurer after he has consulted with each State and Territory.

Discretion is vested in the Federal Treasurer, and currently he is choosing not to exercise that discretion. In fact, the Federal Government is putting the squeeze on the States in quite extraordinary ways. An example of that is the issue of TAFE funding and the Federal Government being prepared to fork out money only if TAFE signs up to Australian workplace agreements. The Federal Government is engaging in what was described by the States during the Whitlam era as a Federal socialist plot to take over the country by doing away with the States. It is somewhat ironic that States' rights, which were formerly supported by the conservatives much more so than by Labor, have again become an item on the conservative agenda, but this time seeking a reduction in the autonomy of the States.

The Australian federation system gives the States the weakest powers, in relation to the Federal Government, of any federal system, including that in countries such as Canada, Germany and the United States. Basically the Australian Federal Government takes funds from the States and reallocates to the States by an out-of-date formula that the Federal Government determines. The Federal Government in doing so put the squeeze on the States because it has its own agenda. This is a really critical issue for the people of New South Wales and for this Parliament. We must adopt a bipartisan approach this issue. There is no excuse not to do so. Taxes are a fundamental issue.

When people pay taxes, they expect that they will obtain a return in the form of the provision of services, roads, schools and hospitals. People do not expect the Federal Government to take money from the States and splash it around in a way that cannot be justified by reference to any statistical or economic analysis. People do not expect the Federal Government to take vast sums of money out of this State and sit on a \$13 billion surplus, enabling it at election time to pork-barrel marginal seats like billyo. That is not the way a federal system should work. That is not economically efficient. That is not the way the founding fathers foresaw the Australian federation working.

We must strive for better Commonwealth-State fiscal co-operation. We must examine issues such as the water crisis from the point of view of the Federal Government and the States jointly funding a resolution of the problem. We must tackle problems together as a nation instead of adopting a silly approach. I believe it is time for the Federal Government to show more maturity in relation to this matter.

**Mr MORRIS IEMMA** (Lakemba—Premier, Treasurer, and Minister for Citizenship) [4.47 p.m.], in reply: I will not reiterate all the matters referred to by members of the Opposition and canvass the points they have made except to point out that today, although they were given an opportunity to show that they stand with the people of New South Wales and the Government to get the people of New South Wales their fair share of the goods and services tax revenue, they turned it down. Today members of the Opposition showed their true colours. They are not here for the people of New South Wales. They are not here to work for the people of New South Wales. They are all about protecting the political interests of their political friends in Canberra.

I found it extraordinary that the Opposition referred to Queenslanders as bludgers. It was bitterly disappointing for me that not one Opposition speaker apologised for that comment having been made. The point of this motion is that the issue does not have anything to do with Queensland. That is the point they ignored: it is not up to Peter Beattie. Two Commonwealth Ministers make the decision on the distribution of the GST, not Queensland. The legislation provides for the Commonwealth to decide on the amount of distribution; that is the law, it is in the legislation. All roads to the distribution of a fair share of the GST lead to Canberra. Queensland is a beneficiary, but it is not Queensland's decision. Today the Opposition has squibbed. Today members of the Opposition had the chance to stand up for New South Wales and they squibbed it. The Government will take every opportunity to remind their constituents, particularly the constituents of Albury, that members of the Opposition turned their backs on them.

Why will the honourable member for Albury not stand up and fight for his constituents? Why will he not stand up and ask for their fair share of the GST? Why has he turned his back on them? The Government will take every opportunity to remind the people of Albury, and people in every other electorate, that today the

honourable member for Albury was given the chance to stand up for the constituents of Albury, the families of Albury, but he squibbed it. He squibbed it because he wants to protect his political friends in Canberra. He then stood by whilst his colleagues called the people of Queensland "bludgers", and he has not uttered one single word in retraction.

The honourable member for Albury will not even apologise for that, let alone the fact that he squibbed it for the people of Albury. The Government will take every chance to remind them and everyone else of that fact, because no-one was convinced by the juvenile performance by members opposite that we have witnessed over the past 15 minutes. Not one person in this State will be convinced by that juvenile performance, which culminated in calling Queenslanders "bludgers". That was extraordinary. Not one member opposite has stood up and apologised or issued any form of reservation about it; they just sat in silence as that statement was made. The inescapable fact is that two Commonwealth Ministers write the formula, do the assessments, and make the recommendations. Two Commonwealth Ministers make the decisions, not Peter Beattie, not Queensland families, schoolteachers, nurses, doctors or train drivers.

The Commonwealth's finance Minister and Treasurer make those decisions. Today the Opposition had its chance, but it turned its back on the people of Albury, Wagga Wagga and all of New South Wales. It had a chance, but it put in a juvenile performance. Today, Opposition members had a chance to act like political leaders, like representatives of their electorates, but they turned their backs on them and put in a juvenile performance that convinced no-one. Not only that, they cast a slur on the whole State of Queensland by calling Queenslanders "bludgers". That is what the Opposition has done today. The Opposition has convinced no-one. There is no chance for them, because today they said they stand not with the people of New South Wales, but with their political mates for base political reasons. Today they have denied their constituents in New South Wales, particularly those in Albury, their fair share of their tax money. [*Time expired.*]

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

**The House divided.**

**Ayes, 28**

Mr Aplin	Mr Humpherson	Mrs Skinner
Mr Armstrong	Mr Kerr	Mr Souris
Ms Berejiklian	Mr Merton	Mr Stoner
Mr Cansdell	Mr O'Farrell	Mr Tink
Mr Constance	Mr Page	Mr J. H. Turner
Mr Debnam	Mr Piccoli	Mr R. W. Turner
Mr Fraser	Mr Pringle	
Mr Hartcher	Mr Richardson	<i>Tellers,</i>
Mr Hazzard	Mr Roberts	Mr George
Mrs Hopwood	Ms Seaton	Mr Maguire

**Noes, 55**

Ms Allan	Mr Gaudry	Mr Orkopoulos
Mr Amery	Mr Gibson	Mrs Paluzzano
Ms Andrews	Mr Greene	Mr Pearce
Mr Barr	Ms Hay	Mrs Perry
Mr Bartlett	Mr Hickey	Ms Saliba
Ms Beamer	Mr Hunter	Mr Sartor
Mr Black	Mr Iemma	Mr Scully
Mr Brown	Ms Judge	Mr Shearan
Ms Burney	Ms Keneally	Mr Stewart
Miss Burton	Mr Lynch	Mr Torbay
Mr Campbell	Mr McBride	Mr Tripodi
Mr Collier	Mr McLeay	Mr Watkins
Mr Corrigan	Ms Meagher	Mr West
Mr Crittenden	Ms Megarrity	Mr Whan
Ms D'Amore	Ms Moore	Mr Yeadon
Mr Debus	Mr Morris	
Mr Draper	Mr Newell	<i>Tellers,</i>
Mrs Fardell	Ms Nori	Mr Ashton
Ms Gadiel	Mr Oakeshott	Mr Martin

**Pair**

Ms Hodgkinson

Mr Price

**Question resolved in the negative.****Amendment negatived.****Motion agreed to.****DUTIES AMENDMENT (ABOLITION OF VENDOR DUTY) BILL****Bill introduced and read a first time.****Second Reading**

**Mr MORRIS IEMMA** (Lakemba—Premier, Treasurer, and Minister for Citizenship) [5.05 p.m.]: I move:

That this bill be now read a second time.

This bill implements the announcement on 2 August 2005 that vendor duty would not apply in respect of contracts for the sale of property first signed on or after that date. It is a very simple piece of legislation and it does two things. First, it abolishes vendor duty for all contracts exchanged on or after 2 August this year. Second, it abolishes disposal duty, the vendor duty equivalent for people with indirect interests in property, for all disposals completed on or after 2 August this year. It is simple and should be supported wholeheartedly by all honourable members.

Vendor duty was introduced at a time when the market was strong, but times have changed. In current market conditions vendor duty is a handbrake on economic activity. Moreover, it had become a psychological impediment on investment in New South Wales. The abolition of vendor duty should assist in boosting the level of investment in this State and lead to an increase in building activity, thus helping to keep New South Wales the economic powerhouse of the nation. It has been supported by stakeholders, the Real Estate Institute, the Property Council and, as we heard today, small investors, or mums and dads. Even Treasury's own data showed that vendor duty would dampen the level of turnover.

There will be a cost to abolishing vendor duty. It was projected to raise \$358 million this financial year. Increased activity in the property market resulting in increased revenue from transfer duty is likely to go some way towards funding the gap. The remainder will be found through the audit of expenditure I have commissioned to forensically scrutinise areas of expenditure and find ways of improving government services while reducing their cost. The audit team is headed by Dr Mike Vertigan, former head of the Victorian Treasury, and Mr Nigel Stokes, who has extensive experience in banking and public finance. They have already started their work.

The details of the bill are as follows. The bill abolishes vendor duty. The bill also abolishes disposal duty—the application of vendor duty to land-rich transactions. The introduction of disposal duty was necessary to prevent avoidance of vendor duty through the disposal of indirect interest in land rather than the disposal of direct interests. Disposal duty is abolished from the same date—2 August this year—for disposals of any interest by a significant interest holder. Contracts exchanged but not settled by 2 August 2005 will remain liable for vendor duty, which is appropriate. Contracts exchanged prior to 2 August were exchanged on the basis that vendor duty would continue to apply.

The impact of vendor duty on the transaction was factored into the agreement. To unilaterally change the basis of the agreement after the contracts had been exchanged would provide one party with a windfall gain. The alternative of exempting from duty those contracts that had been exchanged but not settled prior to 2 August would be unfair. It would mean that two contracts exchanged on the same date could have different taxation outcomes—those settled prior to 2 August would be taxed, while those settled after 2 August would not be taxed.

The approach taken in this bill of no longer applying vendor duty only to transactions entered into on or after 2 August is fair and consistent. These anti-avoidance provisions are a matter of equity and consistent with how governments—State and Federal, now and in the past—have dealt with tax changes. That means the



changes take effect from the day of the announcement in order to ensure that all taxpayers are treated fairly. This is the sensible step. It reduces State taxation, it boosts investor confidence and it should be supported wholeheartedly by all members of the House. I commend the bill to the House.

**Debate adjourned on motion by Mr Daryl Maguire.**

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

## **PRIVATE MEMBERS' STATEMENTS**

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### **ROAD SAFETY**

**Mr PAUL GIBSON** (Blacktown) [5.11 p.m.]: Not only yesterday but over many years constituents have expressed their concerns about the road toll in New South Wales. Last weekend 10 people died on our roads. The list of road fatalities, which is sent to me every Monday, revealed that it was a shocking weekend for road safety, not least because that list showed an increasing trend in road deaths in New South Wales since the March quarter of 2005. Early in March 2005 the New South Wales road toll was more than 15 per cent below that for the equivalent period last year. However, the New South Wales road toll is now almost 5 per cent more than for the equivalent period last year.

Police statistics record that 379 people have died on New South Wales roads since 1 January 2005. That inglorious total comprises 189 drivers, which is an increase of 31 on the same period last year; 53 passengers; 46 motorcyclists, which is an increase of nine on the same period last year; 73 pedestrians, which is also nine more than last year; and eight cyclists. I have often said that more people have died on our roads in this State than were killed in all the wars that this nation has fought. Let us consider the ages of those who died on New South Wales roads on the weekend. They range from 57, 59, 44, 40, 86, 55, 48, 25 and 30 to a 20-year-old male passenger. I put it to honourable members that if one or two of those people had been P-plate drivers, the media in this State would have gone into a frenzy. The media have done a tremendous job promoting road safety. They have highlighted that important issue, which has had a great effect on the road toll and the number of road accidents.

But there was very little in our newspapers or on the television or radio about the 10 people who were killed on our roads last weekend. That is a shocking statistic, but just two weeks ago 10 people died on New South Wales roads. However, because they were not young people we heard very little of that tragedy in our newspapers. Since 1 January this year there have been 348 fatal crashes in New South Wales, which is 27 more fatal crashes than occurred during the same period in 2004. As I have said, the tragic events of this weekend mirrored those of a fortnight ago. So in two weekends we have lost more than 20 people on our roads. That is a terrible waste of life. Those people, who were going about their everyday business or going for a drive, will never come home. It is difficult to put a dollar value on such loss of life and it is impossible to comprehend the hurt felt by the families affected.

I repeat: Some 379 people have died on our roads this year. That is 15 more than for the same period last year and, on average, nine more than in the past three years. This increase in the road toll is a worry for road safety campaigners and for all the people of New South Wales. There are many reasons for this upsurge, including driver distraction and alcohol. I remind honourable members that last year about 27,000 people were found guilty of driving under the influence of alcohol, which tells me that we are not taking this problem seriously. It is up to us, as legislators, to make sure that the rules are on the statute books for people to abide by. We must not only enforce those rules but educate drivers in New South Wales to take every care and show courtesy on our roads, because the life they save could be their own or that of a family member.

## **CREMORNE COMMUNITY MENTAL HEALTH CENTRE**

**Mrs JILLIAN SKINNER** (North Shore) [5.16 p.m.]: On 5 August this year I wrote to the newly appointed Minister for Health, the Hon. John Hatzistergos, in the following terms:

Dear Minister

A year ago tomorrow a group of local citizens met to discuss action to highlight their concern about the proposed closure of the Cremorne Community Mental Health Centre.

What followed has demonstrated how strongly the community feels about the importance of the service and its retention in Cremorne.

This has involved two packed-house public meetings, many other meetings—including consultations led by the Department of Health, numerous visits to the centre itself, discussions with clients and their families, a delegation to see your predecessor, debate in Parliament and at both Councils affected and much media attention.

The fight to keep the centre in Cremorne has been one I have been passionate about. It is a fantastic service that is much appreciated by its clients and families and highly praised by other local clinicians. In fact all GPs in Mosman signed a petition to that effect.

The campaign to save it has involved both Mosman and North Sydney Councils, representatives from mental health community organisations, specialist clinicians working in the field of mental health, myself and Shadow Minister for Mental Health, Gladys Berejiklian, and of course many local people. Even the local police have issued a statement about the detrimental effect that closing it would have on their work.

But the most important people in the fight to keep the service are its clients and their families. I have interviewed many of them and there is no doubt that the mental health team at Cremorne has made a huge difference to their lives. For clients it's easily accessible and non-threatening and they like and trust the mental health team members who provide help with medication, other treatment and advice. For families it is a lifeline as it relieves them of the constant responsibility of monitoring their relatives, supervising medication and driving them to treatment.

In fact Minister, there is now no one who supports the closure of this fantastic service. Even your own local health officials have now conceded that it should be retained.

So as one of your first decisions as Minister for Health, I ask you, on behalf of the people of North Shore and all those who rely upon and support excellent community based mental health services, to announce that the Cremorne Community Mental Health Centre will remain.

Yours sincerely  
Jillian Skinner MP

In my capacity as shadow Minister for Health, I make an even more heartfelt plea to the Minister to announce formally the retention of this service. Furthermore, today I spoke to the honourable member for Willoughby, whose electorate neighbours my own, about the Chatswood and Cremorne community mental health services. She asked me to seek confirmation from the Minister that those services will remain also. As I said in my letter to the Minister, no service is more important to a highly vulnerable at-risk section of the community than the community-based mental health service. Its fantastic workers love their work. At one time a suggestion was made that occupational health and safety issues were involved, but that has been ruled as nonsensical by all those involved in formal consultations.

The service is provided in an easily accessible building located on the main road but with an entrance at the side, with an undercover garage that is accessed through a roller door that can be triggered with a remote control by mental health teams, who can drive in, and I cannot think of a safer environment for them. As I said, the police, other community clinicians and the council support the service. I congratulate Councillor Simon Menzies on his election last night as Deputy Mayor of Mosman. He is held in such high standing because of his fight for the people of the North Shore in trying to retain this good service. I ask the Parliamentary Secretary to urge the Minister, who has not replied to my letter, to confirm that the service will be saved.

**Mr GRANT McBRIDE** (The Entrance—Minister for Gaming and Racing, and Minister for the Central Coast) [5.21 p.m.]: I congratulate the honourable member for North Shore on her reappointment to the shadow portfolio of Health. I am sure the Opposition will be a lot better as a result of that appointment.

#### **NRMA PREFERRED REPAIRER NETWORK SCHEME**

**Mr TONY STEWART** (Bankstown—Parliamentary Secretary) [5.21 p.m.]: I want to uphold the fair and reasonable rights of approximately 2,200 smash repairers—many of whom have businesses in my electorate—who employ more than 22,000 people in New South Wales, together with 700 new motor vehicle spare parts dealerships that employ approximately 40,000 people in this State, and, importantly, the tens of thousands of motor vehicle insurance policy holders who are now being detrimentally affected by the implementation of the NRMA's so-called Preferred Repairer Network Scheme.

I point out that this controversial scheme is not the product of the NRMA Road Service which, quite rightly, is held in high esteem. Rather, it is the product of a separate body, namely NRMA Insurance, together with its parent company, IAG. NRMA Insurance and IAG have been ruthless in their implementation of the Preferred Repairer Network Scheme, which quite simply is aimed at profit generation at the expense of policy holder safety and industry rights. Although only in its early days—a few weeks—it will, if left unchecked, certainly lead to a denial of freedom of choice by policy holders. This is already becoming evident as policy holders are discovering that when they take their car to a central NRMA depot for photographing and release to a tender process, it can end up in Victoria or Queensland without their knowledge, consent or understanding.

Many people who are involved in the industry, as well as my colleagues and I, believe that a web-based quotation system that involves tendering after viewing on a web site a photograph of the repair job will lead to unsafe and poor quality repairs. An NRMA assessor—who often is a young person without proper qualifications in motor vehicle smash repairs or maintenance—takes photographs of the vehicle and the job is put out to tender. Astonishingly, if a smash repairer wins a tender with a quote of \$2,000, for example, and discovers other necessary safety repairs that were not evident in the photograph—for example, repairs to the steering or suspension—he is penalised if he goes ahead with those repairs. Unfortunately, under this system, some repairers will cut corners and avoid carrying out those repairs.

The scheme has already led to thousands of industry job losses, particularly for apprentices, as businesses close down. We need the specialised jobs that this industry offers, but NRMA Insurance and IAG want to mow over those job opportunities and that will ultimately lead to increased insurance premiums. Today I moved a motion in the parliamentary Labor Party caucus, which was unanimously supported, calling on the Government to investigate an opportunity to implement what is known as anti-steering legislation. Such legislation successfully exists in more than 30 states of the United States of America, where it was put in place because of similar problems with insurance companies wanting to use their market muscle and possess the market to force policy holders into using their preferred repairer networks. I commend Allianz, for example, and other insurance companies that give their customers a fair, reasonable and unfettered choice—a service that they pay for. I am pleased that the Minister for Fair Trading is investigating community and industry concerns in relation to the NRMA's Preferred Repairer Network Scheme. The decision by the parliamentary Labor Party caucus now adds substance to the Government's focus to resolve this issue. I hope NRMA Insurance and IAG will try to work out a comparable, fair and reasonable scheme for the industry and its customers.

#### MYALL LAKES NATIONAL PLAN OF MANAGEMENT

**Mr JOHN TURNER** (Myall Lakes) [5.26 p.m.]: Many concerned people in my electorate have contacted me regarding the proposed amendments to the Myall Lakes National Plan of Management with respect to part B management strategies concerning visitors' use of Lighthouse Beach and, in particular, access by four-wheel drive vehicles. This is another example of the National Parks and Wildlife Service herding people into designated areas and effectively closing down the rest of the park. These are national parks that should be open to the public, but more of them are being closed down, particularly in Myall Lakes National Park, in areas around Mungo Brush, where one could previously camp on the foreshores. Dirt and sand roads are being dug up to stop people going into areas. Submissions relating to this plan of management close on 16 September. The plan discriminates against the old and the young, disabled people, and people who have been using this area for some time. Alan Freihaut of Bulahdelah wrote to me as follows:

Dear John,

I have been a surfer and a fisherman for over 30 years now and let me tell you it's not just as simple as just pulling up and walking down to the water and find a wave suitable for surfing or a suitable place to start fishing.

His letter continues:

Also with family orientated day trips (mum dad and the kids) it's impossible to carry your daily needs and equipment through the sand hills by foot and one more important point is the disabled. Are they taking away the right of a disabled person either too old or medically handicapped to enjoy the beaches in our area?

Presently this beach is accessible by four-wheel drive vehicles. In fairness, the options paper provides two options: one to allow four-wheel drives to continue and the other to take away four-wheel drives. I hate to be cynical, but I suspect that one of those options—the one that allows four-wheel drive vehicles into that area—is simply window-dressing. The letter continues:

Surfers are another group of the public who 4WD on our beaches, and again it's not a simple matter of just pulling up where there's a car park and you will find the good waves. Again it's mother nature that makes the wind blow in different directions, mother nature makes the size of the swell or waves and it's also mother nature that shifts the sand banks around which shapes the waves that the surfers are looking to ride. Again they only want access to get them to their preferred surfing spots.

We do not want to use or go near the sand dunes or the so-called bird breeding areas; fence them off or simply patrol the beaches with the National Parks Rangers ...

Mr Freihaut finishes by saying:

The ideal situation would be to take the pressure off Lighthouse Beach and reopen Yagon beach to the public. This is a much larger beach and have Lighthouse Beach as one of your non-4WD beaches ...

However, he does say he would prefer ensuring there is 4WD access. His final statement to me is:

By all means manage and police our beaches but don't shut us out.

The Maitland City Offshore Fishing Club has also contacted me. In a letter to me dated 16 August this year the club wrote:

Light House Beach is a small Open Ocean Beach, as opposed to the quieter Ocean Beach opposite the Seal Rocks village. It is close to the village and therefore popular with everyone who wants to go there for a nice walk in the sea breezes, swim, surf, catch worms for bait and of course to fish, but it is not easily accessible, so a vehicle capable of getting there is what most people use ... The simple and most sensible solution would be to make proper access roads up to and onto the beach, with strict areas for vehicles. The National Parks would then be able to nominate the fragile areas, and providing access around these areas creates a win-win situation.

This solution would mean everyone would be happy with no erosion of the public's rights.

Kevin Pettit from Bulahdelah suggests to me:

... form a genuine working party with the public who use the facilities that the Great Lakes region has to offer. The principle of "locking it up" does not endear you to the general public. Co-operation between NPWS, local councils, interested members, and the public will form a better solution to problems than "locking it up".

Well said, Mr Pettit. I agree with you. Ms Andrews and Mr Thornton from Dungog say:

I would like to express my concern at the closing of the beaches along the North Coast of NSW.

I, as a fisherman, (woman) and pensioner would find it quite difficult to walk any distance carrying my fishing rod, gear, tackle and bucket, especially up and down sand hills.

Jeff and Trudy Graham from Bulahdelah say:

We have lived in the Great Lakes Shire for 22 years. My wife was born here, as were our two boys. We are a very outdoors family and have enjoyed these beaches on numerous occasions every year. We all fish and swim and our two boys aged 14 and 17 love to surf and play football on the sand.

We find it strange that 2 or 3 years ago, the same week our government sent out a family drug offensive pamphlet, the same government took our family's two best fishing spots away at Seal Rocks. Here we are again losing fishing spots.

What better way to keep young people off drugs than to remain involved in family activities like fishing and going to the beach.

This beach must stay open. [*Time expired.*]

## BOEING AUSTRALIA EMPLOYEE CONTRACTS

**Mr JOHN BARTLETT** (Port Stephens) [5.31 p.m.]: I would like to speak today on the Boeing strike taking place outside the Royal Australian Air Force base at Williamtown. Last Friday, 9 September, a meeting was held outside the electorate office of the Federal member for Paterson. It marked the 100 days that these people have been on strike. When I was a child I lived in South Wales, which had a history of coalmining and of police and military being used against miners who were striking for better pay or conditions. My father, who was in the military, said that the military were very uncomfortable with the job that they were asked to do—not that my father was asked to do it. He was very uncomfortable with the fact that the military and police were used to break strikes.

Then we came to Australia. When I grew up a little bit my father said that this country had the best industrial relations system in the world. We had had the harvester case, the boilermakers case, and so on through the ages, and if there was disagreement between the bosses and the workers, the workers would be out for a little while and then the arbitration system, either Federal or State, would bring the parties in and they would sit down and have a discussion. The workers might not get everything they wanted, and the bosses might not get everything they wanted, but at the end of the day there was a settlement and things moved on.

The problem we have with the Boeing strike now taking place outside the RAAF base at Williamtown relates to the 1996 changes to the Federal arbitration system. Unless Boeing, the boss, wants to go into the Federal arbitration system, that does not happen. So there is no conduit by which to resolve this issue. If those workers were under a State award in New South Wales, they would have been called in under the industrial relations system of this State and the matter would have been resolved. As workers felt they could not achieve their goals, they went out on strike. They are still on strike.

The history of the current strike is quite important. Many of the workers had been on Australian workplace agreements and had been working on FA18s for quite some time, perhaps four or five years. They were mostly ex-military, and did not belong to unions. However, they became completely fed up with the Australian workplace agreements that they had been forced into. The first clause in their agreements reads something like, "You are employed under Boeing policies. Boeing can change its policies at any time." Basically, that has cast them at the forefront of the industrial relations debate that is going on in this country. These people, who did not want to continue on under their workplace agreements, went to the Australian Workers Union and asked, "Can you represent us so that we can get enterprise bargaining agreements?" Boeing will not recognise the union, and will not go to the Federal arbitration system. So the workers have been outside the RAAF base at Williamstown, in all weather, 24 hours a day, seven days a week, for the past 100 days.

What is the position with this dispute? We have Boeing, the ugly American company, being used by John Howard to reduce the wages and conditions of Australians. This will become one of those cases like the harvester case and the boilermakers case. How can an individual at Williamstown negotiate with Boeing, which has about 159,000 workers in 67 different countries? In Victoria Boeing has collective agreements with its workers. It even has collective agreements with employees in New South Wales and certainly in the United States of America. At the present time 18,400 machinists in the United States are taking strike action after 86 per cent of those workers voted to reject their contracts. At Williamstown we cannot get Boeing to talk to our members. Lastly, can I see how proud of the Labor Party caucus I was today when an additional \$100 per member of caucus was donated to this cause, duplicating what happened some 50 days ago.

**Mr GRANT McBRIDE** (The Entrance—Minister for Gaming and Racing, and Minister for the Central Coast) [5.36 p.m.]: I congratulate the honourable member for Port Stephens on raising this very important issue in the House, and also for his continued support for the Boeing workers in that area. The industrial relations position there is a shame for everyone concerned. I am pleased that the honourable member has brought this matter to the notice of the Chamber. Hopefully, by this and other actions, with the support of caucus, we will have a resolution of this dispute in favour of the workers.

#### **NORTH-WESTERN AND SOUTH-WESTERN SYDNEY LAND REZONING**

**Mr STEVEN PRINGLE** (Hawkesbury) [5.37 p.m.]: As most honourable members would be aware, land owners in my electorate and many neighbouring electorates have been very much affected by the appalling plans, drawn up by the faceless bureaucrats and assented to by the Minister for Planning, that bring about the disenfranchisement of those property owners' rights—rights that extend way back to the time of Lachlan Macquarie, that visionary Governor of New South Wales who realised the value to our society of freehold property rights and granted land to settlers and emancipists alike. Those rights were reinforced in 1942 by Robert Menzies, who outlined his vision for the forgotten people, the middle classes, who depended upon the stability of the family home. At the end of World War II land was released for immigrants and many ex-service personnel to purchase, and many of those land releases were in north-western Sydney, in areas that I represent today. An essential pillar of our society is the attractive lifestyle and the freedom, which are the envy of many other countries. Those freedoms were outlined by Thomas Paine, who, when writing about the rights of man, spoke of:

... the right of property being secured and inviolable, no one ought to be deprived of it, except in cases of evident public necessity, legally ascertained and in condition of a previous just indemnity.

If only that were with the case in New South Wales. The landowners of north-western and south-western Sydney have been disenfranchised, and much of the value of their superannuation investments has been taken away from them. It is a disgrace that with the stroke of a pen the Government considered locking away the futures of thousands of families. Indeed, some 9,000-odd properties would have been affected by the unjust aspects of the metropolitan strategy. Many of the property owners were second-generation and third-generation immigrants whose parents came to Australia after the Second World War with the promise of a better future for their families. They have worked hard and, through the sweat of their brow, taken advantage of sensible investment opportunities. They would have had that taken away. They brought a philosophy with them about providing for themselves and for future generations. In short, their property, their land and their house became their superannuation fund. Literally hundreds of constituents and thousands of people have been affected. Hundreds of people have attended my office and various rallies. Perhaps it is best summed up by one 78-year-old, who says:

Things are going to change under this Government. Why is that? I am so scared that I won't have my home any more and my husband will be so angry. He and I have worked hard all our lives and we pay our taxes and now the Government is going to take it all away and I don't know how I will be able to live if I do not have my land and my home. I'm 78 and I don't know where else to go.

A 78-year-old is being harassed by the Government. Does that sound familiar? It is totally un-Australian. On 7 August this year Angela Muller and a group of dedicated and determined landowners organised a huge rally at Rouse Hill, which was attended by more than 3,500 people, including the former Leader of the Opposition and the honourable member for Riverstone, Mr Speaker, who was outraged by the plans of his Government. He has been calling for major changes, just as the Opposition has. The Government's planning strategy for New South Wales is totally wrong. The Mayor of Hawkesbury and Hawkesbury councillors Ted Books, Kevin Connolly and Trevor Devine attended the rally to support local landowners.

The Coalition Government made a commitment to provide fair compensation for any land that was required for open space. I know that the current Leader of the Opposition, Peter Debnam, and the shadow Minister for Planning, Chris Hartcher, regard these commitments as rock solid. That is in stark contrast to the Government's proposal to lock up property for green space without adequate compensation. I am pleased to hear that some changes have been mooted from the Minister for Planning, but it is time he spelled out exactly what he is planning to do so that thousands of people—

**Mr Grant McBride:** Good work by the new Minister.

**Mr STEVEN PRINGLE:** It is about time. The vendor duty should have been done away with straightaway to. This fight for a just cause would not have taken place if it were not for the arbitrary and unjust actions of the Government, which is out of control.

### **SUTHERLAND SHIRE MEALS ON WHEELS SERVICES**

**Mr BARRY COLLIER** (Miranda) [5.42 p.m.]: On Wednesday 31 August I had the privilege of delivering meals to shire seniors in their homes in support of National Meals on Wheels "Building Stronger Communities" Day. The morning began with visits to the Sutherland Shire Meals on Wheels headquarters at Sutherland Hospital, where I met manager, Mr Bill Judd, and his committed staff, including co-ordinator Heather Sedman, Francis Uaine, Samantha Schofield and Marian Walker. After a tour of the facility and a discussion about the organisation and its distribution network, I headed out with volunteer Mr Bert Peachey in his car to deliver lunch to seniors in GyMEA Bay and Kirrawee. The seniors we visited told me that they really enjoyed their meals and looked forward to seeing and speaking with their volunteer drivers every week.

Meeting the organisers and delivering meals really made me appreciate the magnificent work of both the volunteers and committed organisers and administrators behind the scenes of Meals on Wheels. The experience of working with Meals on Wheels at Sutherland was inspirational. The Sutherland Shire Meals on Wheels commenced delivering meals on 3 July 1967 from the Sutherland Hospital for three clients who were discharged from hospital and were not able to prepare their own meals. By 1974 the hospital-based Meals on Wheels was supplying meals to 138 Sutherland shire residents a day. In 1996 Meals on Wheels services were separated from the hospital and became Sutherland Food Services Incorporated. In 1999, with the assistance of the hospital, a State Government grant and hard fundraising, Meals on Wheels moved into its own building in the hospital grounds. In February 2002 the service was accredited by the Department of Ageing, Disability And Home Care national standards.

Today with dedicated staff and the help of 140 volunteers the Sutherland Shire Meals on Wheels delivers more than 1,200 fresh, nutritious meals to aged, frail and disabled residents across the shire every week. When you consider that the service caters for individual requirements—including meals for those with diabetes, with gluten intolerance, vegetarian meals, soft food meals, and meals for people from different cultural backgrounds—week in and week out, 52 weeks a year, Sutherland Shire Meals on Wheels is a mammoth undertaking. Across New South Wales there are 220 Meals on Wheels services with a total of 35,000 volunteers who deliver meals to 20,000 clients each and every day. Meals on Wheels in the shire and across the State is more than a home delivery service. Staff and volunteers like Mr Bert Peachey, Nancye Peachey, Leo Campbell and Bert Hawkes from Sutherland Shire Meals on Wheels see to that.

Bert and Nancye Peachey have been delivering Meals on Wheels for nearly 12 years. Bert is 'the driver' and Nancy is 'the runner'. They have delivered meals to all parts of the shire, with Bert often doubling up and doing two deliveries per day. Such is the camaraderie among the volunteers that Bert calls himself "a youngster", a reference to the fact that some of the shire's volunteers have been delivering Meals on Wheels for more than 30 years. Staff of the Sutherland Shire service told me that "Bert is a huge asset to our service and nothing is ever a problem when it comes to helping us out." I saw that volunteer spirit, commitment and caring when I visited seniors with Bert. Like other Meals on Wheels volunteers, Bert provides that daily contact that helps to reduce the social isolation often experienced by many of our seniors who live by themselves.

Volunteers know their clients and through regular visits they are keenly aware of changes in their clients' health and wellbeing, often informing a doctor or the next of kin if there is a problem. For our aged, frail and disabled Meals on Wheels is the lifebuoy that enables them to remain in the comfort of their own home rather than reside in an aged-care or other facility. I know that the volunteers from Meals on Wheels enabled my grandmother, Violet Donnelly, to remain in her home, as she wished, until shortly before her death, aged 102 years. The Meals on Wheels organisation and its volunteers help to build and sustain stronger and more supportive communities. I thank all the volunteers, and all the organisers of the Sutherland Shire Meals on Wheels—past and present—for their dedicated service and their commitment to their many clients and to the people of the shire and their families. We, as a community, are forever in their debt.

### DESALINATION PLANT PROPOSAL

**Mr MALCOLM KERR** (Cronulla) [5.47 p.m.]: The decision of the Government to build a desalination plant in Kurnell is a major problem for my electorate, the Sutherland shire, the State and Australia. In July a large numbers of shire residents gathered at Wanda beach to protest against the State Government's decision. Last Sunday a further protest gathering was held at Kurnell. I pay tribute to residents such as Dorothy Exon and John Scott from the Kurnell Progress Association. However, the Government continues to refuse to listen. There has been no community consultation. Only hours after the Chief Executive Officer of Sydney Water said that a desalination plant would not be necessary until Sydney's dam levels reached about 10 per cent, Premier Iemma confirmed that the desalination plant at Kurnell would go ahead. It is interesting to note that the plan will occupy some 25 hectares, which is a massive area.

*[Interruption]*

I will translate that into terms the Minister for Gaming and Racing, who is at the table, will understand. It is about the size of 38 rugby league football fields, which he might remember from his playing days.

**Mr Grant McBride:** Your team lost on the weekend, mate.

**Mr MALCOLM KERR:** That is typical. I talk about desalination and he wants to rub further salt into the wounds. That is the sort of treatment that this Government has reserved for the people of the Sutherland shire, and I am shocked that the Minister for Gaming and Racing would take advantage of Parliament to rub salt into their wounds. As I was saying, the Government's proposal will saddle Sydneysiders with a burden of \$86 million a year, which subsequently will guarantee large cost increases for water. A desalination plant is not the answer to Sydney's water shortages because it is too expensive and consumes far too much energy, but another aspect that has not received much attention is the insult this proposal presents to Aboriginal people. I cite what has been stated by Merv Ryan, a spokesman for the Dharawal Elders Group, in *Your Say*:

The New South Wales Government has shown its true colours towards Aboriginal culture and heritage. On the one hand they stand up and say that they're sorry to the Aboriginal people for past injustices and crimes against our people: On the other, they continue to pass development laws which will surely destroy more of our sites.

We have survived on this land for 60,000 years. In 200 years, through their industry and development, they have destroyed and continue to destroy more of our history.

They say that desalination is 'a critical infrastructure' to them. Well, our sacred and heritage sites are certainly 'critical infrastructures' to us.

If the NSW Labor Government can get away with it here, there is nothing to stop it happening to all of us in all States and Territories.

It's time to make a stand and let the Labor Government know that our heritage is more sacred to us than a desalination plant, or any other infrastructure.

Show the Labor Government that we are one people and let them know that we won't cop any more.

This is a serious matter. Taken in conjunction with a number of other factors, the points made by Merv Ryan are a good reason to say "No" to the desalination plant, which will result in further degradation of the Kurnell peninsula. Kurnell is an area of significant importance to both modern Australians and our Aboriginal brothers. The Government's proposal will turn Kurnell into an industrial theme park. The desalination plant will be at least twice as expensive as recycling. Moreover, water and electricity costs will increase and there will be an increase in greenhouse gas emissions. When I asked representatives of Sydney Water who addressed a council meeting whether they could name one independent expert or academic who supports the construction of the desalination plant, the question had to be taken on notice. I advise the Government to visit the web site of the

Australian Institute. The institute has found that the plant will increase the cost of water by approximately 300 per cent and that its environmental impact will be equivalent to having 220,000 additional cars on the roads.

### EYES ON TIBET—YUNNAN 2005 MISSION

**Mr JOHN MILLS** (Wallsend) [5.52 p.m.]: In the last week of July, between two reportedly sparkling and sunny Sydney weekends, 22 remarkable New South Wales people comprising doctors, nurses and health professionals took part in the Eyes on Tibet—Yunnan 2005 mission. They performed 312 cataract operations in five days in remote areas of Yunnan Province in China, at Jinping in the south, which is close to the Vietnam border, and Weishan in the west. The operations were performed on patients who could not afford such operations in China. Most could not afford the bus fare to their nearest hospital and most were from ethnic minorities. All the professionals provided their services free of charge. I reiterate that there was no charge and I congratulate these outstanding medical people on, first, their humanitarian spirit; second, their generosity in giving their time and their talent; and, third, their commitment to the finest tradition of health professionals in restoring sight to those who could not see and who, because of their poverty, were most in need.

I urge honourable members to take great notice of this example of the good works, charity and social conscience of these New South Wales specialist doctors, nurses and other health professionals. We should cite the positive example of the Eyes on Tibet mission to counterbalance negative comments about health workers. The mission was organised by the Australian Council for the Promotion of Peaceful Reunification of China [ACPPRC], whose president, Mr William Chiu, also served as mission president. Approximately \$A350,000 was raised, mainly in Sydney, to cover the costs of the mission. The medical team gave their services free of charge. All necessary equipment was purchased here and taken to Yunnan. Later it was left behind to assist ongoing health services in remote areas of China.

This is the third successive year in which an Eyes on Tibet mission, organised by the ACPPRC, has successfully restored sight to impoverished people in remote regions of China. Two previous missions were carried out in Tibet and Sichuan Province. The former Premier and Minister for Citizenship, Bob Carr, recognised the humanitarian and generous nature of this project by launching the first mission and opening a photographic exhibition in Parliament House on the mission's return. But the heroes of the mission are the members of the medical team who come from Sydney and regional New South Wales. There were seven eye surgeons from New South Wales. The chief surgeons were Dr Kerrie Meades of Sydney and Dr Lisa Cottee of Lismore. The honourable member for Lismore, who is in the Chamber, would probably know Dr Cottee. The surgeons from Sydney were Dr David Ng, Dr Christopher Brown, Dr Geoffrey Painter, Dr Michael Newman, and Dr Gary Schiller from Taree-Forster. The other doctors were Dr David Scott, an anaesthetist from Lismore, and Dr Alf Schebesta, an anaesthetist from Sydney. General practitioners who were members of the medical team were Dr Ven Tan and Dr Tony Goh from Sydney.

There were 11 nurses and professional staff who also were members of the team and they were Ms Patricia Quah, a nurse from Sydney; Ms Rosita Ang, an administrator from Sydney; and Mr Seng Quah, an engineer and instrument specialist from Sydney. Other team members were Ms Beverley-May Sainty-Jones, a nurse from Sydney; Ms Michelle Courtney-Harris, an orthoptist from New South Wales; Ms Kath Mears, a nurse from Taree; Ms Deborah Yu, an optometrist from Sydney; Ms Maggie Chen, a nurse from Taipei; Ms Michelle Johnson, a nurse from Sydney; Ms Melinda Kremer, an orthoptist from Taree; and Ms Kerry Legg, a nurse unit manager from Sydney.

In addition, three specialist surgeons and one specialist nurse from China joined the operating team: Dr Lin Ray-Ann from Taipei, Dr Wu Lei from Chengdu, Dr Cha Guo-Ming from Weishan People's Hospital in China and Ms Zhou Li, a nurse from Chengdu. It is important to thank the people who were members of the team appropriately. Other nursing and support staff from Weishan and Jinping hospitals assisted in the operations. I applaud the generosity of those who donated the much-needed funds. The budget for Eyes on Tibet—Yunnan 2005 included the supply of the latest medical equipment and all the consumable items that were taken on the mission, the pre-operation and post-operation check-ups, hospital accommodation and transport for patients, and air fares and accommodation for the medical team.

Funding for the Eyes on Tibet—Yunnan 2005 mission has been sourced from generous donations by Austcorp, Keddiess, Medlab, Alcon Laboratories, Click Press and other business and individual supporters, from fundraising dinners and appeals in both Australia and overseas. Supporters included members of the Asia-Pacific Friendship Group of this Parliament. I take this opportunity to acknowledge the co-organisers of the mission, the Overseas Chinese Affairs Office of the State Council of the People's Republic of China and the



organisers, the ACPPRC, the Yunnan Provincial Committee of Chinese People's Political Consultative Conference and the National Committee for Hong Kong, Macao, Taiwan and Overseas Chinese of the People's Political Consultative Conference. I say, "Well done!" to these generous and humanitarian people for saving the sight of poor people in China.

**Mr GRANT McBRIDE** (The Entrance—Minister for Gaming and Racing, and Minister for the Central Coast) [5.57 p.m.]: I support the comments made by the honourable member for Wallsend and commend him on bringing to the attention of the Parliament the great humanitarian work carried out by a team of volunteer medical practitioners comprising doctors, nurses, technicians and others who provided great humanitarian service to our neighbours. I emphasise the importance of the mission in building better relationships between Australia and countries in Asia. That is an element that is often neglected. I know from personal experience in Asia that Australia's humanitarian aid attracts enormous credit and creates enormous goodwill toward Australia which transfer to Australia's bilateral relations with Asian countries and bodes well for relationships with them in the future. I ask the honourable member for Wallsend to pass on my congratulations to all members of the mission who made the journey on behalf of Australia to provide great service to people of another country.

### TRIBUTE TO MR BRINOS NOTARAS

**Mr STEVE CANSDELL** (Clarence) [5.59 p.m.]: I draw the attention of the House to the tragic death of Mr Brinos Notaras, one of the leaders of hardwood timber production on the North Coast. Mr Brinos Notaras, a man of integrity, honour and substance, passed away two weeks ago in an accident on the Pacific Highway, Woolgoolga. Last Monday, Brinos was buried at Christ Church Cathedral, Grafton. The service was attended by a huge crowd, an acknowledgement of his greatness. Brinos was born in Grafton in 1930, the elder son of Jack and Muriel Notaras, who were Greek immigrants and local business people. The family began business in Grafton with a fruit shop which they later expanded into a restaurant and milk bar. In 1927 the family built the Saraton Theatre, "Notaras" spelt backwards, in Prince Street, Grafton. That theatre is a rare surviving example of a two-level cinema, and still operates despite three fires, two renovations and threatened demolition.

After Brinos' early schooling in Grafton he—and later his younger brother, Spiro—were sent to boarding school at Sydney's Newington College, where their love of sport saw them excel in the school community. Brinos was a member of the Newington College rowing team when it won the Head of the River regatta in 1947, and he was a front-row forward in the college's open rugby team. Brinos was an all-round sportsman. After leaving school, Brinos played first grade rugby union in Brisbane. He then played league for the Grafton Waratahs in the Upper Clarence competition. Finally, along with his younger brother, Spiros, he joined the Ulmarra Ramblers rugby club, which became the United Rugby League Club. In those days, everyone knew that if one of the Notaras brothers was picked for a football team, the two of them would be taken on.

In 1952 both brothers joined the Woolgoolga Surf Live Saving Club. In 1955 Brinos was part of the Woolgoolga surfboat rowing Open A crew. The team comprised Brinos as stroke, Bruce Judd in number two, Ted Wolters in number three, Spiro rowing the bow and Billy Miller as the sweep. However, there was one drawback: Brinos, Bruce, Billy and Spiro could hardly see without their glasses, which left most of the lookout work to Ted. The team always performed competitively, especially against the crews from Yamba. In 1951 Brinos and Spiro, with the help of their father, Jack, bought the Lawrence Sawmill from Vic Latham. The brothers went to work there, learning about the timber trade from long-time employee Col McPherson. So began a long involvement with the timber industry.

Later investments were the Yamba Picture Theatre and the T. B. Timms mill at South Grafton. Brinos was totally dedicated to the hardwood timber industry. He was driven by the pursuit of perfection to the finest detail in everything he did. That pursuit required continual development of new business, products and processes. He carried out everything with an unrelenting commitment to quality and honesty, and with loyalty to everyone with whom he dealt. His workers and friends were treated as family from start to finish and, in return, he secured their loyalty. Brinos was always outspoken on what he believed and treated his staff with respect. Nothing gave him more pleasure and satisfaction than knowing his employees were getting ahead.

The Notaras' business has survived all the forest assessments over the past 30 years, when many have faltered. At every setback they found a new approach and continued to develop business on whatever resource they could secure. Dealings with Forests NSW were always interesting, taking 1½ hours, or two hours if price was involved. Bom Bom was always a bone of contention. After two hours with Brinos, Forests NSW was struggling to get out of the gate and agreeing to conditions. A former Forests combatant expressed his feelings in this way:

For me, Brinos's professional legacy is not only about the innovative and successful business you created together but also about the positive impact Brinos had on the people around him. I have met few people with the character, humour and passion of Brinos, he is and will always be an industry icon.

When things were getting tough, Brinos was always the one who started looking for overseas markets. When the Bom Bom industry could not get rid of spotted gum, he sold it to Japan, which used it for boardwalks, local bridges, train stations and golf clubs. Brinos led the industry by a country mile in value adding to hardwood production. He stands alone in that success. Brinos has left his mark and his character as the supplier of unique North Coast timbers throughout Australia. His place in the heritage of Australia's forests is carved permanently in spotted gum from Bom Bom. Brinos Notaras's love for his family was immeasurable. The smile on his face as he spoke about his youngest granddaughter, Molly, was priceless. He will be sadly missed by his wife, Joan, and their daughters Alexandria, Elizabeth and Marina and their families, as well as everyone in the Clarence Valley. As I said earlier, Brinos was a man of integrity, courage, passion and substance.

### DUBBO ELECTORATE LAW AND ORDER

**Mrs DAWN FARDELL** (Dubbo) [6.04 p.m.]: I speak tonight about something that has become all too common across New South Wales, and I ask, "Who is responsible?" Masses of normal, well-adjusted and hardworking people in our society live in a constant state of fear and worry. Most at risk, and vulnerable to these fears, are the elderly and the single mothers who cannot seek refuge or safety in their own homes behind bar-clad windows or security alarms. Since coming to this place to represent the people of the Dubbo electorate, I have been stunned to witness the constant stream of constituents coming to my office, pleading for assistance to move from their current environment, where they live in fear. The people have approached me because they are frustrated with the system and their treatment by government departments and agencies, and they have nowhere else to turn. No doubt fellow members are having the same experience. This environment of fear has been reflected in the recent results collated from a crime survey that I posted to my constituents.

The response was overwhelming. Many people took the time to detail harrowing, graphic and often violent experiences of their own. There were suggestions on how to curb crime and many more residents indicated they were just grateful that someone had taken the time to seek their opinion. And those harrowing experiences? I ask other members to consider the following and not to be surprised if many of these points sound familiar: keeping your home locked day and night for fear that someone will come in uninvited; going to bed each and every night to find that sleep evades you because you worry about your safety; wandering your home routinely, checking locks, windows and doors; constant nagging thoughts about what you will find in the morning, what damage will be done; stress and worry about your children's safety, whether they are coming home from school or simply doing something like normal kids do, visiting their friends; will they be bashed, have rocks or bottles thrown at them or be threatened?

This becomes a particular worry if you have a daughter or elderly female neighbour. Will she be harassed, threatened with rape by packs of young men or be confronted by a pack of young women and have broken bottles or knives shoved in her face? Do you have fears of even leaving your home to do something as simple as shopping amid worries you may return to find your home damaged or burnt to the ground? Have you ever received advice not to purchase something new because you know it will be damaged or stolen? Have you had your fence kicked in or pushed over, your plants uprooted, stolen or smashed? Do your front or back doors get kicked in and do you insist that grandchildren do not visit or sleep over for fear of being exposed to this? Have you been abused for just walking around your own backyard? Have you heard raised voices on your street of fighting, yelling or swearing? Do gangs of youths attack each other and police with bottles, rocks, bricks or sticks?

Have you heard the sounds or caught a glimpse of people jumping over your fence, walking through your back or front yard screaming abuse, threats or taunts? Do you question why your once- friendly neighbourhood or street has almost turned into a war zone, slum or dumping ground? Do you see piles of rubbish become bonfires in the middle of the road? Does the rubbish then become a steady supply of ammunition or missiles to throw at police, firefighters, and other service personnel? Is there always an element of concern about new faces in the street, those known to have dangerous criminal backgrounds? Has that spirit of togetherness abandoned your community? Has all hope of fighting back vanished?

These questions are asked by not only the residents of Dubbo but by countless others around New South Wales. The residents of my electorate say, "Enough is enough". That once safe and secure lifestyle can be brought back, we can once again find a semblance in normality of everyday life, but before that can happen, serious law and order problems must be addressed and the perpetrators made accountable, regardless of age or

circumstance. Channel Nine's *A Current Affair* and host, Ray Martin, recently aired a segment about an uncontrollable youth who refused to attend school. That posed the question about just who is responsible. Although the segment lasted only 10 minutes, these serious questions are continuing. In a perfect world, parents are responsible, but, sadly, many find it difficult to look after themselves for various reasons, sometimes because of drug or alcohol abuse or a lack of education or life skills. We are now experiencing a third generation, who, when they are as young as five, are staggering down that same path towards self-destruction.

In my electorate, progress is being made: a small sliver of light is being seen at the end of a very long tunnel. As a result of intense lobbying and encouragement from me and the local police commander, Superintendent Stuart Smith, at last local representatives of government departments and agencies are meeting on a regular basis to case-manage clients. However, resources are needed to make that a daily occurrence. As one constituent stated to me, we need action and attention, not paper shuffling. All members of this Parliament must take responsibility to amend laws and provide a safe and secure environment in which to live. I recall that the Summary Offences Act protected citizens from the situation we are experiencing today.

Why is it that we should just take for granted that we will be sworn at or abused while on the streets and hear parents chastise or abuse their children in a foul manner. We parliamentarians are responsible, regardless of political belief or ideology. We should not bend to the whims of a few. A few years ago, when I was watching my children play, I reflected with a close friend, a magistrate's wife and qualified solicitor, that I should have had my children earlier in life so I could play with them more often. Her reply was, "Dawn, they need a mother, not a sister." It is with those accounts in mind that I encourage all honourable members to support the tough measures needed to ensure all children attend school. Those who are responsible are the decision makers, bureaucrats and politicians. Many issues contribute to crime. However, the only way in which we will be effective in fighting crime is to take on the responsibility and work together. There should be no more talk. The community in New South Wales wants action.

**Mr GRANT McBRIDE** (The Entrance—Minister for Gaming and Racing, and Minister for the Central Coast) [6.09 p.m.]: I commend the new member for Dubbo for her passion and commitment to her local electorate. As she pointed out, problems relating to young people and to domestic violence at home are being experienced right across the State. Those problems are being experienced in my area and in every electorate throughout New South Wales. The honourable member pointed out accurately that it is not a party issue; it is a parliamentary issue that affects us all. I commend the honourable member for her comments and for her determination to achieve results. She is leading the charge in her electorate.

### **PACIFIC HIGHWAY TASK FORCE**

**Mr ROBERT OAKESHOTT** (Port Macquarie) [6.10 p.m.]: Tonight I refer to an important task force—the Pacific Highway task force—which has been established in the mid North Coast and North Coast areas of New South Wales. Out of despair and frustration the 26 councils representing communities along the Pacific Highway and other areas established this task force. Those 26 councils comprise Newcastle City Council and the Mid North Coast Group of Councils, which represents Gloucester, Great Lakes, Greater Taree, Port Macquarie, Hastings, Kempsey, Nambucca, Bellingen and Coffs Harbour councils, and the Northern Rivers Regional Organisation of Councils, which represents Ballina, Lismore, Tweed, Richmond Valley, Clarence Valley, Kyogle, Richmond River and Rous Water councils.

In my opinion the importance of this Pacific Highway summit cannot be underestimated. I strongly endorse the work it is doing and I urge all honourable members, the Premier and the Minister for Roads and their Federal counterparts, the Prime Minister and the Federal Minister for Roads, to listen to the message of despair and frustration being conveyed by this bipartisan task force. It is saying that it wants the dual carriageway, as promised in the mid-1990s, to be completed. Some good roadwork has been done. Unfortunately, at the conclusion in 2006 of the Pacific Highway upgrade program, which was signed 10 years ago, less than 50 per cent of the Pacific Highway from Hexham to the Queensland border will be dual carriageway.

If we take into account all the crash data, fatality statistics and recommendations that were made by the country road summit we find one standout recommendation by Coroner Kevin Waller. Fifteen years ago he said in relation to the bus crash inquiry, "First and foremost we need a dual carriageway from Hexham to the Queensland border." Governments have not fully implemented the Coroner's recommendation. We now have fast and efficient dual carriageway sections of the highway combined with the old goat track about which everyone continues to complain. With the significant population increase in every coastal community has come an increase in traffic.

Along various sections of the Pacific Highway that have already been opened we have seen a significant increase in heavy road transport, in particular, the introduction of B-doubles, which has created a dangerous mix. That is why the Pacific Highway task force was formed. In my opinion it will achieve action one way or another. I hope action and results are achieved through sensible dialogue with both State and Federal governments. If no dialogue occurs and we do not achieve a sensible outcome, other options are available to us, such as rallying communities and exploring different political paths. In reporting on the second Pacific Highway summit held last Friday in Port Macquarie I flag this as of key importance to all communities on the North Coast of New South Wales. I ask the new Premier and Minister for Roads to receive a delegation from the Pacific Highway task force and to commence sensible dialogue so that the dual carriageway is completed in the shortest possible time frame.

**Private members' statements noted.**

*[Madam Acting-Speaker (Ms Marie Andrews) left the chair at 6.15 p.m. The House resumed at 7.30 p.m.]*

**SPORTING VENUES (OFFENDERS BANNING ORDERS) BILL**

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

**Second Reading**

**Mr TONY STEWART** (Bankstown—Parliamentary Secretary) [7.30 p.m.], on behalf of Mr Carl Scully: I move:

That this bill be now read a second time.

I am pleased to introduce the Sporting Venues (Offenders Banning Orders) Bill 2005. The purpose of this bill is to prevent violence and disorder at sporting events by establishing a sports banning orders regime in New South Wales. These orders will provide for a court to ban persons from attending or being near specific sporting venues where they have been found guilty of certain offences involving violence and disorder at or in connection with certain sporting events. For many of us sport is part of a way of life. Families and individuals enjoy going to sporting events. We do not appreciate the kind of hooligan behaviour that was demonstrated earlier this year during riots at several soccer matches. This kind of behaviour also drags down the public image of great sporting codes, and none of us wants that.

In two separate incidents occurring in March and April 2005, supporters from soccer teams Sydney United and Bonnyrigg White Eagles were involved in violent confrontations using flares, fence palings, fireworks and pipe bombs. To date, persons have been charged with offences including riot, violent disorder, assault police and offensive conduct. In response to the riots, Soccer New South Wales conducted an independent inquiry chaired by Mr Stepan Kerkyasharian. The inquiry's report has now been released and tabled in Parliament. It was good to see that Soccer New South Wales acknowledged the importance of dealing effectively with the hooligan element. The report makes the recommendation for legislative change—proposing that legislation be enacted covering all sports and applying only to venues where an admission fee is charged to an enclosed area—which permits persons to be banned from future matches. This bill represents an important step towards dealing with the hooligans. It will act as a deterrent to people who may become violent at sporting fixtures. When persons are banned, it adds a further deterrent because if they breach a ban, it is a criminal offence.

I would now like to discuss the bill in more detail. Clause 4 of the bill provides for a court to issue an order banning persons from a sporting event if they are found guilty of a sporting event offence, in addition to any other penalty that may be imposed for the offence. Sporting event is defined in clause 3 as a sporting event at a venue for which an entry fee is charged or for which club membership is required. Therefore, this bill does not affect kids playing school sport at the local playing field. Sporting event offence is defined to include a range of offences. These include actual or threatened violence, riot and affray; serious racial vilification pursuant to section 20D of the Anti-Discrimination Act 1977; possession or use of an offensive implement as defined in section 11B of the Summary Offences Act 1988; and malicious damage to property. Clause 4 also provides for a court to issue a ban if it is satisfied it will help prevent violence and disorder at or in connection with a sporting event.

Violence is defined in clause 4 to mean violence against persons or property, including threatening violence and behaviour that endangers the life of any person. Disorder includes the inciting of hatred against an

individual or a group of persons in reference to colour, race, nationality and ethnic or national origins; the use of threatening words or threatening or abusive behaviour; and the displaying of any writing or other thing that is threatening or abusive. Clause 5 provides that a banning order may prohibit the person from entering or coming within the immediate vicinity of any sporting venue and/or any matches of a certain class of any sporting venue, as specified in the order. Clause 6 provides that bans will have a maximum duration of five years for the first ban, and for any subsequent bans a maximum duration of 10 years. If a banning order is made in addition to a sentence of imprisonment by way of full-time detention, the court may order that the banning order is to commence on the person's release from detention.

Clause 7 provides for a ban to be appealed at the time it is made as part of the general appeals process. The appeal can go to the issue of the ban per se, or to its duration or other terms. Clause 8 provides that once a banning order has been in place for two-thirds of its duration, the person subject to the order may apply to the issuing court to revoke the ban. In determining this application, the court must have regard for the person's character, the person's conduct since the ban was made, the nature of the offence which led to the ban, and any other circumstances which appear relevant. Where such an application is made and refused, no further application may be made for a period of six months.

Clause 9 provides that it is an offence for a person to contravene a banning order. The proposed offence carries a maximum penalty of six months imprisonment and/or a 50 penalty unit fine. Clause 12 provides that the Minister is to review the Act after a period of five years, to determine whether its terms and objectives remain appropriate. A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the five-year period. The Government is satisfied that the objectives of the bill are required to be met by legislation. It is considered that a sports banning orders regime will act as a significant deterrent for those who may consider disrupting games by violent or offensive means. For this reason, I commend the bill to the House.

**Debate adjourned on motion by Mr Daryl Maguire.**

#### **STANDARD TIME AMENDMENT (DAYLIGHT SAVING) BILL**

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

#### **Second Reading**

**Mr BOB DEBUS** (Blue Mountains—Attorney General, Minister for the Environment, and Minister for the Arts) [7.39 p.m.]: I move:

That this bill be now read a second time.

The Standard Time Amendment (Daylight Saving) Bill serves two main purposes. First, the amendments provide for an extension of the daylight saving period for 2005-06 by one week. Honourable members will be aware that Victoria will host the eighteenth Commonwealth Games, in Melbourne in 2006. The Games commence on Wednesday 15 March and finish on Sunday 26 March 2006, which is the date the daylight saving period would normally end. To ensure the Games and associated events can be completed with minimal disruption, the Victorian Premier, the Hon. Steve Bracks, has requested that New South Wales join Victoria in extending daylight saving by one week to Sunday 2 April 2006.

Five years ago New South Wales had the privilege of hosting the Olympic Games and Paralympics. At that time Victoria demonstrated its support and co-operation by agreeing to commence daylight saving approximately two months earlier than usual. The New South Wales Government is happy to reciprocate. The extension of daylight saving by one week in 2006 will have a minimal impact on businesses and families. Positive benefits will flow from the Games, including an increase in the number of tourists visiting New South Wales.

The other principal purpose of the bill is to provide for a more flexible means of adopting any future changes to the daylight saving period. The bill does not alter the current daylight saving period. However, the proposed amendments provide that future changes to the daylight saving period may be made by regulation. Presently, the Standard Time Act must be amended whenever a change to daylight saving is needed to accommodate a major event. That is neither an efficient use of Parliament's time nor a very practical way of addressing the situation. Under the Australian Capital Territory legislation the daylight saving period may be fixed by declaration by the relevant Minister. In Victoria it may be fixed by the Governor in Council. A similar approach could be adopted in New South Wales, but the Government considers that setting the daylight saving period by regulation is preferable.

The regulatory impact process means that an assessment of any proposed changes to the daylight saving period would be undertaken. The public and peak industry bodies would be given the opportunity to comment on the proposals. Any regulation proposing a change to the daylight saving period would be subject to parliamentary scrutiny and possible disallowance. The proposed change is the practical measure and will ensure that New South Wales can respond appropriately to new developments, which may require a change to the daylight saving period.

The bill provides for one other change in the nature of statute law revision. The Standard Time Act presently allows the Governor to specify the standard time for Lord Howe Island by order published in the *Government Gazette*. Since 1989 the daylight saving time for Lord Howe Island has been fixed by order at 30 minutes in advance of standard time instead of one hour in advance of standard time. The amendment in the bill simply reflects this now longstanding position. I commend the bill to the House.

**Debate adjourned on motion by Mr Daryl Maguire.**

## **DEFAMATION BILL**

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

### **Second Reading**

**Mr BOB DEBUS** (Blue Mountains—Attorney General, Minister for the Environment, and Minister for the Arts) [7.44 p.m.]: I move:

That this bill be now read a second time.

The Defamation Bill will repeal and replace the Defamation Act 1974. Before I proceed to outline the bill's main provisions, I would like to spend a few moments reflecting on the vital role that defamation law plays in our society. There are basically three groups who find defamation law exceptionally interesting and exciting. They are public figures, major broadcasters and publishers, and, of course, lawyers. The reason they become so excited is that they are usually the main protagonists and may stand to win, lose or earn hundreds of thousands of dollars from defamation cases.

The rest of the community could be forgiven for thinking defamation law is largely irrelevant and does not impinge on day-to-day life in any meaningful way. But such a view would be profoundly mistaken. Put simply, defamation concerns the publication of material to a third person that harms the standing or reputation of another. Anyone who writes a letter or a book, who uses email, chats over the Internet or publishes a blog can potentially face an expensive civil suit if he or she is careless with his or her comments. Defamation law is the point at which two very important interests intersect. On the one hand there is society's interest in freedom of expression and, on the other, there is the individual's interest in protecting his or her reputation from unwarranted attack. Both of these interests are recognised in a host of international instruments, including the International Covenant on Civil and Political Rights. Article 17 of that covenant states that no-one shall be subjected to " ... unlawful attacks on his honour and reputation" and "everyone has the right to the protection of the law against such ... attacks". Article 19 of the International Covenant on Civil and Political Rights states:

Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

Article 19 also recognises that the right to freedom of expression is not absolute and may be subject to laws that are necessary to respect the reputations of others. In Australia the right to reputation is primarily protected by State and Territory defamation laws. There is no similar discrete law protecting the right to freedom of expression, though the defence is available under defamation law to some extent to fill this gap. Importantly, too, the High Court of Australia has found that there is implicit in the Australian Constitution a freedom of communication with respect to political or governmental matters.

The defamation laws in each Australian jurisdiction have progressively diverged since the mid-nineteenth century. This situation was tolerable while publications were largely confined within State and Territory borders. But it became both frustrating and ridiculous once those borders metaphorically collapsed. During the latter half of the twentieth century the most astounding developments in information technology completely revolutionised the way we communicate. Once, handwritten letters had to be sent by ship to friends

and loved ones in other States and countries. Later, the telephone helped to bridge the distance—albeit from a fixed phone on a kitchen wall or table. Now, it is commonplace for material to be simultaneously published across the nation, and indeed across the planet. The Internet makes it possible for individuals as well as major corporate publishers to transmit information and misinformation—both truth and lies—to potentially vast audiences.

The Standing Committee of Attorneys-General [SCAG] acknowledged the need to bring the State and Territory laws back into alignment, and tried for some 25 years to achieve that objective. However, there were always several obstacles in its way. For a start, the relevant laws in each jurisdiction were drafted in different centuries. Secondly, some States had codified their law, while others relied more heavily on the common law. Finally, there were protracted disagreements about some aspects of the law. SCAG had all but given up on uniform defamation law until—if I may say so, Mr Deputy Speaker—I arranged for the matter to be reinstated on its agenda in July 2002. Substantial agreement was reached fairly quickly on the core principles that would form the basis for the new model provisions. These were then developed and refined through considerable negotiation and consultation.

The proposed framework for State and Territory uniform defamation laws was released for public comment in July 2004 and received considerable support from key stakeholders. This was followed by the historic endorsement of the model provisions by the State and Territory Ministers in November 2004. When enacted, the model provisions will bring an end to the substantive differences that have made Australian defamation law needlessly complex. For the first time people who publish or broadcast on a national basis will consider just one defamation law, not eight. This new law will ensure that personal reputation is given due respect and protection but at the same time ensure that freedom of expression is also properly safeguarded.

I will now turn to the main provisions of the bill. As I said, the Defamation Bill repeals and replaces the current Defamation Act 1974. Essentially, the bill retains some of the best features of the present New South Wales Defamation Act 1974, jettisons some of its more problematic provisions, and introduces some worthwhile reforms. Part 1 sets out some of the definitions used in the bill, as well as its proposed objects. In brief, these objects are to promote uniform laws of defamation in Australia to ensure that defamation law does not place unreasonable limits on freedom of expression, to provide effective and fair remedies for people who are defamed, and to promote speedy and non-litigious dispute resolution. The present New South Wales Defamation Act contains a very similar statement of objects. The only essential difference between the existing and proposed objects is the reference to enacting provisions to promote uniformity in Australian defamation laws.

Part 2 sets out the general principles of the proposed law. Clause 6 makes it clear that the new Act will not displace the general law in relation to the tort of defamation. The general law will continue to apply, except to the extent that the new law provides otherwise. Most importantly, the common law test for determining what is defamatory is preserved by the bill. This is the way the law currently operates in New South Wales. Clause 7 preserves the existing law in New South Wales by abolishing the distinction between libel and slander. Clause 8 will bring a significant but very welcome change to New South Wales law. Under the present New South Wales law each defamatory imputation or meaning gives rise to a separate cause of action. In all other jurisdictions it is the publication of defamatory matter that gives rise to the action. In a speech to university students some years ago the former Supreme Court defamation list judge, the Hon. Justice David Levine, RFD, lamented the "excruciating and sterile technicalities" that result from making the imputation the cause of action. His Honour said:

Fortnight after fortnight I have to deal with arguments concerning whether a pleaded imputation is proper in form and is capable of arising from the relevant publication ... The amount of the court's time, let alone litigants' resources, expended profligately in the determination of what words, sentences and phrases mean is positively scandalous; and this is at the initiation of proceedings ... Matters of principle have been elevated to an obsessive preoccupation, the playthings of forensic ingenuity, fantasy and imagination at the expense of the early, quick and cheap litigation of real issues that affect the people involved in libel actions ... The question is not simply what does a publication mean and whether what it means is defamatory. The jury has to determine, in the no doubt novel environment for the jurors of the courtroom and the jury room, whether the words that constitute the imputation carefully crafted by lawyers are in fact carried by the publication complained of to ordinary reasonable people.

Clause 8 will finally put an end to the needless complexity that His Honour described. Clause 8 reflects the position at common law by making it clear that it is the publication of defamatory matter that is the basis for a civil action for defamation. Both the New South Wales Law Society and the New South Wales Bar Association strongly support this long-awaited change.

Clause 9 concerns the right of corporations to sue for defamation. The submissions received by the State and Territory Attorneys General on this issue overwhelmingly supported the complete ban on corporations suing, or allowing only non-profit organisations to sue. The simple fact is that corporations are not people and

they do not have personal reputations to protect. Their interest is purely commercial. The commercial reputations they enjoy are often the product of expensive marketing campaigns and there are other legal actions, including actions for injurious falsehood, that corporations can take to defend their interests.

The Commonwealth's preferred position is that all corporations, regardless of size, power and wealth should have the right to sue. While the State and Territory Attorneys General found this proposition to be unacceptable, in a spirit of compromise we agreed to a small business exemption. Consequently, clause 9 provides that small businesses with fewer than 10 employees may sue for defamation. This is the current law in New South Wales. Clause 9 clarifies that small businesses related to other businesses in terms of section 50 of the Commonwealth Corporations Act 2001 are not able to sue. The Commonwealth definition of a related body corporate includes both a subsidiary and a holding company of another body corporate.

Clause 9 also makes it clear that not-for-profit organisations, such as charities, will have standing to sue for defamation. These types of organisations are less likely to be identified with particular individuals and are less likely to have the resources to pursue alternative remedies. I must stress that the bill does not preclude an individual who is a member, officer or employee of a corporation, regardless of its size, from suing for defamation if they are personally defamed. Clause 10 preserves the existing position at general law by precluding actions for defamation in relation to or against dead people.

The bill also includes a "choice of law" rule. While the bill implements a uniform scheme, the State and Territory Ministers considered a "choice of law" provision would nonetheless be desirable. The provision in clause 10 will help courts decide which State or Territory law should apply when defamatory matter is published wholly in one jurisdiction or in more than one jurisdiction. If the matter is published in one jurisdiction only, the relevant substantive law will be the law of that jurisdiction. If the matter is published in several jurisdictions, the relevant substantive law will be the law applicable in the jurisdiction with which the harm occasioned by the publication has its closest connection. In working out the jurisdiction of closest connection, the court will consider a range of factors, including where the plaintiff ordinarily resided, the extent to which the matter was published in each jurisdiction, and the extent of the harm sustained by the plaintiff in each jurisdiction.

Although, as I have said, the bill will implement a uniform defamation law regime in the Australian States and Territories, a "choice of law" rule will still have some work to do. For example, it will allow a court to take into account whether a particular State or Territory has a unique provision in another law which protects a public authority from civil liability for actions taken in good faith and in the exercise of their statutory functions.

Part 3 re-enacts, with some drafting and other minor modifications, part 2A of the New South Wales Defamation Act 1974. This part sets up a procedure whereby parties may make and accept "offers of amends" to avoid expensive civil litigation. A publisher who makes a reasonable "offer of amends" may get the benefit of a defence to any subsequent defamation action. Failure to make or accept a reasonable offer may also attract cost penalties. The "offer of amends" procedure may be used instead of rules of court or other laws that relate to payment into court or offers of compromise. This is important because these types of provisions tend to be available only once litigation has started. It is also significant that the "offer of amends" procedure does not preclude the making or acceptance of other settlement offers. This ensures that parties have every conceivable opportunity to settle their differences before proceeding to trial.

As part 3 essentially re-enacts part 2A of the existing Act, I will not go through it clause by clause. There are just a few changes that I would like to highlight. The first is that the publication of an apology will no longer be a mandatory component of an offer of amends. This should encourage more publishers to use the "offer of amends" procedure, particularly where a publisher believes that the matter published was both truthful and fair but wishes to settle the case without an expensive hearing. While an apology will be an optional component of a valid offer of amends, a published apology will still be relevant to a court's determination as to whether an offer rejected by a complainant was reasonable.

Still on the subject of apologies, clause 20 expressly provides that an apology does not constitute an admission of liability. This is designed to encourage defendants to say sorry. Sorry is a singularly powerful word that is capable of vindicating a defamed person's reputation, and healing the hurt caused by an ill-conceived or careless publication. Clause 20 is in similar terms to section 69 of the New South Wales Civil Liability Act 2002. Another modification to the existing "offer of amends" procedure is that clause 14 allows publishers to seek further particulars from an aggrieved party. Without the ability to obtain further information, publishers could otherwise be forced to respond to very general assertions that their publications are defamatory. If



publishers are to take full advantage of the "offer of amends" provisions they will need to be able to frame offers that address the particular parts of publications that are alleged to be defamatory.

Part 4 of the bill deals with the conduct of defamation litigation. Clause 21 will allow either party to elect to have proceedings determined by a jury unless the court orders otherwise. The grounds on which a court may order otherwise include that the trial requires a prolonged examination of records, or the trial involves technical, scientific or other issues that cannot conveniently be considered by and resolved by a jury. Clause 21 will replace similar provisions in the District Court Act 1973 and the Supreme Court Act 1970.

Clause 22 sets out the respective roles that judges and juries will play in defamation actions. Under the existing law in New South Wales, the respective roles of the judge and jury are set out in section 7A of the Defamation Act 1974. That section states that the judge decides whether the matter complained of is reasonably capable of carrying the imputation pleaded by the plaintiff; and whether the imputation is reasonably capable of bearing a defamatory meaning. The jury decides whether the matter complained of carries the imputation and whether the imputation is defamatory. If the jury decides in the affirmative, the judge decides whether the defendant has established a defence, and the amount of damages.

Clause 22 of the bill makes it clear that the jury will decide whether a matter complained about is defamatory, and whether any defences have been established. This expanded role for juries will bring New South Wales back into line with the law in other jurisdictions. It will also put an end to separate section 7A trials in New South Wales which have proved to be increasingly unpopular, as I have previously said, with judges, litigants and their legal representatives. Clause 22 provides that the judge will continue to determine issues such as whether an occasion is one of absolute or qualified privilege, and will be solely responsible for determining damages. Clause 23 provides that the leave of the court is required for further proceedings for defamation to be brought against the same person in respect of the publication of the same or like matter. This essentially re-enacts section 9 (3) of the present Act.

Part 4 division 2 of the bill concerns defences to defamation actions. Clause 24 makes it clear that defences set out in division 2 are additional to any other defence available to the defendant, including those available under the general law. This clause also states that if a defence may be defeated by proof that the publication was actuated by malice, the general law will determine whether or not the publication was actuated by malice. Clause 25 sets out the defence of justification. It provides a defence to the publication of defamatory matter if the defendant proves the substantial truth of the defamatory imputations carried by the matter of which the plaintiff complains. That defence reflects the defence of justification at general law, where truth alone is a defence to the publication of defamatory matter.

Perhaps the single greatest obstacle to uniform defamation laws over the past 25 years has been the inability of the States and Territories to reach agreement in relation to the truth defence. At present, truth alone is a defence to defamation actions in South Australia, Victoria, Western Australia and the Northern Territory, as well as in England and New Zealand. In Queensland, Tasmania and the Australian Capital Territory it is necessary to prove both truth and public benefit. Only in New South Wales is it necessary to prove both truth and public interest. It is likely that our convict past had something to do with the abandonment by New South Wales of the common law defence of truth alone. The rationale for the common law defence of truth alone was put very succinctly in *Rofe v Smith Newspapers*, (1924) 25 SR (NSW) 4:

The reason upon which this rule rests ... is that, as the object of the civil proceedings is to clear the character of the plaintiff, no wrong is done to him by telling the truth about him. The presumption is that, by telling the truth about a man, his reputation is not lowered beyond its proper level, but is merely brought down to it...

The common law position means that a person is not entitled to receive compensation, which could of course be hundreds of thousands of dollars, merely because something truthful about them has been published. It also means that a person cannot be held legally liable and forced to pay damages merely for telling the truth. This does not mean, however, that the defence of truth, or justification as it is known, is easy to establish. Defendants are much more likely to invoke other defences, such as fair comment or honest opinion, where the truth of the publication is not the central issue. This is because when the defence of truth is invoked, the defendant has the onerous task of proving to the satisfaction of the court that the allegedly defamatory statement was, in fact, true. For this reason—I emphasise this point—I fully expect that the proposed change to the law will pass largely unnoticed. It will continue to be the case that publishers will risk significant liability if they publish defamatory material that they cannot prove to be substantially true, as defined in clause 4.

Clause 26 provides for a defence of contextual truth. There is already a defence of contextual truth under the existing New South Wales Act. The purpose of the defence is basically to prevent plaintiffs from taking relatively minor imputations out of their context within a substantially true publication. Clause 27 provides that it is a defence to the publication of defamatory matter if the defendant proves that the matter was

published on an occasion of absolute privilege. These absolutely privileged occasions include: proceedings of parliamentary bodies, as defined in clause 4; proceedings of courts and tribunals, as defined in clause 4, including royal commissions and special commissions of inquiry; occasions of absolute privilege under corresponding provisions in other Australian jurisdictions; and the circumstances specified in schedule 1 to the bill.

The defence of absolute privilege recognises that, at certain times, society's interest in free speech must prevail over other considerations. It simply would not be possible to effectively perform judicial, legislative and other official functions without the freedom to make statements that might be defamatory in other contexts. The publications listed in schedule 1 were drawn from part 3 of the New South Wales Defamation Act 1974 and include publications by a range of bodies, including the Ombudsman, the Independent Commission Against Corruption, and the Police Integrity Commission.

Clause 28 sets out the defence for publication of public documents. It provides that it is a defence to the publication of defamatory matter if the defendant proves that the matter was contained in a public document or a fair copy of a public document, or a fair summary of, or a fair extract from, a public document. "Public document" is defined in the bill to cover a wide range of material including parliamentary reports, civil judgments and other publicly available material, including the documents referred to in schedule 2 to the bill. Clause 28 is equivalent to the defence set out in section 25 of the Defamation Act 1974 and schedule 2 essentially replicates the list of documents referred to in clause 3, schedule 2 to the Defamation Act 1974.

Clause 29 sets out the defences of fair report of proceedings of public concern. It is a defence to the publication of defamatory matter if the defendant proves that the matter was, or was contained in, a fair report of any proceedings of public concern. A defence is also available if the defendant proves that the matter was, or was contained in, an earlier published report of proceedings of public concern, and the matter was, or was contained in, a fair copy, summary or extract from an earlier published report, and the defendant had no knowledge that would reasonably make the defendant aware that the earlier published report was not fair. The term "proceedings of public concern" is defined in the bill to cover a wide range of proceedings including those of parliamentary committees, commissions of inquiry, law reform bodies, local councils, a range of corporate, professional, trade, sport and recreation bodies, as well as the proceedings of bodies referred to in schedule 3 to the bill.

Clause 29 is equivalent to the defence set out in section 24 of the Defamation Act 1974, and schedule 3 essentially replicates the list of proceedings found in clause 2 of schedule 2 to the Defamation Act 1974. I should also mention that clauses 28 to 30 facilitate a national defamation scheme by extending the defences in those clauses to publications and proceedings referred to in the schedules to corresponding State and Territory laws.

Clause 30 provides for a defence of qualified privilege. This is a particularly important defence, as it provides protection in a range of situations where there is a moral or legal duty to make what might otherwise be defamatory statements. Some typical examples include the reporting of suspected crimes to the police and the provision of employment references. Clause 30 is based on the provisions of section 22 of the New South Wales Defamation Act 1974. The clause provides that it is a defence to the publication of defamatory matter if the defendant proves that the recipient has an interest or apparent interest in having information on some subject; and the matter is published to the recipient, in the course of giving to the recipient information on that subject, and the conduct of the defendant in publishing that matter is reasonable in the circumstances.

Clause 30 lists a number of factors that the court may take into account in determining whether the defendant acted reasonably. The list is the same as that which is currently set out in the Defamation Act 1974, with a few minor modifications. The first is the substitution of the words "public interest" in place of "necessary" in the subclause that refers to expeditious publication. The second is the inclusion in the list of relevant factors one which relates to the business environment in which the defendant operates. Clause 31 provides for a number of defences relating to the publication of matter that expresses an opinion that is honestly held by its maker rather than a statement of fact. The clause distinguishes three situations, namely, where the opinion was that of the defendant, where the opinion was that of the defendant's employee or agent, and where the opinion was that of a third party.

In each case, the opinion must relate to a matter of public interest and it must be based on proper material. "Proper material" is defined in the clause to mean material that is substantially true, was published on an occasion of absolute or qualified privilege, or was published on an occasion that attracted the protection

afforded by clauses 28 or 29. The equivalent defence under the current law is found in division 7 of the Defamation Act 1974. Clause 32 sets out the defence of innocent dissemination. The proposed defence largely follows the defence of innocent dissemination at common law, which is the law that currently applies in New South Wales. Clause 32 states that it is a defence to the publication of defamatory matter if the defendant proves that the defendant published the matter in the capacity, or as an employee or agent, of a subordinate distributor—typical examples would be book sellers and librarians; the defendant neither knew, nor ought reasonably to have known, that the matter was defamatory; and the defendant's ignorance was not due to the defendant's own negligence.

The main difference between the proposed defence and the common law is that clause 32 seeks to accommodate providers of Internet and other electronic and communication services. These kinds of service providers will be treated as subordinate distributors, unless a service provider was, in fact, the author or originator of the defamatory matter, or had the capacity to exercise editorial control over the matter. It is simply not realistic to expect an Internet service provider, for example, to monitor the content of every transmitted item for potentially defamatory material. In a similar vein, broadcasters and operators of communication systems will not generally be liable for publications by persons over whom they have no effective control. Clause 33 sets out a defence of triviality. It provides a defence where the circumstances of the publication were such that the plaintiff was unlikely to sustain any harm. The equivalent provision is found in section 13 of the Defamation Act 1974.

Part 4 division 3 relates to the remedies available to successful plaintiffs. Like the current New South Wales defamation law, clause 34 requires there to be an appropriate and rational relationship between the harm sustained by the plaintiff and the amount of damages awarded. Under the general law, damages for economic loss are awarded to successful plaintiffs to compensate them for pecuniary loss, such as loss of income and, in the case of personal injury actions, any medical, rehabilitation and care expenses they have incurred or are likely to incur. Damages for non-economic loss, or general damages, are awarded to compensate plaintiffs for the less tangible harm they have suffered. For example, in personal injury actions, general damages compensate for pain and suffering. In defamation actions, damages compensate for injury to feelings and loss of esteem.

In defamation actions, once a court determines that a publication is defamatory, damage to reputation is presumed and does not have to be independently proved by the plaintiff. While economic loss may also be compensated, it is not usually claimed in practice. Recent changes to New South Wales civil liability law have imposed both thresholds and caps on awards of general damages in personal injury cases. In order to be eligible for the maximum award of damages for non-economic loss, which currently stands at \$400,000, it is likely that a plaintiff would need to show that they have been rendered quadriplegic or severely brain damaged and will be highly dependent on the care of others for the rest of their life. By way of contrast, in the recent case of *Sleeman v Nationwide News Ltd*, 2004 NSWSC 954, a journalist from the *Sydney Morning Herald* was awarded \$400,000 in damages basically because an article in *The Australian* conveyed the impression that he was a dishonest journalist.

While I have no doubt that false and defamatory statements are harmful, the fact is that reputations may be restored and injured feelings may pass after a time. The pain and suffering associated with an affliction like quadriplegia, on the other hand, will last a lifetime. The bill ensures that this glaring discrepancy in the way damages are awarded is addressed. The bill proposes an indexed cap of \$250,000 for general damages, retention of aggravated damages and abolition of exemplary damages, but no cap on economic loss. Aggravated damages may be awarded where the injury to the plaintiff has been exacerbated by the conduct of the defendant, for example, if the defendant has acted maliciously.

Exemplary damages have already been abolished in New South Wales and the economic loss that may be claimed under the New South Wales law is unlimited. Therefore, the only substantive change for New South Wales law is the proposed cap on general damages of \$250,000. This amount will be indexed on an annual basis by reference to the formula set out in clause 35. Clause 38 lists a number of factors that a court can take into account in mitigation of damages. These include whether the defendant has apologised or published a correction, and whether the plaintiff has already recovered damages in respect of a publication that carried the same meaning or effect as that complained of in the current proceedings. Part 4 division 4 relates to the award of costs in defamation proceedings.

Clause 40 allows the court to order costs on an indemnity basis if a party unreasonably failed to make or accept a settlement offer. The court may also have regard to the way in which the parties to the proceedings conducted their cases, including any misuse of a party's superior financial position. This provision is based on

the existing New South Wales law. Part 5 sets out a number of miscellaneous procedural matters, including provision for the new Act to be reviewed within five years from the date of assent. The bill also makes a number of consequential amendments to the law, which are set out in schedules to the bill. For example, the criminal defamation provisions that currently reside in the Defamation Act 1974 are to be moved largely intact into the Crimes Act 1900. There are some minor changes.

For example, the power of the court to impose a fine has been removed. As the explanatory note to the bill makes clear, the Crimes (Sentencing Procedure) Act 1999 already allows the court to impose for indictable offences fines of up to 1,000 penalty units, currently \$110,000, on individuals and 2,000 penalty units, currently \$220,000 on corporations. Another change made by the bill is that in future it will be the Director of Public Prosecutions rather than the Attorney General who will consent to proceedings for criminal defamation. The relevant limitation period provisions have also been updated, but are essentially unchanged. The limitation period will continue to be one year from the date of publication, extendable to three years if the court considers it was not reasonable in the circumstances for the plaintiff to have commenced the action in time.

The enactment of the model provisions by the States and Territories represents the first stage of what will be an ongoing reform process. This first stage has been concerned with bringing each of the State and Territory laws into alignment. Given that the existing defamation statutes span three centuries, this has been no easy task. Once all of the States and Territories have enacted the same basic law, we will be turning our attention to whether any further reforms might be necessary to ensure defamation law continues to keep pace with changes in society and technology. To this end, the State and Territory Attorneys General have agreed to enter into an intergovernmental agreement. This agreement will also ensure that uniformity is maintained between the jurisdictions in the years to come.

The model defamation provisions have now been introduced in South Australia, Western Australia and Victoria, with the rest of the Australian jurisdictions expected to follow shortly. For the first time in a century and half we have the realistic prospect of a national defamation scheme. Such a scheme is needed now more than at any time in the past and I strongly urge that it be supported. I commend the bill to the House.

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

## **PROTECTION OF THE ENVIRONMENT OPERATIONS AMENDMENT BILL**

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

### **Second Reading**

**Mr BOB DEBUS** (Blue Mountains—Attorney General, Minister for the Environment, and Minister for the Arts) [8.20 p.m.]: I move:

That this bill be now read a second time.

The Protection of the Environment Operations Act, introduced by the Labor Government in 1997, revolutionised pollution control legislation in this State. The Act replaced various outdated and overlapping pollution laws, some dating back to the early 1960s. It was introduced with the backing of industry groups, environment groups, local councils and the wider community. New South Wales now has modern, powerful, effective and innovative legislation, which deals with the complex environmental issues of today. It continues to be used as a benchmark for environmental legislation across and beyond Australia. In particular, the Act introduced streamlined, innovative licensing arrangements and the use of economic instruments such as load-based licensing, tradeable credits and financial assurances to complement existing environment protection measures.

These changes have ensured that New South Wales is well positioned for the coming years with respect to the protection of our environment and a prosperous economy. The Act has already resulted in the successful prosecution of hundreds of polluters, and has provided a creative set of powerful tools to fix pollution problems faster and more cheaply than before. We now have streamlined legislation that industry and the community can easily understand. Most importantly, air and water quality have both improved because of this landmark legislation. Sydney now has the cleanest beaches in more than a century, and a number of harmful air pollutants have been slashed.

Since 1999, the Act has been used to require polluting industry to invest over \$1.2 billion in pollution reduction programs, or PRPs as they are known. These programs are responsible for directly cutting air, water

and noise pollution. In 2004-05, PRPs were negotiated to a total value of \$86 million, including a \$65 million project to commission BlueScope Steel's Port Kembla briquetting plant, which will result in much reduced air and water emissions. Work has also finished on another of the State's largest pollution reduction programs, the \$93 million plan to clean up air emissions at Blue Scope Steel's Port Kembla sinter plant. These major projects would not have been possible without the Protection of the Environment Operations Act.

In 2004-05, the Environment Protection Authority also completed 127 prosecutions under the Act and other related legislation. In the past five years, fines collected by the Environment Protection Authority have averaged close to \$1 million each year. In addition, courts are increasingly making use of the alternative sentencing order provisions in the Act, including clean-up orders and environmental works orders. Another example of the innovative tools introduced to protect the environment under the legislation is the Hunter River Salinity Trading Scheme, which continues to lead the world in the use of an economic instrument to protect the health of one of our State's most important rivers. The scheme allows agriculture, mining and electricity generation to operate side by side while minimising impacts on the Hunter River. The scheme has facilitated the creation of 800 new jobs while at the same time it has reduced the level of salinity in the river.

The Government is committed to continuing to drive down air and water pollution. The bill I am introducing today is the result of a thorough review of the Protection of the Environment Operations Act, including an extensive consultation process involving industry associations, environment and community groups, government agencies, local councils and individuals. This review concluded that the Act is an overwhelming success and effectively protects the State's environment. However, some amendments were suggested, and have been proposed in this bill, to ensure that New South Wales remains at the forefront of environment protection and regulatory innovation.

The bill introduces some significant new provisions and makes a number of smaller amendments that will improve the day-to-day operation of the Act. The House will recall that I tabled an exposure bill on 23 June 2005. The bill was simultaneously released for public comment. The feedback on the exposure bill was generally extremely positive. A number of minor amendments were made to the original bill to reflect the comments received. Some of the main changes relate to the following areas further specifying the definition of "waste", clarifying the defence for providing false or misleading information about waste, inserting various factors the Environment Protection Authority must be satisfied of before imposing green offset requirements on licences.

For a detailed explanation concerning each of the various amendments proposed in the bill, I refer honourable members to my 29 June tabling speech. However, I will take this opportunity to highlight two of the more significant changes being proposed by the Government. These relate to waste regulation and higher fines and penalties for polluters. Smarter regulation of waste transport and disposal is necessary to keep ahead of those fly-by-night waste operators who choose to flout the law. The bill will significantly change the current Act's waste regulatory framework. These amendments are also necessary to prevent environmental harm caused by the dangerous re-use of waste, particularly as fill, fertiliser or fuel.

For example, there have been incidents where unscrupulous operators have told land-holders in Western Sydney and the Hunter region that they are offering "clean" fill, when in fact the waste is contaminated with building and demolition waste and in some cases asbestos. The operator dumps the waste and disappears, leaving the innocent land-holder with a contaminated site and significant clean-up costs. We need to improve the way we protect the environment from the inappropriate use of waste as fertiliser or landfill. The bill makes it clear that "waste" includes any processed, recycled, reused or recovered material produced from waste that is applied to land or used as fuel in certain circumstances. This will stop the inappropriate re-use of waste that may be harmful to the environment or human health.

To balance this, it is also very important that the appropriate or beneficial re-use and recycling of waste is actually encouraged. The Government is committed to encouraging the safe, beneficial re-use of resources. In order to achieve this, the Environment Protection Authority will use the existing powers in the Act to exempt wastes that are being recycled or re-used appropriately. These exemptions will be made by separate regulations. Land-holders, particularly farmers, can suffer serious property damage from the inappropriate or harmful application of waste or other substances to their land. The bill introduces a new strict liability offence for polluting land in a way that causes degradation of the land, human health or the environment.

The person who causes or permits land to be polluted will also be liable. For example, where contaminated fill or toxic waste is supplied to an unsuspecting farmer, proceedings will be able to be brought

against the supplier. Unlike existing waste offences in the Act, this offence focuses on the potential of the substance to cause material harm. This will ensure companies will no longer be able to get off on a technicality by arguing that a harmful substance is not waste. I must stress that farmers will be fully protected by defences for common agricultural activities such as the application of fertiliser which can be lawfully sold under the Fertilisers Act, pesticides which are regulated under the Pesticides Act, and other agricultural substances including manure and non-hazardous agricultural or crop waste.

The bill also introduces a new strict liability offence for a person who supplies false or misleading information about waste. The consultation process revealed strong support for this offence from both waste industry and environmental groups. Stakeholder feedback from the waste industry has confirmed that the failure to accurately identify waste is a widespread problem. Enforcement action by the Environment Protection Authority has revealed numerous incidents where wastes are deliberately being falsely described to avoid the cost of proper disposal and make a quick profit. For example, solvents and hydrocarbon oils mixed with food wastes have been applied to grazing land on a dairy farm without the landowner being aware of the harmful presence of the solvents and hydrocarbons. It is critical that waste is properly described so that people know what licences to obtain, what precautions to take, what uses the waste can be lawfully put to and where the waste can be lawfully taken.

Fines and penalties underpin the successful operation of the Protection of the Environment Operations Act. The Act currently has three tiers of penalties applying to criminal pollution offences. Tier 1 offences involve wilful or negligent conduct, and are the most serious. Tier 2 offences involve strict liability and tier 3 offences are less serious and are capable of being managed with an on-the-spot fine. This bill will increase the fines and penalties in the Act to maintain their original deterrent value. When the tier 1 penalty amounts were originally enacted, they were at the forefront of Australian environmental legislation. They rightly established environmental crimes as serious criminal offences. However, since then, the penalty for tier 1 offences has not changed, and a further increase is now justified. These amendments will also establish a new distinction between penalties for wilful and negligent conduct in tier 1 offences.

Wilfulness, which shows deliberate intent, will have a higher penalty than negligent conduct. For companies, the maximum financial penalty for tier 1 offences will be \$2 million for negligence and \$5 million for wilfulness, and for individuals \$500,000 for negligence and \$1 million for wilfulness. For tier 2 strict liability offences, the maximum penalty will be \$1 million for companies and \$250,000 for individuals. Daily penalties for continuing offences will also be increased. These increased fines will send a strong message to potential polluters that they will be caught and they will be punished. The enactment of the Protection of the Environment Operations Act in 1997 also ushered in a range of innovative alternative sentencing options which courts can use when sentencing offenders. These options, including environmental works orders and publications orders, have been increasingly used by the courts. For example, in 2004-05 courts imposed environmental works orders on offenders totalling over \$100,000.

The bill further expands these alternative sentencing orders to provide more options for courts to make the most appropriate orders in the circumstances. For instance, courts will be able to order an offender to provide funds to a third party to carry out works or projects, or to establish or attend training courses. Courts will also be able to order offenders to pay financial assurances to the EPA where the offender has been ordered to carry out an environmental restoration project. The bill will also allow the EPA, for the first time, to accept court enforceable undertakings, like the Australian Securities and Investments Commission and the Australian Competition and Consumer Commission.

Court enforceable undertakings are administrative resolutions to breaches or potential breaches of the Act that, if not adhered to by the person given the undertaking, can be enforced in court. They represent a quicker, more cost-effective alternative to litigation in appropriate cases. The EPA will be developing publicly available guidelines on when it will be appropriate for it to accept court enforceable undertakings, to ensure such undertakings are entered into in a transparent and accountable way. The bill will also remove the defence of "no knowledge" currently available to directors prosecuted for an offence committed by their corporations. The "no knowledge" defence can undermine what are otherwise effective pollution control laws by encouraging directors and other managers to deliberately turn a blind eye to environmental offences being committed by their corporations. It is out of touch with modern principles of corporate responsibility.

However, defences will still be available where ever a person exercises due diligence to prevent the contravention by the corporation, or where the person could not influence the conduct of the corporation. This change is intended to provide a further incentive for managers and directors to ensure appropriate systems are in

place to protect the environment from the potential harmful effects of their activities. The bill represents a range of significant, well-considered reforms to the key environmental legislation in our State. Public consultation on the exposure bill showed that these reforms are generally welcomed by industry and environmental groups. These reforms will ensure that our environment continues to be protected by the best possible world-class environmental laws. I commend the bill to the House.

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

## **LOCAL GOVERNMENT AMENDMENT (STORMWATER) BILL**

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

### **Second Reading**

**Mr KERRY HICKEY** (Cessnock—Minister for Local Government) [8.34 p.m.]: I move:

That this bill be now read a second time.

Rain falling on hard surfaces such as roads and roofs runs off and picks up chemicals, rubbish and soil. This stormwater run-off pollutes our creeks and rivers, and causes flooding. Flooding by urban stormwater in Sydney causes approximately \$70 million in flood damages annually. Up to 5,000 houses and 1,500 businesses in Sydney could be flooded during a major storm. It is also a valuable resource that can be harvested to reduce our need for drinking water. This Government has a clear record in tackling stormwater pollution. We have spent more than \$100 million since 1996 on preventing stormwater pollution under our Urban Stormwater and Blue Mountains Urban Run-off Control Programs. Project funding for these programs has now finished.

This Government has developed new arrangements for stormwater management. These arrangements build on the successful outcomes of the Government's programs to tackle water quality issues associated with urban stormwater. They also capitalise on the recent natural resources management reforms, including the establishment of catchment management authorities. The Government recognises that stormwater now needs to be managed in an integrated manner, to deal with stormwater harvesting and flooding in a broader natural resources management context. The new funding arrangements will allow councils the option to conditionally levy a stormwater management service charge on urban properties outside the rate-pegging limit. At the regional level, catchment management authorities will be in an ideal position to co-ordinate regional initiatives and support councils on stormwater management where urban stormwater is a significant regional issue.

The Local Government Amendment (Stormwater) Bill contains the legislative changes to the Local Government Act that are necessary to allow council to raise a stormwater management service charge. The bill also exempts Department of Housing and Aboriginal Housing Co Ltd properties from the charge. Revenue from the charge will not be included in council's general income, which is subject to rate pegging. To support this bill, the Government is preparing amendments to regulations under this Act. This will be an optional charge. A council that can fund its stormwater management activities from existing revenue sources will not need to raise the charge. It is important that the community has a say in whether a council raises this charge and how the revenue will be spent. Under the Local Government Act, councils are already required to consult with their community about proposed rates and charges. These consultation arrangements would apply to the stormwater management service charge.

It is equally important that the community sees where the funds raised by this charge are spent. Under proposed regulations councils will be required to separately report revenue raised by the charge and the activities funded. Surveys of the community's willingness to pay for stormwater management have found a strong willingness to pay at least \$25 annually for stormwater improvements. The Local Government and Shires Associations have stated that many councillors believe their local communities are willing to pay a small stormwater charge, provided the value for their expenditure is demonstrated locally. The associations believe that there will be widespread council support for levying this charge. Through these surveys, the community has also highlighted its desire for revenue raised to be spent in the local area in a transparent way.

This bill and the proposed regulations reflect these community views, by allowing councils to raise the charge for local expenditure. The proposed regulation will cap the annual stormwater management service charge at \$25 per average residential block. The regulation and the supporting guidelines will require councils to seek the community's support for the charge in open and accountable ways. In particular, councils will need to provide communities with a summary of the activities that council proposes to undertake using income from the

charge. Councils seeking to implement the charge must also put a formal community consultation process in place. Councils that impose the charge must report to the community on how the charge was used each year. Specifically the reports to the community must include a statement of income received from the stormwater charge, along with expenditure statements.

This will ensure that revenue from the service charge is transparently allocated to managing stormwater from land subject to the charge, in line with the Local Government Act. Other revenue must be used for managing stormwater from land not subject to the charge, such as public land. Any council using the charge will need to provide the community with a summary of the activities that were funded by the charge during the previous financial year. The consultation process in line with these amendments will include consultation with catchment management authorities [CMAs] on the magnitude of the proposed charge. Consultation with the CMAs will ensure that projects of regional significance are consistent with the CMAs catchment action plans.

The CMAs' stormwater role is expected to relate to regional planning and project management of regionally significant programs, similar to the current role of the Upper Parramatta River Catchment Trust. The stormwater-related responsibilities of the CMAs are likely to include the preparation of a catchment action plan, in consultation with councils and State Government. In metropolitan areas the catchment action plan is likely to include stormwater management objectives, plans and programs that build on the stormwater management plans already prepared by councils. This stormwater link will provide co-ordination across councils for stormwater management projects and provide support for council staff. It can build on the experience gained by the stormwater extension officers hosted by regional councils or groups of councils, and funded by the Stormwater Trust.

The proposed regulations will specify the maximum stormwater charge that can be applied to commercial property, as a flat limit of \$25 for business properties is not appropriate. Most stormwater problems are directly related to the area of hard surfaces water runs off that flow into the stormwater system, for example roads, roofs and paved areas. As there is a considerable range in the area of hard surfaces of commercial properties, councils' stormwater management costs per property are more variable than for a residential block. An area-based pro rata approach to capping the business charge will be included in the regulations, which means that the charge for an average-sized business property would be capped at \$100. Councils may adopt alternate charging mechanisms that encourage business landowners to reduce the amount of stormwater from their land.

The charge levied using this alternate method would be lower than the capped amount proposed in the regulation. Options for this form of charging mechanism would be described in the guidelines that will be developed to assist councils and communities. Councils considering using this charge should be aware that both the community and the Government will monitor their performance closely. The proposed regulations will also prevent a council from applying the charge where they already have a stormwater-related environmental levy or a drainage charge in place. The rigorous requirements that will be developed under the proposed regulations will ensure that the community's interests are protected. This bill provides the foundation for sustainable stormwater management in urban areas by giving councils the option to raise additional revenue for stormwater management to help fix stormwater problems.

This will help to improve the health of our rivers, reduce flooding and promote the harvesting and reuse of stormwater to reduce our demand on drinking water supplies. The stormwater service charge could raise up to \$1 million annually for an average metropolitan council. As an example, this could enable a council to build three constructed wetlands to improve stormwater quality or three stormwater harvesting schemes to irrigate a park or stop dozens of houses from being flooded. The proposed amendment lays a firm foundation for stormwater management into the future. The bill and the proposed regulations will help improve the health of our rivers, harvest stormwater to reduce our demand for drinking water, help reduce flooding and fix ageing stormwater drains. It does this in a way designed to maximise community support. This is a sensible and appropriate approach that will provide the keystone to the effective management of urban stormwater. I commend the bill to the House.

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

**The House adjourned at 8.45 p.m. until 10.00 a.m. on Wednesday 14 September 2005.**

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