

LEGISLATIVE ASSEMBLY

Wednesday 16 November 2005

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

Mr Speaker offered the Prayer.

INFRASTRUCTURE IMPLEMENTATION CORPORATION BILL

Message received from the Legislative Council returning the bill without amendment.

AUDITOR-GENERAL'S REPORT

Mr Speaker tabled, pursuant to section 52 of the Public Finance and Audit Act 1983, the report entitled "Auditor-General's Report—Financial Audits—Volume Four 2005", dated November 2005.

Ordered to be printed.

RICE MARKETING AMENDMENT (PREVENTION OF NATIONAL COMPETITION POLICY PENALTIES) BILL

Second Reading

Debate resumed from 9 November 2005.

Mr ADRIAN PICCOLI (Murrumbidgee) [10.04 a.m.]: It is with some disappointment that I speak in debate on the rice deregulation bill. New South Wales has over 2,000 rice farmers, most of whom live and work in the Murrumbidgee and Murray-Darling electorates. The vast majority of those 2,000 or so rice farmers are disappointed and angry that the New South Wales Government is deregulating the rice industry. The Nationals and the Liberal Party oppose this deregulation by the Australian Labor Party. There has been much talk by Labor members and by the Minister for Primary Industries that the Commonwealth Government somehow forced this deregulation on them.

Anyone who has even a passing understanding of the Federal Government would know that the States have the independence to do what they like within the bounds of the Constitution. The Constitution gives the New South Wales Government the power to regulate the rice industry and, therefore, the power to deregulate it. This Government is not being forced to do anything. The decision to deregulate the rice industry was made entirely by the New South Wales Labor Government. People in the Murrumbidgee and the Murray areas know that the honourable member for Murray-Darling, Peter Black, a member of the Labor Party, was involved in this decision to deregulate the rice industry. Both he and I know that the vast majority of rice farmers do not want deregulation.

If the honourable member for Murray-Darling had any influence on the Government he would have exercised that influence to prevent this deregulation from occurring. The Labor Party's decision to deregulate the rice industry will have significant consequences on the industry in the Riverina and Murray areas and it will have significant ramifications for the Labor Party at the next State election. The New South Wales rice industry, which was warned about Labor's deregulation, was involved to some degree in drafting this legislation. When the legislation was drafted industry asked for a phase-in period of about three years, as occurred in other industries that have been deregulated. However, the New South Wales Government was not interested in offering a phase-in period. Six weeks ago members of the public were made aware of this deregulation plan by the Labor Party when the Minister announced that deregulation legislation would be introduced in Parliament. That deregulation will not come into effect until 1 July, which gives industry very little opportunity to make the necessary arrangements to deal with it. What the rice industry is asking for is not unrealistic or in any way unfair.

I am disappointed that the Government decided not to provide the industry with a phase-in period, preferably of up to three years. I foreshadow that in the Legislative Council the Opposition spokesman for primary industries will move an amendment to effect a phase-in period in support of SunRice, the Rice Marketing Board and, most importantly, farmers in this deregulation period. A phase-in period is necessary because SunRice, the marketing arm of the Rice Marketing Board, has many assets on Rice Marketing Board property and issues involving the provision of rice seed. Many complex issues need to be unravelled in order to allow the deregulation and it is going to take more than the eight months it has been given to do that. Again I say the request for a phase-in period is not unrealistic.

I turn to the excuses that the New South Wales Labor Government has given for deregulating the rice industry. The prime excuse is that the National Competition Council [NCC] is forcing it upon this Government. The National Competition Council was designed by the former Federal Labor Government and given what the NCC has done for so many of our industries, it is no surprise that Labor has been out of government federally for 10 years and will remain out of government for the foreseeable future. It will take a long time for Australians to forget what Paul Keating, and Bob Hawke before him, did to Australia, and the National Competition Council is part of the legacy that Federal Labor has left us. If anybody is to be blamed for not just rice deregulation but for everything else that has been dealt with by the National Competition Council, it is Paul Keating and the former Federal Labor Government.

With respect to rice specifically, when the National Competition Council was introduced the State Government was asked to put on the table the industries that it wanted to be reviewed for possible deregulation by the council. Bob Carr, at the beginning of his time as Premier, put the rice industry on the table, and ever since then the National Competition Council has reviewed the regulation of the rice industry. I have been advised that the State Labor Government—Bob Carr particularly—had every opportunity to remove rice from consideration by the National Competition Council. But Bob Carr and the New South Wales Labor Government have never sought to do that because the position we are in today is ultimately the position that Labor wanted us to be in.

In past reviews of rice regulation by the National Competition Council, the New South Wales Government has done the right thing; it rejected the overtures from the National Competition Council and chose not to deregulate but to cop the fine. I support the Government for having copped the fine and the money being withheld from this State—the Opposition has always supported that position. But now, for some reason, the New South Wales Government says no longer will it cop the fine. It is no big secret why the New South Wales Government will no longer cop the fine: it finds itself in about \$1 billion of debt.

We have seen the cuts to the Department of Primary Industries; we have seen the full-time residential courses cut at Yanco Agricultural College; we have seen \$30 million cut from the budget of the Department of Primary Industries last year and \$56 million cut this year, and we will see about \$50 million cut next year. The Government is cutting, cutting, cutting everywhere, and it needs every cent it can get. It has trawled through the Department of Primary Industries and some clever person has come up with the idea that if we deregulate the rice industry the National Competition Council will give us \$26 million. I do not think members of the Labor Party on the other side of the Chamber even think it is a good idea to deregulate the rice industry, but the Government finds itself in such dire financial straits that it is forced to do that because it needs the \$26 million.

It is despicable that this Government is going to sacrifice yet another rural industry to solve its financial problems in New South Wales. Where is that \$26 million going? It will not go to the Deniliquin Hospital, or to Deniliquin South Public School which needs a new library; it will not go to Finley High School which needs a new woodworking and metalworking room; it will not go to the Coleambally preschool; it will not go to Griffith High School for airconditioning; it will not go to Murrumbidgee Public School; it will not go to finishing off the Berrigan multipurpose services. That \$26 million will go straight into consolidated revenue and it will go straight into paying off infrastructure here in Sydney; it will go straight into building the desalination plant at Kurnell; it will go into urban infrastructure; it will go into fixing the rail lines in Sydney—but it will not go into branch lines in country New South Wales. If we could have a guarantee that the \$26 million was going to be allocated to country New South Wales, and particularly into those areas where rice is growing, the Opposition might reconsider its opposition on this.

The State Government finds itself in a desperate financial situation and it has decided to sacrifice yet another rural industry to solve its financial problems. That \$26 million is going to go straight into consolidated revenue to help its bottom line. The Government cut funding to branch lines for the same reason, that is, to solve its financial problems. As I said, I do not think members opposite think that deregulation is a good idea, but they

are forced to agree to it because this Government has not been able to manage the State budget. That is the heart of the problem in New South Wales.

The rice industry is a very proud industry, and New South Wales has much to be thankful for. It is a large \$800 million industry but located in a relatively small area of New South Wales and Australia. A couple of thousand rice farmers are supporting a couple of thousand families and supporting many more thousands of jobs in the Riverina, the Murray, in the head office in Sydney, and the transport operators who contract their services and the ports which handle so much of their product. The rice industry is very important not just to south-western New South Wales but also to the Australian economy. The industry also generates a great deal of export revenue for Australia.

The rice industry has been going through some tough times over the past few years. With an average crop of about one million tonnes a year, the past three years have seen low crops because of the drought and low water allocations. We saw the crop drop to as low as 300,000 tonnes a couple of years ago. It was a little higher last year, and this year it could be a one million tonne crop again. The difficulty with very low crop production is that SunRice has a great deal of infrastructure in place with mills in Leeton, Coleambally and Deniliquin. Those mills have full-time staff, so if rice is not being milled through those rice mills the company cannot expect to keep those people employed.

The industry has done a very good job at managing those low crops. It has managed to keep most of its employees on in Leeton, Coleambally and Deniliquin. One reason the industry has been able to do that is because of the vesting powers in New South Wales, which gives the industry greater certainty in terms of what crop it is going to get and some control over how much is grown. I am not sure that the industry would have survived those very tough few years had it not been for the vesting powers in New South Wales. That is as compelling a reason as any for maintaining those vesting powers.

The New South Wales Labor Government's announcement of its intention to deregulate the rice industry has prompted comments from many people in the past few weeks. The President of the Ricegrowers Association, Laurie Arthur, questioned why the New South Wales Government was in such a hurry to deregulate the rice industry when the situation was still under review. But, as I have said, the Government made that decision in order to solve a short-term financial problem. The Chairman of SunRice, Jerry Lawson, was also quoted in the *Land* as questioning why the New South Wales Government was going ahead with deregulation. Several rice farmers have contacted my office, expressing their great concerns about the deregulation and questioning why the New South Wales Government is in such a hurry to act.

One farmer from Griffith, Graham Menzies, rang me to express enormous concern about the Labor Government's deregulation of the rice industry. He was most forthright in his defence of the industry and of regulation. We must defend regulation; it is important. However, regulation in other rural industries has caused enormous problems. We recall the demise of the Grains Board a few years ago and the problems that the wool reserve price scheme caused. Any type of protection and regulation must be handled carefully, defended, justified and reviewed because it can act to the detriment of an industry—as is evident from the examples I have given.

The rice industry has been reviewed for the past 10 years. It has been forced to justify why regulation is necessary, and it has done that successfully. It has shown that the rice industry benefits the Australian economy to the tune of about \$45 million, with a cost to the community of \$150,000—which is nothing in the scheme of things. The industry has done everything required of it and justified why regulation should remain. That is why so many farmers are shocked by the New South Wales Labor Government's decision to deregulate the industry. I know that the deregulation is only domestic—thank goodness! The single export desk must certainly be maintained. But even domestic deregulation will cause problems. No-one has ever complained to me about the price of a kilogram of rice. Domestic deregulation will allow farmers to mill rice and sell it domestically. I will be totally amazed if that has some huge impact on the price of rice. I admit that I am amazed by the view of the National Competition Council on this issue, which is somewhat absurd.

The rice industry is tightly controlled. Concerns about the environmental impact of rice growing are well publicised. I think the rice industry has done a very good job in the past 20 years—but particularly in the past 10 years—making rice growing as environmentally sustainable as possible. Statistics for the past 10 years reveal that it now takes half the amount of water to grow the same amount of rice. The industry has doubled its productivity comparative to water use through research and development and funding from rice farmers. Every person who grows rice is a member of the co-operative and has a vested interest in its success and in the

research it produces. Rice growers use the proceeds of rice sales to pay for the research that has led to the environmental outcomes the industry has achieved. The Ricegrowers Association has an environmental champions program, which is a best management practice certification for rice farmers so that the industry can be certain that rice growing is as sustainable as possible.

I assure those honourable members who are sceptical about rice growing that farmers who wish to grow rice anywhere in the irrigation areas must first seek approval from SunRice and from the relevant irrigation corporation. They take soil samples from the area designated for rice growing, which must have a certain amount of clay under the topsoil so that the ground does not allow the water to flow through it like a sieve. The process is tightly controlled. The irrigation corporations also monitor the amount of water that a farm uses based on the amount of rice grown. They know how much water the average rice crop uses per hectare. If they see from their records that a grower appears to be using too much water based on the hectares of rice being grown they will ask, "What's going on with your rice crop?" and explore why the water usage is greater than the average. The irrigation corporations will act to ensure that rice is grown as sustainably as possible.

There is a very good partnership between SunRice and the Murray, Murrumbidgee and Coleambally irrigation areas, where most rice is grown, because they are aware of community sensitivities about rice growing. That is another great advantage of having a regulated rice industry: It is an environmentally sensitive industry that the community expects to be controlled pretty tightly. Rice growers and the industry accept that. Domestic deregulation will mean that rice can be grown anywhere in New South Wales without those kinds of controls. We may see rice grown in the Macquarie Valley, up and down the Darling River or in the Namoi. Good luck to those farmers at Bourke, Moree or Gunnedah who might want to grow rice—if it is a profitable crop, why not? Cotton growers tell me that the price of cotton is not too fantastic at the moment and the price forecast for rice is pretty good this year. We might see a shift in the northern valleys, particularly along the Darling River, from growing cotton to growing rice. That is fine so long as somebody puts safeguards in place to ensure that rice is grown in appropriate soil and the like. But SunRice will not monitor the growing of rice for domestic use at Bourke or anywhere else in New South Wales. That is a concern that must be raised in this debate.

As I said earlier, the Opposition will move an amendment in Committee in the upper House to provide a phase-in period for deregulation. I also foreshadow that the Coalition will oppose Labor's deregulation of the New South Wales rice industry. I have concerns about the consequences of this bill for my own electorate. I am not sure whether I should declare an interest because my family are rice farmers and I have a significant understanding about rice growing. I deal with many rice growers in my electorate and I know they are concerned about deregulation. My constituents want The Nationals, the Liberal Party and the Labor Party to oppose deregulation, so I urge as many Labor members as possible to oppose this legislation.

Mr PETER BLACK (Murray-Darling) [10.30 a.m.]: Comrade Speaker—

Mr SPEAKER: Order! The honourable member for Murray-Darling will address the Chair in the proper manner.

Mr PETER BLACK: I enter this debate with considerable reluctance, and I address some of the comments made by the honourable member for Murrumbidgee also with considerable reluctance. In the past three sitting weeks the honourable member for Murrumbidgee has demonstrated in the clearest possible way that he knows nothing about rice, oranges or wine grapes, yet all three are critical to the economic survival of the Murrumbidgee Irrigation Area, in his electorate. We should ask how much his father paid to get his preselection back in 1999 and how much his father paid The Nationals to get him a seat on the Opposition frontbench. In the past several weeks I have had extensive discussions with Laurie Arthur, who was mentioned by the honourable member for Murrumbidgee.

Mr Thomas George: Point of order: I draw your attention to the remarks made by the honourable member for Murray-Darling. I ask you to ask him to withdraw those comments.

Mr SPEAKER: The remarks were in relation to the honourable member for Murrumbidgee, is that correct?

Mr Thomas George: Yes.

Mr SPEAKER: Order! It is not appropriate for one member to ask for the withdrawal of remarks made about another member. Only the member who has been referred to may ask for the remarks to be withdrawn. Therefore, I am unable to uphold the point of order.

Mr Adrian Piccoli: Point of order: The honourable member for Murray-Darling is suggesting that I engaged in some sort of corrupt behaviour and that I have not declared it on my electoral returns.

Mr SPEAKER: Order! The honourable member for Murrumbidgee need not rephrase what the honourable member for Murray-Darling said. Is the honourable member for Murrumbidgee offended by what has been said?

Mr Adrian Piccoli: I certainly am.

Mr SPEAKER: Order! That being so, I ask the honourable member for Murray-Darling to withdraw the remarks.

Mr PETER BLACK: I will withdraw them without a problem, noting that I have hit a sensitive spot. The background to this debate is the GST; there is no question about that. The honourable member for Murrumbidgee made no mention of the fact that this State is being belted again and again by the Commonwealth Government with respect to the GST. For the \$13 billion that it has collected from New South Wales—and it is going up with the price of fuel—it is returning only \$10 billion. I empathise, although I do not sympathise, with the Minister for Finance, the Hon. Michael Costa, because it was his call on this matter to preserve this State's triple-A status, and to preserve the financial integrity of this Government.

We are talking about \$26 million. The honourable member for Murrumbidgee is on record as stating that we should have paid the \$26 million. He has not at any stage said we should get back the \$3 billion. I would be more than happy to support the proposition that the Government pay the \$26 million if we could afford to, but this \$26 million is only part of ongoing amounts of \$26 million—including \$26 million under the infamous National Competition Council [NCC] towards the national water initiative. The list goes on, and rice cannot be regarded by any responsible Minister for Finance as separate from the whole. We have to preserve our status as an efficient Government.

The rice industry, which I represent and which the honourable member for Murrumbidgee should represent, is the most efficient rice industry in the world. We compete on the international market, and we have done so consistently and honestly without the sorts of props that apply in California and elsewhere, the subsidies that apply in Japan. We have been able to successfully export rice into Japan's domestic market—something that 10 years ago would have been unheard of. We have been successful in promoting and breeding varieties of japonica, cool-country rice—and let us hear no nonsense about growing rice on the Darling. I do not know where the honourable member for Murrumbidgee would get such a preposterous idea. I suppose building a rice mill in the Tweed would be just as silly, but we are used to such stupidities from the honourable member for Murrumbidgee.

On 7 November we again heard something ridiculous in this House. On that day we received correspondence from John Howard, the Prime Minister—who is now infamous because of his industrial relations reforms—stating that he could not remove the \$26 million penalty because he could not get agreement from the other constituencies, which were the other States. There is no rice in Queensland or the Northern Territory and there is no longer rice in Western Australia, so there is no need for the other constituencies to sign off on the matter. Even the honourable member for Murrumbidgee got one thing right: rice is grown in a comparatively small area in this great country of ours. It is an \$800-million industry that employs 8,000 people in a good year. We are looking at a good crop this year and we have done a deal with Snowy Hydro, so there will be more water for the rice growers. We are doing all these things to promote the rice industry at the State level but The Nationals at Commonwealth level have done nothing.

The Nationals are running behind the Federal Treasurer, who is the one who ticks off on this matter, not this Government or Michael Costa. The Federal Treasurer has the power to withdraw this dreadful penalty of \$26 million. The Federal Government has no interest in supporting the rice industry. I wonder whether it has any interest in supporting the money that the rice industry brings into Australia. We have a single debt situation and we will preserve it for exports, but why can we not maintain it domestically? I do not know why the Commonwealth Government wants to save \$26 million when the Federal budget is robust. I acknowledge that the Federal Government has enormous financial reserves and is running a surplus budget. Why on earth would the Federal Government want to turn around for a lousy \$26 million?

Ms Gladys Berejiklian: Great economically.

Mr PETER BLACK: I acknowledge that the Commonwealth has been run well economically—but not in other areas—because it is the truth. If the Federal Government is running this huge surplus why can it not give this State a lousy \$26 million for rice and a lousy \$26 million for what we will be compelled to do by the end of the year in relation to water or be fined? I do not know what will happen to pharmacies and liquor outlets. Will liquor be sold in petrol stations, as it is in Victoria? South Australia has bent the knee to the Commonwealth Government. Will prescription drugs be available in Woolworth's?

Mr Steve Whan: No, that has been ruled out.

Mr PETER BLACK: Thank you for that information; we will not be penalised in relation to that. Why on earth would any Commonwealth government want this State to deregulate the rice market in New South Wales? The Federal Government wants us to avoid an inefficiency cost of \$150,000, and in doing so put at risk \$48 million. I do not understand it: \$150,000 versus \$48 million. This bill seeks to placate this mindless pursuit of economic efficiency while protecting the industry and the New South Wales and national economies from losing the export benefits generated through the existing arrangements. It provides for the deregulation of the domestic rice market in New South Wales by introducing a system of authorised buyers. Under the bill the Rice Marketing Board will be required to appoint any applicants who apply to be authorised buyers of rice.

On that note, I salute Norm McAllister, the excellent chairman of the audit committee of SunRice, whom I regularly see when I visit Deniliquin. SunRice is doing a fantastic job so why should it be upset? In relation to this bill it is to be hoped that the authorised buyer is carefully selected. We are talking about 2,000 families involved in a hugely significant industry in the electorates of Murray-Darling and Murrumbidgee, between the Murray and the Murrumbidgee valleys. All but 20 of the businesses are located in New South Wales. The Australian rice industry is an \$800 million international business that employs 8,000 people. SunRice employs 1,400 people directly, many at Deniliquin. Sadly, we lost the mill at Echuca, and the Victorian Government, in a moment of total insanity, sold its railway system to a private junketeer who closed the line from Echuca to Moulamein as a consequence of that decision.

The Government is proud of what the rice industry does for New South Wales. There are no restrictions on the importation of rice into Australia. The rice industry competes honestly and successfully against subsidised rice, without subsidies from either the State or Commonwealth governments. However, I salute the fact that in that competition a growing number of people do buy Australian rice, and that must continue in the coming market. Only about 25 million tonnes, or about 6.25 per cent of the 400 million tonnes of the world's annual rice production, is traded internationally. We represent only 0.2 per cent of the world's rice production, with exports representing about 4 per cent of the world trade. Perhaps on the world scene those figures are small, but to those involved in the electorates of Murray-Darling and Murrumbidgee they are more than significant.

Rice is Australia's third largest cereal grain export. Why on earth would any Federal government want to put it at risk? I have great confidence in the ability of the rice industry to continue to produce rice economically in this great State of ours. I began my contribution by saying that I entered this debate with great reluctance, something which I want to emphasise. I am proud of the very decent people in the rice industry, led by a decent chap, Laurie Arthur. I have stayed at Laurie Arthur's house in my trips around the electorate and on 29 October I had a meal with him to discuss this matter at the Curry House, known as the Federal Hotel at Deniliquin. I bleed for these people. This should not be happening to the rice industry and the blame goes straight back to the Federal Government, in particular the Federal Nationals, who are not standing up for their constituency. [*Time expired.*]

Mr DARYL MAGUIRE (Wagga Wagga) [10.45 a.m.]: I will begin where the honourable member for Murray-Darling left off, and acknowledge that the rice industry has some very great people at its helm. Many individuals and families have for years made contributions to the rice industry and have seen enormous benefits to the economic wellbeing of our regions and Australia. Rice growing is believed to have originated in China and southern and eastern Asia in around 10,000 BC. In 2001-02 approximately 589 million tonnes of paddy rice were produced worldwide. China and India were the largest producers. Rice is the staple diet of more than half the world's population. Approximately 405 million tonnes were consumed in 2001-02. China, India, Indonesia, Bangladesh and Vietnam are the largest consumers of rice.

Apparently rice was brought to Australia in 1850 by Chinese gold prospectors. Rice production in Australia is believed to have first occurred in Queensland during the gold rush period, and was introduced in the Riverina in the 1920s. Today the rice industry contributes to supporting 63 regional towns, most located in the

south of the State, and 2,500 rice farms. That involves about 2,000 families, who produce 1.3 million tonnes of rice per year. Up to 40 million people eat rice daily. Those statistics indicate the enormous impact of this industry. All rice grown in the south of New South Wales is sold to the Rice Growers Co-operative Ltd. More than 1,000 staff are employed by SunRice and more than 8,000 people are employed by the industry in the region.

The industry generates some \$800 million in revenue, with more than \$500 million from exports. Only 25 million of the 600 million tonnes of worldwide rice production is traded outside the country of origin. Although the Australian rice industry represents only approximately 2 per cent of world rice production, its exports represents more than 4 per cent of world trade. In 2004 the Murrumbidgee Irrigation Area [MIA] produced 188,245 tonnes of rice, the Coleambally Irrigation Area [CIA] produced 11,914 tonnes and the eastern region produced 180,764 tonnes—a total of 565,457 tonnes. There were 492 rice farms in the MIA, 328 in the CIA and 744 in the Murray Valley—a total of 1,564. I conducted some research on this very important bill. The report of the Rice Marketing Board states:

The New South Wales rice industry believes there is a compelling case for the retention of vesting. A similar review conducted in 1995 concluded that by 2001 there would be a net public benefit in the range \$36-\$45 million. A more recent independent study in 2001 quantified the net public benefit to be approximately \$60 million. It also recommended that the current arrangements should be maintained until heavily subsidised foreign competitors cease to be a factor in both the domestic and export markets.

In particular the 2001 review found that the arrangements have not disadvantaged domestic consumers. The domestic rice market has no barriers to entry for imported rice and rice products. Furthermore the majority of the imports into the Australian market are heavily subsidised in their own country.

The honourable member for Murray-Darling raised the issue of the GST, which has been the subject of much debate in this place. Whenever economic factors are raised in debate, traditionally the Government blames the lack of GST income for all its financial woes. I point out to honourable members that traditionally the Labor Government has run services in this State through taxation increases. During the 10 years under Bob Carr the Government received about \$1.5 billion in extra taxes and charges from the people of New South Wales. Much of that money was derived from the property boom and through other initiatives implemented by Premier Bob Carr and Treasurer Michael Egan, to deliver those surpluses and supposed benefits to this State.

New South Wales is now in dire straits. It is in trouble financially, and the Government is looking at ways to try to dig itself out of a financial crisis which the current Premier would say he inherited, although he was in fact in the Cabinet room when Bob Carr and Michael Egan made the decisions. The Government is trying to find a way to plug the hole, so to speak, much of which is of its own making. When we talk about an industry such as the rice industry we suddenly hear, "Let's go to the Federal Government". I note that the honourable member for Monaro raised that suggestion during debate on an urgent motion last week.

It is right that we discuss the rice industry, which, as the statistics I put forward clearly show, provides an enormous economic benefit to our region. The Government keeps putting out its hand to the Federal Government. Last week I said that instead of blaming other people for the State's financial and economic woes, the Government should provide some sensible solutions to solve the crisis in the rice industry. It is not difficult. I put this to honourable members: In this place we have a range of committees. Last week I told the honourable member for Murray-Darling that Coalition members would be happy to look at waste and mismanagement and to find moneys that could be applied to the rice industry to ensure its viability. Of course, that was met with grins from members opposite.

Mr Steve Whan: I don't think I said a word.

Mr DARYL MAGUIRE: If the honourable member for Murray-Darling and the honourable member for Monaro are serious about supporting the rice industry they need firstly to join the Coalition and vote this bill down. Secondly, they need to talk with the Premier and their colleagues about having a committee look at ways that the Government can save money in some areas and redirect those savings to help the rice industry. That is a sensible way to proceed. The honourable member for Murray-Darling referred to the GST distribution. He said that the Prime Minister pointed out that all the States needed to agree to the deregulation of the rice industry. But he said that the other States do not grow rice. In the next breath the honourable member said it is the Federal Treasurer who signs off on the distribution of the GST.

Mr Steve Whan: No.

Mr DARYL MAGUIRE: Yes, he did.

Mr Steve Whan: He was talking about the competition policy.

Mr DARYL MAGUIRE: He was talking about the competition policy and about the distribution of the GST. The honourable member for Murray-Darling cannot have it both ways. He cannot say in one breath that deregulation of the rice industry needs the support of all the States and in the next breath say that it does not need the support of all the States. Looking at the way the distribution of the GST is arrived at, all the States have a say; they put the proposal to the Federal Treasurer, who signs off on it. That is correct—the Federal Treasurer signs off on it, but it is on the recommendation of the States.

Mr Steve Whan: It is the Grants Commission.

Mr DARYL MAGUIRE: The States belong to the decision-making process. This place is supposed to be about transparency, accountability and open government. It is time someone admitted the truth about the decision-making process for the GST distribution. Time and again we hear excuses as to why New South Wales is not getting its share, and members opposite always blame the Federal Government. It is time members opposite 'fessed up to the reality of how the GST distribution is arrived at. The honourable member for Murray-Darling clearly showed that there was a process and all the States were involved.

Until the Government gets the agreement of all the Treasurers—particularly Premier Beattie, who holds the purse strings in Queensland—to rearrange the GST distribution, it needs to provide some innovative solutions, rather than introduce this bill and deregulate the rice industry. The challenge for members opposite is to vote down the bill and support the rice industry, which does not want to be deregulated—as has been reported in every media outlet in the region, including the *Land* and all other notable newspapers. Time and again the rice industry has said that deregulation is unnecessary, and it has called on the Government to support the industry. Indeed, in the report I reviewed, the Chairman of the Rice Marketing Board, Noel Graham said:

I would also like to thank the Minister for Primary Industries, the Hon. Ian Macdonald for his support of the rice industry. State Members Adrian Piccoli, Tony Catanzariti and Peter Black and Federal Members Kay Hull and Sussan Ley have also worked tirelessly on our behalf.

I wonder what the next report will say if members opposite do not cross the floor and vote down this bill. Will the rice industry extend its appreciation for the deregulation of the industry, which it does not want? Time and again representatives, people speaking on behalf of the rice industry, and farmers have said that they do not want deregulation. They are calling on members opposite not to support this bill. In this report the industry stated that it does not want deregulation, and in the past it has thanked those members for supporting the industry. Who will the industry thank in the next annual report? Will the honourable member for Murray-Darling's name be in the next report, being thanked for the support he has given the rice industry, if he chooses not to cross the floor and vote with the Coalition? Will the industry thank the honourable member for Monaro for his support by voting for this bill, which deregulates the industry against the industry's wishes?

As the honourable member for Murrumbidgee has said in previous debates, the entire industry is united against the implementation of this bill. As I said, members opposite have an opportunity to look at ways to fund the \$26 million lost through waste and mismanagement. I do not mind whether the Government looks at Federal funding, State funding or other initiatives in which there are waste and mismanagement. That should be open. I think the taxpayers of the State would support any initiatives that enable the Government to identify moneys that can be applied for a better outcome. They would certainly support a committee examining the issue and providing initiatives to help the rice industry. If members opposite choose to do nothing—if they choose not to cross the floor and support the Coalition in voting down the bill—I look forward with interest to reading the next Rice Marketing Board report to see what it says about those members who have been mentioned today.

Mr STEVE WHAN (Monaro) [10.58 a.m.]: One thing is clear about this debate and about other debates on urgent motions in the past couple of weeks. Opposition members and Government members all agree on the importance of the rice industry in New South Wales. We all agree on its important contribution to the economies of the rice-growing areas of New South Wales and its importance as an export earner for New South Wales. We all agree, as has been proven by the State Government's efforts, that the current marketing arrangements are in the best interests of the rice industry and consumers. The speeches have been generally consistent.

The honourable member for Wagga Wagga gave a lot of statistics on the rice industry. I have a number of those in my notes but I will not repeat them because I agree with the statistics he presented. However, there is one area in which we disagree. Having established the case for the appropriateness of the existing marketing

arrangements, the Coalition suggests that we should not worry about convincing the Federal Government those arrangements are appropriate, effective and good for consumers, the industry and Australia as a whole. Instead the Coalition says, "Let's not bother about convincing the Federal Government, let's just cop the \$26 million fine."

That is the fundamental point of difference in this debate. Government members are telling the Federal Government that it is blindingly obvious that these arrangements are appropriate and effective and, the Federal Government and the National Competition Council should accept them and not impose a \$26 million fine on the people of New South Wales. The two speeches so far by Coalition members, particularly that of the member for Murrumbidgee, were just plain dishonest about some of the things that have gone on in the lead-up to this process. The honourable member for Murrumbidgee said the New South Wales Government did not support a phase-in period for the marketing arrangements. In fact, that is directly the opposite of what happened. New South Wales Government made representations to try to get a phase-in period for the new arrangements—of course we would prefer there was no change in the arrangements—but the NCC and the Federal Government refused that request.

We have seen a similar situation in another industry that has been mentioned by a previous speaker. I refer to the pharmacy industry, where the NCC recommended deregulation. In the last week or so the Federal Government has backed down on that request. It has said—I think it has made the right decision—that it will not allow the big supermarkets to have pharmacies. The Federal Government is not going to deregulate the pharmacy industry. New South Wales will not face a fine for that. Why could the Federal Government not do the same for the rice industry? That is the question people in rice growing areas should be asking their Coalition representatives.

What is the difference between the pharmaceutical industry and the rice industry? First let us look at the similarity. The State Government did not want to deregulate either industry; Labor Party members did not want to deregulate either industry, and we lobbied to try to achieve that. The difference is that Coalition members of the Federal Government lobbied their Government to stop deregulation of the pharmaceutical industry. Coalition members at State level presumably did the same thing. They have not been willing to do it for the rice industry.

We have heard that reflected in the speeches of Coalition members today. In his entire lengthy contribution, the member for Murrumbidgee refused at any stage to say the Federal Government was wrong to demand deregulation of the rice industry. All he could focus on was that the State Government was introducing this legislation. He misled the people who might be listening, his constituents, by suggesting it was all the State Government's responsibility. He refused to say to John Howard and his Federal colleagues, "You are wrong in wanting to deregulate this important industry."

Coalition members prefer instead to go on about how we should cop the \$26 million fine. The member for Wagga Wagga said we should identify waste and try to save money somewhere else to give to the rice industry. Why should we do that if the rice industry marketing arrangements are right? Why should we spend \$26 million of New South Wales taxpayers' money if the arrangements are right? We could spend \$26 million, as I have said previously, on five new schools or 300 teachers. Coalition members have said \$26 million is a drop in the ocean in the overall budget. A lot of drops in the ocean make up a \$40 billion budget. Each teacher is worth between \$50,000 and \$75,000 in salary. A lot of teachers will make up a \$6 billion salary bill in the next few years.

The Coalition brings to this debate the logic it brought to its financial proposals for government. In one breath it says it can cut payroll tax, gambling tax and land tax—that is about three-quarters of the State's revenue—and it will say yes to everybody and spend money on everything that is requested. I see it all the time in Monaro where they are promising everything. That is why they have a \$16 billion black hole in their financial promises to the people of New South Wales. The Opposition thinks, because it has no responsibility to deliver a budget and clearly believes it will never have the prospect of delivering one, it can make financial promises willy-nilly for as much money as it likes.

The clear message from the Government is: these marketing arrangements were right and justified and the Federal Government should have accepted that. It should not fine the people of New South Wales \$26 million. The State Government is not willing to say to the people of New South Wales, "All right, we will slash enough to pay 300 nurses and teachers, to build five public schools or to improve Coleambally preschool"—which the member for Murrumbidgee was talking about—"because the Federal Government has got it wrong but we haven't got the guts to say that to them." That is what the Opposition is trying to tell us today.

Rice was one of the first industries to be reviewed under the national competition policy. With a single export desk and a monopoly over the domestic market, the board and its agent, SunRice, were clearly in the National Competition Council's sights from very early on. The State Government has worked over many years and through several Ministers to point out that the benefits far outweighed the costs of deregulation of this market. We have been working on this for about 10 years. The NCC has been fighting us all the way and threatening to force us to deregulate or be fined. It has now advised that it is not willing to let us continue with the current arrangements even though those arrangements have a net public benefit, according to several reviews, of \$48 million.

The costs of continuing regulation were assessed as being about \$150,000. If the Opposition thinks \$26 million is not much, then \$150,000 must be a drop in the ocean. It is impossible to justify losing the \$48 million benefit of these marketing arrangements for the sake of \$150,000. The Government has tried to fight the Federal Government over this move. We have tried to get a phase-in period, as I said. We asked the Federal Government to have a single national export desk. We have been rejected and thwarted at every turn by the Federal Government because it is simply not interested in helping this important industry to survive and prosper in New South Wales.

We have heard many of the figures about rice exports. We have seen figures that show that this industry has been expanding rapidly. Consumption has also been expanding. It has not been held back at all by the price in supermarkets. Clearly, as I said a couple of weeks ago in a debate on this matter, and the member for Murrumbidgee repeated today, none of us have had people banging on our doors saying that rice costs too much. It comes back to the Howard Government's political agenda of forcing deregulation onto markets for ideology's sake and not being willing to listen to arguments about why a market should stay as it is. It comes down to John Howard's promise to the New South Wales Liberal Council that he would do everything in his power to defeat the State Labor Government. Once again in this place we see Coalition members thinking, "Maybe that's the easy ride to government; we'll let someone else do the work for us", rather than coming up with sensible policies.

The member for Wagga Wagga raised the Grants Commission process. I want to refer to some of the spin and misleading comments that the Coalition tries to put forward about New South Wales' financial situation. He talked about the additional taxes this Government has introduced and the extra revenue it has raised over the past 10 years. He forgot to mention that we are also spending an extra \$6 billion on hospitals, more than doubling funding to over \$11 billion per annum; and an extra \$5 billion or so is being spent on education, more than doubling its funding to over \$10 billion per annum. Those things are important to the community. People believe it is important to pay nurses and teachers appropriate wages and provide good services. Those sorts of services will not continue if the Coalition ever gets the chance to go ahead with its proposal to slash 28,000 or 29,000 workers from the New South Wales public sector.

The honourable member for Wagga Wagga referred to the Grants Commission process and said that we should not complain about it. But we should complain about it, as should the Coalition, because New South Wales is being duddled by the formulas. We are not the only ones with that view. In its review of Commonwealth-State funding arrangements the Tax Research Institute, an independent expert in funding formulas, pointed out the unfairness of the current situation—we pay \$13 billion in GST, but we get back only \$10 billion. The institute said very clearly that New South Wales is being disadvantaged because the Grants Commission formulas are out of date. But, most importantly, the Grants Commission formulas were developed when the amount of funding it determined was much smaller. That same formula and percentage are now being applied to a much bigger amount of the overall funding provided to New South Wales.

In other words, the inequity built into the Grants Commission formulas—we have all heard that they think we have too much public transport and too many miles of railway lines—is magnified because it applies to the whole GST rather than a small portion of what used to be Federal-State funding. I know it is a difficult concept for members opposite to understand, but if they ever try to understand Commonwealth-State finances they will have to work it out. The Federal budget papers also reveal that inequity. This year's Federal budget paper No. 3 contains a table showing the States' benefits from tax reform, as the Commonwealth calls it. I prefer to call it change because reform generally meant something positive. The table shows each State's benefit from change for the next three years. Most of the States receive a net benefit from the Commonwealth's change; in other words they will get more dollars in funding than they would have got under the previous guarantees and formulas when States were allowed to raise certain taxes.

Only one State in Peter Costello's budget paper does not receive benefits from tax reform over next three years, and that is New South Wales. The Federal Government's budget paper says that New South Wales'

net gain from tax reform over the next three years, from 2006-07 onwards, is zero. Next year New South Wales will need budget-balancing assistance. In other words, we are getting no net gain out of tax reform. Yet Opposition members continue to misunderstand this point and to try to mislead the public. Perhaps they do not understand. It is not too hard to believe that they do not understand Commonwealth-State financial relations. They came into this place today and again said, "New South Wales has plenty of money. Stop whingeing." But the reality is that independent experts say, and Federal Government Treasury documents show, that New South Wales is being duddled by the current Federal funding formulas. New South Wales cannot afford to cop a fine of \$26 million.

We have been threatened with fines in a whole range of other industries. Earlier the honourable member for Murray-Darling said that by the end of this year we will be forced to take action on water, again because of Federal Government threats of funding cuts. The people of New South Wales have to ask one question of the Coalition in New South Wales: Whose side are you on? They should not come into this place and say that they support the rice industry and that there is a logical case to keep the current marketing arrangements. We all agree with that. The only people who do not agree are those in the Federal Government. If we all agree that the case is strong and that we should retain the current marketing arrangements, Coalition members should ring members of the Federal Government and say, "We shouldn't be fined for doing something that is absolutely right." [*Time expired.*]

Mr THOMAS GEORGE (Lismore) [11.13 a.m.]: I join the honourable member for Murrumbidgee and the honourable member for Wagga Wagga in opposing the Rice Marketing Amendment (Prevention of National Competition Policy Penalties) Bill. Rice growers certainly will feel the brunt of the attitude of this lazy Government. The rice industry has fought very hard to retain the industry as it is. I am sure this decision will make them feel very vulnerable. The State Government has failed to consult with industry and the Rice Growers Association of Australia, which believes that the bill is premature. Some 98 per cent of Australia's rice is grown in New South Wales. The industry supports more than 8,000 jobs and contributes \$800 million to the economy. Two inquiries have found that Australia is substantially better off under the current arrangements, which demonstrates the net public benefits of current marketing arrangements. The New South Wales domestic rice industry is one of the most successful. The current single desk arrangement continues to provide security and certainty for growers, and maximise returns.

The honourable member for Monaro said that there is only one fundamental difference between them and us, but I disagree. The Labor Government in New South Wales has become increasingly lazy, which has caused much of the current problem with the National Competition Council [NCC] and the deregulation debate. Those opposite and the Minister have not done their job to justify retaining the vesting powers for the New South Wales rice industry. Last week the honourable member for Murrumbidgee challenged them to table their letter to the NCC justifying deregulation, but they have not tabled it. I doubt that they have sent the letter, which is typical of the laziness of the Labor Government.

I challenge them to table in this House the letter the Government sent to the NCC to justify retaining the vesting powers for the New South Wales rice industry. The New South Wales Labor Government continues to blame the Federal Government for its indecision and failure and for the deregulation of the rice industry. The domestic rice market has been concerned about deregulation. We should stop blaming the Federal Government because it is the State Government that is making the decision. The \$26 million fine is \$13 million per year over two years; it is not \$26 million in one year. All they have to do is find some savings and show support for the industry. As previous Coalition speakers have indicated, the Opposition will not support the Rice Marketing Amendment (Prevention of National Competition Policy Penalties) Bill.

Mr BRYCE GAUDRY (Newcastle—Parliamentary Secretary) [11.18 a.m.], in reply: I thank the honourable member for Wagga Wagga, the honourable member for Murrumbidgee and the honourable member for Lismore for their contributions to the debate. I thank particularly the honourable member for Murray-Darling and the honourable member for Monaro, who put the case in its real context: that is the absolutely philosophical direction of the National Competition Council and national competition policy to ram through deregulation. The State Government has done everything in its power to protect existing marketing arrangements for the rice industry in New South Wales, and those arrangements have delivered substantial benefits to rice growers in the broader community over the past 20 years. It is with regret that we come to this point. The State Government has no means to pay this massive fine and needs to introduce this bill. I commend the bill to the House.

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

The House divided.

Ayes, 49

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

Noes, 33

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

Pairs

Ms Allan	Mr Cansdell
Mr Price	Mr Pringle

Question resolved in the affirmative.

Motion agreed to.

Bill read a second time and passed through remaining stages.

MENTAL HEALTH (CRIMINAL PROCEDURE) AMENDMENT BILL**Second Reading**

Debate resumed from 8 November 2005.

Ms GLADYS BEREJIKLIAN (Willoughby) [11.31 a.m.]: I lead for the Opposition on the Mental Health (Criminal Procedure) Amendment Bill. At the outset I advise the House that the Opposition will not oppose the bill. However, we will raise a number of critical concerns that we would like the Government to consider and respond to. The bill seeks to simplify procedures, improve operational efficiency and update the law with respect to people suffering a mental illness who appear before the courts. A number of amendments arose from the recommendations of the Law Reform Commission Report entitled "People with an Intellectual Disability and the Criminal Justice System", which was released in 1996. An interdepartmental committee was formed in 2001 to consider that report. Since that time this bill has been four years in the making.

The key features of the bill are contained in four clusters of amendments. The first set of amendments relates to section 32 of the Mental Health (Criminal Procedure) Act, the second set relates to fitness and special hearings in the District Court and Supreme Court, the third set relates to the release of forensic patients by a court under section 39 of the Act, and the fourth set relates to the Mental Health Act. Section 32 of the Mental Health (Criminal Procedure) Act is the principal section used by magistrates to divert the mentally ill out of the criminal justice system and, if required, into treatment or placement programs. The bill allows a court to deal under this section with people who suffered mental illness at the time of the offence but are competent by the time they come before a court.

I ask the Attorney General to give the Coalition an assurance and clarification that the Government appreciates the important point that the fact that someone is not in a psychotic state at a given time does not mean that person does not have a mental illness. If a person were in a psychotic state at the time of the offence and appearance in court, but were not in a psychotic state at a subsequent court appearance, that would not preclude the court from determining that that person is mentally ill. I could find no evidence of that in the material I read or in the second reading speech. I ask the Attorney to provide the House with a response to that issue.

The second point is that a section 32 order allows the treatment or service providers to report breaches to the Probation and Parole Service or an officer of the Department of Juvenile Justice. The Government argues that that provision overcomes concerns about breaching patient confidentiality. I appreciate that, but I ask the Attorney to explain how that sits with current provisions in the Mental Health Act, given that a review of the Act is currently under way. I understand that provisions in that Act relating to privacy have not yet been amended. How does the proposed amendment relate to the Mental Health Act? The bill provides that magistrates have to give reasons as to why they may or may not use section 32 or section 33. That will allow a body of law to be built, and the amendment is logical. The bill allows magistrates to hear matters even if they have previously refused an application under section 32 or section 33. That is designed to prevent people from seeking out different magistrates to hear their case. The Law Society has made some comments in relation to this, which I will deal with later.

The second cluster of amendments relates to fitness and special hearings in the District Court and the Supreme Court. The bill provides that all fitness hearings will be by judge alone. Currently, often a jury must be empanelled, given that in many cases if the accused is unfit to plead he or she will be unfit to elect for a hearing by a judge alone. The amendments provide a presumption that a special hearing will be by judge alone. However, it is important to note that the bill retains the right of an individual to elect a jury for the special hearing. The bill removes the Attorney General from the process of directing fitness and special hearings. Instead that will be an issue for the court, which will rely on advice from the Director of Public Prosecutions and the Mental Health Review Tribunal.

The bill provides procedures for dealing with a defendant when there are gaps in the law, for example, people who become fit while on bail, so that they can appear before the court at a later time. The bill allows the Director of Public Prosecutions to discontinue proceedings following a finding of unfitness and to amend the indictment after a finding of unfitness, with the leave of the court. Section 39 of the Act deals with the release of forensic patients by a court. In 2003 section 39 was amended to allow a court to order the conditional or unconditional release of a person found not guilty by reason of mental illness. The bill seeks to amend the power of the court by introducing a public safety test, which will be an added power of the court. The court must be satisfied that the safety of the person or a member of the public will not be endangered. A court will be given a power to remand a person in custody, subject to the making of an order under section 39 of the Act.

The bill allows the Minister for Health to take action when a person breaches a condition of an order under section 39 of the Act. I ask the Minister what consideration has been given to the serious lack of access to community-based mental health facilities. What assurance will the Government give that so-called offenders with a mental illness will not be prejudiced by a lack of sufficient community-based mental health care in relation to the public safety test? How will a court know whether that person will gain access to sufficient community-based mental health services? How will a potential lack of availability of access preclude a person from being prejudiced under section 39? I hope the Attorney will respond to those concerns.

The bill also amends the Mental Health Act. It clarifies that the Mental Health Review Tribunal does not have the power to recommend release of a transferee who has not completed his or her non-parole period or fixed term. The amendment will ensure that the defendant has at least completed the non-parole period part of the sentence before consideration is given to the Mental Health Review Tribunal. I take this opportunity to place

on record the concerns raised by the Law Society in relation to these major amendments. The Law Society's Criminal Law Committee previously made a submission to the Government on the draft bill but three matters are still outstanding, which I now bring to the attention of the Government. The first is in relation to applications to dismiss a charge under section 10 (4), which states:

If, in respect of a person charged with an offence, the Court is of the opinion that it is inappropriate, having regard to the trivial nature of the charge or offence, the nature of the person's disability or any other matter which the Court thinks proper to consider, to inflict any punishment, the Court may determine not to conduct an inquiry and may dismiss the charge and order that the person be released.

The Law Society committee recommends that the word "trivial" be deleted so the section can be more appropriately invoked. The next two issues raised by the committee relate to section 32, which deals with persons suffering from a mental illness or condition. The Law Society committee supports the amendment to section 32 that will enable a magistrate to consider whether an accused person was mentally ill at the time of the offence. The committee supports also a subsequent repeal of section 31 (2). However, the committee suggested that the bill should bring offenders with a cognitive impairment that affects their reasoning and behaviour within the protection of section 32, which currently is not the case.

The Law Society's Criminal Law Committee strongly supports the inclusion of that new category. The committee submits that, as an alternative to the new category, "developmental disability" be amended to "intellectual disability, however caused". The Law Society is of the view that that category of offenders should be broadened to include that definition. Finally, the Law Society made a critical point about section 34 relating to the disqualification of magistrates. The committee opposes the proposed deletion of section 34, which would have the effect of denying applicants the opportunity to seek disqualification of a magistrate who may have previously heard the matter. While the committee acknowledges that section 34 may permit so-called magistrate shopping, there are important reasons for retention of the section.

The Law Society committee argued that if a section 32 application is unsuccessful, the defendant may wish to defend the charge. A magistrate who has seen material possibly prejudicial to the defence, such as fact sheets, a criminal history or psychiatric reports, should not hear the matter. If a defendant pleads guilty after an unsuccessful section 32 application there is usually no need for the magistrate to disqualify himself or herself. However, there might be situations when a magistrate receives prejudicial material that would not be admissible in sentence proceedings, such as a criminal history and bail reports that include matters that have been dismissed. On behalf of the Law Society I place those issues on record and ask the Government to respond to the proposed amendments relating to them. I have also placed on record various matters raised by the Opposition relating to the proposed amendments. I would like to refer to the Government one other major area of concern, although I appreciate that it might not fall within the jurisdiction of the Attorney General.

The Opposition's main concern is that the bill does not adequately acknowledge that offenders with a mental illness are often victims of a lack of resources dedicated to community-based mental health care. It is a sad indictment of the State Government that it has failed to provide adequate facilities so that people with a mental illness do not appear before the courts in the first place. People with a mental illness should receive early intervention and adequate care so their illnesses do not result in them being in a psychotic state which could potentially lead to offences being committed. According to a 2003 study, over 78 per cent of men and 90 per cent of women entering prison in New South Wales have had some form of psychiatric disorder or addiction in the 12 months prior to their incarceration.

They are tragic Third World statistics, and they are a human tragedy. Those figures were obtained from a report entitled "NSW Corrections Health Service, Mental Illness among NSW Prisoners", dated August 2003. Tragically, prisons and correctional facilities in New South Wales have become mental health clinics of last resort. Mental health services in New South Wales are now based on crisis management. Regrettably, people's illnesses are more likely to reach the psychotic stage because of a lack of community-based mental health care. If people cannot get into hospital beds their illnesses might cause them to commit offences that they might otherwise not have committed, hence they find themselves appearing before the courts.

While the bill amends procedures in the court system relating to dealing with offenders who have a mental illness, the Government continually refuses to acknowledge that the proportion of offences committed by people with a mental illness could be drastically reduced if sufficient resources and care were given to provide efficient community-based mental health care. Many patients or consumers who have illnesses that can lead to psychotic episodes are facing enormous difficulty accessing community-based mental care and acute beds. There is an increased incidence of patients being discharged from hospitals and psychiatric wards in New South Wales before they are ready to be discharged.

According to figures in the National Mental Health Report 2004, over the past decade New South Wales has had by far the lowest per capita growth in mental health funding—23 per cent—of all the States and Territories. When we match that figure with the number of people with a mental illness in our prison system and correctional facilities we find it is a sad indictment of the State Government and its mental health care record. I refer to an incident I heard about when I recently attended a health forum in Queanbeyan. An enthusiastic mental health worker from the Australian Capital Territory who attended the forum said she was constantly being phoned by NSW Health professionals concerned about people being released early from Kenmore Hospital in Goulburn. That health worker, who is funded by the Australian Capital Territory Government, was called on to assist with patients who it was feared would not be able to cope in the community and who might cause harm to themselves or to other members of the community.

I referred to the number of people in our prison system with a mental illness. Similarly, a lack of community-based mental health care has meant an enormous proportion of people on our streets have a mental illness. A 1998 study entitled "Down and Out in Sydney: Prevalence of Mental Disorders, Disability and Health Service Use Among Homeless People in Inner Sydney" found that 75 per cent of homeless people have at least one mental disorder. In 2005 many experts regard that as a conservative estimate. After discussions and meetings with many experts dealing with the homeless in Sydney and in other places in New South Wales, they regard the estimate as being closer to 85 per cent.

What is the Government's response to dealing with this mental health care crisis? Rather than promoting community-based mental health care, the State Government is consolidating and closing down community-based mental health centres. The Chatswood community-based mental health care centre in my electorate was closed last year. That centre cared for 300 consumers or patients, supported their families, and supported local mental health groups that utilised that site. The closing of that facility means that consumers and patients have to go to a hospital site for treatment, which they find intimidating. Reports from local area commands have shown that the incidence of crime has increased.

I do not want to presume that that is directly or solely linked to the mental health crisis. However, I have heard anecdotally from families and carers that as a result of this lack of access to community-based facilities patients have issues regarding their medication and they are resorting to behaviour to which they would not normally resort because their routine has been disrupted. The Government continually ignores these problems by burying its head in the sand. I said earlier that New South Wales mental health services run on crisis management. Not enough is spent on early intervention and community support. In many rural and regional areas young people have to wait many weeks before gaining access to counsellors. Early discharge is still a huge problem.

The bill is an example of the Government choosing to ignore the heart of the issue when it comes to matters impacting on mental health. Why are increasing numbers of people with a mental health illness appearing before the courts? Why are our prisons, juvenile detention centres and other correctional facilities full of people who need medical attention and support for their mental illnesses? At the outset I stated that notwithstanding issues relating to some of the technical aspects in the bill the Opposition does not oppose it. However, I cannot state strongly enough that we are utterly disappointed that the Government continues to fail those who either have a mental illness or care for and support someone with a mental illness. I commend the bill to the House and I ask the Attorney General, when replying to debate on this bill, to respond to the issues to which I referred.

Mr BARRY COLLIER (Miranda) [11.47 a.m.]: I support the Mental Health (Criminal Procedure) Amendment Bill, which is aimed at simplifying and improving criminal procedures relating to persons affected by mental disorders by amending the Mental Health (Criminal Procedure) Act 1990. All honourable members would be well aware of the troubling statistics surrounding mental health in our society. It is estimated that close to one in five people in Australia will be affected by mental illness at some stage during their lives. Unfortunately, over the past five years the trend indicates a substantial increase in the number of people with a mental illness who come before the courts.

The prevalence of mental illness in the New South Wales correctional system is substantial and indicative of the high incidence of defendants in court who have mental illnesses. It is estimated that approximately 2 per cent to 3 per cent of the New South Wales population have an intellectual disability. By contrast, a New South Wales prison study suggests that people with an intellectual disability comprise at least 12 per cent to 13 per cent of the New South Wales prison population, that is, approximately four times the general population. The current regime for dealing with fitness hearings, special hearings, the defence of mental

illness, and forensic patients in New South Wales came into operation on 22 August 1986 as a parcel of amendments to the Crimes Act 1900 and the enactment of the Mental Health Act 1983.

The changes were prompted by general dissatisfaction with the previous system of indeterminate detention at the Governor's pleasure. The Mental Health Review Tribunal was also established in 1986 to provide, among other things, expert assistance to the courts in this area. Although the regime is largely unchanged following the repeal of the Mental Health Act 1983 and amendments to the Crimes Act 1900, it is now governed by the Mental Health (Criminal Procedure) Act and the Mental Health Act, both of which came into force on 3 September 1990. These Acts are the primary legislative instruments that govern the procedure concerning mentally disordered and developmentally disabled persons who come into contact with the criminal justice system.

As part of a review of issues surrounding people with an intellectual disability and the criminal justice system, the Law Reform Commission prepared a report way back in December 1986. I understand that a number of the amendments arose as a result of recommendations in that report. Those recommendations were considered by an interdepartmental committee formed in 2001 with senior representatives from NSW Police, the Director of Public Prosecutions, crown prosecutors, the Department of Corrective Services, NSW Health, the Legal Aid Commission, public defenders, the Department of Community Services, the Department of Ageing, Disability and Home Care, the Mental Health Review Tribunal, the Department of Juvenile Justice, the magistracy, and the Attorney General's Department. All those agencies have supported the amendments in the bill. The amendments simplify procedures, improve operational efficiency, and update the law with respect to people suffering a mental or intellectual disability.

I particularly welcome the amendments to section 32 of the Mental Health (Criminal Procedure) Act. Section 32 is the principal section used by magistrates to divert the mentally ill out of the criminal justice system and, if required, into treatment or placement programs. The section is part of special provisions for the disposal of matters in the Local Court when a person is found to have a mental condition or a developmental disability. The bill amends section 32 to extend its operation to a defendant who at the time of the court proceedings is not mentally ill as defined by the principal Act but who is developmentally disabled or who suffers from mental illness or a mental condition for which treatment is available in hospital.

As the law stands at present, when a person who suffers from a mental illness comes before the Local Court charged with a summary offence or an indictable offence that can be dealt with summarily and the solicitor makes an application under section 32 of the Mental Health (Criminal Procedure) Act, the magistrate must consider the state of mind of that person at the time of the proceedings, that is, at the time the person comes before the court. This bill is an important step forward because it amends section 32 to allow a magistrate to consider a person's state of mind—his or her mental condition, if you like—at the time the alleged offence was committed. During the five years I practised as a legal aid solicitor at Sutherland Local Court I would commonly make applications under section 32 of the Mental Health (Criminal Procedure) Act. The facts of the case would indicate clearly that when the defendant committed the offence—let us say it was a summary offence; usually a minor offence in the scheme of things—he or she was suffering from a mental health disorder or was developmentally delayed or disabled. The problem was that, by the time the person came to court, he or she was well, lucid, and could understand the proceedings.

What often happens is that people commit an offence while not taking their medication. When people take the medication that a psychiatrist prescribes for their mental illness they feel well, and so think, "Well, there's no need to take my medication any more." So they go off their medication, commit an offence, start taking their medication again when they are apprehended by the police and referred to their carers or families, and then appear to be well when they come before the court. This important provision allows a magistrate to consider not just the demeanour of the person when he or she appears in court, which may be months and months after the alleged offence was committed, but the circumstances and the state of mind of that person and his or her background and intellectual disability at the time of the commission of the alleged offence. That is a very important step in the right direction.

Another important step forward is that the bill amends the Act to allow treatment or service providers who give treatment in accordance with an order diverting a defendant under section 32 to report breaches to the Probation and Parole Service or to an officer of the Department of Juvenile Justice, as the case requires. This provision is important because it overcomes the concerns of service providers and Probation and Parole Service officers who visit regularly the persons subject to such orders and find that they are not taking their medication. This amendment offers service providers a way out and a means of avoiding the problems that arise from

breaching confidentiality. It perhaps also allows for early intervention and the prevention of further offences. If people are identified as not taking their medication, perhaps some steps can be taken to ensure they do so and, as a result, their appearances before the court may not be so frequent.

The bill also provides that magistrates must give reasons for making a decision as to whether to use section 32 or section 33. That is important because it will allow a body of law to build up. However, it is also crucial for the client and the solicitor, and it may well be crucial for proceedings further down the track. For the reasons I gave earlier, people often come before the court again—perhaps they do not take their medication and commit another minor offence, for example—and the legal aid solicitor who appears for them regularly can look back at the court papers to determine why the magistrate made his or her decision in the previous case. That helps solicitors to prepare and present their case, and it also gives them a good idea of the problems their clients face. The rationale behind these changes is not simply to punish people—far from it—but, hopefully, to help those who suffer from a mental disability, are developmentally delayed, or who suffer from a condition that is a factor in the commission of an offence. It is crucial that magistrates give reasons for their decisions.

The final provision in the bill upon which I will comment allows magistrates to hear matters even if they have previously refused an application under sections 32 or 33. One argument is that this will prevent magistrate shopping. However, if a magistrate decides that he or she will not apply the provisions of sections 32 or 33 and make an order that the person receive treatment or be diverted under the supervision of the Probation and Parole Service, an application can be made that that magistrate no longer hear the case and that it go before another magistrate. This often presents a problem. If the application is refused, the magistrate hears the main case on the basis that the person does not have a mental illness or is not developmentally delayed.

Small country towns, for example, may have only one magistrate and the court may not sit frequently. The matter would have to be adjourned and heard by another magistrate in another town. In many cases magistrates who appear in small centres are well aware of the local identities, if I may use that term, who come before them regularly and so they treat people with a mental illness in a caring and compassionate manner. This amendment is a step forward. It is like a judge-alone trial: the solicitor asks the magistrate to hear the case on its merits, setting aside the section 32 application. Magistrates, by and large, are experienced in the law and can do that. Of course, magistrates can disqualify themselves from a case—I understand that the common law position will be preserved—but it is not mandatory. Magistrates can make that judgment themselves. They are mature people, well versed in the law, and I believe they should be able to hear a case for the reasons I have given, particularly in the context of country sittings and single-magistrate courts. Furthermore, if matters are not dealt with properly there can be long delays, which can create problems for witnesses who must return to give evidence at a later date.

On balance, I believe this is an important bill that makes substantial and crucial changes to the Mental Health (Criminal Procedure) Act. I know that the amendments to section 32, in particular, will be welcomed by all practitioners, especially those in the Local Court. I commend the bill to the House.

Mr ANDREW TINK (Epping) [11.58 a.m.]: I thank the honourable member for Willoughby, the shadow Minister for Mental Health, for leading for the Opposition in debate on the Mental Health (Criminal Procedure) Amendment Bill and putting the legal issues so well. However, another issue has arisen as a result of a telephone call I received from the Executive Director of the New South Wales Bar Association, Mr Selth, relating to schedule 3. I shall refer to it briefly and ask the Attorney General to respond when he replies to the debate. The explanatory note to the bill states:

Schedule 3 [1] amends section 80 of the *Mental Health Act* ... to require the Tribunal to review the case of a person, who has been found unfit to be tried for an offence by a court and has been granted bail, so as to determine whether the person has become fit to be tried and whether the safety of the person or any member of the public will be seriously endangered by the person's release.

The amendments to section 80 appear in schedule 3 to the bill but do not specifically contain the words "seriously endangered by the person's release". That may mean that the words are in the Mental Health Act and are not repeated in this bill, but are impacted by the amendments to section 80, or that they appear somewhere else and I have not found them. Mr Selth has asked why the word "seriously" is included. He asks, "Is it not enough that someone is endangered?" That is a fair question that needs to be carefully considered. The explanatory note clearly indicates that the tribunal is to review the case of a person who has been found unfit to be tried and granted bail.

So bail is an issue. If the question is whether a person will be allowed on bail at large into the community, what is the test? Is the test that any member of the public might be seriously endangered, or just endangered? The word "seriously" clearly raises the bar or the test. I suppose it makes it more difficult for the tribunal to reconsider bail. If it is said that a member of the community is endangered, is that not enough? Or is it the case that, notwithstanding that a member of the community may be endangered, is that not enough for the tribunal to reconsider bail? Mr Selth has raised an important question, and I ask the Attorney General to respond to it. If those words appear in the principal Act, rather than this amending legislation, will the Government consider a further amendment to delete the word "seriously"? If not, why is Mr Selth's proposal not acceptable? I would appreciate a response to Mr Selth's question in due course.

Ms KATRINA HODGKINSON (Burrinjuck) [12.02 p.m.]: I endorse the comments of my colleagues on the Mental Health (Criminal Procedure) Amendment Bill. I note that there have already been many relevant and interesting comments in relation to the substance of the bill. I refer to the impact of the bill on my electorate. Mental health and criminal procedures are both key parts of the Corrective Services sector within Goulburn, which lies in the electorate of Burrinjuck. Honourable members will recall the devolution of Kenmore Hospital, which in 1995 was a major psychiatric hospital in Goulburn. At one stage in its very long history Kenmore Hospital housed up to 1,500 psychiatric patients at one time.

On inspection of the facilities these days, one can walk down memory lane and see totally empty, long corridors that used to be full of camp beds with many dozens of people sleeping in the same room back in the days of electro shock therapy. In those days there were great problems with the recognition of mental health and the needs of mental health patients, but we have progressed greatly since then. With the devolution of Kenmore Hospital began the introduction of group homes, and Goulburn became a city in which there were many such homes. The mental health of people in Goulburn can only be described as very serious, with many people within the boundaries of Goulburn suffering from mental illness.

The Chisholm Ross Centre is recognised as the mental health centre in the Goulburn district, and deals with many patients from a very large area covered by the Greater Southern Area Health Service. The hospital has only approximately 28 beds to cope with basically a revolving door of mentally ill patients. Mental illness has a very wide jurisdiction. People with mental health illnesses can range from the psychotic to the depressed, all of whom will have different reactions in, and effects on, the local community. Goulburn is also home to the Goulburn Correctional Centre and the Supermax, the high risk management unit. Rob Rabbidge, an outstanding magistrate for my local area, who has recently retired, noted what I said in a private member's statement on 24 October 2002. He expressed his concerns when exploring bail options for a mental health patient whom he subsequently sent to gaol. He said:

Thirty three per cent of people in prison in NSW suffer mental illness, but there is no real alternative to sending them to prison.

In January 2001 he expressed similar concerns when dealing with another case. In September 2002, when dealing with another similar case, Mr Rabbidge said, "This is clearly a tragic situation." Of the case, the details of which were recorded in *Hansard*, Sergeant Toole said:

We can't put her on the street and she has got nowhere else to go. I'm asking that Your Worship refuse bail. Gaol is not the right place, but it's the only place we've got.

What a damning indictment of the support provided to mental health patients by this Government. Gaol is not the right place, but it is the only place we have got. It is extraordinary and a damning indictment of this Government that so many mental health patients end up in our correctional centres around the State. There is an extreme lack of facilities for mental health patients in country areas, and I am sure the same applies in the city. If we want to truly represent people with a mental illness, the time has come to get proper facilities, as has been evidenced over many years. Rather than put these people into correctional centres, it would save the Government money to house them in effective hospitals. It would save our community the penalties of crime that it currently faces, and would be an all-round benefit to the community and the individuals involved.

The Opposition does not oppose the bill, which I have read comprehensively. I agree with the comments of previous speakers, which I will not reiterate. However, it is very important that the Government continues to recognise that the needs of the mentally ill in this State are very wide ranging. We need more hospitals and proper facilities to help these people cope with their illnesses. Time and again in Goulburn the only option for Magistrate Rob Rabbidge has been to send patients off to gaol rather than to a hospital where they truly belong in order to get well.

Mr RUSSELL TURNER (Orange) [12.10 p.m.]: I note that the *Legislation Review Digest* says the purpose and description of the bill is that it "amends the Mental Health (Criminal Procedure) Act 1990 (the Principal Act) and the Mental Health Act 1990 (MHA) as set out below". It goes on to describe the bill, and states in part that it:

removes the role of the Attorney General in relation to an inquiry held by the District Court or the Supreme Court as to the fitness of a person to be tried for an offence, and in relation to directing the holding of a special hearing in respect of a person who is not fit to be tried for an offence [proposed amended s 8, s 10, s 20];

gives the Court, the Mental Health Review Tribunal (the Tribunal) and the Director of Public Prosecutions certain functions in relation to these matters...

provides that a Judge alone, rather than a jury, is to determine the question of a person's fitness to be tried for an offence...

provides that a Judge alone is to determine a special hearing unless the defendant, the defendant's representative or the prosecutor elects to have the matter determined by a jury...

The Legislation Review Committee, of which I am a member, is always asked to look into whether any bills or regulations trespass on personal rights and liberties. In part, the digest states:

It is arguable that the removal of the right to a hearing before a jury may impinge upon a defendant's right to a fair trial.

However, the NSW Law Reform Commission noted that fitness hearings involved primarily technical matters, and are therefore most suitable for a hearing by judge alone, particularly as they are not designed to be adversarial, and no decisions are made about the person's criminal liability. The Commission also noted that judge alone hearings may be quicker, less formal and less confusing or stressful for the defendant, particularly if experts for both sides agree that the defendant is clearly unfit to be tried, and recommended that fitness hearings should always be heard by a judge alone.

I note the prevalence of mental illness in New South Wales correctional systems and the figures relayed to this House by the honourable member for Willoughby, who said 70 per cent of men and 93 per cent of women in our institutions are suffering from some form of mental illness. As a society we might have tended to pat ourselves on the back when we closed down Callan Park, Morisset, and Bloomfield in the Orange electorate, some years ago. In many cases we have made great strides. We have new ways of treating mental illness and new medications. Provided a person is on medication and continues to take it, they can lead a relatively normal life, or at least a reasonably peaceful and private existence in a group home. This was recommended in the Richmond report.

As a member of Parliament I have received comments from constituents from time to time—as I am sure every other member has—about problems at some group homes. I have a letter on my office desk at the moment from families in a street where there is a group home. The letter refers to the objectionable behaviour of some of the patients and their need to be re-assessed for their suitability to live in that home. They question whether the patients should be encouraged to go back into an institution. That is a sad situation. There is always a fine line dividing whether people with a mental illness should have as much freedom as possible or should be in an institution.

Unfortunately, in some cases, they come to the attention of the police and end up in gaol for a short period. We have all had instances of people with mental illness being allowed out of a group home or released from gaol and coming to the attention of the public by committing a crime. Quite often the police do not know what to do with them. They do not know whether to recommend that they be gaoled, or that they be taken back to the group home or family home. Sadly, those people often end up in gaol because the system does not know what to do with them. Within a few days they are assessed and either go back into an institution to have their medication balanced or receive psychiatric help. Sometimes they are let out prematurely.

I often have situations where parents are absolutely anguished about the safety of their children, who might be anything from 15 or 16 to 50 or 60 years of age. The children believe they are fine, that there is nothing wrong with them. They get on a bus or train and leave town and end up anywhere in the State. Sadly, members of the community often take advantage of them, especially after they have received social benefits. They are used by members of the public until the money is gone. Then the parents get a phone call from somewhere in New South Wales and the child says, "I am out of money. Come and get me." The parents go through anguish until they get that phone call because they are frightened their child is being abused not only financially but also physically. While the Opposition will not oppose the bill, and it certainly corrects some mental health issues, we have a long way to go before mental health is dealt with correctly and the public and we as members of Parliament can believe we have got everything right.

Mrs JUDY HOPWOOD (Hornsby) [12.16 p.m.]: This bill amends the Mental Health (Criminal Procedure) Act 1990 with respect to inquiries to determine a person's fitness to be tried for an offence. It deals with special hearings and amends the Mental Health Act 1990. Key features of the legislation are amendments to section 32 of the Mental Health (Criminal Procedure) Act, which is the principal section used by magistrates to divert the mentally ill out of the criminal justice system and, if required, into treatment or placement

programs. Under that section the bill allows the court to deal with people who suffer mental illness at the time of the offence but are competent by the time they come before the court; allows treatment or service providers, under a section 32 order, to report breaches to the Probation and Parole Service or an officer of the Department of Juvenile Justice; provides that magistrates must give reasons why they may or may not use section 32 or 33, which will allow a body of law to be built up in this area; and allows magistrates to hear matters even if they have previously refused an application under section 32 or 33.

The bill also contains amendments affecting fitness and special hearings in the District Court and Supreme Court. It provides that all fitness hearings will be by judge alone. Currently, often a jury must be empanelled, given that if the accused is unfit to plead they will in many cases be unfit to elect for hearing by a judge alone. The bill provides a presumption that a special hearing will be by judge alone. However, an election for a jury can still occur. It removes the Attorney General from the process of directing fitness hearings and special hearings. This will be an issue for the court, which will rely on advice from the Director of Public Prosecutions and the Mental Health Review Tribunal.

The bill provides procedures for dealing with a defendant where there are gaps in the law; for example, people who become fit while on bail. It also allows the DPP to discontinue proceedings following a finding of unfitness and amend the indictment after the finding of unfitness with the leave of the court. The bill also will allow the court to release forensic patients under section 39. It amends the Mental Health Act to clarify that the Mental Health Review Tribunal does not have the power to recommend the release of a transferee who has not completed his or her non-parole period or fixed term. This will ensure the defendant has at least completed the non-parole period part of the sentence.

The Coalition will not oppose the bill, which seeks to acknowledge the proportion of people with a mental illness appearing before the courts. As stated previously, the number of people with a mental illness is extremely high. Many of the amendments will simplify procedures, improve efficiency, and provide greater certainty in dealing with offenders who have a mental illness. But the bill does not acknowledge why people in the community with a mental illness present in the first place. One in five people in Australia are affected by a mental illness at some stage of their lives, but insufficient community mental health services means that people with a mental illness often find themselves before the court. Everyone feels compassion for those with a mental illness, but when they are in trouble with the law, perhaps because of non-compliance with a medication regime, police officers do not have sufficient training to deal with them. The Government should consider providing police with more training to deal with people with a mental illness.

Often the Government announces policy that will reduce a crisis. For example, the focus may be on acute beds when a person needs admission to an acute bed or, conversely, a person may be discharged from an acute bed before that person is ready for discharge because someone else has greater need for the acute bed. The Government should focus more on increasing community mental health services, which could result in the diminution of admission to an acute facility in the first instance. In many cases policy on how to manage people with a mental illness, and ensure that they receive the best possible treatment and management, is too little too late. Often the system is very frightening not only for the person with a mental illness but also for the significant others. One of my constituents had two children, a son and a daughter. Sadly, her daughter, who had a dual diagnosis, committed suicide whilst in a correctional facility. For many years she tried to deal with a mental illness and illicit drug taking, the combination of which compounded everyday problems and resulted in many appearances before magistrates.

The honourable member for Burrinjuck said that magistrates have to deal with crimes committed by people with a mental illness and have no other choice but to send a person to gaol. The daughter of my constituent, a young woman in her early twenties who had a history of drug taking, was in this situation. She was incarcerated and, after four days in a cell, she committed suicide. The mother, who was called to identify her body, was extremely distressed to find the body of her daughter lying on the floor of the cell. She felt it was the final insult. For many years my constituent had tried to help her daughter through rehabilitation programs and accompanied her to court. This very brave woman has spoken publicly about her experience in the hope of focusing on dual diagnosis and its obvious difficulties. As stated previously, 70 per cent of men and 93 per cent of women in correctional facilities suffer from a mental illness.

Although the many amendments to the legislation will provide assistance for people with a mental illness, we should go back to the top of the waterfall to find out why so many people with a mental illness fall over the waterfall, instead of waiting for them to fall into the river and then introducing amendments to legislation to provide ease of management. We should put in place policy to stop the incarceration of people

with a mental illness by providing much more assistance in the community, which would help not only those with a mental illness but also their families and significant others who have to deal with the anguish associated with having a relative or friend with a mental illness. There is no doubt that the Government has not done enough. The Government continues to fail those in the community with a mental illness. I hope that the Minister takes note of the matters I have raised.

Mr BOB DEBUS (Blue Mountains—Attorney General, Minister for the Environment, and Minister for the Arts) [12.26 p.m.], in reply: I thank honourable members for the serious debate on the Mental Health (Criminal Procedure) Amendment Bill. The prevalence of mental illness in our community means that this issue touches most people's lives in some way or other. The inherent stresses of the criminal justice system become magnified for all parties concerned when they try to ensure that those affected by a mental illness are dealt with in a fair and just manner. The bill has drawn on the recommendations of the New South Wales Law Reform Commission, and it has been the subject of most extensive consultation. It will simplify and improve procedures. It will produce a more responsive system that can better protect both the mentally ill and the public safety. Importantly, it will provide greater opportunity for diversion from the criminal justice system for those who properly should be dealt with in an appropriate treatment and rehabilitative context, which is nevertheless enforced by the court.

The balancing of those principles is among the hardest issues our society faces. Consequently, the Government believes that these amendments are a positive step for everybody. I will briefly touch on the general question of mental health spending. Obviously this is not a core issue for the bill. But I wish to make it absolutely clear and remind the House that, several times in recent weeks, the Premier indicated that he, as well as the Government at large, regards mental health as a high priority. As Minister for Health, before he became Premier, he was responsible for the most substantial increases in the budget for mental health treatment. I say this bearing in mind some remarks by members opposite.

The Government has increased mental health funding by 141 per cent in the last 10 years, which is a much more rapid increase than the astonishingly rapid increase in the general health budget, which increased by 100 per cent over the same period. An increase of 141 per cent equates to \$500 million. I remind the House that the absolute nadir of mental health funding in New South Wales, the lowest level of spending in the entire history of this State, was that which occurred in the last year of Liberal-Country Party Coalition Government in 1994-95. There is no question that that is the absolute nadir of public spending in this State's entire history.

I also remind the House that these difficult issues are changing and remain extremely complex. I would have thought it is self-evident that the issues can be dealt with satisfactorily only if they are treated, as the Premier has requested, as a national problem. There are such an enormous number of intersecting and difficult issues that need to be dealt with and resolved that if we are finally to deal more satisfactorily with the issue of mental health, it can only sensibly be seen as a national problem—one in which the Federal Government as well as the various State governments have a quite critical role to play.

In 2005 the total mental health budget stands at \$854 million, or almost 8 per cent of the total Health budget. This year the Government announced an annual increase of \$22 million, of which \$12 million will be used for psychiatric emergency centres and \$10 million will be used for community mental health centres. In the past four years 271 acute care beds have been opened and 300 more will be opened in the next several years. Nine new psychiatric emergency care centres will be rolled out across metropolitan hospitals. Eight rural emergency care packages, providing telephone access and triage treatment, also will be rolled out.

The Government will provide support for 700 people with mental illness so that they can live in their own homes under the Housing Accommodation Support Initiative [HASI] Program, which has been universally agreed to be very successful. The investment by the Government in the treatment of mental illness will continue to be delivered and targeted. There will be a continuing emphasis on strategies to guide a variety of government departments in working together to prevent mental illness and to respond during a mental health emergency so as to break the cycle of readmission to hospital. All those matters are in the forefront of the mind of the Government.

I turn now to address the various provisions of the bill and some issues raised by the honourable member for Willoughby. The honourable member for Willoughby asked me to give an assurance that the amendment to section 32 in schedule 1 [17] will provide that a magistrate may consider a person who is presently showing no sign of being unwell as mentally ill at the time of committing an offence. That is what I understood the honourable member to be asking, and indeed I can give that assurance because that is exactly what the amendment does. The honourable member for Miranda also explained that circumstance in considerable detail.

The second issue raised by the honourable member for Willoughby concerns the question of patient confidentiality in the context of the Mental Health Act. I assure the honourable member that the amendment will have no impact on the Mental Health Act. There is an issue of confidentiality so far as breaches of section 32 conditions are concerned. In February last year the Government amended section 32 to provide that a person who is alleged to have breached a condition of an order under section 32 may be brought back before the court. If the breach is proved, the charge may be revived and dealt with at law. That amendment provided an assurance to magistrates that when they are deciding whether a section 32 order is appropriate, if the person did not or could not comply with the conditions of the order, the person would be brought back before the court.

At that time concerns were raised by service providers that they might be breaching client confidentiality if they reported the breaches. Accordingly, this provision ensures a legislative basis for treatment providers to authorise the reporting of breaches to the court. The amendment will facilitate the reporting of failures to comply with conditions, and strengthen the integrity of the operation of the orders. When conditions are imposed by a court, there is comfort in knowing that there is a mechanism to review the order, if there is non-compliance. The person diverted is told at the time that the conditions are imposed that breaches of conditions may be reported. That is an aspect of alterations to the ordinary requirements of patient confidentiality, but the Mental Health Act is not affected.

The third issue raised by the honourable member for Willoughby concerns the availability of community-based mental health services as they relate to section 39 orders. The amendment of section 39 will provide that a person may be released if a court is satisfied that the safety of the person or any member of the public will not be seriously endangered by the person's release. That means that the court will have to take into account the services that are available in the community, if they are required. If a court is not satisfied that the person can be adequately supervised in the community and that supervision is necessary, the court may decide that a section 39 order is not appropriate. That is merely a matter of logic. However, what should be remembered is that the patients concerned are forensic patients who are under the supervision of the Mental Health Review Tribunal, whatever else may be the case.

Several honourable members referred to concerns that have been expressed by the Law Society to political parties on both sides of the House. One concern relates to the dismissal of a charge under section 10 (4) of the Act. The Law Society has suggested that section 10 (4) should be amended, but my view is that such an amendment is not within the purview of the bill. The reform of the Mental Health (Criminal Procedure) Act is an ongoing process. I have asked the department to consider the Law Society's suggestion, and report to me. It may be that it is appropriate to address that issue at a later time.

The Law Society also proposed the amendment of section 32 so a magistrate may consider whether a person is mentally ill at the time an offence is committed, rather than simply when the person appears before the court. The Law Society has suggested that section 31 (2) should be repealed to further clarify the amendment of section 32. That change was made in the final draft of the bill. The Law Society also referred to a recommendation of the Law Reform Commission, which was endorsed by the interdepartmental committee, relating to a broadening of the category of people who might be diverted under section 32 to include all people suffering an intellectual disability, including an acquired brain injury.

The Government's response is that it is continuing to evaluate the recommendation. The Department of Ageing, Disability and Home Care plans to introduce a court liaison officer within city courts who will assist in determining the need for an amendment of that nature. The department will consider the resource implications of an amendment. In relation to the latter two matters, I am able to say that there is ongoing consideration of them. Finally, the Law Society referred to the disqualification of a magistrate by the repeal of section 34, and asked why the section is being repealed.

The Law Society is concerned that repealing section 34 of the Act may prejudice a defendant who wishes to defend a charge because a magistrate has seen material that is possibly prejudicial to the defence. However, the repeal of section 34 will not remove the common law obligation of magistrates to disqualify themselves. The common law provides that a magistrate should not hear and determine proceedings if affected by actual bias, or if there is a reasonable apprehension that the magistrate is not impartial and unprejudiced. The Government considers that the same test should apply in relation to continuing to hear a matter after a magistrate has declined to make a section 32 or section 33 order, if it is continuing to be heard. The situation is no different from when magistrates continue to hear matters, where appropriate, even though the facts, criminal history and evidence about the mental condition of the defendant may have been raised in bail hearings. The system, as it currently stands, can be misused in order to engage in a process known as magistrate shopping. The Government feels that the arrangements that have been made with respect to section 34 are appropriate.

A final matter, one raised by the honourable member for Epping, concerns the test contained in section 80 of the Mental Health Act. I am not entirely certain that I have understood the proposition of the honourable member for Epping in this respect, but I can say that the Government has not amended the test in section 80 of the Act; it only required that the Mental Health Tribunal continue to review a person after bail has been granted. The test that is presently applied in relation to all the tribunal's recommendations for release will be applied when reviewing the circumstances of a person on bail. The same test is now required to be applied by a court in section 39 orders. I hope my explanation resolves the issue raised by the honourable member for Epping and that I have, in that respect, covered the general concerns that have been raised.

I acknowledge that both sides of the House support these changes. The Government is more than pleased that it has been able, with the assistance of an interdepartmental committee of both competent and senior bureaucrats from across the Justice and Health portfolios, to bring this bill to Parliament and, as a consequence, to significantly improve the future operation of the criminal justice system as it affects people with mental illness. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

PROTECTION OF THE ENVIRONMENT OPERATIONS AMENDMENT BILL

In Committee

Consideration of the Legislative Committee's amendments.

Schedule of amendments referred to in message of 9 November

No. 1 Page 7, Schedule 1 [26], lines 17 and 18. Omit all words on those lines.

No. 2 Page 7, Schedule 1. Insert after line 18:

[27] Section 78 (4A)

Insert after section 78 (4):

(4A) The EPA must audit, on an industry wide or regional basis, compliance with licence requirements under this Act and whether such requirements reflect best practice in relation to the matters regulated by the licences.

No. 3 Page 10, Schedule 1. Insert after line 20:

Insert instead:

(c) any matters the authority thinks necessary to facilitate the implementation of a waste strategy in force under the *Waste Avoidance and Resource Recovery Act 2001*.

No. 4 Page 15, Schedule 1 [59], proposed section 119 (b), line 18. Omit "7". Insert instead "4".

No. 5 Page 19, Schedule 1 [66], proposed section 142D (1) (c), line 21. Insert ", including stock feed made solely from such waste" after "waste".

No. 6 Page 36, Schedule 1 [129], proposed section 295N (2). Insert after line 14:

(e) that the effects and benefits of the proposed green offset scheme or work are likely to last at least until the relevant impact of the activity is offset.

No. 7 Page 39, Schedule 1 [129], proposed section 295Q. lines 1–3. Omit all words on those lines. Insert instead:

(2) The regulations must make provision for or with respect to the following matters:

(a) if appropriate criteria and methodologies are available, the criteria and methodologies for determining whether green offset schemes or works meet required outcomes specified in licence conditions,

(b) evaluation, on a periodic basis, of green offset schemes or works and publication of such evaluations.

No. 8 Page 52, Schedule 2.3, lines 13–30. Omit all words on those lines.

Mr BOB DEBUS (Blue Mountains—Attorney General, Minister for the Environment, and Minister for the Arts) [12.44 p.m.]: I move:

That the Legislative Council's amendments be agreed to.

Mr MICHAEL RICHARDSON (The Hills) [12.44 p.m.]: During consideration of this bill there was a lengthy and spirited debate in the upper House on a range of issues, including wood fires. The Opposition has some concerns about the methodology employed by the Government in this bill to deal with smoke from residential chimneys. Unfortunately, the amendment proposed by the Coalition in the upper House was not passed. Therefore we believe that there will be fairly significant impositions on people living in country and city areas, including people in my electorate, and on local councils, to ensure enforcement of the legislation. I think there is a better way of dealing with this issue than the one proposed by the Government.

The amendments passed by the Legislative Council, and now under consideration in this House, were supported by the Opposition. We are not in the business of fixing up the Government's legislation, but the amendments that were suggested by the Opposition needed to be proposed and certainly will improve the legislation in several respects. I note that the Government agreed, in its own amendment No. 4, to the maximum penalty for tier one offences. The Minister has not seen fit to talk about that—maybe he does not feel strongly enough about it. The amendment differentiated between the maximum prison terms applicable to tier one offences committed wilfully by an individual or negligently by an individual. That is an important distinction. The point was made very forcefully in the other place that indeed it was unreasonable to apply the same penalty—seven years imprisonment, a long gaol term—for both the negligent commission of an offence and the wilful commission of an offence. The Opposition certainly supported that Government amendment.

Opposition amendment No. 5—page 19, schedule 1 [66], proposed section 142D (1) (c)— deals with pesticides, fertilisers and other substances. New South Wales farmers were very concerned that they may be prosecuted under the Protection of the Environment (Operations) Act for using stock feed made from waste materials. The amendment clarifies that it is a defence for a farmer to use stock feed made solely from non-hazardous agricultural or crop waste. Obviously that is a reasonable position and most honourable members would agree with that.

The Opposition thanks the Government for supporting the Opposition on that occasion. That was a fairly rare event, a red-letter day. We thank the Government for showing a modicum of commonsense on that occasion. Many of the amendments proposed by the Greens were neither supported nor opposed by the Opposition; they related to the operation of the green offset scheme. Our attitude towards the green offset scheme is that we would like to see how well it operates before we propose any amendments to it. Given the complexity of the scheme and the fact that it is something new and untried, I do not think it is possible to dot the i's and cross the t's beforehand. If the green offset scheme ends up working like the New South Wales greenhouse gas abatement scheme, which has been a complete dud and has not achieved what the Government claimed it would, it will not prove very much. It may just be window-dressing. When the green offset scheme was proposed the Government was quick to claim it would be a major advance in environmental protection, and it received considerable publicity.

In reality, if the bill ends up being like some of the Government's other propositions and legislation, it will not achieve very much at all. Eight pages of the bill relate to green offsets, which give some idea of the complexity of the scheme. As I said earlier, we will await the results to see whether that scheme works. One Greens amendment that we were happy to support related to the State of the Environment Report. The Government wanted to water down the reporting period by extending it from three years to four years. It said that would more closely align the State of the Environment Report with the finalised standards and targets currently being developed by the Natural Resources Commission.

A lot of material contained in the State of the Environment Report has nothing to do with the Natural Resources Commission—a fact that did not really seem to enter into the debate. One unarguable factor was that the legislation would have resulted in the State of the Environment Report being tabled on 1 October 2007 rather than before the election. That seemed to be what the Government had in mind. Over the past 10 years it has not covered itself with distinction in environmental management. I think it felt that reporting on the deplorable mess it made of many environmental issues shortly before the next election would not be to its benefit.

I understand clearly from a political standpoint why it would have moved an amendment to change the date of reporting and the time frame for reporting, but political advantage is not something that should enter into

legislation. These laws are designed to govern the people of New South Wales and they should do that in the most appropriate way, not simply to benefit a government. It might be said that that is a lofty ideal but it is certainly one to which Opposition members subscribe. We believe that a government should govern for the benefit of all the people in New South Wales. Over the past 10 years of this Labor Government that has not always been the case. The Opposition does not oppose any of these amendments and I guess the Government will not oppose them either.

Mr BOB DEBUS (Blue Mountains—Attorney General, Minister for the Environment, and Minister for the Arts) [12.54 p.m.]: I indicate to the Committee that I am entirely untroubled by any of the amendments that have been passed.

Motion agreed to.

Legislative Council's amendments agreed to.

Resolution reported from Committee and report adopted.

Message forwarded to the Legislative Council advising it of the resolution.

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL (NO. 2)

In Committee

Consideration of the Legislative Council's amendment.

Schedule of the amendment referred to in message of 15 November

Page 38, Schedule 1. Insert after line 43:

1.25 Workplace Surveillance Act 2005 No 47

[1] Section 16 Prohibition on surveillance using work surveillance device while employee not at work

Insert at the end of section 16:

- (3) This section does not apply to the carrying out, or causing to be carried out, of surveillance by an employer that is a law enforcement agency.

[2] Section 37 Covert surveillance records may be used or disclosed for relevant purpose only

Omit "only" from section 37 (3).

[3] Section 37 (4)

Insert after section 37 (3):

- (4) Without limiting subsection (3), if the covert surveillance of an employee was not authorised by a covert surveillance authority, the following use or disclosure of the information or record is for a relevant purpose:
- (a) disclosure to a member or officer of a law enforcement agency for use in connection with disciplinary or managerial action or legal proceedings against an employee of a law enforcement agency as a consequence of any alleged misconduct (other than an unlawful activity) or unsatisfactory performance of the employee,
 - (b) use or disclosure for a purpose that is directly or indirectly related to the taking of such disciplinary or managerial action or legal proceedings,
 - (c) disclosure to a member or officer of a law enforcement agency for use in connection with the training of law enforcement members or officers.

Explanatory note

Section 16 of the *Workplace Surveillance Act 2005 (the Act)* makes it an offence for an employer to carry out, or cause to be carried out, surveillance of an employee when the employee is not at work unless the surveillance is computer surveillance of the use by the employee of equipment or resources provided by or at the expense of the employer. Item [1] of the proposed amendments excludes law enforcement agencies from the application of the section so that it will not be an offence under the section for a law enforcement agency to carry out, or cause to be carried out, such surveillance of an employee of the agency.

Mr BOB DEBUS (Blue Mountains—Attorney General, Minister for the Environment, and Minister for the Arts) [12.55 p.m.]: I move:

That the Legislative Council's amendment be agreed to.

Section 37 of the Act makes it an offence in certain circumstances to use or disclose to another person surveillance information or a surveillance record if the information has been obtained or record made as a result of covert surveillance of an employee while at work unless the use or disclosure is for a relevant purpose. At present, the only relevant purposes when the covert surveillance is not authorised by a covert surveillance authority are related to proceedings for offences. Items [2] and [3] of the proposed amendments expand the relevant purposes when covert surveillance is not authorised by a covert surveillance authority to include use and disclosure by a law enforcement agency for the purpose of taking disciplinary or managerial action or legal proceedings against an employee in connection with alleged misconduct (other than unlawful activity) or unsatisfactory performance and disclosure to a member or officer of a law enforcement agency for training purposes.

Motion agreed to.

Legislative Council's amendment agreed to.

Resolution reported from Committee and report adopted.

Message forwarded to the Legislative Council advising it of the resolution.

[Madam Acting-Speaker (Ms Marianne Saliba) left the chair at 12.57 p.m. The House resumed at 2.15 p.m.]

SOCZEROOS WORLD CUP QUALIFIER

Ministerial Statement

Mr MORRIS IEMMA (Lakemba—Premier, Treasurer, and Minister for Citizenship) [2.22 p.m.]: Football is a sport followed with passion by billions of people throughout the world. That is why it is called the world game. The Fédération Internationale de Football Association has 204 member nations, more nations than compete at the Olympic Games. Since the team was led by Peter Wilson and the late Johnny Warren to the 1974 finals in Germany, the Socceroos have been knocked consecutively out by Iran in 1978, New Zealand in 1982, Scotland in 1986—shame—Israel in 1990, Argentina in 1994, Iran in 1998 and Uruguay—shame—in 2002—32 years of hope and expectation, 32 years of disappointment! Tonight the Socceroos have an opportunity to secure a place in the zenith of the world game, with the World Cup finals to be held in June 2006 in Germany. Tonight, in front of a packed Telstra Stadium, the Socceroos will carry the hopes and aspirations of those often-maligned soccer fans.

We have an opportunity to show the world that the multicultural world of Australian football can unite behind this team, so get behind the team! We have world stars playing in our ranks—Mark Viduka, Harry Kewell—and a world-class coach, backed by first-rate administrators. Tonight the team will play in a stadium that is the envy of the world, the stadium that hosted the 2000 Olympic Games. It will be a massive task because Uruguay is one of the world's top teams, but notwithstanding the silly statements of Recoba yesterday the Socceroos will carry the hopes of an entire nation and I am sure they will right the disappointments of the past 32 years.

Mr GEORGE SOURIS (Upper Hunter) [2.24 p.m.]: I am pleased to support the Premier's remarks. I point out that football, or soccer, is the leading male winter support and is second in participants only to the leading female sport of netball. Tonight the hundreds and thousands of children throughout Australia who play soccer and their parents will have a wonderful opportunity to see their national team make another bid for World Cup qualification. Although the result of the first match, in Montevideo, was a 1-0 loss, it was wonderful to see the Socceroos perform so well. That has excited the nation and raised the expectation that perhaps tonight Australia is poised for a historic victory against Uruguay. I offer the very best wishes of the Coalition to the Socceroos. We will cheer them to the rafters from 8.00 p.m.—and some of us will even be there!

DISTINGUISHED VISITORS

Mr SPEAKER: I welcome to the gallery a number of former members of the New South Wales Legislative Assembly who are here for their biennial Christmas lunch. I also welcome Monsieur Lecuru, Mayor of Cahor in the French Republic.

PETITIONS

Gaming Machine Tax

Petitions opposing the decision to increase poker machine tax, received from **Mrs Judy Hopwood** and **Mr Andrew Stoner**.

Alstonville Bypass

Petition requesting that the Alstonville Bypass be completed by the end of 2006, received from **Mr Donald Page**.

North-west Rail Link

Petition requesting that the north-west rail be completed by 2010, received from **Mr Wayne Merton**.

Bus Service 300

Petition requesting improved bus services including expansion of the 300 series bus service to adequately serve the inner city, particularly during peak-hour travel, received from **Ms Clover Moore**.

Bus Service 352

Petition requesting extension of bus service 352 to operate on nights and weekends, received from **Ms Clover Moore**.

Inner and Eastern Sydney Light Rail

Petition requesting the development of an integrated light rail network in inner and eastern Sydney, received from **Ms Clover Moore**.

Edgecliff Interchange Upgrade

Petition requesting the upgrading of Edgecliff interchange, received from **Ms Clover Moore**.

Murwillumbah to Casino Rail Service

Petitions requesting the retention of the CountryLink rail service from Murwillumbah to Casino, received from **Mr Neville Newell** and **Mr Donald Page**.

CountryLink Rail Services

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

Pensioner Travel Voucher Booking Fee

Petition requesting the removal of the \$10 booking fee on pensioner travel vouchers, received from **Mr Andrew Stoner**.

Same-sex Marriage Legislation

Petitions opposing same-sex marriage legislation, received from **Mrs Dawn Fardell** and **Mr Paul Lynch**.

Anti-Discrimination (Religious Tolerance) Legislation

Petitions opposing the proposed anti-discrimination (religious tolerance) legislation, received from **Mrs Dawn Fardell** and **Mr Wayne Merton**.

Unborn Child Protection

Petition requesting mandatory statistical reporting of abortions, legislative protection of foetuses of 20 weeks gestation, and availability of resources for post-abortion follow-up, received from **Mr Andrew Stoner**.

Kurnell Desalination Plant

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

Underground Cables

Petition requesting urgent implementation of an achievable plan to put aerial cables underground, received from **Ms Clover Moore**.

Model Farms High School Hall

Petition requesting the provision of a school hall for the Model Farms High School, received from **Mr Wayne Merton**.

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**.

Frederickton Public School

Petition praying that priority be given to the construction of buildings at Frederickton Public School, received from **Mr Andrew Stoner**.

Breast Screening Funding

Petitions requesting funding for BreastScreen NSW, received from **Mr Steve Cansdell, Mrs Judy Hopwood, Mr Wayne Merton and Mr Andrew Stoner**.

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 Hospital

Petition requesting that Lismore Base Hospital remains an accredited centre of excellence, received from **Mr Thomas George**.

Yass District Hospital

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

Kempsey District Hospital

Petition requesting that Kempsey District Hospital be maintained at level 4, and requesting the construction of a new hospital for Kempsey, received from **Mr Andrew Stoner**.

Kempsey Water Fluoridation

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

Forster Hospital Services

Petition requesting access to hospital services and a public hospital for Forster, received from **Mr John Turner**.

Cammeray Open Space Rezoning

Petition opposing the rezoning of 2 Vale Street, Cammeray, from open space to residential, received from **Ms Gladys Berejiklian**.

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**.

Kempsey Women's Refuge

Petition requesting funding to enable the Kempsey Women's Refuge to provide a 24-hour service, received from **Mr Andrew Stoner**.

Recreational Fishing

Petitions opposing any restrictions on recreational fishing in the mid North Coast waters, received from **Mr Andrew Stoner** and **Mr John Turner**.

Crown Land Leases

Petition requesting the withdrawal of changes to the rental structure of Crown land leases, particularly enclosed road permits, received from **Mr Steve Cansdell**.

Edinburgh Road, Castlecrag, 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 Berejiklian**.

Naremburn Bike Path

Petition requesting an alternative route to the proposed bike path in the vicinity of Naremburn shops, received from **Ms Gladys Berejiklian**.

Grafton Bridge

Petition requesting the construction of a new bridge over the Clarence River at Grafton, received from **Mr Steve Cansdell**.

Barton Highway Dual Carriageway Funding

Petition requesting that the Minister for Roads change the Roads and Traffic Authority's priority for Federal AusLink funding for the Barton Highway to allow the construction of a dual carriageway, received from **Ms Katrina Hodgkinson**.

Eastern Distributor and Cross-City Tunnel Ventilation

Petition praying that air purification systems be installed on the Eastern Distributor and cross-city tunnels, received from **Ms Clover Moore**.

Oxford Street Pedestrian Crossing

Petition requesting a pedestrian crossing for the Oxford Street and Barcom Avenue intersection, Paddington, received from **Ms Clover Moore**.

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**.

Pacific Highway Upgrade

Petition requesting the construction of a dual carriageway on the Pacific Highway between Nambucca Heads and Macksville with an interim 80 kilometres per hour speed limit, received from **Mr Andrew Stoner**.

Heavy Vehicles Policing

Petition requesting visible and unmarked permanent policing to enforce the Motor Traffic Act as applicable to heavy vehicles, received from **Mr Andrew Stoner**.

Forster-Tuncurry Cycleways

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

Public Housing

Petition requesting funding for safe and affordable public housing in Sydney, received from **Ms Clover Moore**.

ANSWERS TO QUESTIONS WITHOUT NOTICE

Mr Andrew Stoner: Point of order: My point of order relates to Standing Order 140 (5). I seek your ruling in relation to a number of questions I have asked in this House and the failure of the Premier to provide information in relation to them. On three occasions I have asked the Premier a question about serious breaches of the Mental Health Act at Kempsey District Hospital—on 22 September, 18 October and again yesterday. On two occasions the Premier has told me that he would obtain reports on this matter. Yesterday he claimed a report had been sent from the Health Department. However, it is clear from the *Hansard* that no report has been provided to this House in relation to this matter.

Amazingly, yesterday I received a fax from the Premier's department after question time, which contained information purporting to be an answer to the question I asked in this House. However, clearly if a question is asked in this House the answer also should be given in this House. If the question is asked in the Parliament, the answer must be delivered to the Parliament. It is not up to a bureaucrat to fax a piece of paper to me that purports to be an answer to a serious issue. Standing Order 140 provides that a Minister may provide additional information to questions at the conclusion of question time. However, at no stage has the Premier done this according to the standing order. The Premier should be directed to provide a full response to this Parliament and, accordingly, I seek your ruling consistent with the standing order.

Mr Carl Scully: To the point of order: As I understand it, the Leader of The Nationals has been provided with information.

Mr SPEAKER: Order! The Chair wants to hear the Leader of the House.

Mr Carl Scully: I do not recall any standing order that says a Minister or a Premier shall not provide any information to another member of Parliament without first giving it in the Parliament. How ridiculous! The Leader of The Nationals is always asking for information. He has been given it. Stop whinging!

Mr Andrew Stoner: Further to the point order—

Mr SPEAKER: Order! I will not hear anything further on the point of order. I have had a brief opportunity to consider Standing Order 140 (5). I will consider the point of order and rule on it after question time.

QUESTIONS WITHOUT NOTICE

ANWAR HISAM AL BARQ PRISONS ACCESS

Mr PETER DEBNAM: My question is to the Premier. Given that the acting governor of remand facilities wrote in April that he "would not allow entry of a person of the status of Muslim cleric Mr Al Barq under normal circumstances" but has had to do so under pressure to avoid a "political storm", why did the Government pressure Corrective Services to continue Al Barq's access to New South Wales prisons?

Mr MORRIS IEMMA: I am advised of the following. In 1994 Mr Al Barq was detained at Parramatta correctional facility for drug-related offences in the United States stemming back to 1984. He was extradited back to the United States in January 1995. He served a custodial sentence of 30 months, followed by three years' supervised release. Upon his release, it is believed the United States Immigration Service revoked his residency visa. I am not aware of when he returned to Australia. I am further advised that in 2001 Mr Al Barq started as a volunteer chaplain. His application included a criminal records check. I am further advised that Mr Al Barq claimed he did not have a criminal record. The advice to me further states that because he varied his name, the police check did not reveal his background. I am further advised that in 2002 he applied for Australian citizenship, which was granted in 2004.

Mr SPEAKER: Order! Government members will come to order.

Mr MORRIS IEMMA: I am advised that in early 2004 Mr Al Barq went part-time and in October 2004 he became a full-time chaplain, nominated by the Islamic Council and supported by the Civil Chaplaincy Advisory Committee. A further check at this time revealed what at first appeared to be immigration-related offences. Further investigations by the Department of Corrective Services started in co-operation with Federal authorities and then United States authorities. This revealed Mr Al Barq's criminal history. The conclusion reached by the commissioner was that Mr Al Barq had misled the department, acted dishonestly and banned him as a visiting chaplain in New South Wales correctional centres.

It is clear that the department needs to do more to ensure the people with rights to visit the gaols have cleared comprehensive security checks. Some 83 prison chaplains work in the New South Wales Corrective Services system, of which 34 are full-time. They are subject to police checks, which are reviewed every two years. I am advised that the Minister for Corrective Services is seeking advice from the commissioner to put in place further security measures. This may involve extending the security checks to other law enforcement agencies. That is the advice from the commissioner and my Minister.

SEXUAL ASSAULT PROCEEDINGS REFORM

Ms TANYA GADIEL: My question without notice is directed to the Premier. What is the latest information on the Government's efforts to protect the victims of sexual assault in New South Wales?

Mr MORRIS IEMMA: The continued improvement for conducting sexual assault trials has been a priority for the Government for many years. Most recently, the Government introduced laws to allow retrials on the basis of the recorded evidence in the first trial, to prohibit cross-examination by self-represented accused and to provide a presumption for closing the court when victims are giving evidence. We know that, despite many reforms in this area, sexual assault remains one of the most underreported crimes in New South Wales. Victims are rightly fearful of reliving in court the details of the attacks against them and of the time it takes from reporting sexual assault to the time a trial takes place.

Delay in sexual assault trials is a legitimate concern. Although our criminal courts are working more efficiently than ever, even slight delays in these traumatic cases can cause great distress for victims. For example, it may be that victims have prepared themselves to give evidence on a particular occasion when the matter is fixed for trial. However, the case is adjourned because more legal argument is required. This can happen particularly in cases that have multiple victims or multiple offenders, where the legal and procedural issues are complex. We will never forget the trials experienced by the victims of the gang rapes perpetrated in Sydney's south-west.

The Government will introduce a bill today to further protect the victims of sexual assault. The bill will amend the Criminal Procedure Act 1986 to allow a judge, other than the trial judge, to make binding determinations about evidence and procedural matters relevant to sexual assault trials. Rulings on the admissibility of evidence by a judge, other than the trial judge, are not binding and it is not possible to ensure that the same judge will deal with both the pre-trial hearing and the trial. This amendment will mean that rulings made by one judge may be binding on a subsequent trial judge, unless it is in the interests of justice not to do so.

Effective case management in sexual assault trials will ensure all preliminary matters, such as admissibility of evidence and the use and availability of technology, are resolved in advance of the commencement of the trial, thus avoiding unnecessary legal argument. The proposed legislation will serve to minimise the distress and trauma for these witnesses of giving evidence. It is part of the ongoing process of reform in relation to improving the process of sexual assault prosecutions for complainants. The protection of

children and the prevention of sexual abuse is a key priority for this Government. We led the nation when we established the specialist squad in NSW Police in 1996, now known as the Child Protection and Sex Crimes Squad, to deal with complex criminal investigations concerning paedophile activity, child prostitution and child pornography. This squad now has approximately 180 staff, the majority of whom work in the joint investigation response teams.

The Department of Community Services and police officers are co-located in Sydney, Wollongong, Newcastle, and on the Central Coast. In 2003, 11 additional sex crimes investigators were allocated from within NSW Police to the Child Protection and Sex Crimes Squad to establish a permanent specialist investigation response to adult sexual assault. The squad provides consultation and support to local area commands that conduct the majority of investigations into adult sexual assaults. The squad also runs the Child Exploitation Internet Unit, which investigates child pornography and the growing problem of paedophile use on the Internet.

The squad was involved in the very successful Operation Auxin in late 2004, which resulted in nearly 100 people being arrested in New South Wales and charged with more than 200 child pornography charges. In addition to the operational crackdowns, in January this year New South Wales introduced much tougher penalties for child pornography offences. We increased the maximum penalty for possession of child pornography from two years to five years imprisonment. Also, we increased the maximum penalty for publication of child pornography from five years to 10 years imprisonment.

This is a further example of how New South Wales has led the way in establishing a mandatory register for child sex offenders. The register contains information that convicted child sex offenders and other serious offenders against children are required to give to police in their local area. This means that police know where registered persons live, where they work and what car they drive. Currently more than 2,000 offenders are on the register, with approximately 40 new persons registered each month. Changes to the register came into effect on 30 September this year. Offenders are now required to supply additional information to police, including any children that they reside with or have supervised contact with, and affiliation with any clubs or organisations that have child membership. Offenders on the register are now required to report annually to police, irrespective of any change of information. If offenders fail to keep police informed of their personal details they face a penalty of up to \$11,000 and two years imprisonment.

The New South Wales Government led the development of a national approach to child protection offender registration through the Australasian Police Ministers' Council. Victoria, Queensland, Western Australia and the Northern Territory now have offender registers, and the Australian Capital Territory, South Australia and Tasmania intend to introduce registers in the near future. Another tool introduced into New South Wales police armoury to protect children from serious sex offenders is the Child Protection (Offenders Prohibition Orders) Act, which commenced on 1 July this year. These orders give police additional powers to seek court orders to restrict the conduct and behaviour of high-threat offenders against children. The first interim order was granted in August this year, which placed substantial restrictions on the offender. All these measures represent an ongoing determination to fight for the prevention of sex crimes. We recognise that special measures are required to protect the most vulnerable in our society, especially our kids.

ANWAR HISAM AL BARQ PRISONS ACCESS

Mr PETER DEBNAM: My question without notice is directed to the Premier. Given that this morning his Minister claimed that the Department of Corrective Services has no information to link Islamic cleric Al Barq to terrorist groups, yet his department's 15 March intelligent report notes Al Barq's "known associations with groups and persons linked to terrorist groups or activities", why does he continue to cover up what obviously was political pressure to allow this Muslim cleric unsupervised access to New South Wales prisons?

Mr MORRIS IEMMA: I understand why the Leader of the Opposition wants to talk about counter-terrorism: For three months he has not said one single word about it. A debate has been going on across the whole nation about strengthening our counter-terrorism laws, yet for three months he uttered not a single word. Last week in this House he called for a summit even though the whole nation was represented in a summit in September. Last week he finally woke up. He now comes into this Chamber talking about a cover-up. I have already outlined the action that has been taken in relation to Al Barq and the further measures that will be taken to tighten the processes that are in place.

The Leader of the Opposition should not come into this House seeking to make tawdry political gain simply because he has been asleep for three months. The only statement the Leader of the Opposition has made

on counter-terrorism has been a bagging of our police for undertaking a very successful raid last week. There he was—the armchair critic from Vacluse—getting stuck into our front-line duty police last Saturday, and was all he has had to say. The whole nation has been saying, "Good on you", for the work the police have done, but last Saturday the Leader of the Opposition got stuck into them. His entire solution for addressing terrorism is to hold a summit—another talkfest. He is on about that because for three months he has been asleep. Maybe David Clarke instructed him to say something about terror.

ILLAWARRA PLANNING DECISIONS

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

Mr FRANK SARTOR: I thank the honourable member for Wollongong for her question and note her very frequent representations on matters affecting her constituents in Wollongong. Today I inform the House of three key issues affecting the constituency of the honourable member for Wollongong. The first concerns a major upgrading of the BlueScope Steel operations at Port Kembla. As all honourable members know, Port Kembla is BlueScope Steel's largest manufacturing site. It produces more than five million tonnes of steel each year and is the largest integrated steelworks in the southern hemisphere. It is the backbone of the region's economy. Its establishment dates back to 1936 and it is the most important industrial activity in Port Kembla.

The current proposal involves expenditure of \$232 million. More than 1,000 construction workers will be involved. The investment will assist to underpin and secure the jobs of more than 4,000 permanent BlueScope Steel staff and 3,400 contractors and represents job security for a total of 7,500 people in the Illawarra. The proposal is in two parts. The first part consists of a \$154 million upgrading of blast furnace No. 5 which was commissioned in 1972 and has been upgraded on two previous occasions. The furnace is approaching the end of its useful life and needs to be upgraded again.

The second investment is a \$78 million upgrading of the cold mill and pickle line. I can see everyone nodding in agreement and noting the significance of that. Every Government member knows the importance of the cold mill and pickle line, but members of the Opposition do not have a clue. For the benefit of members of the Opposition, I point out that the pickle line removes scale and rust from the hot rolled coil that is produced by the hot strip mill. The plant has two products. The upgrading will result in a doubling of output.

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

Mr FRANK SARTOR: The pickle line and cold mill's throughput will be 850,000 tonnes per annum, which includes 148,000 tonnes of hot rolled pickle oil and 400,000 tonnes of cold rolled flat hard. The Government has imposed strict conditions of consent to protect the community in relation to construction traffic and the reduction of noise. Under the conditions, night-time noise from the blast furnace will be reduced by up to 4 decibels, which is a small but very significant reduction in noise. The upgrading is also expected to capture fugitive emissions from the steelworks stacks, improving the content of flue gases that result from steel production. There will be other upgrading in effluent systems to improve the amenity and environment of the local community. I am talking about a major project for the Illawarra economy. I am very pleased that the Government has been able to facilitate such an important step.

The second matter that is of interest to people is a very long-running saga dating back to 1997 when a 53-hectare coastal strip between Thirroul and Bulli in the northern suburbs of Wollongong was zoned residential. The site is known as Sandon Point. The history of the issue is that there has been a running battle over seven years. A Land and Environment Court decision in 2001 gave some limited residential approval. The former Minister for Urban Affairs and Planning, Andrew Refshauge, announced the holding of a commission of inquiry in 2002 and its report was produced in October 2003. That did not resolve all the issues, so Charles Hill, a director of Planning Workshop Australia, conducted a further review. I have received his report and I advise the House that, finally, certainty will be provided for the three landowners concerned and for the local community.

Mr Hill recommends that over 60 per cent of the site, which is up to two-thirds of the site, should be left as open space and that rezoning for the development should be allowed on the following terms: more than 60 per cent of the area will be off-limits to housing and zoned for public recreation or environmental protection; nearly all of these lands should be brought into public ownership; approximately 17 hectares towards the western boundary of the site should be deemed suitable for medium density residential development, including

aged care facilities. Development of the site for residential and aged care will be worth \$200 million. Approximately 400 new residential lots will be created. As part of the proposed Anglican aged care facility, more than 100 new jobs will be created.

The decision has the support of the Wollongong City Council. Development will proceed, but with big environmental gains. The site features estuarine swamp forests, pockets of turpentine forest and areas of Aboriginal heritage and archaeology that will be protected from development. The proposal to turn the entire site into regional park is simply not workable because a number of private owners are involved and the cost to taxpayers would be prohibitive. The area will be declared a State significant project. I hope that certainty, finality and closure will accompany the creation of a very sensitive development. A third issue that is of concern to me is the Dwyers site. In August 2005 the Wollongong City Council approved stage one of a development application for a seven-storey leisure, entertainment, commercial and retail development on the Dwyers site in central Wollongong.

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

Mr FRANK SARTOR: The honourable member for Murrumbidgee behaves like a little juvenile schoolboy. His father and his uncle worked day and night on their carrot farms and on the production of other agricultural goods in Griffith to give him a half decent education. What a pity he lets them down. What a pity! His mum and dad and his uncle are good people.

Mr Steven Pringle: He is keeping you honest.

Mr FRANK SARTOR: The honourable member for Hawkesbury should take his pills. My concern is that the proposal exceeded the 15-metre height limit by almost 100 per cent. The development was approved against the recommendations of council's staff, Department of Planning advice, and concerns of the local panel. Now the development of stage two is imminent with a proposal for a 28-storey building and a 30-storey building.

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

Mr FRANK SARTOR: The proposal totally exceeds the height limit by almost an order of magnitude. State environmental planning policy No. 1 is not intended to be a shortcut to rezoning. I am considering seriously calling in the developers and telling them to approach the project properly.

ANWAR HISAM AL BARQ PRISONS ACCESS

Mr ANDREW STONER: My question is directed to the Premier. How can he continue to downplay this serious breach of security when his acting governor highlighted that the Department of Corrective Services intelligence report on 15 March stated, "Al Barq has maintained past associations with two inmates who have links with groups associated with terrorist activity"?

Mr MORRIS IEMMA: No-one downplays it at all—absolutely not. In relation to the ridiculous suggestion in the previous question asked by the Leader of the Opposition, we have absolutely no hesitation in backing the commissioner's action in getting rid of this fellow—absolutely none.

CROWN RESERVES FUNDING

Mr MATT BROWN: My question is addressed to the Minister for the Environment. What is the latest information on improvements to Crown reserves throughout rural and regional New South Wales?

Mr BOB DEBUS: I remind the House that Crown reserves are a magnificent resource for the people of New South Wales. More than 30,000 reserves are scattered across the State that accommodate a wide range of public facilities and recreational opportunities for the entire community. They include showgrounds and State parks on the major inland dams, community halls, recreation reserves and caravan parks. This year alone the Government will provide more than \$6.5 million in funding for public Crown reserves in New South Wales. More than \$5 million of that funding has been designated for the development and maintenance of Crown reserve caravan parks through the Caravan Park Levy Scheme.

Funding helps ensure that caravan parks continue to offer quality, affordable accommodation and meet the needs of the ever-increasing tourist industry, especially along coastal New South Wales. Country

showgrounds are an extremely important facility for smaller rural communities, hosting community meetings, trade fairs, art groups, and sporting and social events, as well as annual agricultural shows. This year the Government will deliver \$510,000 for country showgrounds through the Showground Assistance Scheme.

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

Mr BOB DEBUS: Projects funded through that scheme include fencing, electrical works and pavilion improvements. Kyogle Showground has been offered a grant of \$1,300 and a loan of \$3,000 to assist with the cost of replacing guttering and downpipes on its grandstand and pavilion. The honourable member for Kiama, who was good enough to ask me this question, will welcome the news of funding of \$12,000 for the Robertson Showground towards the installation of a set of floodlights to enable the local community to use the ground at night.

Mr SPEAKER: Order! The honourable member for South Coast will come to order. The honourable member for Kiama will come to order.

[Interruption]

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

Mr BOB DEBUS: I am unaware of any grant for the South Coast electorate, but I will keep looking. The Government will provide more than \$750,000 for the management and improvement of other Crown reserves including community halls, recreation reserves and walking tracks—the kinds of programs that deliver immediate benefits. I am sure that the honourable member for Murray-Darling would agree with me that it is important that we restore and clean up the Moulamein swimming pool. A grant of \$13,700 was provided to the trust that looks after that pool after it was damaged recently by a severe storm. If that money had not been forthcoming, the Moulamein community would have faced summer without the use of that pool.

More than \$4,000 has been offered to the Broken Hill Racecourse Trust to replace timber flooring on the members' grandstand and to replace roofing on the stables. The honourable member for Monaro, a keen bushwalker, will welcome the news that the Lambie Walking Track will receive \$3,000 to help improve signage on the track and assist with maintenance. Those are some of the reserves that benefit from targeted funding across rural and regional New South Wales. The Government is responsible also for two of the most significant walking tracks in New South Wales—the historic Hume and Hovell Track and the Great North Walk—for which \$140,000 has been set aside. The Hume and Hovell Track traces the historic expedition of those explorers from Yass to Albury. The Great North Walk stretches from Port Hunter in Newcastle through the Central Coast right down to the obelisk at Macquarie Place near Circular Quay. This year \$90,000 has been allocated for maintenance and improvements, including a new rest area at Somersby, a new timber bridge over the Mooney Mooney Creek and a boardwalk at Wondabyne on the Hawkesbury River.

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

Mr BOB DEBUS: By working with councils and the thousands of volunteers who freely give their time to help run reserves, the State Government is showing its commitment to the recreational, sporting and social needs of our community.

ANWAR HISAM AL BARQ PRISONS ACCESS

Mr PETER DEBNAM: My question without notice is directed to the Premier. Exactly who in the department and the Minister's office signed the upgrade approval earlier this year to allow unsupervised access to Muslim cleric Al Barq, despite internal intelligence reports confirming "known associations with groups and persons linked to terrorist groups or activities"?

Mr MORRIS IEMMA: I have answered two questions on this matter already. The Leader of the Opposition made an outrageous allegation about a cover-up. Firstly, we backed the commissioner's decision to get rid of that fellow. Secondly, I outlined at length at the beginning of question time the information we have on this matter. Thirdly, any process that requires tightening will be done so immediately.

Mr PETER DEBNAM: I ask a supplementary question. Premier, given your answer to Parliament, why did it take your Government more than four months to cancel the unsupervised access of cleric Al Barq to our gaols, despite repeated calls from the acting governor of the remand centre for a review of the status?

Mr Carl Scully: Point of order: Mr Speaker, that is clearly outside—

Mr SPEAKER: Order! The Premier answered an earlier question in relation to this matter. He said the Government had reviewed the issue and the commissioner had taken action. He then said that so far as he was concerned, therefore, the Government had taken action and would take whatever further action is necessary in the future. The Leader of the Opposition has now asked about the time period of the access. I rule the supplementary question in order.

Mr MORRIS IEMMA: I will refer the Leader of the Opposition to the first question and the first answer. I repeat: They are subject to police checks, which are reviewed every two years. I am advised that the Minister for Corrective Services is seeking advice to put in place further security measures. This may involve extending the security checks to other law enforcement agencies. Further, in relation to security checks for employees of other government agencies, the counter-terrorism chief executive officers will continue to work with the commissioner to ensure that the processes are most appropriate to provide security. That is what I said in answer to the first question. I am sorry that the Leader of the Opposition was not listening; maybe he has some difficulty.

Mr Andrew Tink: Point of order: Who stood over the prison governor for political reasons?

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

[Interruption]

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

[Interruption]

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

[Interruption]

Mr SPEAKER: Order! There is no point of order. I remind the honourable member for Epping that he is on three calls to order.

SKILLS SHORTAGES

Mr JEFF HUNTER: My question without notice is directed to the Minister for Education and Training. What is the latest information on the impact of skills shortages on the New South Wales economy?

Ms CARMEL TEBBUTT: Education Ministers from around Australia will meet on Thursday and Friday to discuss the future of higher education and vocational education and training in New South Wales. This is an important meeting. It is well acknowledged that if we want to succeed in the world we need to build up our skills base. Our competitiveness as a trade-reliant economy will be determined by how we adapt our system of education and training to that reality. This is as true for tradespeople, small businesses and farmers as it is for the professions. We have two choices: invest in a high-quality system of education and training for Australia, or let underinvestment and poor investment choices lead us down a low skills path to an uncertain future.

We must ensure that the national education and training system in this country meets current and future skill requirements. We have a world-class education system in New South Wales, our students frequently top international tests, we have world-class universities, and our TAFE system has been expanding and adapting to meet skills shortages. With technology accelerating the pace of change in economies we cannot rest on our past performance. We must continue to invest and innovate. Nationally, there are signs that we still have work to do.

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

Ms CARMEL TEBBUTT: Industry identified current skill shortages as one of the biggest problems it faces. The Reserve Bank is also concerned that skills shortages are one of the greatest risks to our economic prosperity. In March an Organisation for Economic Co-operation and Development [OECD] report found that since 1995 Australia had one of the largest declines in public investment in tertiary education of any OECD country, which is a great shame. Australia's investment dropped by 8.7 per cent while other countries increased their investments. Australia is one of only seven OECD countries—

Mr Donald Page: Point of order: The Minister is saying that skills shortages have increased since 1995. She should get it right. She has been in Government since 1995. What has she done about it? She has been in government for 10 years and we have gone backwards in the skills shortages area. She should have been doing something about it for the past 10 years.

Mr SPEAKER: Order! There is no point of order. The honourable member for Ballina will resume his seat. In view of his uncharacteristic outburst I will place him on one call to order only.

Ms CARMEL TEBBUTT: I know this is an issue about which Opposition members do not like to hear. They are ashamed of the performance of their Federal colleagues, but the facts speak for themselves. Seven OECD countries reduced government funding for tertiary education and Australia is one of them. Since 1996 the Federal Government ripped \$5 billion from our universities, which is an outrage.

Mr SPEAKER: Order! The Minister has the call.

Ms CARMEL TEBBUTT: Commonwealth expenditure is not being directed in the most effective manner. The Commonwealth Government knows there is a shortage of welders, panel beaters, plumbers, electricians, hairdressers and chefs, but what do we see as a result of its \$590 million allocation for employer incentives? Large amounts are going to areas that do not have acute skills shortages. For example, the Commonwealth Government provided around \$55 million worth of incentives a year for training salespeople. The skills shortages are not in sales; they are in construction. There are shortages of electricians and plumbers; there are not shortages in the sales area.

Instead of focusing on skills shortages and increasing investment, the Commonwealth Government focused on using education funding to push extreme industrial relations policies. It is more concerned with its ideological agenda than it is with the future skills and training needs of this country. In universities the Commonwealth focused on implementing an extreme industrial relations agenda rather than lifting our national performance. The Commonwealth Government's record of underinvestment has real consequences for the States. We rely on our universities to train our teachers.

Mr Donald Page: Point of order: Mr Speaker, in view of your generosity of putting me on one call to order only—

Mr SPEAKER: I assure the honourable member that I will not be so generous next time.

Mr Donald Page: I make the point that people are not interested in the blame game. The Minister is trying to blame the Federal Government for our skills shortages. She is in Government. She has to do something about it. People are not interested in the blame game.

Mr SPEAKER: Order! The honourable member for Ballina will resume his seat. I call him to order for the second time.

Ms CARMEL TEBBUTT: The people of New South Wales might not be interested in the blame game but they are certainly interested in this State's ability to deliver high-quality public services. Universities train our teachers, nurses, doctors and Department of Community Services workers.

Mr SPEAKER: Order! The Minister has the call.

Ms CARMEL TEBBUTT: The Commonwealth Government is squeezing the professional work force needs of the New South Wales Government. The Commonwealth Government directly negotiates university profiles with institutions; it does not take into account the work force needs of New South Wales. Currently the States, the largest employers of teachers and nurses, are not consulted in the allocation of university places. Since 1996 some 18,000 nursing applicants—18,000 young people who want to study nursing and contribute to our community—are not able to get a place. They have been turned away from universities because they are unable to secure a place. That is despite predictions that the current shortfall in the nursing work force nationally will blow out to 40,000 by 2010.

Mr SPEAKER: Order! The Minister for Education and Training has the call.

Ms CARMEL TEBBUTT: We want to see places for those 18,000 young people who want to study nursing. We want them to have an opportunity to obtain a university education. We want the Commonwealth

Minister to talk to New South Wales and to other States and Territories about how university places are allocated. We should have a seat at the table when decisions are made about the allocation of university places. Those are the issues I will put to the Commonwealth Minister at the meeting over the next two days. If Opposition members were really concerned about these issues they would support our call for universities to be defined clearly as universities.

The quality bar should not be lowered. They should support our call to the Commonwealth Government to put New South Wales and other States and Territories at the table when decisions are made about where university places are allocated. We are at a critical point in higher education and vocational education and training. We cannot resolve these issues if the Commonwealth Government does not work collaboratively with the States and Territories. We call on the Commonwealth to do that. This is a critical issue for the future of Australia.

GLEN INNES HIGH SCHOOL DEMOUNTABLE CLASSROOMS

Mr RICHARD TORBAY: My question without notice is directed to the Minister for Education and Training. Can she advise the House of any intention by the Department of Education and Training to remove two demountable classrooms from Glen Innes High School, the only high school in Glen Innes?

Ms CARMEL TEBBUTT: I thank the honourable member for his question and for his keen interest in this matter. I am aware of this issue at Glen Innes High School. I am advised that no arrangement has been made to remove demountable classrooms at that school. The honourable member for Northern Tablelands has made extensive representations about this issue. Currently three general classrooms and one food technology classroom are provided in demountable buildings at that school. Glen Innes High School is entitled to 32 classrooms; it has 34 at the moment.

Following representations from the honourable member for Northern Tablelands I asked the department to consider the school's needs for these two extra demountable buildings to remain at that school. Once the department receives the school's request to retain the demountables, that request will be considered in consultation with the school education director, the regional director and the demountable review committee. Some of the issues the committee takes into consideration are current and future enrolment numbers, staffing levels, uses of learning spaces and the needs of other schools in New South Wales for additional accommodation. Further consultation will be undertaken with the honourable member for Northern Tablelands and school communities about this issue.

ABORIGINAL LAND RIGHTS ACT REVIEW

Mr BRYCE GAUDRY: My question without notice is addressed to the Minister for Aboriginal Affairs. What is the latest information regarding the review of the New South Wales Aboriginal Land Rights Act?

Mr MILTON ORKOPOULOS: I thank the honourable member for his question and for his interest in this matter. New South Wales is the only jurisdiction to have land rights legislation that covers the whole of the State. The New South Wales Aboriginal Land Rights Act, which was enacted in 1983, provides for the establishment of local Aboriginal land councils, the claiming of vacant Crown land by those land councils, and the delivery of benefits to Aboriginal people through the economic development of that asset base. New South Wales can rightfully claim to have the best land rights regime in Australia, which is a credit to this Parliament and those who came before us. The current Act has changed the lives and destinies of thousands of Aboriginal people in New South Wales and delivered significant benefits, such as housing, community development programs and social services.

But that legislation is now 22 years old and needs updating. We must ensure that we provide a framework that delivers sustainable economic development, sustainable employment growth and sustainable opportunities for Aboriginal people. With these goals in mind, a review of the Act is currently under way and I am pleased to update the House on progress. In recent weeks I have travelled to Narooma, Coffs Harbour, Tamworth, Dapto, Kempsey, Wollongong, Dubbo, Port Macquarie and Cobar to listen to the ideas and suggestions of local Aboriginal communities about how they want to see the Act improved. Aboriginal people are telling us that they want a system with better governance arrangements, more participation by Aboriginal people at a local level, greater equity between land councils, and a direct link between assets and benefits—

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

Mr MILTON ORKOPOULOS: We need to improve the ways that asset bases are converted to benefits for all Aboriginal people. The Government is committed to full consultation with Aboriginal people in reviewing the current Act, and a series of consultation forums will be conducted by two widely respected community activists. I am pleased to inform the House that Mr Jack Beetson, an Aboriginal community leader from Port Macquarie, has agreed to run the community consultation forums on the review of the Act. Mr Beetson has a long history of involvement in Aboriginal issues and is a former director of Tranby Aboriginal College. He has also served as chair of the Rotary Club of Sydney Central Business District and the Red Cross. He is the current Official Indigenous Consultant on the Rotary Goodwill Committee and was awarded the Rotary Club of Sydney CBD Community Service Award in 1998. Mr Beetson has also been recognised internationally, and received an Unsung Hero Award from the United Nations in the Year of Dialogue in 2001. He currently runs a rehabilitation retreat near Port Macquarie—

Mr Andrew Stoner: Linger Longer.

Mr MILTON ORKOPOULOS: Yes, that is right. We are deeply grateful that Mr Beetson has agreed to assist the review process. But Jack Beetson will not work alone. I am pleased to inform the House that the Hon. Wendy Machin has agreed to partner Jack Beetson in conducting the community consultation.

Mr SPEAKER: Order! There is too much audible conversation in the Chamber. I am having difficulty hearing the Minister's reply. The honourable member for Lachlan will come to order. The Minister for Aboriginal Affairs has the call.

Mr MILTON ORKOPOULOS: Wendy would be well known to many honourable members already. She has a long history of distinguished public service, including 11 years of service to this Parliament, much of it as Minister for Consumer Affairs, and Minister Assisting the Minister for Roads. Ms Machin is now a director of the NRMA and has additional roles as a consultant and a member of the Commonwealth Migration Review Tribunal. Wendy was born and raised on the mid North Coast and is well placed to provide very valuable feedback to me during the review of the Act. Consultation on the Act will commence this week. During November and December forums will be held in Coffs Harbour, Armidale, Albury, Griffith, Blacktown, Walgett, Narooma, Cobar, Broken Hill and Dubbo. These forums will provide an opportunity for all those interested in the Act review to have their say. I encourage all Aboriginal people to attend the meetings and ensure that their views are heard.

Questions without notice concluded.

QANTAS EIGHTY-FIFTH ANNIVERSARY

Ministerial Statement

Ms SANDRA NORI (Port Jackson—Minister for Tourism and Sport and Recreation, Minister for Women, and Minister Assisting the Minister for State Development) [3.24 p.m.]: I pay tribute to Qantas, the Australian national carrier, as today is the eighty-fifth anniversary of its commencement. Last night Margaret Jackson delivered a speech at the Qantas anniversary dinner. I will quote the first couple of paragraphs of that speech as I think they encapsulate the spirit of Qantas. Ms Jackson said:

Imagine a hot day in 1920. Grazier Fergus McMaster is trudging into Cloncurry. His car has broken down in a dry river bed. Along comes the young Gallipoli veteran Paul 'Ginty' McGinness, who is in town to map a new route for the Great Air Race from London to Australia. He and his ANZAC mates, Hudson Fysh and Arthur Baird, lack funds to enter the race themselves. But McGinness stops to help a bloke in trouble.

As they fix that broken car on that hot day, the adventurous pilot and the tough grazier get to talking. About Australia's enormous distances and bad roads. About this incredible young industry called aviation.

Hudson Fysh later wrote of Ginty McGinness that he "had something great, something born of the young, immature, but intensely venturesome Australian, returned from the war, groping with gusto for something ahead, something undreamt of, but which he must do.

Sounds to me like the Spirit of Australia.

Imagine the challenges facing an airline that started in Longreach in outback Queensland in 1920. That airline, which started basically as a taxi service, has grown to be the ninth largest airline in the world. Qantas was

always restricted by technical issues because of the tyranny of the 10,000 miles it had to battle more often than other airlines that were trying to go global. Accessing aircraft was difficult so in 1924 Qantas began building its own de Havilland DH50 aircraft. In 1934 Qantas decided to go international by linking with British Imperial Airways. That was a great decision. Many other airlines of that time failed to survive but Qantas is still with us.

In the early days Qantas had difficulty getting dispensation licences to allow it to compete with rail. Qantas was closely associated initially with the Royal Flying Doctor Service. In 1942 Qantas rescued men, women and children from Singapore, Java, Port Moresby and other ports. It also had to fly many dangerous missions during the Second World War without the support of radio. For security reasons, pilots had to fly using celestial navigation only. Qantas was there when Cyclone Tracey struck. It airlifted orphans out of Vietnam at the end of the war. Qantas pioneered around-the-world travel, with the introduction of the Constellation—the super Connie. It was the first airline to introduce business class travel. Qantas also initiated the UNICEF Change for Good Program, which it introduced to other airlines. It has raised \$35 million for UNICEF since 1989. In 1979 Qantas had the world's only all-747 fleet, and today it is a launch customer for the A380. I take this opportunity to congratulate all previous chief executive officers and chairmen of Qantas and its staff. I congratulate particularly Geoff Dixon and Margaret Jackson on their stewardship of our great Australian airline.

Ms KATRINA HODGKINSON (Burrinjuck) [3.28 p.m.]: The Opposition joins the Government in wishing Qantas a very happy eighty-fifth birthday and thanks Qantas for arranging for John Travolta—a fantastic actor and a much-admired gentleman—to appear at tonight's Socceroos match. The Minister for Tourism and Sport and Recreation did not mention that in 1974 Qantas evacuated 673 people on one flight after Cyclone Tracey. Qantas has provided great services for rural and regional centres across the entire nation and has helped to put many of those centres on the map. The honourable member for Wagga Wagga has a beautiful poster of a Qantas jet. Qantas has had a significant impact on the development of many rural and regional towns and centres.

I note the story about Longreach, where the airstrip was built just long enough to allow a Qantas aircraft to land but not quite long enough for it to take off again. The aircraft remains in the area as a tourist attraction. The new Boeing A380 is the world's biggest aircraft. It will be named after that great aviatrix Nancy Bird Walton, who is an inspirational achiever and role model to so many women all around the world. The Opposition congratulates Qantas on its eighty-fifth anniversary and hopes it has a very successful and prosperous next 85 years.

ANSWERS TO QUESTIONS WITHOUT NOTICE

Mr SPEAKER: Order! I have had an opportunity to reflect on the point of order taken by the Leader of The Nationals prior to question time. As I have advised members on numerous occasions, the Chair is not in a position to direct Ministers how to respond to questions without notice, as the standing orders are silent on whether answers to questions without notice have to be provided in the House. However, it is highly desirable for answers to be given by Ministers in the House, and not privately to members. One avenue of providing supplementary answers is under Standing Order 140 (5).

In relation to this particular matter, on 18 October 2005 the Premier advised that he would obtain a report on the matter from the Minister for Health. Yesterday the Premier advised the House that the Minister for Health had responded. The Premier has provided an answer to the questions asked by the Leader of The Nationals and it is his prerogative whether he wishes to provide a supplementary answer in accordance with Standing Order 140 (5). I would, however, ask Ministers to always bear in mind, and whenever possible abide by, the convention that answers to questions without notice be provided in the House.

BUSINESS OF THE HOUSE

Routine of Business: Suspension of Standing and Sessional Orders

Special Adjournment

Mr CARL SCULLY (Smithfield—Minister for Police, and Minister for Utilities) [3.31 p.m.]: I move:

That:

- (1) standing and sessional orders be suspended to permit at this sitting:
 - (a) the resumption of the adjourned debate and passage through all remaining stages at this sitting of the following bills:
 - Commission for Children and Young People Amendment Bill
 - Companion Animals Amendment Bill
 - Parliamentary Superannuation Legislation Amendment Bill
 - State Revenue Legislation Further Amendment Bill.

- (b) the introduction and passage through all stages of the Criminal Procedure Amendment (Sexual Offence Case Management) Bill, notice of which was given this day for tomorrow.
 - (c) the postponement of Private Members' Statements until after consideration of Government business at the conclusion of which the House shall adjourn without motion being put.
 - (d) from the commencement of Private Members' Statements until the rising of the House no divisions or quorums being called.
- (2) the House at its rising this day do adjourn until Thursday 17 November 2005 at 10.00 am.

In a nutshell it is proposed that we conduct some urgent business and that private members' statements be taken at a later hour.

Mr ANDREW TINK (Epping) [3.32 p.m.]: This is the "get out of here as fast as we can with the least possible damage" motion. The Government is trying to avoid question time on the three sitting days on 6, 7 and 8 December. The Leader of the House does not want to front up because the Opposition would raise issues about the hole in Lane Cove Road, the reinstatement of the toll on the cross-city tunnel, and how sooner rather than later the people who run the consortium in Singapore or Hong Kong will jack up and say, "We can't postpone putting the toll back on the cross-city tunnel forever. For Heaven's sake get the Parliament up so you are not embarrassed so that we can put on the toll and earn some money."

This motion is about reinstating the toll at a time after Parliament has got up for the year so the current Minister for Transport—that ever nimble and speedy man on his feet—does not have to run out of the Chamber on another occasion for another reason, such as a difficult question without notice. The issue that is emerging is the political management of embarrassing matters within the Government relating to terrorist threats and suspects. The Premier does not want politically embarrassing questions being asked in December about how it is that people with political connections, two terrorists, are allowed to continue within the gaol system, notwithstanding that no less than the Acting Governor of the Department of Corrective Services blew the whistle with the Commander, Remand Facilities, and said he was told to leave this man in the gaol so as to avoid a political storm. No wonder the Leader of the House has moved this motion to bring on a whole lot of business urgently to avoid those December sitting days.

Various elements of the wider government of this State are starting to leak like a sieve. People throughout the public sector are fed up with the way this Government is managing the public service and it leaves them no choice other than to let the public know through the Opposition in this Parliament what is going on. It is extraordinary but important that the letter from the Governor of the Metropolitan Remand Centre has surfaced. It is extraordinary that a man with terrorist links was allowed to continue preaching inside the gaol system, even after the Governor clearly indicated that he had links to groups associated with terrorist activities. Today the Premier totally avoided the key point of what was the nature of the political pressure put on the Governor of the Metropolitan Remand Centre to allow this man to stay in the prison system.

Mr Carl Scully: None.

Mr ANDREW TINK: There was, because the Acting Governor of the Metropolitan Remand Centre said there was. He said the man was allowed to stay in to avoid a political storm.

Mr Carl Scully: Point of order: I do not mind giving my mate a fair bit of rope but this is over the top, and he ought to come back to the motion.

Mr SPEAKER: Order! I wondered when a point of order would be taken. The honourable member for Epping knows that his remarks are well and truly outside the leave of the motion. He will return to the issue at hand.

Mr ANDREW TINK: The issue at hand is that the Leader of the House wants to cut and run to avoid a whole lot of embarrassing issues, for example, the imminent reintroduction of tolls on the cross-city tunnel and the political interference which allowed somebody with terrorist links to remain in the prison system to come and go and to be a conduit for information backwards and forwards. The Premier wants us to think it is a spelling mistake. He has been telling the public that his name is spelt I-e-m-m-a and ran advertisements about it, but he cannot spell the name of a man with terrorist links. For Heaven's sake! [*Time expired.*]

Question—That the motion be agreed to—put.

The House divided.**Ayes, 51**

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

Noes, 34

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

Pairs

Ms Allan	Mr Cansdell
Mr Price	Mr Humpherson

Question resolved in the affirmative.

Motion agreed to.

CRIMES AMENDMENT (ANIMAL CRUELTY) BILL

Message received from the Legislative Council returning the bill without amendment.

CONSIDERATION OF URGENT MOTIONS**Central West Flooding**

Mr PETER BLACK (Murray-Darling) [3.47 p.m.]: My motion is urgent and should be given priority. I believe we will have the support of sensible elements of The Nationals. Today is the first time we can properly thank those volunteers in our communities—a total of 31 State Emergency Service [SES] units—who went to such extraordinary lengths in dealing with the recent storm in central and western New South Wales. The storm started last Sunday week in Broken Hill, but it was not until last Thursday that the Premier travelled to Molong

to declare the one-stop shop. We have had the exigencies of the industrial relations debate, so today is the first time we have had a proper opportunity to thank the volunteers and others.

In referring to "others", I believe we have to recognise across party boundaries the efforts of the police, Fire Brigades regulars and volunteers, the Perilya mine rescue team, Country Energy in the Orange electorate, the Ambulance Service of New South Wales, which supplied great services, many volunteers from Corrective Services and our gaols, and of course councillors from our shires. Many people volunteered their services to assist in a massive period of crisis. As this is the first occasion on which we can properly thank these people, we should proceed to deal with the motion. Unlike other occasions when I wanted to establish the urgency of a motion, I will not take my full five minutes.

Anwar Hisam Al Barq Prisons Access

Mr PETER DEBNAM (Vaucluse—Leader of the Opposition) [3.50 p.m.]: I agree that we should take every opportunity to thank people who have contributed in a big way to helping communities in distress, but it is a matter of what is urgent. Today what is urgent is that the Government has failed to stop New South Wales prisons from being used as incubators for Islamic fundamentalism. Any Australian and anyone in New South Wales would acknowledge that the biggest threat to us at the moment is terrorism, yet this incompetent Government admitted today an extraordinary security breach. It has refused to answer questions about it, but, in the words of the Minister, it has admitted to "a stuff up". I do not find that explanation acceptable, nor will the community find it acceptable. It is unbelievable. When we go through the detail of this major security breach it is obvious why it is unbelievable.

Earlier I noted that the governor of the remand centre put in writing in April, the second time he wrote on this topic, that under normal circumstances he would not allow the entry of a person of the status of Muslim cleric Mr Al Barq. But he had to do so under pressure to avoid a "political storm". This motion is urgent because today we have before us in this House evidence of political pressure when it comes to terrorism. The issue confronting Australia today is terrorism, and we have before us evidence of political pressure to allow someone with terrorist connections to roam around the gaol system freely. That is why the acting governor of the remand centre put in writing in April, the second time this year, the request for an urgent review. It is now November, and we are calling on the Government today to debate this matter urgently. It is critical to the people of New South Wales. To date the Government has squibbed. This morning the Government admitted a major stuff up, to use the Hon. Tony Kelly's words.

This is not a major stuff-up: this is systemic failure under political pressure. We need to know why the Government exerted political pressure on the Corrective Services system to allow the Muslim cleric unequalled access across the prison system and why, even when the governor of the remand centre requested an urgent review to lock this fellow out, the Government upgraded his access from supervised to unsupervised. Honourable members must understand why it is urgent to debate this today. It is urgent for the people of New South Wales. I can see that a few Labor members of Parliament agree that this is urgent. I thank them for that. I hope they will vote for the motion, because it is critical to the people of New South Wales that we discuss this and get to the bottom of why the Labor Government of New South Wales pressured the Department of Corrective Services to allow Islamic cleric Al Barq—under any of his aliases—to wander around the gaol system freely when it knew, from its own department's intelligence report dated 15 March, that he had "known associations with groups and persons linked to terrorist groups or activities".

What the Government has done today is continue to cover up that political pressure. It urgently sent out a Minister at 11.30 this morning to try to get away with the excuse that this was "a one incident stuff up". But it is not. What we have seen here is political pressure to allow an Islamic cleric to wander around the gaol system freely, despite the urgent protests of the governor of the gaol, in words of one syllable, that he would lock this fellow out. But he was told to allow him access because there would be a political storm if he did not. It is about time the Premier took responsibility for this fundamental failure of the justice system in New South Wales, this fundamental failure of counter-terrorism measures in New South Wales. It is about time he finally took responsibility for something. He has taken responsibility for nothing in the month that he has been in the Premier's office. It is about time he stood up for the community. [*Time expired.*]

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

CENTRAL WEST FLOODING**Urgent Motion**

Mr PETER BLACK (Murray-Darling) [3.54 p.m.]: I move:

That this House:

- (1) notes the devastating impact flood and storm damage has had in the Central West and Far West of New South Wales;
- (2) commends the tremendous efforts of emergency service crews across the State in protecting the lives and properties of rural communities affected by the devastation; and
- (3) notes the progress being made by local councils and government agencies in rapidly assessing flood and storm damage and working to repair the damage.

It is a delight to lead for the Government, although it is not a delight to reflect on the nature of why we are doing it. I salute the honourable member for Orange, who will lead for the Opposition. I am sure that we will be exactly as one, which is unusual on motions for urgent consideration in this place. Earlier I referred to the list of people we need to thank—it is lengthy—and I have no doubt that the honourable member for Orange will add one or two from his electorate who are not within my purview. Certainly it includes the State Emergency Service [SES], police, New South Wales Fire Brigades, Country Energy, Corrective Services, the shires, Broken Hill City Council, the Ambulance Service of New South Wales, and the list goes on. I am not omitting deliberately government services of related sizes, such as the Department of Community Services [DOCS]. The events of Sunday night 6 November in Broken Hill will not be forgotten for many years, particularly by residents of the south. As it stands, I believe that something like 16 houses have been determined by insurance companies as unrepairable. They will be demolished. The people who lived in those houses will have to rebuild.

It is a matter of regret to stand in this Chamber at this time and say that there are people in this great land of ours who fail to be insured appropriately, or at all. My heart goes out to them, irrespective of their failure to be insured, because to most people their house is their greatest material asset. Once you lose your house you really have a problem. On Sunday 6 November Broken Hill was hit by a mini tornado and heavy rain. The rain is now in two reservoirs in the order of approximately four gigalitres, which is enough to keep Broken Hill city supplied with water until next March. That is the silver lining. On Monday 7 November, 79 requests for assistance had been received by 8.30 in the morning, at which time 51 jobs remained outstanding, 80 per cent of which were roof jobs. Many other houses in the south of Broken Hill lost their roofs in the mini tornado.

I am able to report to the House that on Monday 7 November I travelled by air to Broken Hill in the company of the Minister for Emergency Services, the Hon. Tony Kelly. We inspected areas to the south of Broken Hill. The damage was astonishing. One house had lost its roof, the next house was virtually unscathed, the following house had lost its roof, and so on. The impact of the storm was remarkable. I have been informed that the Sydney Weather Bureau is sending people to Broken Hill to determine what went wrong with the forecast. They want a better forecast system. They forecast only scattered showers and thunderstorms—nothing like the storms that occurred. Country Energy provided a helicopter to take us to the Silverton Hotel, which arguably is one of the best-known hotels in New South Wales. I am able to report to those who have passed the test—and I am happy to report that approximately half the Government frontbench has passed the Silverton Hotel test—that no damage whatsoever was sustained to the bar. The part of the hotel that lost its roof was the residential section.

[Interruption]

We do not talk about what the test is in this place because there are other Ministers and shadow Ministers who will be required to pass the test to which the honourable member for Orange has alluded. Menindee was without power for a considerable period. Of course, when refrigeration failed, the town's businesses and residents lost perishables. In a sense, the majority of the damage was in the southern part of Broken Hill. A total of 122 requests for assistance were received by 1.00 p.m. on Monday 7 November, and 80 per cent of those were calls for repairs to roofs.

By that time, assistance from outside the area was being sourced from Dubbo and Sydney. Three teams arrived from outside Broken Hill on 7 November. I salute all the volunteers who gave up employment and other commitments to journey to Broken Hill to provide much-needed urgent assistance. By 8 November total requests for assistance had reached 142 and by 10.00 a.m. that day only 13 repair jobs remained to be

completed. I can assure members of this House that I had never previously seen canvas stretched across roofless houses so quickly by so many willing people.

The storm swept through the eastern parts of Broken Hill and caused flooding in the Belubula River and Mandagery Creek. In nine hours there were 10 centimetres of rain, which is exceptionally heavy rainfall. Bell River catchment received 360 points of rain overnight. That is a huge volume of rainfall in a short period. The net effect was that low-lying flood-prone areas were inundated, and flooding occurred as far south as Wellington. The Bell River peaked at 6.54 metres at Molong, where floodwaters inundated shops and houses. I am sure the honourable member for Orange will mention one of the most peculiar events that happened at Molong. Apparently the supermarket was flooded to the point that people were no longer able to shop there, so buses were provided to enable people to commute from Molong to Orange.

I am pleased to inform the House that the Premier visited Molong on Thursday 10 November and inspected the one-stop shop. It was one of the occasions when members of Parliament of all political persuasions were able to work together in the best spirit of parliamentary consensus and in the best spirit of community in the west and Central West of New South Wales for the benefit of all. The peak in the Belubula River exceeded 10.5 metres overnight. I do not know the area very well, but I know what 10.5 metres looks like, and I know that it represents a huge area of inundation. On 8 November at 4.00 p.m. the Bureau of Meteorology confirmed that flood levels in Mandagery Creek peaked at 1.5 metres, and the peak arrived at 9.00 p.m. that night—three hours earlier than had been predicted.

The population of Eugowra, approximately 730 people, was evacuated and an evacuation centre was established at Parkes under the supervision of the Department of Community Services, which provided outstanding service. The evacuation was completed by 8.00 p.m. on 8 November and was a co-ordinated effort by DOCS, NSW Police, local councils, the Rural Fire Service and the New South Wales Ambulance Service. Four rotary winged aircraft were positioned at Parkes and out-of-area assistance was provided by the Sydney Northern and North West operations teams of the State Emergency Service. The Lachlan SES controlled the evacuation of Eugowra and teams from Parkes, Peak Hill and Forbes provided flood rescue boats. *[Time expired.]*

Mr RUSSELL TURNER (Orange) [4.04 p.m.]: I am grateful for the opportunity to lead for the Opposition during this very important debate. Many people must be thanked and many points must be made to improve co-ordination and strategies to ensure that the record damage caused by flooding in Molong on Tuesday 8 November does not recur. The impact of the flooding was more severe and more frightening than usual because it occurred in darkness and without warning. No-one knew the extent of run-off from the hills or the rising levels of Molong Creek that would result in inundation of Molong to an unprecedented level. As other honourable members have mentioned already, other areas also were inundated. Those areas included Eugowra, Cudal to a lesser extent, where five or six houses were inundated, and Trundle.

Since the first week in November heavy rain has fallen throughout the central western areas of this State. Hail has damaged farms that were about to harvest very good crops that the farmers had been anticipating during three or four years of drought. In many instances the crops were totally ruined. In some instances they may be salvaged for silage and used later for hay, but until the week beginning 7 November they had been excellent grain crops. As the honourable member for Murray-Darling pointed out, although damage in towns such as Broken Hill receives a great deal of attention, we must also be mindful of damage suffered by farmers, especially when it follows a prolonged drought.

I place on the record my appreciation of the enormous support received by people throughout the disaster area. I note that the State Emergency Service [SES] celebrates its fiftieth anniversary this year. The response from NSW Fire Brigades, NSW Police, the Ambulance Service of New South Wales, Country Energy, Telstra and council workers who worked alongside the volunteers was magnificent. While council workers might have been paid, they certainly went beyond the call of duty. Officers of the Department of Community Services [DOCS] and other government agencies were heavily involved in providing assistance, and are continuing to provide assistance. We should not only acknowledge the disaster that has occurred but think about how damage can be prevented in the future as a result of disasters.

Wyangala, Burrendong and Windemere dams are located in my electorate. During periods of heavy rainfall they perform a tremendous role in flood mitigation. They are able to hold back floodwaters and gradually release them after the main storm has passed over the electorate. However, Molong does not have a major dam. There are small dams at Lake Canobolas and on Molong Creek halfway between Molong and

Orange, but they were already almost full and had no capacity to hold back floodwaters when the disaster occurred. Wyangala Dam did not help Eugowra at all, but fortunately the Eugowra flood level did not reach the anticipated height. I understand it reached 9.3 metres instead of the predicted 10.3 metres.

Some areas on the western side of the Mandagery Creek were inundated, but there was no inundation on the eastern side. Last Friday I visited that area and spoke to most of the shopkeepers. Better co-operation is needed between emergency services personnel, the people in the towns and people upstream, who have enormous knowledge of past floods in Eugowra. Much better co-ordination is needed between emergency services and the locals on predicted flood levels. During my visit to Eugowra I was given to understand that many townspeople were directed to leave their homes, to get on buses and go to Forbes. However, many chose not to do that because, based on past experience, they believed that the flood would not reach their homes. Fortunately, they were right. The flood did not reach most of the town; it did not reach the areas that the emergency services predicted it would.

Further investigation is needed of the earlier plans to build small dams upstream on the Mandagery Creek. There is a huge pile of files of past plans to build dams at Murga and upstream at Cudal. Those plans need to be revised because of irrigation and flood mitigation capacity. That is important, because Eugowra usually gets five or six hours notice of flooding. The operators of most businesses that were threatened with inundation picked up their carpets and furniture and took them out of town. The effect of the flooding through Eugowra was minimal compared with Molong, where no advance warning was given. Molong suffered enormous damage. The honourable member for Murray-Darling referred to the fact that both supermarkets in Molong have been destroyed. The newsagency lost a side wall, and there is little chance that it will be rebuilt; it will have to be demolished. The newsagent may not reopen in that building but may re-establish in another building a little higher up.

All those decisions are subject to whether the insurance companies show compassion. I have been informed that two or three insurance companies have given verbal advice that they will declare the damage at Molong to be storm damage. People who have been able to obtain insurance cover will be given some relief. Businesses that are insured with companies that decide adamantly that the damage was caused by flood will suffer. Although the State Government has offered up to \$130,000 in disaster relief through the Rural Assistance Authority, I will be pleasantly surprised if many of the applications are successful. The conditions under which that assistance will be available are restrictive. I hope I am wrong and that the Rural Assistance Authority has the flexibility to hand out as much money as possible.

Relief of up to \$130,000 will help the business operators who are on the verge of deciding whether to give up and retire early, or get a job somewhere else. That would be a whole lot easier. Hopefully, most businesses may decide to reopen, because we need to get the towns going again. Molong needs revitalising to give people the heart to carry on. Cabonne Shire Council has generously donated free bus services for Molong residents to go to Orange to do their shopping. As I said, both Molong supermarkets are empty. It will be at least a month before they are up and running again. I understand that one supermarket will reopen. Sadly, one may not—but I hope the operator changes his mind about that.

The people of Molong, the farmers and those who live in outlying areas are travelling straight through to Orange. Although the Molong chemist has reopened and the post office, butcher and baker were not flooded and are operating, their volume of business has almost halved. I call on people who usually shop in Molong to return there and support local businesses. They need to be able to pick themselves up and serve Molong as they did in the past. There are some tragedies out there, but there is a great deal of heart. The State Government needs to give some heart to the people of Molong, Eugowra and other towns, and the farms that have been affected. It needs to give them as much assistance as possible, both financial and moral.

Mr GERARD MARTIN (Bathurst) [4.14 p.m.]: I am pleased to support the urgent motion moved by the honourable member for Murray-Darling. We do not relish speaking to such a motion. We would rather that the events of last week, particularly in the Central West, had not happened. I am sure many of the issues raised by the honourable member for Orange will be canvassed at a debriefing on the disaster. New South Wales has a first-class disaster management plan which includes a debriefing process. I am not sure whether the debriefing will address the situation with the dams, but perhaps that should be raised.

The events of last week highlighted what a wonderful organisation the State Emergency Service [SES] is. Present in the public gallery this afternoon is a delegation from Oberon Council led by the Mayor, Bob Hooper, which has come to Sydney on another matter. Some SES groups specialise. One is the Oberon SES,

under Alan Sheahan, who is recognised nationally and internationally as an expert on abseiling, rope work and rescues, although that expertise was not needed last week. Over the past 50 years the SES has developed from an organisation that responded in a knee-jerk way to the floods of 1955, which were particularly devastating in the Hunter area around Maitland, to an organisation with 233 units across the State with about 10,000 volunteer members.

Volunteers came from all parts of the State to assist at Eugowra, Molong, Broken Hill, Wellington and Trundle. The divisional controller for the Central West SES, which is based in Bathurst, Craig Rohan, and his people were very much involved in that co-ordinated process. The Minister for Community Services has entered the Chamber. I congratulate the Department of Community Services on its role in disaster relief in the Central West. The irony of the disaster is that the flooding followed a record dry spell in the Central West and across Australia, and that shows how we can become complacent. The last thing anyone expected was a flood in that area, although it had received good rains in recent times. Obviously, the run-off was increasing.

I do not know what caused the surprise referred to by the honourable member for Orange. Hopefully, it will be investigated in the debriefing process. It would have been terrifying for people to find that under the cover of darkness their homes and businesses had been suddenly inundated with floodwater. I had travelled through Molong on the previous Sunday while travelling home from Dubbo. It is hard for me to imagine the devastation pointed to by the honourable member for Orange, particularly that occasioned to the operators of small businesses whose livelihoods were wiped out. They now have to run the gauntlet of dealing with their insurance companies.

My colleague the honourable member for Monaro will address the financial assistance offered by the State Government to primary producers and business people. It is incumbent on us to reflect on the great job done by our emergency services, including the SES, which can call on the resources of other agencies. Relief efforts commenced after the Department of Community Services had co-ordinated other services. The honourable member for Orange rightly pointed out that the local community must support businesses that are rebuilding. Smaller centres in country towns are often bypassed for the convenience of shopping in larger centres, in this case Orange. People in country areas must remember to support their local business communities, and even more so when they have been affected by disasters and have to rebuild. I commend honourable members who have spoken in debate on this important matter.

Mr IAN ARMSTRONG (Lachlan) [4.19 p.m.]: Nature can be a cruel master in this country. It is indiscriminate and unexpected. I am sure the honourable member for Murray-Darling would concur that a mini-tornado in Broken Hill is almost unheard of. One Sunday afternoon several years ago a tornado ripped through Parkes in the electorate of Dubbo and wiped out a shop and a warehouse right in the centre of town. All the buildings around that shop and warehouse were not affected. It is hard to explain to an insurance company why only two buildings in a shopping centre are wiped out, or why only three or four houses in the south of Broken Hill are wiped out. That is one of our great and continuing debates.

My colleague the honourable member for Orange said that in some instances of flooding or windstorms insurance companies discriminate against genuine claims. Sometimes flooding is caused as a result of a windstorm and not as a result of normal flooding, where water rises from the bottom up. Unexpected rainfall can cause flooding. That is regarded as stormwater damage and not flooding that occurred as a result of the rising of a river or a creek. For many years we have argued those sorts of technicalities with the insurance industry and we have never reached a satisfactory compromise. When we have fires, storm and hail damage we often find that only two out of five or six houses in a street are adequately insured.

If people do not have adequate insurance the Government helps them, and rightly so. However, those who are adequately insured and who have paid their premiums and fire levies over the years have the right to say, "Why should we insure if the Government is prepared to help those who are uninsured?" That is a conundrum that is impossible to resolve. We have a fundamental responsibility to ensure that we insure our properties and look after ourselves. I accept that if there are truly exceptional, unpredictable or unforeseen circumstances the Government should provide assistance. We can reasonably expect some damage to occur to houses, shops or crops as a result of climatic conditions. However, we have a responsibility to look after ourselves. We cannot expect our neighbours to look after us if we are not prepared to reciprocate.

Today I pay tribute to volunteers in country towns such as Trundle, Tullamore, Alectown and Peak Hill, which recently suffered stormwater damage. I pay tribute to the local State Emergency Service, bush fire brigades, professional people who work in local fire brigades, shire employees and all those who go along to

give a hand. I support the earlier call by the honourable member for Orange. If we want local businesses to remain in Trundle, Tullamore and Bogan Gate people must shop locally. We might save 50¢ on a packet of tobacco by buying it elsewhere but that might result in a business in a local town closing down. Our sons and daughters might want jobs in that town or we might want new tyres, but we will not be able to obtain those things because the businesses will have closed.

If we look after others in country towns we have a fair chance of being looked after ourselves. When there has been a flood or fire people are often tempted to leave and to go to a bigger centre. I call on members of the community to shop locally. There is much satisfaction to be gained from volunteering. I again ask the insurance industry to address the eternal problem of defining "flood" and "storm". That argument, which has been going on for years, should not be allowed to persist. We must get together and try to sort out these issues.

Assistance has been given to towns such as Trundle, Tullamore, Alectown, Peak Hill and Parkes. The damage that has been caused to crops will affect cash flows in those communities. We are living in unusual times. I hope we never see damage like this again. I hope Broken Hill is not washed out, flooded or wiped out as a result of high winds or anything else. Undoubtedly, the services we provide are helpful but, at the end of the day, we are responsible for looking after ourselves. We can then call on somebody to help us when something unusual happens.

Mr STEVE WHAN (Monaro) [4.24 p.m.]: I support the motion and congratulate and thank all those who volunteered to assist after storms and flooding affected the west of the State last week. Discussing this disaster gives us a great chance to revisit a matter that we debated last week. At that time we debated the fiftieth anniversary of the State Emergency Service [SES] and the selfless volunteering undertaken by people in it. The discussion today focused on disaster relief arrangements that are available to people in the region. The Government declared a number of these areas as natural disaster areas fairly quickly and assistance was made available to people in the region.

The natural disaster relief arrangements are a good example of Commonwealth-State co-operation. New South Wales pays for the first \$85.1 million of all natural disaster costs in any year and the Commonwealth matches New South Wales expenditure for costs between \$85.1 million and \$148.9 million. Beyond that it pays for three-quarters of all costs. Under that disaster relief scheme people in the areas affected last week by flooding and storms were able to access personal hardship and distress assistance, which is administered by the Department of Community Services. In times of natural disasters that department does a fantastic job. Often people do not realise the role it plays.

I remember the terrific and helpful role the department played when Thredbo was evacuated a few years ago after the bushfires. Primary producers are able to get loans of up to \$130,000, subject to certain criteria, at a concessional interest rate of 3 per cent to meet urgent needs. Road and rail freight subsidies of up to 50 per cent are available for primary producers and a maximum subsidy of \$15,000 is available. Small businesses are able to access loans of up to \$130,000 at concessional rates. Assistance is available for councils that need to meet additional costs of emergency work to restore essential services. Trustees of parks and reserves, sporting clubs, churches and voluntary non-profit organisations are also able to access assistance.

A wide range of assistance is available under the New South Wales natural disaster assistance scheme. I am pleased to say the Government made that assistance available quickly in response to the flooding and storms that occurred last week. A number of members raised some important issues relating to forward planning and learning lessons about how to handle things. Obviously we acknowledge that, but we want to continue to thank those who responded to the emergencies. The State Government has supported the SES and other emergency services to ensure they are in a position to respond. I mentioned earlier that over the past few weeks we have had a number of opportunities to discuss the SES and the efforts of volunteers.

Over the past few days we have heard some discussion about the impact of the Federal Government's industrial relations changes on volunteering. Opposition members acknowledged that volunteers are important in the provision of such services. Government members expressed great concern about the impact on volunteers of the Commonwealth Government's decision to take away award conditions. When that matter was discussed yesterday one Opposition member said, "Don't be silly, they are protected under the Rural Fire Service legislation." He meant the State Emergency and Rescue Management Act. That Act provides that Rural Fire Service or SES volunteers cannot be sacked from their jobs if they are responding to an emergency.

The Act does not protect volunteers' conditions when they are training with the SES or the Rural Fire Service. Some generous awards in New South Wales allow volunteers to be paid when they respond to

emergencies. The Federal Government's industrial changes do nothing to protect those volunteers' conditions. That is a serious concern for many SES volunteers and should worry the city and country people who rely on the SES to respond to emergencies, such as the recent storms in western New South Wales. Volunteers are able to perform a role with the SES because of employer co-operation and because their award conditions allow them to do this absolutely vital work. That is yet another potential negative consequence of the Federal Government's industrial relations legislation. The Government gets behind the SES. We congratulate SES volunteers on their terrific work last week and we will ensure that they can continue to play that important role.

Mr PETER BLACK (Murray-Darling) [4.29 p.m.], in reply: It has been a pleasure to participate in this debate. In fact, it was not so much a debate as a consensual discussion. I note the absence of the honourable member for Murrumbidgee from the Chamber. He failed to participate in this great debate. I congratulate particularly the honourable member for Orange, who led for the Opposition. My heart goes out to his constituents, as I am sure his heart goes out to mine. The honourable member for Bathurst, the honourable member for Lachlan and the honourable member for Monaro also made contributions.

I shall raise a number of issues. I am absolutely appalled that the Mayor of Broken Hill, Ron Page, took 48 hours to get back to the town following the disaster; he was too busy swanning around in Canberra. I will try to address the insurance issue. I concur with the comments of the honourable member for Lachlan, but that does not solve the current massive insurance problem. We cannot simply walk away from people who, through ignorance or for some other reason, did not insure their houses. They did not expect their homes to be hit by a tornado! There is a huge problem in Broken Hill with the insured and the uninsured. At the moment insurance people fill just about every motel room in the city but they are assisting those who had insurance. The Government and Parliament still have a job to do: We must determine how we can assist the uninsured.

Department of Community Services [DOCS] staff and volunteers have worked tirelessly up to and including today to provide food, accommodation and support for all those affected by the disaster in the areas named by the honourable member for Orange and in the west. They will continue to help the five towns that were particularly affected to get back on track. More than 20 experienced DOCS disaster recovery staff from Wagga Wagga, Orange and Parkes are stationed in those communities. Disaster recovery centres were set up in Eugowra, Molong and Broken Hill to provide a place for people, including the uninsured, to receive advice, financial assistance, personal support and information to enable them to recover as quickly as possible. Local families received immediate assistance with food and clothing, and DOCS officers will remain in the region for the long haul to help them rebuild their lives. They will stay until all concerned are back on their feet.

Turning to the five towns specifically, a DOCS recovery centre has been established at the Country Women's Association hall at Eugowra. It is open from 9.00 a.m. to 4.30 p.m. each day. Four DOCS staff are assisting the community. They have been out doorknocking, so they are not waiting for people to come to them. Anglicare volunteers are helping with doorknocking and with letterbox drops; I do not think that was mentioned during the debate. Officers of the Salvation Army have provided their usual canteen services. In Molong a DOCS recovery centre has been established at the Molong Community Centre and four DOCS staff are assisting the community. More than 26 families have registered with the recovery centre. Red Cross volunteers have been doorknocking to offer assistance and the Salvation Army is also active in the town.

In Broken Hill a DOCS recovery centre was established at the Community Services Centre in Crystal Street. The DOCS officers are great workers and Parliament can take great pride in the fact that the Westminster system provides for a public service independent of politics that works no matter who is in government. In Wellington DOCS staff have started doorknocking in the affected community and in Trundle two DOCS staff are travelling between that town and Tullamore, visiting affected communities. As the honourable member for Orange mentioned, they have experienced some access difficulties insofar as some rural properties are concerned.

We have every reason to take pride in the 10,000 members of the State Emergency Service, the members of other volunteer services, the professionals—whether they work for NSW Fire Brigades or the Department of Community Services—and the churches. It has been a tough time for residents of the Central West and western New South Wales but they have the support of both sides of Parliament. [*Time expired.*]

Motion agreed to.

EDUCATION FOR REMOTE FAMILIES

Matter of Public Importance

Mr ACTING-SPEAKER (Mr John Mills): Order! As the member who submitted the matter of public importance is not present, with the leave of the House I will call the member next listed to speak, the honourable member for Monaro.

Mr STEVE WHAN (Monaro) [4.40 p.m.]: I thank members opposite for the opportunity to speak on this matter of public importance. The Government has a longstanding commitment to support families living in rural and remote areas. As part of the New South Wales 2005-06 Education and Training budget, regional and rural schools and TAFE will receive more than \$4 billion in funding. With more than \$4 billion going to country schools and TAFE, the Government continues to deliver a world-class education system for the 570,000 students in schools and TAFE in regional and rural New South Wales. This funding is part of a record \$10.2 billion Education and Training budget this year—up \$440 million, or 4.5 per cent, from 2004-05. It is nearly double the Education and Training budget when the Labor Party came to office.

The 2005-06 budget includes \$3.6 billion for country schools, including maintenance, school global funding and teachers salaries; \$300 million for TAFE, including maintenance and teachers salaries; \$187 million worth of capital works for new and ongoing projects in country schools and TAFE; \$62 million in literacy and numeracy programs, specifically for regional and rural New South Wales, including Reading Recovery and Count Me In Too—that terrific program operates in my daughter's primary school; and \$76.3 million set aside for targeted rural initiatives such as distance education centres, one of which is at my son's school, Karabar High School, and funding to assist isolated schools, the Agricultural High School Boarder Scholarship Scheme, and the living away from home allowance.

Regional and rural New South Wales is benefiting from a major infrastructure improvement program. In the 2005-06 State budget more than \$82.2 million is being provided for 44 major school and TAFE building projects. Specific measures include a stage three upgrade of facilities at Dubbo College South Campus, a new hall at Gunnedah South Public School, a stage three upgrade of facilities at Mullumbimby High School, an upgrade of facilities at Ulladulla High School, and the commencement of 13 new TAFE refurbishments across the State in 2005-06 at an estimated cost of \$60 million, including facilities at Cooma, Griffith, Tamworth and Port Macquarie. Another capital works project that I am pleased is under way this year is at the Jindabyne Central School, where contracts have been let for the construction of classrooms. Demountable classrooms are being installed so that years 7 and 8 classes can start at the beginning of the next school year. Previously many people in Jindabyne relied on the Federal Government's remote assistance for their children to travel away to high school, so it is a big improvement for that town.

The Department of Education and Training Minor Capital Works Program helps to improve many schools each year by funding important projects such as health and safety upgrades, air cooling, and canteen, electrical and toilet upgrades. This financial year the Government has committed \$181 million to a wide range of minor works projects, part of a total \$711 million in capital and maintenance expenditure for schools and TAFE in 2005-06, and part of the Government's \$35 billion infrastructure plan, which is a record in New South Wales. More than \$107 million is going to rural and regional schools and TAFE colleges for maintenance programs. Some \$558,530 has been allocated this year to minor capital works projects and maintenance projects in Barwon public schools and TAFEs. This includes \$449,940 to provide alterations and additions to the welding workshop at Narrabri TAFE, \$24,390 to provide a separate staff toilet at Bellata Public School, and \$14,200 to carry out an upgrade to rain and storm water tanks and pipes at Rowena Public School.

This year \$334,210 has been spent on minor works projects at six schools throughout the Lachlan area, which includes funding at Coolamon, Temora, Young and Matong schools. Fifty-one schools in western New South Wales will benefit from more than \$2.52 million worth of new capital works projects. They include schools at Cowra and Brewarrina. Forbes Public School will receive a security fence, something that has proved to be a real boost to at least three schools in the area that I represent. Bathurst South Public School will have a heating upgrade, and Wyangala Dam Public School will be provided with an electrical upgrade.

More than \$73 million is being provided for targeted rural initiatives in government schools such as distance education centres, funding to assist isolated schools, the Agricultural High School Boarder Scholarship Scheme and the living away from home allowance. Almost \$60 million is being provided to rural school students for literacy and numeracy programs. Reading Recovery support is being provided to more than 485

rural and regional schools, assisting approximately 4,300 year 1 students to increase their literacy skills. Rural and regional schools continue to benefit from the statewide technology program, for which \$795 million will be provided during the next four years. In particular, the broadband component is improving access to technology in country schools and TAFE by speeding up Internet access by up to 30 times. Many parts of rural New South Wales are starting to see the benefit of that with the possibilities of accessing more education programs because of broadband links.

A total of 165 remote and rural schools have been connected by satellite links to the computer network of the Department of Education and Training. Work has commenced on the Dubbo Interactive Distance Learning studio. This is an extension of the Interactive Distance Learning Initiative delivered by Optus, the Department of Education and Training and the Northern Territory Department of Employment, Education and Training. This initiative provides a satellite-based e-learning framework for the delivery of Schools of the Air lessons and TAFE New South Wales programs for rural and isolated adult learners.

The Interactive Distance Learning Initiative provides services for isolated homesteads and small regional communities in home tutoring, introductory and advanced information technology skills, farm engine maintenance, and agricultural business skills. For indigenous communities it provides services in introductory and advanced information technology skills, literacy and numeracy, health and parental care, and Aboriginal arts and cultural practices. An additional \$53 million has been allocated during the next four years to improve learning outcomes for Aboriginal school students. This includes individualised learning plans, teacher incentive packages, curriculum revision and extended student assessment and teaching. Schools participating in this first phase include Bomaderry Public School, Woodenbong Central School, Hillvue Public School, Peel High School, Tingha Public School, Ashmont Public School, Lightening Ridge Central School, Dubbo West Public School, and Menindee Central School. The expansion of assistance for Aboriginal learning is something many Government members are very proud of and are pleased to see in recent budgets.

Rural and regional students will also benefit from statewide funding of \$146 million during the next four years for teacher professional development. They will benefit from an important Government election commitment to reduce class sizes for the early years of schooling. They will benefit from recurrent and capital funding of \$583 million over the next four years to reduce class sizes in early years of schooling. That has impacted on many schools in the Monaro electorate, in particular, with Cooma Public School receiving the early benefit of an additional teacher. Other schools will receive a greater benefit depending on their size and the number of enrolments in their classes.

The Government opened 21 new preschools on day one of the first term in 2005. Those preschools were established in close consultation with the principals and the broader school communities at a range of school communities across the State. The Government recognises the importance of providing experienced teachers in schools in rural New South Wales. The Department of Education and Training offers a range of incentives to attract new and experienced teachers to isolated schools and schools that are difficult to staff, and to retain them in those schools. The incentives include provision of additional training and development days, and a number of locality allowances such as a climatic allowance, an isolation from goods and services allowance, vacation travel expenses, reimbursement of certain expenses related to medical or dental treatment and an allowance for dependants. The allowances are paid in addition to the teachers' salary. A 70 or 90 per cent rental subsidy applies in some locations. Additional benefits include one week's summer vacation, retention benefits, transfer to a vacancy benefits, compassionate transfer status for a teaching partner, and enhanced leave provisions.

Those are important initiatives, and honourable members would agree that the quality of teaching in our small schools, particularly those with only one or two teachers, is very important. One school in the Monaro electorate has an excellent principal, and that one-teacher school has managed to attract double the number of children attending the school. It is important to keep them in the system and going to rural areas. The initiatives highlight the high priority the Government places on education in rural and remote areas in New South Wales. *[Time expired.]*

Mr IAN SLACK-SMITH (Barwon) [4.50 p.m.]: Mr Acting-Speaker, I thank you for your indulgence and I thank the honourable member for Monaro for speaking when I was unable to get to the Chamber in time. I place on record my respect for teachers and acknowledge that they are very special people. The work done by teachers, both inside and outside schools, and by parents and citizen's associations, is fantastic. Without their efforts education would be very poor indeed.

This motion relates to education for families in remote areas of New South Wales. The honourable member for Monaro has remote schools in his electorate, as I have in mine, and the honourable member for Murray-Darling has towns such as Bourke and Wilcannia. Remote schools in my area include Collarenebri, Walgett, Brewarrina and Goodooga, to mention a few. It is the responsibility of the New South Wales Department of Education and Training to provide an education for all children regardless of where they reside. This is a fait accompli. It does not matter whether a child is gifted or not, has capabilities or not, is intellectually or physically handicapped, or lives in the most remote part of New South Wales—the Marom Creek school in my electorate is claimed to be the most remote school in this State—the Government has a responsibility to provide all children with an education.

It is acknowledged that children in Sydney, Newcastle and Wollongong receive a superior education to that of kids in the country. This is shown year after year in the Higher School Certificate and tertiary entrance rank scores. It is also important to realise there is a problem in that most of the government boarding schools have full enrolments. These are the first choice of country kids. Children in remote areas are forced to access non-government schools. Here is another problem: many parents in larger centres have a choice of schools they want their kids to attend. In some cases local high schools are not the choice of families who meet the Assistance for Isolated Children criteria. In my electorate there are parents who choose to send their children to another school in spite of having a high school in the town. I will outline some of the reasons parents choose to do so. I know that some parents have the luxury of sending their children 50 to 80 kilometres away from an existing school.

The first reason they do this is the choice of subjects available. Many schools are restricted in the subjects they offer. In my home town of Wee Waa the agricultural high school has only about 200 pupils and offers a restricted range of subjects because it cannot afford to have teachers teaching many different subjects. Consequently some of the kids from that town go to Narrabri High School, where there is a far greater range of subjects relating to what they want to do when they finish high school and enter tertiary education. Religion is another aspect. It is acknowledged that a number of parents choose to educate their children in a religious school where they will receive religious instruction. The third reason, which is not quite as prevalent as the other two, is sporting facilities. I am aware that some kids in my electorate have ventured to boarding schools in Sydney because of their athletic prowess or sporting ability. Several schools in Sydney have been taking these kids and giving them an opportunity they never would have had in the local environment.

The honourable member for Monaro mentioned that a lot of assistance had been given to schools in New South Wales. However, we are talking about kids in remote areas and I do not think we will ever solve that problem completely. Education is a movable feast: something comes in and something goes out. Many kids are being denied the Assistance to Isolated Children boarding allowance. That is something the Government must look at. The Opposition has promised the Isolated Children's Parents' Association that we will consider assisting many parents and children who are unable to receive the boarding allowance. The Queensland Government has been doing this. Of course they have many more isolated and remote children than we have in New South Wales. The State has a right to review each case and the allowance is federally supported. It is very important that we support kids in isolated areas. Quite a number of highly esteemed professionals in this State had a country education, went to a high school not too far away from their town where they were able to choose relevant subjects and then to university. They were able to benefit from the very important role played by education in New South Wales.

It is also important to look at access to appropriate schooling for our children. Some kids react well to academia, some react well to sporting pursuits. It is important that parents have a choice about the education they want their children to receive. One size does not fit all. We could argue all day about private education versus public education. However, without public education there would be very little education in Australia. It plays an important role, as does private education. One fits in with the other. I know that if some opponents of private education had their way and all private schools were closed tomorrow we could not afford to educate our children the way we do at the moment.

Let us look at some of the inequities in rural communities in New South Wales. We must allow choice of schooling for all secondary students by granting assistance to isolated children to receive appropriate education. I have been saying that all along. Those kids who live in Broken Hill, Wilcannia, Brewarrina, Goodooga and similar towns must have the right to a decent education. Choice of school already exists for most kids in New South Wales and they can access government and non-government secondary schools and selective high schools. However, the only way children in isolated areas can do this is to go to boarding school and live away from home.

Queensland students have this support. The Queensland education system, I believe, is superior to that of New South Wales, despite what the honourable member has been saying. I think they are getting better results than we are. We are not game to compete with them because we will lose. Let us have a real competition and we will find out. No-one is game to put their hand up and say that education in New South Wales is much better than that in Queensland or Victoria. Queensland students have choice and New South Wales should follow that path.

Mr BRAD HAZZARD (Wakehurst) [4.59 p.m.]: I support the honourable member for Barwon in bringing this matter before the House. Education for remote families in New South Wales is critical. We are a very large State. The New South Wales Liberal Party and The Nationals fundamentally are committed to the concept of children being able to receive a reasonable, indeed a good, education no matter where they are. The honourable member for Barwon raised a number of significant matters, many of which would never see the light of day if they were not raised by the Liberals and The Nationals in this place. As the shadow Minister for Education and Training, I am concerned that the further away from Sydney students are, the greater is their disadvantage in our schools. I have made a number of trips to various parts of the State and visited communities that tell me regularly about the lack of opportunities for students in the more remote parts of the community. Amongst those many visits, particularly as shadow Minister for Aboriginal Affairs, I have heard regularly the message that Aboriginal students often do not have the support available that the Government says they should have to deal with their many disadvantages.

The statistics for Aboriginal students under this Government are not at all good. In 1999 the apparent retention rates for years 7 to 10 were 80.3 per cent. Going through to 2003 the rates had not varied much at all: they were still at 81 per cent, which was 15 per cent less than all other students. In other words, there is an obvious disadvantage to Aboriginal students. The apparent retention rate for years 10 to 12 diminished between 1999 and 2003. It reduced from 38.6 per cent to 36.3 per cent. These figures are quite concerning, reconsidering the 2004 report of the Aboriginal Education Review, which notes:

Irrespective of the way that performance is measured, Aboriginal outcomes continue to be at the lower end of the scale. Gaps in the knowledge resulting from higher levels of absenteeism have a negative effect on student achievement and it may lead to disruptive behaviour requiring remedial intervention. The lower levels of literacy and numeracy skills possessed by many Aboriginal students, especially in secondary school, commit these students to failure.

I remember well that two years ago the State Labor Government discontinued a review of Aboriginal literacy levels, obviously because it knew that it would show that it was not at all good. In the broader sense there are problems for small schools generally, which usually have a problem with staffing. Staffing, particularly for teaching principles, has been, and continues to be, a real problem. A new award in 1990 created six classifications of schools. PP6 schools had enrolments of up to 25 children, and PP5 schools had enrolments from 26 up to 159 children. Schools received their second teacher when they had 26 children.

It was not until 1992 that teaching principles received any executive release, and that continues to be a major problem for principals. The Coalition would like the Government to revisit executive relief for principals in remote schools because, depending on the size of the school, very few principals ever get their 30 days relief from teaching to attend to the sorts of issues they have to address. I note that the honourable member for Barwon raised issues on behalf of the Isolated Children's Parents' Association. At some stage I would like many of these issues brought before the House for a longer discussion to highlight the concerns of many of these parents and communities in remote New South Wales. [*Time expired.*]

Mr IAN SLACK-SMITH (Barwon) [5.04 p.m.], in reply: I thank the honourable member for Monaro for his contribution, and I thank the honourable member for Wakehurst for contributing to the debate at such short notice. The honourable member for Wakehurst has travelled extensively throughout New South Wales. It is important to acknowledge the great work done by teachers in remote areas of the State. A lot more has to be done to ensure that children in remote areas receive an equal education. We do not want a superior education because if we had a superior education, or even an equal education, we would show everyone up. It is called a fair go, and it is important that we give the kids and parents in remote and regional New South Wales a fair go. In some areas numbers are diminishing. After the drought, numbers in places like Brewarrina, Walgett, Mara and Warren have declined because of the lack of opportunities for employment. But now the season has turned around to the point where it is looking quite positive. There will be a record wheat crop and money in the towns, and the population will drift back to the best place in New South Wales.

Discussion concluded.

COMPANION ANIMALS AMENDMENT BILL**Second Reading****Debate resumed from 15 November 2005.**

Mr JOHN TURNER (Myall Lakes) [5.07 p.m.]: The Opposition will not oppose the bill. However, we would point out the timing of it, in the usual rush at the end of the session. I thank the Minister's staff and departmental staff for providing me with a copy of the bill at the first opportunity. Even though I had to get up at 5.30 in the morning to read the bill, which was under my door, it was very handy to have that briefing. But let us try to have some real democracy on legislation in this House, not only on this bill. The prime thrust of the bill relates to restricted dogs and ancillary amendments. We note that restricted dogs include the American pit bull terrier, pit bull terrier, Japanese toza, Brazilian fila and Argentinian dogo, and any other dogs that are declared by councils to be restricted dogs and other dogs that may be included later in the legislation. I have been assured that a number of new dogs will not be included in the regulations without proper consultation with the community.

We know that this is sensitive legislation, not the least in relation to the rights of people to own dogs and the recent terrible tragedies that have occurred as a result of dog attacks. I note that something like 900,000 dogs and 400,000 cats are registered in New South Wales. Obviously, legislation will affect a wide section of the community. The Opposition notes the new provisions regarding restricted dogs: they must be de-sexed; enclosures must be built in accordance with regulations that we are yet to see, but I understand they are to be better than childproof; a distinctive collar is to be worn; the dogs must be muzzled and on a lead; and no more than two dogs can be on that lead. This legislation will restrict certain activities, such as hunting. I am sure that the Minister for Local Government has many constituents in his electorate who participate in hunting. There is no doubt that the Minister will be faced with a problem when he explains to his constituents why they will be unable to take their dogs with them when they go pig hunting, unless they comply with regulations and conditions under the Act.

Declarations by councils in relation to categories of restricted dogs will create problems of interpretation, although mainly in relation to crossbreeds. The honourable member for Lismore suggests that the Minister may be faced with a conflict of interest relating to dogs he encounters on his milk run. Councils will make arbitrary decisions in relation to declarations and provide a notice to the owners of dogs of their intention. Obligations will be imposed on the owner of the dogs by virtue of section 58D. If a determination is made, that may be challenged by certification or the opinion of a temperament expert, and that is when difficulties will be encountered with this legislation, which no doubt will be subject to challenge in many respects.

I note the indemnity provisions applying to those who certify the breed or the temperament of a dog. To my mind, despite the indemnity provisions in section 58E, the provision creates a legal minefield, but time will tell how it will be interpreted. Section 18 provides after notice for the seizure of a dog whose owner repeatedly fails to secure the dog. The legislation also provides for changes to be made to provisions relating to the nuisance dogs and cats and for orders to be issued relating to nuisance. The legislation also provides for increased penalties. I make the observation that, in common with most Government legislation that has been brought before this House, this bill provides for significant penalties.

I am informed that 80 per cent of registration fees for dogs and cats are directed to councils to offset their costs. Although that may be the case, everywhere I go throughout this State as the shadow Minister for local government, cost shifting is raised with me as a matter of great concern and the companion animals legislation is cited to highlight the problems associated with cost shifting. There is no doubt that this legislation provides for more cost shifting. Councils will have new obligations and requirements relating to checking on crossbreeds. Councils also will be required to issue orders certifying whether or not a dog is a recognised breed. This bill should include provisions for reimbursement of costs to councils for expenses associated with their new responsibilities. After all, this is State legislation that is being debated in a State Parliament, but the cost of its implementation will be shifted onto local government authorities.

With all the other costs that have been shifted from this Government to local government in the past 10 years, councils will be hard pressed to afford to implement this legislation. I ask the Minister to take into account the factor of cost shifting because, in the end result, constituents of State members of Parliament pay the increased costs, either directly or indirectly. Councils are restricted in their means of reimbursement by rates pegging. Council services will have to be reduced as a result of the cost implications of this legislation to enable

councils to afford to employ officers who will ensure compliance. Having made those points, I reiterate that the Opposition does not oppose the legislation.

Pursuant to sessional orders business interrupted.

BUSINESS OF THE HOUSE

Notices of Motions

Mr ACTING-SPEAKER (Mr John Mills): Order! It being 5.15 p.m. the House will now deal with General Business Notices of Motions (General Notices).

General Business Notices of Motions (General Notices) given.

COMPANION ANIMALS AMENDMENT BILL

Second Reading

Debate resumed from an earlier hour.

Mr ALAN ASHTON (East Hills) [5.18 p.m.]: Last night in this Chamber I spoke about the need to protect animals from the cruelty of human beings. I support the Companion Animals Amendment Bill, which is a result of the usual five-year statutory review of the Act and affords the Government the opportunity of legislating in relation to dangerous and restricted dogs. As the shadow Minister for local government stated earlier, approximately 1 million dogs and 500,000 cats are registered in New South Wales. This may not be the appropriate place to mention that while I have been bitten by dogs, I have actually been savaged and viciously attacked by cats. For the information of the people who regard cats as nice and cuddly, I point out that that is not always the case.

I congratulate the Minister for Local Government on introducing the bill. The bill bans the sale, acquisition and breeding of restricted dogs, namely the pit bull terrier, the American pit bull terrier, the Japanese toza, the Argentinian fighting dog and the Brazilian fighting dog. Whether any one of those dogs, or even five of them, could take on the Australian cattle dog, I will not waste time considering. The restricted dogs are not bred as pets, they are bred by suspicious characters for fighting. If the dogs escape they cause horrendous injuries to people, as would any dog that is not trained or kept on a leash or under control. The principal objectives of the bill are clear. We want responsible management and care of restricted dogs, particularly recognising that while compulsory de-sexing of restricted dogs is one step, enhancing better education about different breeds of dogs and their behaviour is also needed.

We require that restricted and dangerous dogs are kept under effective control, on leads, wearing muzzles and the like. People will be permitted to have only two dogs under their control. However, unless there is some punishment at the end of the line, there is no effective way of controlling the very dangerous dogs that are bred to fight. I do not support the breeding of dogs to fight, and no-one in this Chamber would. As much as dog fighting is an ancient, historical tradition, as is bear-baiting and bullfighting, there is a good case to ban all those practices. The Government had promised that it would bring in legislation to ban those dogs, and that is what we are debating at the moment.

If a person has a crossbreed dog, that dog can be assessed by an appropriate and approved assessor to determine its temperament. Local councils' time will not be taken up, as the Opposition spokesman said, because part of that expert assessment will mean that a person cannot go to their council and complain, and waste council's time and ratepayers' money. Penalties have been increased and people who fail to comply in several respects can be fined up to \$55,000 or be imprisoned for two years, or both, and permanently disqualified from owning any kind of dog. Police officers will be involved if a search warrant is needed to enter a property to seek out a suspected dangerous dog.

The shadow spokesman, the honourable member for Myall Lakes, commented that the bill is downshifting responsibilities to local government. I do not agree with that. Local government already has responsibility for what could be called the dog Act, the Companion Animals Amendment Bill, which provides that councils are to do certain things—but they are doing those things anyway. This bill gives councils greater power, admittedly over a greater range of animals. Given that there is a balance in taking matters to court, the

local government purse is not being raided by the State Government requiring local councils to look after this matter. Since the mid to early 1970s, when I was very young—the youngest person ever elected as a member of Bankstown City Council—it has always been the case that dogs come under the care and control of councils; and it is appropriate that that should remain the case. I congratulate the Minister for Local Government on introducing the bill.

Mrs JUDY HOPWOOD (Hornsby) [5.23 p.m.]: The Companion Animals Amendment Bill amends the Companion Animals Act 1998 to make further provision with respect to dangerous and restricted dogs and the duties and responsibilities of their owners. The bill also increases penalties for certain offences under the Act and consolidates enforcement powers under the Act, amongst other purposes. At present under the Companion Animals Act 1998, a council or a Local Court may declare a dog to be a dangerous dog if it has, without provocation, attacked or killed a person or animal, or has repeatedly threatened to attack or chase a person or animal. Certain control requirements are currently imposed in relation to dangerous dogs.

The Act imposes similar control requirements in relation to dogs that are currently listed as restricted dogs—for example, pit bull terriers—regardless of whether they have been declared dangerous. The failure to comply with the control requirements applying to a dangerous or restricted dog is an offence, the maximum penalty for which is increased by the bill from \$5,500 to \$16,500, and may result in the dog being seized by an authorised officer. The object of the bill is to amend the Act to impose additional control requirements in relation to dangerous and restricted dogs, such as keeping the dog in an enclosure that complies with the requirements of the regulations, making the dog wear a distinctive collar and ensuring that the dog is muzzled and on a lead when it is outside its enclosure.

A further object of the bill is to enable councils to declare certain dogs to be restricted dogs for the purposes of the Act, for example, crossbreeds of dogs listed as restricted dogs, but only if they have not been assessed to be a danger to the public. The bill requires restricted dogs to be de-sexed. Dangerous dogs are already required to be de-sexed within 28 days of being declared dangerous. The objects of the bill include the following: to prohibit sale, which includes giving away, acquiring and breeding restricted dogs; to increase penalties for most of the offences under the Act, particularly in relation to dangerous and restricted dogs; and to consolidate and clarify the enforcement powers, including powers of entry, of authorised officers under the Act.

Further objects of the bill are: to enable animals that are seized under the authority of the Act to be taken to premises such as animal welfare shelters or the premises of veterinary practitioners who are authorised to have access to the Companion Animals Register, instead of having to be taken to council pounds; to make it clear that a council may also deal with companion animals that are surrendered to a council pound or that come into the pound's possession otherwise than by being seized under the Act; and to make a number of other miscellaneous amendments arising out of the statutory review of the Act.

I note from the Minister's second reading speech that companion animals play a very important role in the health and wellbeing of our communities. As at 30 June 2005 the New South Wales Companion Animal Register had 963,362 dogs and 233,314 cats on it. From time to time members of Parliament are called on to assist constituents in relation to complaints about dogs. It is imperative that owners understand their responsibility to the community if they want to own a dog that could endanger public safety. Recently there have been a number of very savage attacks, particularly on young children. Improving and increasing the safety of our community is a very important object of the bill.

The shadow Minister has already commented on the bill. I add that councils have expressed concern about the cost-shifting nature of this type of bill. I believe that the Government should bear that in mind. The Minister stated that a key objective of the Act is to reduce euthanasia rates by requiring councils to seek alternative measures to euthanising animals that are in their pounds. An exception to that will be restricted and dangerous dogs that are seized by councils when their owners are unable to comply with the control requirements. Last evening I spoke about *DoggieRescue.com* and other benevolent animal welfare organisations and local individuals. A couple of people in my electorate have great concerns about dogs and the speed with which, after being picked up by councils, they are euthanised. I acknowledge that Monika of *DoggieRescue.com* would be very pleased with the provisions in the bill, as it is her aim to save dogs and to provide health care and attention for them and to find a new home for rescued dogs. I support the provision of the bill that will decrease the number of animals that are euthanised. The Opposition does not oppose the bill, but I call on the Government to note the shifting of cost to councils.

Ms ANGELA D'AMORE (Drummoyne) [5.30 p.m.]: I support the Companion Animals Amendment Bill, which will amend the Companion Animals Act to ban the breeding of restricted dogs, which includes pit bull terriers and American pit bull terriers. It is totally unacceptable for a child to be attacked while walking home from school or when in a pram on an outing with his or her family. An elderly man on his morning walk should not have to deal with a threat to his safety from roaming pit bulls. Members of the community should feel safe when going about their daily activities. They should not have to change the things Australians value so greatly just because we have a type of dog that can readily become a threat to life. The Government responded to the community, which clearly stated that pit bulls do not belong in our society.

That decision is consistent with the Commonwealth Government's ban on the importation of these dogs and the ban on these dogs that already exists in other States. The vicious nature of many pit bulls and their tendency for poor temperament, due to their origins as fighting dogs, makes them unsuitable in our society. That has forced the Government to take action to eliminate this breed. Unfortunately, as we have seen, when a pit bull attacks, in most cases it results in serious injuries. The measures included in this bill will allow existing restricted dogs that are owned by responsible people to live out their lives under strong controls that are necessary to reduce the risk that those dogs can pose to public safety. The control requirements include requiring those dogs to be de-sexed.

They must be kept in an enclosure that will have minimum requirements prescribed by regulation. When they are outside the enclosure they must wear a distinctive collar, be muzzled and on a leash at all times. A person in control of a restricted or dangerous dog will be able to handle only two dogs at one time to ensure they are able effectively to control the restricted or dangerous dogs. The bill also increases the penalties for offences by these dogs to encourage owners to take their responsibilities seriously and to reflect the community's expectation that offences under the Act must be dealt with severely. The maximum penalty for a dog attack by a restricted or dangerous dog has been increased to \$55,000, or imprisonment for two years, or both.

This criminal offence also results in permanent disqualification from owning a dog or being in charge of a dog in a public place. Maximum penalties for not complying with control requirements for these dogs have also been increased to \$16,500. This bill clearly signals the Government's commitment to providing laws to enable local councils and police to take strong action when owners of restricted and dangerous dogs do not fulfil their responsibility to effectively manage those dogs. Many young families in my electorate are concerned about this issue. I am fortunate to have a great number of parks and foreshore areas in the State seat of Drummoyne. Many people are looking forward to this legislation putting the onus of responsibility on owners of dogs and ensuring that families are safe in parks and on foreshore areas. I commend the bill to the House.

Ms VIRGINIA JUDGE (Strathfield) [5.32 p.m.]: I support the Companion Animals Amendment Bill and commend the Minister and his hardworking staff for introducing this bill. It is excellent to be part of a proactive Government. Last night the Crimes Amendment (Animal Cruelty) Bill passed through this House with bipartisan support. That bill sought to increase the penalties imposed on those who commit terrible atrocities on animals. This bill aims at protecting animals and the hardworking members of our local communities. This bill seeks to give stronger powers to authorised officers of local councils. I know how important that is, not only because I was a councillor in a previous life but also because I had the great privilege of serving my electorate for four terms as mayor.

I have three councils in my electorate of Strathfield—Strathfield council, Ashfield council and Burwood council. I am sure many of my colleagues in this House would have had residents expressing concerns to them. I am sure at some point they have also had discussions with officers about the management of animals so that human beings and animals can live in harmony and enjoy one another's company. Councils play a vital role in the management of companion animals in their areas. Councils embraced the Companion Animals Act when it was introduced in 1998. At one stage a number of animals would be seen running up and down the street with people chasing after them, but after the introduction of the Act, that decreased somewhat.

This bill specifically introduces general duties for councils. They will be required to promote awareness—an educative component of the bill—of the requirements of the Act relating to the ownership of companion animals. The bill also requires councils to take steps to ensure they are notified or made aware of the existence of all restricted and dangerous dogs in their areas. It is in the interests of the safety of communities that councils should fulfil those duties. Most councils are actively managing companion animals in their areas. I know many have developed strategic companion animal management plans. That is what was done when I was a member of council. Those plans include community consultation and having things like leash-free areas.

Strathfield has a leash-free area on the Homebush side of the municipal area. Ashfield council might also have some sort of area like that, but I am not sure about Burwood.

The plan should outline council's commitment of resources to companion animal management. That could include conducting educational activities, providing off-leash areas, and holding microchipping and registration days that promote responsible pet ownership. All councils are encouraged to develop a plan to guide the management of companion animals within their municipal boundaries. Councils have also been providing important data on dog attacks in their areas to the Department of Local Government. During 2004-05 I believe there were 850 or so reported breaches to the department. The rate of reporting attacks to the department increased this year.

Councils are encouraged to continue reporting all dog attacks to enable accurate data and analysis of data and to determine statewide trends. The bill responds to requests by the Local Government and Shires Associations on behalf of its member councils to amend the Act to give them the tool to effectively manage companion animals and to meet the expectations of their ratepayers. The Minister for Local Government and his department are working closely with the peak body that represents 110 councils. Sadly, there was a terrible pit bull attack in Petersham. Later I will refer to an attack that occurred in Loftus Crescent, which is located on the edge of my electorate. I draw the attention of the House to an article in the *Inner West*, one of our local papers, dated Tuesday 21 June 2005 and written by Laurence Conway. The article, which is entitled "Getting inside the canine mind", states:

A serious dog attack on a Petersham resident Sue Creek on June 4 has highlighted the importance of animal behaviour education for pet owners and the public, according to an Inner West veterinarian.

The article refers to the terrible attack on a 52-year-old woman who was dragged for about four metres by a Rottweiler and who was seriously injured. The article then states:

Following the attack Veterinary Animal Behaviour Consultant Robert Stabler, who works with the RSPCA, said it was possible to reduce the risk of dog attack.

Owner education is the most important thing—the more we know about animals the safer we all are.

That statement is very true. The RSPCA, which does wonderful work, provides free programs focused on preventing dog attacks and promoting humane values. One morning when I was listening to the early morning radio I heard about a pit bull terrier attack on an elderly gentleman in Loftus Crescent. As soon as I arrived at work I rang up Auburn Local Area Command and spoke to one of the officers on duty. I said, "I just heard about the attack on this elderly person. Would it be possible to give me his name?" When I was given his name I recognised he was of Korean background. I asked, "Where is this gentleman?" The officer told me, "He was seriously injured and has been taken to Concord Hospital."

I went to the hospital, found my way to intensive care and thought I recognised the name of the gentleman. I said, "This incident occurred in my municipal area." The incident actually occurred in the neighbouring electorate of the honourable member for Drummoyne. I then said, "I am concerned about the location of the dog attack." From the report on the radio I was not sure where the attack had occurred. The attack could have occurred in either electorate as only one street divides them. I said, "I am concerned because someone has been injured."

So they took me to intensive care. I could not speak to the man but I left a note for him and said to the nurse, "I hope he will recover. Can you let him know that I have come and please see whether there is anything I can do for him?" About a month later the man came to my office with his daughter. He was about 63 years old and spoke very little English. I learned that he was the victim of a second attack by the same pit bulls. Strathfield council has said that its officers approached the owners about the dogs, which apparently belonged to the son of the man they spoke to. The owners, who were tenants, had allegedly taken measures to keep the dogs inside, but obviously they did not work because the two dogs got out.

The injured man told me that on the day in question he heard screaming in the street. He exited his property and saw the dogs attacking some women with a baby in a pram. The mother grabbed the baby from the pram and threw it onto the roof of a utility vehicle to get it out of harm's way. Imagine what could have happened to the baby; I am told that it could have been killed. The women scrambled to safety and the dogs took the man who came to their aid. This guy should get some sort of bravery award at the very least because he put his life at risk. He was mauled by the dogs and had to have plastic surgery. How does this man get

compensated? Who will pay his hospital bills? Who is responsible? Those sorts of issues must be addressed at some point. The man managed to get away from the dogs—the jaws of pit bulls lock when they have hold of something—only by breaking loose and throwing himself over a fence. It was dangerous and he is no spring chicken—in fact, I doubt whether I could have done it at my age—but he got away. Thankfully, the man did not die, the woman did not die and, thank God, the baby did not die.

That incident highlights the importance of caring properly for our pets. About 18 months ago I spoke very emotionally about animal protection legislation. We have all heard stories about people who put their pets in clothes dryers and so on. I cannot understand it. People buy a cute, fluffy dog for their children for Christmas but then they go on holidays—they have a great time—and leave the dog tied up in the backyard with no food or fresh water. The council finds out about it only when the dog's barking alerts a neighbour who looks over the fence and sees it. I do not understand why people do that; it is beyond my comprehension. Anything we can do to protect animals and the community is a big step in the right direction. I commend the Government for taking these measures. Dogs do great work for people. They are companions. We take them to visit people in nursing homes. Dogs are sometimes the only friends of the lonely. I am sure that most of us have had a pet at some time in our lives. I commend the bill to the House and thank the Minister for Local Government for introducing it.

Ms CLOVER MOORE (Bligh) [5.43 p.m.]: In contributing to debate on the Companion Animals Amendment Bill, I restate what I said in the House last night about the Crimes Amendment (Animal Cruelty) Bill. Australians feel very strongly about their pets. A 1999 survey found that 85 per cent of Australian pet owners say their pet is part of the family, 57 per cent say their pet is their best friend, 86 per cent believe the main role of their pet is as a loving companion rather than a guard dog or mouse catcher, 69 per cent say their pet's death would be as upsetting as that of a family member, and 60 per cent say that they would put themselves in danger to save the life of their pet. We know that pet ownership saves the nation \$2 billion on its health bill every year and that those who own pets are healthier physically and emotionally. Those points should be restated because we usually refer in the House only to those irresponsible pet owners who allow their dogs to become dangerous and a threat to society.

Indeed, the importance of companion animals to the people of New South Wales is apparent from the fact that the review of the Act received 245 submissions, which raised about 1,000 issues for consideration. Because the bill is important to all our constituents I am disappointed that it was introduced last night and is being debated today. I am disappointed that it was not allowed to lay on the table for a minimum of five days to give honourable members the opportunity to consult their constituents properly about this important issue. When the Companion Animals Act was amended in 2003 I was critical of its punitive aspects. There was too much emphasis on punishing and restricting dangerous dogs and too little on educating the community about the benefits and management of animals.

I therefore welcome the fact that the principal object of the Act is spelled out as "to provide for the effective and responsible care and management of companion animals". It is important to stress that this is what the bill is about. We should focus not only on dangerous dogs—such sensational incidents get all the publicity—but on our responsibility as a Parliament to educate the general community about the enormous benefits that pets bring to people's lives. We must also educate pet owners that they are responsible for managing their pets and picking up pet waste—two issues that the community is concerned about.

This amending bill has many aspects but I have time to focus on only some of them. I will refer also to some of the work that my office has done on the dangerous dogs issue. Of greatest importance is the initiative requiring community education about the Act. I hope that will focus both on the responsibilities of owners and on educating the broader community about animal behaviour. All parents must teach their children not to approach a strange dog as this could provoke an attack. In the wrong circumstances any dog can bite, but with the right human behaviour few dogs will.

I am concerned that the responsibility for community education seems to be placed almost entirely on local councils. Other honourable members have also mentioned this issue. I hope the Companion Animals Fund will provide adequate resources for councils. I note that the Greyhound Racing Authority Fund will no longer be obliged to contribute to the Companion Animals Fund. I seek an assurance from the Minister for Local Government that the Companion Animals Fund will increase in size commensurate with the increased responsibilities that councils will face under the bill.

The bill gives further responsibilities to local government. For example, councils must identify all dangerous or restricted dogs in their area and they must seek alternatives to euthanising animals they have

seized. That is a worthwhile objective, but another cost for councils. They must also identify the owners of any dogs or cats that are killed by cars. That is another impost for councils, including those with restricted incomes. We must bear in mind that the State Government restricts councils' revenue-raising abilities through rate capping so these responsibilities may have to be carried out at the cost of other council services unless the State Government provides adequate financial support. Another useful initiative in the bill is allowing seized animals to be placed in approved places as well as pounds for up to 72 hours. I welcome this provision. It should allow animals to be kept more locally and possibly in conditions that are more specialised and humane than pounds.

I am also pleased that the concept of temperament assessment has been brought into the Act. That is an important step in recognising that behaviour, not breed, should be the basis upon which animals are judged. Once a system of assessors has been established, it becomes possible to reward good behaviour as well as punish bad behaviour, hopefully allowing greater flexibility in our management of dogs. I have called many times for greater rights for companion animals to travel on public transport and to be kept in apartments, and for responsible owners be allowed to take their pets to parks leash-free. I speak not only on my own behalf as the owner of two Staffordshire bull terriers, but on behalf of many constituents both in the city and in my electorate of Bligh whose pets are such an important part of their lives and who I do not believe should be treated as second-class citizens in terms of being able to take their pets to public places.

In relation to restrictive breeds, the animal behaviourist Dr Kersti Seksel, who advised the Government that breed-specific legislation was impractical, told my office that the problem is that some people want to own dangerous dogs. When they cannot buy a pit bull terrier, they will instead buy a Rottweiler. She said the issue is not the dog; it is the owner. Restricting one or two breeds will not prevent or even reduce dog attacks; only community education has been found to have that effect. I welcome the Act to bring some procedural fairness to the process of determining whether a dog is dangerous. Councils will now have to give a notice and allow owners to get an independent assessment.

There has been widespread opposition to breed-specific legislation, based on experience both here and overseas. The Australian Veterinary Association [AVA], the Kennel Council of Australia, the Australian Companion Animal Council and the World League for the Protection of Animals are only some of the organisations that have raised objections to breed-specific legislation. The AVA claims that bans in Australia on the importation of four breeds, including the American pit bull terrier, have had no apparent effect on decreasing the number of dog attacks. According to the AVA, that shows that other breeds and crossbreeds of dogs have obviously taken their place, and banning breeds that are considered dangerous does not work.

The position of the National Consultative Committee on Animal Welfare is that the definition of a dangerous dog should be based on the individual dog's behaviour, not on an individual breed. In fact, I believe it should be based on the behaviour and sense of responsibility of the individual owner, which will naturally flow on from the education provided on responsible ownership. The position of the National Consultative Committee on Animal Welfare was endorsed last year by the Urban Animal Management Group, which acts in an advisory capacity to the AVA and provides linkages into local governments and other interested bodies. In its 2004 position statement on the management and minimisation of dog aggression, it listed several problems with the use of breed specifics in the control of dangerous dogs: different dog breeds are identified mainly on the basis of appearance; appearance is not a reliable determining factor in the prediction of animal behaviour; and the theory that anatomical appearance can be used as a predictor of behavioural character was universally discredited by the scientific community more than 100 years ago.

The data on dog bites, both in Australia and overseas, supports those claims. South Australia, Queensland and Victoria have breed-specific legislation. South Australia has had legislation effectively banning pit bull terriers since 1992. Peter Thompson, public health adviser to the South Australian Dog and Cat Management Board, has analysed the data in a paper given to the Urban Animal Management Conference last year. He showed that the number of dog attacks in South Australia remained virtually static between 1991 and 2002 and increased by more than 20 per cent between 2002 and 2004. In 2002 the list of dog attacks was headed by Rottweilers, representing 20.3 per cent, followed by Jack Russell terriers, which is rather extraordinary, German shepherds, bull terriers of all types, kelpies, Dobermans and blue heelers. Those six breeds, which represent 26.4 per cent of the dog population, caused 55 per cent of the problem. Two years later, the same six breeds still represented 51 per cent of all dog attacks.

Clearly, any dog attack on a human is unacceptable and often shocking, but what those statistics demonstrate is that in South Australia at least the ban on bull terriers has not been effective. The statistics also show that bull terriers are not the most culpable breed and that the dogs involved in attacks on humans involve a

range of common dogs. In New South Wales in 2001 a Government media release on dog bites revealed that 41 per cent of the 213 reported attacks in 2000 were by crossbreeds. Where the breeds could be identified they were German shepherds and bull terrier types, each responsible for 13 per cent of attacks, followed by Rottweilers at 11 per cent, cattle dog types at 7 per cent and Maltese terriers—again that is extraordinary—at 3 per cent.

Similar findings were reported in Victoria in 1998; only one attack was attributed to a pit bull terrier. Overseas experience has also shown that breed-specific legislation has failed to reduce the number of dog attacks and dog bites. That was emphasised by Dr Kersti Seksel, a veterinarian and animal behaviourist, in her 2002 report. Dr Seksel said, "All breeds of dogs have a proportion of individual dogs that are aggressive towards humans." In the United Kingdom, the Dangerous Dog Act 1991 effectively banned pit bull terriers and a number of other breeds, and a study of mammalian bites before the Act found that German shepherds, followed by mongrels, were the most implicated breeds. After legislation, those breeds remain the most frequent, but in reverse order. It was concluded that the Dangerous Dogs Act of 1991 was ineffective as it failed to address the most commonly implicated breeds and did not show any reduction in injuries caused by the so-called dangerous breeds. There was no substantive data to support the singling out of certain dangerous breeds.

There are also problems with breed identification. The Royal New South Wales Canine Council will issue identification certificates for restricted dogs. Yet, according to Dr Seksel and others, there is no DNA test to differentiate between breeds and a visual appraisal is not always correct. That can lead to the creation of real practical difficulties with the enforcement of breed-specific legislation. In America, "pit bull" is a generic term which includes all the bull and terrier breeds and sometimes the other bull breeds such as boxers, bull-mastiffs and American bulldogs. A pit bull terrier can be imported into Australia as an American Staffordshire terrier, which is not on the list of dangerous dogs. [*Extension of time agreed to.*]

The American Veterinary Medical Association task force on canine aggression and human-canine interactions has provided a comprehensive report entitled "A Community Approach to Dog Bite Prevention". The report concludes that statistics on dog bites are unreliable. It states that there is no reliable way to identify the number of dogs of a particular breed in the canine population at any given time, a single animal can cause multiple incidents and dog breeds can be identified incorrectly. Importantly, a dog's tendency to bite also depends on the interaction of a number of factors: heredity, early experience, later socialisation and training, health and victim behaviour, which all come back to responsible ownership.

For all those reasons, the task force concluded that breed-specific legislation is inappropriate and ineffective, and can be counterproductive to the extent that it lulls people into a false sense of security about certain breeds of dogs. The task force concluded that dog bite prevention is successful to the extent that it is community-based and a multidisciplinary activity and that education is the key to reducing dog bites within a community. The chair of the task force, Dr Beaver, was in Australia recently. In discussion with my office she stated quite categorically that everywhere that breed-specific legislation has been introduced there has been no reduction in dog bites. She also said that the highest incidence of dog bites is not by pit bulls.

Dr Beaver emphasised the need to educate the owners of dogs and to make provision in the legislation to direct the owner on good ownership. Similar conclusions were reached by Dr Seksel in her 2002 report. She maintains that the education of dog owners and the control and management of known aggressive dogs is the way to effectively manage the problem. Dr Seksel also maintains that the New South Wales Companion Animals Act 1998 is comprehensive in the way it deals with dangerous dogs, and she emphasised the need for more intensive enforcement of the Act. Dog attacks are serious and clearly of great concern as a community safety issue. They can cause physical and emotional suffering for the human victims. But the way to prevent them is not through breed-specific legislation. This approach is problematic and has been shown to be ineffective where it has been introduced.

We need adequate education of the community about the enormous benefits that companion animals have on people's lives, and education of pet owners about responsible ownership in relation to control at all times, picking up waste, and selecting the breed they should purchase. I commend the Minister for improving the Companion Animal Act by introducing this bill.

Mr KIM YEADON (Granville) [6.00 p.m.]: I support this bill, which amends the Companion Animals Act to implement the recommendations of the recent review of the Act. The Hon. Tony Kelly, MLC, tabled the report on the review of the Act in Parliament on 29 June last year, as required under section 97 of the Act, which had been in operation for five years. The report of the review reflected wide consultation with local councils,

animal welfare groups, other interest groups and pet owners and invited further comments on recommended amendments and other issues. I commend the Minister for that wide-ranging consultation process. In the subsequent second round of public consultation the Department of Local Government received 70 submissions from councils, organisations and individuals commenting on the review. The review to date has demonstrated a high degree of satisfaction with the Act while suggesting a number of changes that promote owners' responsibilities in managing their pets. Most importantly, the review suggested the Government should continue to strengthen the State's dangerous dog provisions.

The bill includes the proposed amendments to the Act arising from the review, together with amendments to ban restricted dogs and tighten controls on dangerous dogs. I have received correspondence from a number of constituents in my electorate who are dog owners and dog lovers expressing some concern about the bill. As a dog owner and lover of dogs, I too had some concerns about the bill. Primarily they related to the fact that the owners of dogs invariably are the problem, not the breed or the dog itself. My constituents made that point and it is a sentiment with which I largely agree. Another issue relates to identification of breed of restricted dog, particularly crossbred animals. I understand many people are familiar with the experience in Queensland, where a range of difficulties have been encountered in relation to dog breed identification.

Notwithstanding those concerns, it is incumbent on the State to ensure the community is protected from dangerous dogs. After reading this legislation I am comfortable that it seeks to strike a reasonable balance between protection of the public and the rights of dog owners. Local councils will have stronger powers to deal with dangerous dogs and their owners under this amending legislation. The bill provides a council with the power to declare a dog a restricted dog if in the council's opinion the dog is a restricted dog or the offspring of a restricted dog. That gives councils the power to make owners of these dogs comply with the Act.

The council must issue a notice of intention to declare a dog a restricted breed that sets out the control requirements the owner will have to comply with and the procedures and requirements for breed or temperament assessment if the owner wants to contest the declaration. Importantly from my perspective and that of the constituents who have contacted me on this issue, the amended Act will make clear that if the owner of a dog produces a Royal New South Wales Canine Council registration or identification certificate which includes the dog's unique microchip number, the council will not proceed with the declaration. However, the owner must comply with interim control requirements for 28 days from receipt of the notice or until council confirms that it has declared the dog to be dangerous, whichever happens first.

An authorised officer can seize the dog if the interim control requirements are not complied with. The owner will have 28 days to gain a certificate from an approved breed assessor that indicates the dog is not of restricted breed. The council may extend that period in extenuating circumstances. If the owner is unable to get a certificate, the council will make the declaration. If the owner gets a certificate that states that it is a crossbred restricted dog, the owner has the option—and this is important—of getting an approved breed temperament assessor to assess the dog. If the temperament assessor determines the dog is not dangerous to the public and is not likely to attack or bite without provocation, the council will not proceed with the declaration.

If the dog is declared a restricted dog, the owner will have three months to comply with the prescribed control requirements. However, during the three-month period they will be required to continue to ensure that the dog is secured in an enclosure that is sufficient to restrain the dog and prevent a child from having access. That allows those owners of dogs who dispute a council's initial indication that their dog is of a restricted breed or it is uncertain whether it is a restricted breed, such as a crossbred, to go through the assessment process. As I understand it, that assessment can also be done through the Royal New South Wales Canine Council.

Those provisions will help ensure that this legislation will not run into the types of difficulties that have been encountered in Queensland. It is also important that once that process has been made available to owners and a determination is made, it will be final. In other words, the owner will have no right of appeal to any court. Those provisions will enable the balance that is required in such situations to be achieved. An indication that that will be the case is that, as I understand it, the Royal New South Wales Canine Council agrees with the provisions.

It is important to recognise that the amendments will ensure a continuing emphasis on education. An important part of the education program will focus on dog owners to make them better understand their responsibilities under the Companion Animals Act. There will be also focus on educating young children about how to interact with dogs to minimise the risk of being bitten. To achieve this the Government will extend programs that have already been successfully developed as part of the Companion Animals Program, which is managed by the Department of Local Government.

A good example of that is the Paw Pals program, which has been developed by the Riverina Eastern Regional Organisation of Councils, with assistance from the New South Wales Government through the Companion Animals Community Education Grants Program. Paw Pals educates primary school children about responsible pet ownership and how to behave safely around dogs. The Government is also currently supporting a housing partnership program. Local councils are provided with funding to implement a program in Department of Housing areas to educate people about their responsibilities under the Companion Animals Act and to encourage microchipping, de-sexing and registration of their animals.

A balance will be achieved between the need to protect our community from inappropriate and vicious dog behaviour and the rights of responsible dog owners, who are the overwhelming majority of dog owners in this State. Unfortunately, there are a few irresponsible dog owners, so legislation is required to ensure the community is protected from them and their animals. Importantly, there is an ongoing program in conjunction with this amending legislation and the Act to ensure we further educate people about how to be responsible pet owners. That applies not only to dogs, but to all companion animals.

Mr GERARD MARTIN (Bathurst) [6.10 p.m.]: I do not wish to take up too much time, but I wish to make a number of comments on this important legislation. I congratulate the Minister on introducing the bill, and I congratulate him and his officers on their consultation. Some months ago, when legislation for restricted and dangerous dogs was first mooted by the former Premier and the Minister at the time, I received a number of representations from various organisations. I draw the attention of the House to representations made to me by Margaret Gael, the ranger who looks after the Bathurst Regional Council dog pound. Margaret has been involved in this type of work for many years, and is regarded as one of the foremost officers in this field of work in New South Wales. She is highly respected.

Initially concerns were raised about the pressure on these officers to identify what was and what was not a pit bull terrier. I remember Margaret showing me 19 pictures of savage-looking dogs and asking me to pick out which one was the pit bull. As it turned out, none of them was, but most people would have thought that at least one, if not most of them, were pit bulls. The legislation extends the number of restricted breeds to five. Margaret Gael, on behalf of rangers employed by local governments around the State, told me that they are more than happy with the legislation. They realise that the initial responsibility to identify the dog and make a judgment is theirs, but the legislation provides for access to the Canine Council, which can then go through the process of identifying the animal.

We know that through the process of local government people have the right of appeal. All parties in this sensitive area have been looked after. We had to act. In the last couple of years an elderly lady in Bathurst was mauled to death by a dog. I am aware of the stress her death and the long drawn-out prosecution process caused her family. Although the legislation will not bring back family members, they would look to the legislation to prevent subsequent attacks. Like all things, it would be difficult to completely eradicate attacks, but the amendments to the legislation will go a long way towards eradicating them.

Having looked at the legislation, particularly the specifications for people who keep these types of animals, Margaret Gael said to me, "Whatever you do, make sure the Minister does not water down the regulations relating to the standard of enclosure in which these animals will be kept." I congratulate the Minister and departmental officers on their work to ensure that dangerous animals are kept away from the public and on the parts of the legislation that refer to punishing irresponsible people who train these animals to kill. In supporting the legislation it is important to pay tribute to the professionals, such as Margaret Gael from Bathurst Regional Council, who work in the field every day. I know that the successful implementation of the legislation will be supported by their professional view that it is a reasonable course to take. I commend the legislation to the House.

Mr KERRY HICKEY (Cessnock—Minister for Local Government) [6.13 p.m.], in reply: I thank honourable members representing the electorates of Myall Lakes, East Hills, Hornsby, Drummoyne, Strathfield, Bligh, Granville and Bathurst for their contributions to the debate. It is pleasing to have support from both sides of the House for legislation that is the best we could possibly put forward at this point. We recognise that any dog can attack an animal or a person. We also recognise that many people love their animals—me included. I own a basset hound. I would be lost without my good mate with me in my backyard. The honourable member for Myall Lakes referred to breed, identification and temperament, which I dealt with in my second reading speech. I can guide him to it.

The honourable member for Bligh stated that breed-specific legislation was inappropriate. There are only 3,300 pit bulls throughout New South Wales, 38 of which are responsible for attacks, which equates to

about 1.73 per cent. There are 28,850 cattle dogs throughout New South Wales, 0.29 per cent of which are responsible for attacks. People are right when they say that pit bull terriers are not bred for fighting and that it is irresponsible owners who create the problem. I have read books on the bloodlines of pit bull terriers—they are bred for fighting and tracking down slaves in the southern States of the United States of America. We should remember that they are bred for one thing— attacking—and nothing else. I will support fully anything that enables us to get these dogs off the street quickly and provides safety for people in their communities.

Indemnity under section 58E deals with identification and prevents inappropriate legal action. The bill will indemnify assessors for decisions made in good faith. The Local Government and Shires Associations [LGSA] and the Rangers Institute are supportive, as we heard from the honourable member for Bathurst. The LGSA wrote to me requesting that councils be able to ban restricted dogs. We only have to look at the problems in Queensland and other States that have ghettos of dogs. The legislation deals with that. I thank the Royal Canine Council, the RSPCA, the Local Government and Shires Associations, the Rangers Institute, the American Veterinary Association, and animal behaviour and animal welfare organisations that have worked hard on the bill.

Finally, I give a big thank you to Vaughan Macdonald, Sonia Hewison, Paul Chapman and dedicated staff of the companion animals unit of the Department of Local Government. They work under extreme pressure, particularly when a dog attack occurs. I give them my heartfelt thanks. Yvonne Hajgato from my office has done a remarkable job to ensure that all members have been briefed on all aspects of the bill. She is the person who should be congratulated, together with departmental workers, for putting forward the bill. It is very easy to stand here as Minister and take the credit, but credit should be given where credit is due, and that is back to the department and Yvonne.

Motion agreed to.

Bill read a second time and passed through remaining stages.

CHILDREN AND YOUNG PERSONS (CARE AND PROTECTION) AMENDMENT BILL

TECHNICAL AND FURTHER EDUCATION COMMISSION AMENDMENT (STAFF) BILL

VOCATIONAL EDUCATION AND TRAINING BILL

Messages received from the Legislative Council returning the bills without amendment.

COMMISSION FOR CHILDREN AND YOUNG PEOPLE AMENDMENT BILL

Second Reading

Debate resumed from 15 November 2005.

Ms GLADYS BEREJIKLIAN (Willoughby) [6.19 p.m.]: I lead for the Coalition in debate on the Commission for Children and Young People Amendment Bill, which is very important legislation. The Opposition will not oppose the bill. However, I place on the record the absolute concern and annoyance of the Opposition at having less than 24 hours in which to consider the bill. Last night the Minister gave her second reading speech at approximately 10.00 p.m. Given the importance of this bill and the responsibility and trust placed in members of Parliament in relation to the protection of children and young people and given the impact of this bill on the community, it defies my understanding why the Government chose to rush this legislation through the Parliament. The Government's approach is even more curious when one considers that preparation of this legislation has taken five years and, as the Government will no doubt assert, has been the subject of a very extensive consultation process.

The approach adopted by the Government constitutes an enormous disservice to people who have been involved in the long and, to some extent, thorough consultation process. This legislation will be rammed through this House and passed less than 24 hours after its introduction. I am sure that all honourable members take a very close interest in issues that impact upon the protection of children, including issues related to future employees and employers of institutions that will need to ensure that young people are protected. That this bill could be brought in and rammed through the Parliament within a short time frame defies my understanding. I ask the Minister to explain in her reply why she felt it was necessary to introduce the bill last night and ram it

through the Parliament within 24 hours. That is not acceptable. The public will find the Government's approach as alarming as does the Opposition.

I seek clarification of a number of issues, but I emphasise that the Coalition has had less than 24 hours to examine the bill. The Government has clearly chosen the media ahead of the Parliament in conveying information on aspects of this bill. The people have read a great deal about this bill in the media, but when it comes to presenting the bill to the Parliament, honourable members are given less than 24 hours to examine its serious provisions, let alone comment on them. During the Minister's second reading speech last night she stated,"

This bill follows the statutory five-year review of the legislation underpinning the commission. She stated also, "A total of 384 submissions to the review were received, including 255 from children and young people." A key feature of this bill is that it attracted a larger number of submissions than usual during the consultation period. That reflects the long process undertaken in conducting a five-year review. Against that background, the Government's ramming of this legislation through the Parliament can only be regarded as a disservice to everybody who has been involved in the consultation process and a disservice to the community, given that amendments may very well be necessary.

The Opposition may have wanted to consider amendments but has been prevented from doing so by the shortage of time. I place on the record the Coalition's support for the protection of young people. The object of the bill is to amend the Commission for Children and Young People Act 1998: to confer on the Commission for Children and Young People the functions of encouraging organisations to develop their capacity to be safe and friendly for children, and of developing and administering a voluntary accreditation scheme for programs for sex offenders; and to enable the commission to compel certain information to be produced to enable it to carry out that function.

The bill also amends the Commission for Children and Young People Act to incorporate into the principal Act provisions currently contained in the regulations relating to special inquiries conducted by the commission and other matters; to incorporate into the principal Act the provisions of the Child Protection (Prohibited Employment) Act 1998 relating to prohibitions on employment in child-related employment; to include in the categories of persons who are prohibited from engaging in child-related employment persons who are convicted of offences, committed as adults, of intentionally wounding or causing grievous bodily harm to a child when the adult was more than three years older than the child; to restrict the right of a prohibited person to apply for a review of the prohibition, if the person is a person convicted of murder of a child, certain sexual offences involving a child or offences involving the production of child pornography; to change references to employment screening to references to background checking; to extend the offences to be checked as part of background checking procedures for employees in child-related employment; to provide for recent previous background checks on potential short-term employees to be used to satisfy requirements under the Act to carry out background checks on such employees; and to make other minor and consequential amendments and amendments of a savings and transitional nature. The bill also repeals the Child Protection (Prohibited Employment) Act 1998 and Commission for Children and Young People Regulation 2000.

As I stated at the outset, the Opposition will not oppose the bill. We support the thrust of this legislation. Our primary concern is centred on the process adopted by the Government in the manner in which the bill proceeds through the Parliament. I will raise a number of issues that have been debated in the media in the past few days and seek clarification on a number of points. The first point relates to media reports indicating that currently there are 89 people who have records of committing offences against children yet are working with children in the community. According to media reports, only three of those persons will be exempt after the proclamation of this legislation. I ask the Minister to comment on the status of those offenders, the basis upon which they have been granted exemption, and assurances that may be given to the community about their future employment prospects, given that they have records and will continue to be exempt from this legislation.

I also raise the issue of the status of officers of the Department of Community Services [DOCS]. Presumably when the legislation was first introduced, it incorporated all DOCS workers, but comments have appeared in the media in the past few days on the status of DOCS workers relative to this legislation. I ask the Minister to clarify the position of DOCS workers during her reply. I reiterate a concern expressed by my colleague in the other place the Hon. Catherine Cusack, who yesterday gave notice of a motion related to a number of reports of the Ombudsman that have not yet been tabled or made public. Some of the reports relate to child sex offenders. Given the long consultation process associated with this bill, that is a matter of concern. It would have benefited the public interest if those reports had been available for consideration at a time that was

commensurate with presentation of this legislation. I will highlight parts of the motion of which by my colleague in the other place gave notice:

1. That this House notes:
 - (a) that the NSW Ombudsman Annual Report 2004-05 page 60 lists nine legislative reviews about police powers completed by the Ombudsman,
 - (b) that the legislation requires Ministers to table copies of these reports in Parliament as soon as possible,
 - (c) that only four of the nine reports have been tabled in Parliament, and
 - (d) that the Ombudsman, on 26 October 2005, called for the Minister for Police to immediately make the report on the Child Sex Offenders Register available to Parliament.

The second part of the Hon. Catherine Cusack's motion states:

2. That, under standing order 52, there be laid upon the table of the House within 14 days of the date of passing of this resolution the following documents in the possession, custody or control of the Minister for Police and the Attorney General:

The fourth of the six reports referred to in the motion is the Ombudsman's review of the Child Protection (Offenders Registration) Act 2000 provided to the Hon. Carl Scully, Minister for Police, in May 2005. I refer to this matter because it reeks of potential for a lack of transparency. Given that this important legislation is before the Parliament, I would have hoped that the Government would observe the requirement to table the Ombudsman's annual report relating to the child sex offenders register so that it could be considered in the context of the bill. It is a matter of grave concern that that has not happened.

As I indicated previously, the bill repeals other Acts and will become a one-stop shop, so to speak, for employers and employees who need to be aware of the laws and regulations that will impact upon employment of people caring for children and young people, particularly in relation to previous offences against young people. This is a positive move to guarantee that there is one body of law that people can refer to ensure that they are within the law in relation to the employment of persons working with children. The legislation also aims to make definitions more consistent in regard to employment of persons and to offences that are exempt or not exempt. To an extent it does reduce red tape. Most importantly, this legislation reiterates the Parliament's bipartisan approach of absolute commitment to child protection and to ensuring that those most vulnerable in our community are protected in every conceivable fashion.

I would also like the Minister in reply to respond to the wording or type of information to be distributed to members of the public who are considering placing their children in the care of others in formal organisations, as to what checks they can make to make sure that the employees in the organisation have been scrutinised. I understand that certificates will be available in a voluntary capacity for those organisations that choose to be part of the transparency process under this bill. What the public position will be in interpreting the status of those certificates is something that needs serious attention, and I ask the Minister to comment on that in her reply. I ask the Minister to confirm also when the bill will be proclaimed. From my quick reading of the bill and the second reading speech there does not appear to be a commencement date. I am assuming that is when assent occurs, but given that there are a number of unresolved issues in relation to the public information campaign and the certificate process, I would like to know when the official proclamation will be.

In addition to these issues, I seriously hope that the Government will change its approach in dealing with legislation that impacts on the Commission for Children and Young People. The Coalition regards the issues that impact on the Commission for Children and Young People as very important. We would like to be part of a very constructive public and robust debate on these issues. That is simply not possible when we are faced with a government that chooses to define its public and robust debate on these issues by introducing legislation and having it debated less than 24 hours after it is tabled. That is not a constructive process on issues that are so important. The Coalition strongly support measures that increase the scrutiny of people who are working with children. Child protection is an issue of paramount importance. There are few issues more important. I know that many members on this side of the House, such as the honourable member for Hornsby, have spent many long hours as part of the consultation process making their views known.

The Coalition in government has a very strong record on issues relating to the protection of young people. The Office of Youth Affairs was established under the Coalition—and regrettably abolished under this Government. My parliamentary colleague the honourable member for North Shore played a very critical role in

relation to the Office of Youth Affairs and young people. The Coalition does not oppose the bill; we support the thrust of the bill and believe it is important in regard to child protection. However, we are extremely concerned, firstly with the Government's approach in rushing it through Parliament; secondly, that the Minister is not present to address the issues I have raised today; and, thirdly, with the lack of detail as to the implementation process. Finally, I reiterate my concern that the Ombudsman's report should have been tabled some months ago regarding the Child Protection Offenders Registration Act and the child sex offenders register. I am bemused as to why the Government would not make such a report public, as it is obliged to do, especially when it may have been relevant to the deliberations on such an important piece of legislation. Having made those comments, I commend the bill to the House.

Ms MARIANNE SALIBA (Illawarra) [6.35 p.m.]: I support the Commission for Children and Young People Amendment Bill. I was disappointed to hear some of the comments made by members of the Opposition. They acknowledged that there has been extensive consultation on this bill and they are well aware of that consultation. They are certainly aware of what this bill is about. Indeed, it is about protecting young people. They ought to acknowledge that the New South Wales Government is serious about protecting children in the workplace. Parents, families and the community expect that the organisations where their children spend their time will be safe places for them. We will continue to lead the States with our approach to this important issue for the community.

This bill extends and strengthens the system that this Government has put in place to protect children and young people in New South Wales workplaces. I have four children of my own, three of whom work part time or in a casual position. I certainly commend this bill and recognise the importance of protecting my children when they are outside my care. This Government is responsible for the first comprehensive, legislatively based system for child protection in the workplace in Australia. The New South Wales system was established in 1999 to make it clear that the protection of children is so important that it takes priority over the right to work with children; to ban people convicted of certain serious offences from working with children at all; and to assist employers to recruit staff by providing a service which checks employees' backgrounds and estimates the risk a potential employee would pose to children in that workplace.

The community understands the importance of building on those good foundations to help improve workplace environments. Experience around the world has shown that a commitment to child-safe and child-friendly workplace practices is very important in keeping children and young people free from harm. The Working With Children Check is one part of a range of strategies that employers need to use to keep workplaces safe for kids. While employers need to take care in selecting staff in child-related work they also need to train, supervise and support their staff and establish systems for dealing with problems and complaints. The assessment of the workplace as well as the employee was a New South Wales innovation. Emerging research supports the approach that children can be placed at risk by poor work design or inadequate supervision as well as by employment of unsuitable people.

The experience of the Commission for Children and Young People over the last five years shows that exclusion and checking are important. However, these elements are strengthened when they are supported by good organisational design and development. Employers need to know how to run their day-to-day operations so that risk to the business, their employees, and the children and young people they deal with is ameliorated. Organisations also benefit when sound recruitment and staff supervision policies are in place, where they have good risk management strategies and children feel comfortable in making complaints. For instance, if a child is concerned about the behaviour of an adult employee toward them and there are clear opportunities for them to voice their concerns, the situation can be dealt with.

If those workplace strategies are not there, employers run the risk that the child's concerns could be ignored, which could lead to the child being placed in an unsuitable or dangerous environment. Or what was initially a simple complaint could escalate to a degree where that organisation's reputation and future business dealings could be compromised. The commission has developed and implemented its child-safe and child-friendly organisations initiative as the third and most fundamental aspect of making workplaces safer for children. New South Wales has now pioneered a three-pronged approach to workplace child protection: helping organisations do their business in ways that are safer for children; providing advice and assistance to employers in recruiting staff to work with children; and completely banning some people from working with children

While we have three equally important strategies for protecting children, the legislative framework around these strategies needs to better reflect their purpose and intent. Currently, background checking is contained within the Commission for Children and Young People Act 1998. The prohibition system is

established under the Child Protection (Prohibited Employment) Act 1998. There is also no legislative base for promoting child-safe and child-friendly organisations. This bill puts the three parts of our system into one Act and gives them equal legislative footing. The bill also formally gives the commission the function of promoting child-safe and child-friendly organisations. As a result, the legislation is less fragmented and more consistent and provides an overarching legislative framework for promoting child safe and child friendly organisations.

Promoting and embedding organisational behaviours will help to keep children safe while also making them feel welcome and included. It provides for an environment that reduces the risk of children coming to harm. The work by the commission has been invaluable in raising awareness about the importance of being child safe and child friendly. Further, it has provided practical hands-on support, resources and training to organisations that work with children. But under the current legislation, this function has been one of education and support—it places no legal requirements on employers. By integrating the commission's responsibility to perform this universal and necessary function in legislation, we send a clear and unambiguous message to the community.

The message is that child protection in the workplace is of paramount importance and worthy of an integrated approach. When organisations are working in ways that are child-safe and child friendly, the complementary functions of banning serious offenders and advising employers on recruitment have a firmer base on which to operate. These strategies are more likely to be effective in protecting children when they are all working together, as part of a co-ordinated overall package. That is why the bill places them together in one Act, providing a single reference point for anyone wanting to make their organisation safer for children. In adopting and legislating for this three-pronged approach to keeping children safe in the workplace, New South Wales is again leading the world in protecting children.

I recommend to the Opposition that while it is supporting the bill and has had ample opportunity to be involved in consultation, it should support the bill rather than complain about it. The Opposition should get behind the work that the New South Wales Government is doing in protecting children and young children. It is because of the work that the Government is doing in that regard that I commend the bill.

Mrs JUDY HOPWOOD (Hornsby) [6.42 p.m.]: The Commission for Children and Young People Amendment Bill amends the Commission for Children and Young People Act 1998 with respect to child-related employment and the functions of the Commission for Children and Young People, and repeals the Child Protection (Prohibited Employment) Act 1998. With the indulgence of the House I will read the objects of the bill, which are:

- (a) to confer on the Commission for Children and Young People (the *Commission*) the functions of encouraging organisations to develop their capacity to be safe and friendly for children and of developing and administering a voluntary accreditation scheme for programs for sex offenders,
- (b) to enable the Commission to compel certain information to be produced to enable it to carry out certain functions,
- (c) to incorporate into the Principal Act provisions currently contained in the regulations that relate to special inquiries conducted by the Commission and other matters,
- (d) to incorporate into the Principal Act the provisions of the *Child Protection (Prohibited Employment) Act 1998* (relating to prohibitions on employment in child-related employment),
- (e) to include in the categories of persons who are prohibited from engaging in child-related employment (*prohibited persons*) persons who are convicted of offences committed as adults of intentionally wounding or causing previous bodily harm to a child where the adult was more than 3 years older than the child,
- (f) to restrict the right of a prohibited person to apply for a review of the prohibition if the person is a person convicted of the murder of a child, certain sexual offences involving a child or of offences involving the production of child pornography,
- (g) to change references to employment screening to references to background checking,
- (h) to extend the offences to be checked as part of background checking procedures for employees in child-related employment,
- (i) to provide for recent previous background checks on potential short-term employees to be used to satisfy requirements under the Act to carry out background checks on such employees,
- (j) to make other minor and consequential amendments and amendments of a savings and transitional nature.

I am a member of the Committee on Children and Young People. I express my disappointment that the bill appears to have been rushed through the House. The Minister for Community Services, and Minister for Youth delivered her second reading speech at 9.47 p.m. yesterday, and the remainder of the debate occurred today. The bill offers many extremely valuable facets to encourage organisations to develop their capacity to be safe and friendly for children, and the Opposition would have liked an opportunity to address that aspect of the legislation.

Although 384 submissions were received to the review conducted by Ms Helen L'Orange, there could be more input into something as important as the safety of children in our community. I concur with the honourable member for Willoughby, who expressed concern about the apparent ramming through of the bill. I note that the Minister is not in the Chamber. If the bill is so important why is she not here? The House could have waited for her to be here tonight. I believe the Minister should be involved in this debate, to listen to what members have to say, including members on her side of the House.

Next week the Committee for Children and Young People was to question the Commissioner for Children and Young People. I am disappointed that the bill was introduced before the committee had the chance to ask questions. We have been given a number of updates on the review of the bill, but we had no opportunity to look at Ms L'Orange's review and at other aspects of the bill before it was introduced into the House. Other members of the committee would feel similarly aggrieved, because there are issues about the bill that would have been more fulsomely discussed if the committee had had the opportunity to look at it. In the last paragraph of the Minister's second reading speech she stated:

We will be consulting with those groups impacted by the review's recommendations for extending background checking to further improve our system in New South Wales.

The Minister is saying that she will seek further consultation on the bill; obviously the bill presented is not the final story—no legislation is. However, the Opposition would like more time to look at the bill and to consult with other people who may not have been consulted. Obviously that will not be possible. Following this debate there will be no chance to do that. The Minister, referring to the bill's compliance measures, said:

The commission's approach to its working with children provisions over the last five years has primarily been through education and encouragement. Employers recruiting people for paid or unpaid—

note "unpaid"—

child-related employment have now had time to learn about their child protection obligations.

As I have not had time to read the bill in its entirety, I wonder what the Minister's answer would be to the question of volunteers. I know that this issue has been raised. Being an honorary member, a full member and an associate member of a number of different organisations in my electorate and outside it, I know that if organisations have anything to do with children, and many of them do, the executives of those organisations seek a children check.

There is a reference in the Minister's second reading speech to unpaid employment and a link to volunteers. I am an honorary member of three rotary clubs and have quite a lot to do with youth projects, including youth exchanges in those rotary clubs. To give the rotary club as an example, I am required to give three separate children checks for three separate clubs. That obviously extends to other organisations to which I belong. It is frustrating to have to go through the whole process three times. When I was working as executive director of the Australian Podiatry Association I had to go through that checking process because I had to go into Matthew Talbot hostel.

I had to undertake that checking process on the off-chance that I might run into a school group doing a tour of the hostel. Obviously children are not often residents of or day visitors to that hostel. In the past I asked the commissioner about this issue. It was reasonable that I received the answer, "Do not worry because obviously this is in the interests of children." In this day and age people are busy and clubs are busy. If I had a certificate that I could present as being completely children checked, even if I had to do that every two or three years, I would have no problem with that. I would then be able to show that certificate to all the organisations to which I belonged. Other members in the community who are active in local groups and organisations would also have that ability.

I refer to the issues raised earlier by the shadow Minister. She referred, first, to the notation in media reports relating to 89 people who had a background alert. She then referred to issues relating to Department of

Community Services workers and said that clarification was needed. Today the Ombudsman made the alarming revelation that some reports relating to child sex offenders have not been made available. The shadow Minister referred also to providing information to the general public. It is incumbent on the Government to increase the confidence of the general public in child-minding organisations and others dealing with children.

Members of clubs who are undertaking courses must undergo those children checks. When will this legislation come into force? I express concern that the Minister is not in the Chamber to listen to this debate. The Coalition does not oppose this legislation. All Opposition members support any move to protect and keep our children safe. However, we need more time to scrutinise this legislation. In future will the Minister consult with the groups to which she referred in her speech?

Mrs BARBARA PERRY (Auburn) [6.53 p.m.]: I support this bill which will amend the Commission for Children and Young People Act 1998 and repeal the Child Protection (Prohibited Employment) Act 1998. This bill shows clear progress in the work of the Commission for Children and Young People to further enhance the safety and wellbeing of children in our State. An important part of the process of drafting the bill has been wide community consultation—something that was acknowledged by all those who contributed to debate on this bill—which includes more than 250 children and young people.

I take this opportunity to refer to what these kids had to say about the commission and its work. Before I do so I thank my colleagues on the other side of the House for their bipartisan support, which helped to bring the commission into being for the benefit of our children. I also thank them for their bipartisan support for this bill. I acknowledge the support and co-operation of all my colleagues on the parliamentary Joint Standing Committee on Children and Young People. I acknowledge tonight's contribution by one of those members, that is, the honourable member for Hornsby.

The views of children and young people were a vital ingredient for establishing the commission, so is highly appropriate that they formed such an important part in developing a bill to strengthen the commission and its work. Four main points emerged as a result of consultations with those kids. First, kids value and support the work that the commission does. Second, the commission's independence is vital for its credibility among children and young people. Third, the commission's role as the peak advocate for kids in New South Wales is one of its most important functions. Fourth, this bill responds to the wishes of children and young people by maintaining a mix of advocacy, education and research, and encouraging organisations to be child safe and child friendly, while maintaining and strengthening its employment screening functions.

It is appropriate at this stage to acknowledge the work done every day by those at the Commission for Children and Young People. I acknowledge the work of Commissioner Gillian Calvert and her team. They are highly professional and are dedicated to young people in our State. Kids often say that they believe their voices are drowned out in public debate. They see the commission as valuable in making their voices heard. One young person said of the commission's work:

It's a way we can try to implement change... we are a minority—it is hard to get people to listen, and many people don't want to listen.

Importantly, kids tell us that the very existence of the commission helps to build a sense of belonging and connection to the community. This reassures children and young people and that, in turn, encourages them to participate and feel that they are valid members of the community with something to contribute. Another young person said:

It encourages the participation of younger people in decisions that affect their lives, as well as promoting and enforcing the wellbeing of young people.

The bill maintains the commission's independence from partisan politics, continuing its role of reporting to a joint parliamentary committee comprising members from across the political spectrum. It is a vital feature of the commission and something that the kids value highly. Another young person said:

It is independent of the government and has the power to disagree with the government if its finds its policies unsatisfactory. Therefore the commission can be a more fair and scrutinising organisation.

As for the commission's role of bringing children's issues into public debate, the children and young people of New South Wales have commended the commission's work on issues such as mobile phones, bullying and school toilets. They also suggested that more work could be done regarding health, wellbeing and relationships

with family and the community. The commission was seen as performing a valuable service in researching issues relating to children and young people. Children and young people also supported the screening of people working with them and believed it to be an important and ongoing function of the commission.

This bill is about strengthening and consolidating a fundamentally sound legislative base. The principles that guide the commission are unchanged in the bill. These principles remain: the safety, welfare and wellbeing of children are paramount considerations; the views of children are to be given serious consideration and taken into account; and a co-operative relationship between children and their families and between children and their community is important for the safety, welfare and wellbeing of children. It is clear from what children and young people have told us that these principles have their support.

Everyone in this House wants to see children growing up in this State feeling valued and respected, able to take their place as participants, and not just the objects of decision making. The New South Wales Commission for Children and Young People has played, and continues to play, an important part in this process. The bill before us builds on what has already been achieved for the children and young people of New South Wales and lays the legislative foundation to do even better. I thank the Minister for Community Services, and I commend the bill to the House.

Mr MATT BROWN (Kiama—Parliamentary Secretary) [7.00 p.m.], in reply: I pay tribute to the honourable member for Auburn for her continued support for, and dedication to, protecting children in New South Wales. I thank her for her contribution to the debate and for her ongoing work as Chair of the Committee on Children and Young People, which oversees the Commission for Children and Young People. I thank the honourable member for Illawarra for her constructive comments. She is another hardworking member of Parliament who is very concerned about the welfare and safety of children in New South Wales. I also thank the honourable member for Willoughby and the honourable member for Hornsby for their contributions to the debate. They raised a number of issues that I will address now.

Honourable members asked why the bill is not retrospective: Why does it not prevent those who received exemptions in the past from working with children? The decisions of the independent bodies—the Commission for Children and Young People, the Administrative Decisions Tribunal and the Industrial Relations Commission—were based on requirements under the existing legislation that they be satisfied that applicants are not a risk to children. However, to put the issue beyond doubt the bill ensures that we meet our community's expectation that we will make environments more child safe and child friendly.

The honourable member for Willoughby asked whether Department of Community Services [DOCS] workers are subject to the requirements of the legislation. I will answer that question as explicitly as possible. Yes, they are, and they have been compliant with the legislation since it was introduced in 2000. As to certificates for self-employed people, a parents education campaign will be launched before this aspect of the bill comes into effect. The honourable member for Willoughby expressed concern about the proclamation of the bill. I inform the House that the commissioner will develop the relevant procedures, guidelines and standards and when these are ready the legislation will be proclaimed.

The honourable member for Hornsby asked about the issuing of cards for volunteers. An independent review of this model, which operates in other jurisdictions, recommended retaining the current system in New South Wales as a more robust way of protecting children. We must remember that the object of the bill is not administrative simplicity but protecting children in New South Wales. I am pleased that the Government is directing its attention to that very important aim. I thank the Minister for Community Services and those honourable members who contributed to the debate. I also thank the Commissioner for Children and Young People and all those who work for the commission to ensure that New South Wales has one of the strongest child protection systems around.

Motion agreed to.

Bill read a second time and passed through remaining stages.

[Mr Speaker left the chair at 7.04 p.m. The House resumed at 7.30 p.m.]

SELECT COMMITTEE INTO THE CROSS-CITY TUNNEL**Establishment****Consideration of the Legislative Council's message of 15 November 2005.**

Mr JOSEPH TRIPODI (Fairfield—Minister for Roads) [7.30 p.m.]: I move:

1. That a joint select committee be appointed to inquire into and report on:
 - (a) the role of government agencies in relation to the negotiation of the contract with the cross-city tunnel consortium,
 - (b) the extent to which the substance of the cross-city tunnel contract was determined through community consultation processes,
 - (c) the methodology used by the Roads and Traffic Authority [RTA] for tendering and contract negotiation in connection with the cross-city tunnel,
 - (d) the public release of contractual and associated documents connected with public-private partnerships for large road projects,
 - (e) the communication and accountability mechanisms between the RTA and Government, including the Premier, other Ministers or their staff, and the former Premier, or former Ministers or their staff,
 - (f) the role of government agencies in entering into major public-private partnership agreements, including public consultation processes, and terms and conditions included in such agreements, and
 - (g) any other related matters.
2. That, notwithstanding anything to the contrary in the standing orders of either House, the committee consist of eight members, as follows:
 - (a) four members of the Legislative Council, of whom:
 - (i) one must be a Government member,
 - (ii) one must be an Opposition member, and
 - (iii) two must be crossbench members, one of whom will be Reverend the Hon. Fred Nile,
 - (b) four members of the Legislative Assembly, of whom:
 - (i) two must be Government members, and
 - (ii) two must be Opposition members.
3. That the members be nominated in writing to the Clerk of the Parliaments and the Clerk of the Legislative Assembly by the relevant party leaders and the Independent and crossbench members respectively within seven days of this resolution being agreed to by both Houses.
4. That Reverend the Hon. Fred Nile be the Chair of the committee.
5. That the Chair of the committee have a deliberative vote and, in the event of an equality of votes, a casting vote.
6. That, notwithstanding anything to the contrary in the standing orders of either House, at any meeting of the committee, any four members of the committee will constitute a quorum, provided that the committee meets as a joint committee at all times.
7. A member of either House who is not a member of the committee may take part in the public proceedings of the committee and question witnesses but may not vote, move any motion, or be counted for the purpose of any quorum or division.
8. That the committee report:
 - (a) in relation to paragraphs 1 (a) to (e) by the first sitting day in February 2006, and
 - (b) in relation to paragraph 1 (f) by the first sitting day in April 2006.
9. That leave be given to members of either House to appear before and give evidence to the committee.
10. That the time and place for the first meeting be Thursday 1 December 2005 at 1.00 p.m. in room 1153.

Mr THOMAS GEORGE (Lismore) [7.37 p.m.]: Again we are seeing the bullying tactics of this Labor Government with the appointment of this committee. General Purpose Standing Committee No. 4 had already set terms of reference for this inquiry. However, in its wisdom the Government has used its strong-arm tactics to establish its own committee and appoint members to suit its agenda and its terms of reference. Clearly, the travelling public will not now be properly represented. However, we will certainly ask a lot of questions in relation to the problems associated with the tunnel, which have received a lot of air time in this House and I am sure will continue to do so over the next couple of months. However, the Opposition accepts the establishment of the Joint Select Committee on the Cross-city Tunnel.

Mr JOSEPH TRIPODI (Fairfield—Minister for Roads) [7.38 p.m.], in reply: The Government supports the establishment of a bipartisan joint select committee to consider the cross-city tunnel contract, to be chaired by the Independent member Reverend the Hon. Fred Nile. The committee will include equal representation of Government and Opposition members—three of each—and two crossbench members, one of whom will be the Chair. It is important to make clear that the Government will not have a majority on this committee. The cross-city tunnel is a \$680 million project and an important addition to our road network. The Government believes that a bipartisan inquiry by a joint select committee is the best and most transparent process to consider issues related to the cross-city tunnel contract.

I know that members from both Houses have a keen interest in roads and, more broadly, in the delivery of road infrastructure by the public sector or through public-private partnerships. The committee will benefit from the interest and expertise that can be brought to it by involving members from both Houses. The terms of reference are broad and enable the committee to properly consider a range of matters relating to the tunnel contract. The Government is keen for the committee to begin its work and to provide the community with its report into this important matter as soon as it can.

Motion agreed to.

Message sent to the Legislative Council informing it of the resolution.

PARLIAMENTARY SUPERANNUATION LEGISLATION AMENDMENT BILL

Second Reading

Debate resumed from 15 November 2005.

Ms PETA SEATON (Southern Highlands) [7.41 p.m.]: The Opposition does not oppose the Parliamentary Superannuation Legislation Amendment Bill. We note that the Commonwealth Government introduced legislation to this effect on 1 April 2004. We also note that both the Prime Minister and former Premier Bob Carr were reported in February 2004 as committing to make these changes to parliamentary superannuation. It took the Commonwealth Government only two months to introduce the legislation, but it has taken Labor in New South Wales nearly two years to do it. The bill is long overdue and the New South Wales Government should account for its delay.

Mr BRYCE GAUDRY (Newcastle—Parliamentary Secretary) [7.41 p.m.], in reply: I thank the honourable member for Southern Highlands for her contribution to the debate on the Parliamentary Superannuation Legislation Amendment Bill on behalf of the Opposition. For the most part, the Government concurs with the observations made during the debate and commends the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

STATE REVENUE LEGISLATION FURTHER AMENDMENT BILL

Second Reading

Debate resumed from 15 November 2005.

Ms PETA SEATON (Southern Highlands) [7.43 p.m.]: I lead for the Opposition on the State Revenue Legislation Further Amendment Bill, which should more correctly be called Labor's \$13 million tax rip-off bill.

More State taxes have just been created in the highest taxed State in Australia as a result of this bill from the Labor Government. The additional tax measures include mortgage duty measures, reaping an extra \$6 million in revenue; land tax extensions, reaping an extra \$5 million in revenue; payroll tax extensions, reaping an additional \$1 million to \$2 million in revenue; and other measures including increasing the eligibility age for First Home Plus from 16 years to 18 years.

The bill will make up to 600 landowners, small-scale farmers and land tax payers with around 600 extra blocks of land in the outer Sydney area now liable for land tax because they will no longer be able to meet the tougher business definition of "primary production" under Labor's new laws. Government officials told me today that as this legislation brings the definition of "primary production" in line with the local government definition, more farmers will fail the test and more people will be forced into Labor's land tax net, with an additional \$5 million a year going into the State's coffers.

The bill amends a number of State taxes and duties. The first is to the Duties Act 1997. The bill changes rules to ensure that the eligibility age for First Home Plus scheme applicants is now 18 years of age rather than 16. I understand that this brings New South Wales into line with other States, and I am told that around 10 individuals in any year would be likely to be affected, but that the tax commissioner maintains some element of discretion in cases where 16-year-olds might have a persuasive case as to why they should be eligible for the grant.

Further provisions include new reporting requirements for land rich duty. I am advised that some of the intended changes are not in the bill because the Office of State Revenue required some more time to draft some additional changes. But there are some new land rich matters in the bill regarding a concession relating to wholesale trusts. The concession allows foreign investors to receive the same concessional treatment as other wholesale funds, such as complying superannuation funds and life companies. This is a new concession and I understand it is in line with concessions already available in Victoria, Western Australia and Queensland. These concessions remove a current obstacle to foreign investors into New South Wales.

The Opposition welcomes measures to improve our competitiveness in relation to other States, but I ask the Government whether it is prepared to make such a concession here to improve our competitiveness. Why will Labor not do the right thing on competitiveness with issues such as the IGA group of taxes and taxes such as payroll tax, which in New South Wales are creating a competitive disadvantage with States such as Queensland? Provisions under the Duties Act also include new so-called "anti-avoidance" measures related to mortgage duty. The real culprit in this case is the New South Wales Labor Government, which is the prime avoider of tax reform. In his speech last night the Parliamentary Secretary said the major amendments to the Duties Act are to close off two mortgage duty avoidance practices. He said:

Where a loan is secured by mortgages of property in New South Wales and another State, New South Wales duty is payable only on the New South Wales proportion of the property used as security. A duty avoidance practice has been uncovered whereby the proportion of New South Wales property is artificially reduced by omitting New South Wales property from the security until after the date at which the liability to duty is calculated. The avoidance practice takes advantage of an administrative provision in the legislation to bring forward the liability to a date before any loan amounts have been advanced, and therefore before most of the New South Wales property has been included as security.

He went on to say:

The second avoidance practice relates to an exemption that formerly applied to mortgages securing advances under debentures issued by a corporation. In 1999, this exemption was changed to a more limited concession to prevent avoidance practices. As a result of further identified abuses of these provisions, the concession was terminated in 2003 so that any new debenture arrangements could not be created to avoid payment of mortgage duty.

The Government claims that this is an increasing use of old debenture structures to facilitate new loans, and seeks to oppose this avoidance avenue by providing that mortgage duty is payable on all new advances made under debenture structures, regardless of the date of establishment of the original structure. Here is another idea to cut out so-called avoidance issues: abolish the tax in the first place. There is no reason for mortgage duty to exist. It is one of the group of so-called intergovernmental agreement nuisance taxes, the IGA taxes, which Bob Carr signed up with all intentions to get results. He said he would proceed to do that, but of course we still have all these taxes: taxes on mortgages; taxes on rental videos for the family; taxes on the hire of equipment to do home renovations; taxes for business owners who lease computers or fleet cars. All these taxes are going to the Iemma Government. This is a hidden tax—a nuisance tax; it is one that adds to the costs of businesses and adds to the costs of families, and this is another example of where the Iemma Government is clinging on to whatever taxation revenue it can get.

No wonder the Government is clinging on when it is in such desperate financial straits. The Office of State Revenue financial impact statement shows that it will reap approximately \$6 million a year from the combined anti-avoidance measures in this bill—that is another \$6 million for the State's coffers. Mortgage duty is one of the duties agreed to be reviewed for abolition under the intergovernmental agreement. New South Wales is one of only two jurisdictions—the other being Western Australia—that does not propose the abolition of mortgage duty. The Australian Capital Territory and the Northern Territory do not impose mortgage duty, and Victoria abolished it on 1 July 2004. All the other States, except New South Wales and Western Australia, have announced the abolition of mortgage duty as follows: Tasmania will reduce it by 50 per cent from 1 July 2006 and will abolish it in full as at 1 July 2009, Queensland will reduce it by 50 per cent on 1 January 2008 and abolish it fully on 1 January 2009, and South Australia will phase it out from 1 July 2007 to 1 July 2009.

Mortgage duty is a disincentive to investors in New South Wales. Abolishing mortgage duty is the only way the New South Wales Government can stop avoidance on New South Wales mortgage duty by borrowers who choose not to invest in New South Wales or who choose to invest but not give security over property in New South Wales but, rather, give security over property outside New South Wales in States and Territories that do not impose mortgage duty. We simply cannot afford not to compete with the other States.

I note advice today with some concern that relevant stakeholder groups have not been consulted on these so-called anti-avoidance measures, apparently due to confidentiality concerns. I question why the Government would not be open with stakeholder groups; why it is being secretive. The bill makes new rules for pooled superannuation funds, extending a concession recognising existing policy. However, I am told that this is not expected to produce extra revenue. It also makes provision for crop and livestock insurance capping, extending the existing concession that was subject to previous time limits. That related to providing relief during the drought, which continues in some areas. I understand that that will be extended for another five years.

Other provisions relate to the Insurance Protection Tax Act 2001, the so-called HIIH tax, which exists only in New South Wales. As I understand it, LawCover and insurers pay this tax. I understand that LawCover has made submissions to the Government; it is concerned that it is paying double tax as both insurer and policyholder and, understandably, it seeks clarification and rationalisation. Government advice to me today is that LawCover has been paying twice. I sought the amount of the double whammy because I thought it would take longer for the liability to be discharged. I was told, however, that the proportion of tax paid by insurers would be adjusted upwards to maintain the overall revenue regime but in a different configuration.

Today I asked the Government whether the Insurance Council of Australia had been consulted on this measure and I was told that it had. When I rang the Insurance Council of Australia to discuss the matter, I was informed that it was unaware of the content of the bill and that it had not been directly consulted on it. At about 4.30 p.m. this afternoon a phone hook-up was arranged with the Insurance Council of Australia and it was able to seek some information from the Government. However, I am concerned that the Government told me it had consulted, when clearly that was not the case. This matter is of great concern to the insurance industry and particularly shareholders in the insurance industry.

I also raise concerns arising from the report on the review of the Insurance Protection Act 2001 issued by the Treasurer of New South Wales in June 2005. When I reviewed this document at the time it was tabled in this place, I had a number of concerns, which stakeholders in the insurance industry confirmed. We still do not know the Government's intentions with respect to the insurance protection tax. When the report was tabled earlier this year it was very clear the Government was still clinging to the tax and that the tax could well continue forever, judging by the lack of resolution in the Treasury report. We should not forget that we now have a general insurance tax rate of 9 per cent, which the Labor Government increased from 5 per cent in the last budget. Families and businesses are now paying around \$50 to \$100 extra per year in additional State tax as a result of the Carr and Iemma governments tax hikes. New South Wales also has the insurance protection tax, and is the only State to have such a tax.

The Government has failed to be accountable to shareholders of insurance companies. It has failed to set a timetable or make any arrangement for agreement on the cessation of this tax at some appropriate future point. Will this tax last forever? It is a disincentive to be in New South Wales, and shareholders are at a disadvantage. Yet the Government in this report of June 2005 has failed to set out any criteria to represent a satisfactory discharge of the HIIH liability by the industry. The Government has failed to respond to industry requests for better reporting of the application of the tax, and there is no evidence to show how the Government is offsetting debt against recovery.

The Government has comprehensively failed to provide a sunset clause or sunset criteria. There is good argument to suggest that there should be some form of sunset clause or criteria to say that when the debt is retired the tax finishes. This tax reaps \$65 million a year from Australian regulated insurers and \$4 million a year from foreign off-shore insurance mechanisms. I call on the Government to state its intentions for the insurance protection tax and to answer the questions that have been unanswered since June 2005—very reasonable questions from the insurance industry—as to its intentions.

The bill also amends the Land Tax Management Act 1956. This is yet more tax from the Iemma Labor Government. According to advice to me from the Government today, based on its estimate that there could be up to 600 lots now liable to this tax, small-scale farmers will now be land tax payers, with around 600 extra blocks of land in the Sydney statistical division now liable for land tax because those farmers will no longer be able to meet the tougher business definition of "primary production" under Labor's new tax laws. Government officials told me today that, as the bill brings the definition of "primary production" into line with the local government definition, more farmers will fail the tougher test and be forced into Labor's land tax net. This will reap the Government an additional \$5 million a year to the State's coffers. The land tax payers will feel the effects of these new measures in the 2006 land tax year. Concern has also been expressed that the identification by the tax commissioner of whether the dominant use of land is for primary production is fraught with some difficulty. What has prompted this legislative change? How will the Government enforce it? What definition will be used to determine whether the dominant use of the land is for primary production?

The bill contains provisions that amend the Pay-roll Tax Act 1971. These amendments introduce measures that will bring more tax to the Government. The Labor Government has been gradually ensnaring more and more employee benefits and a range of payments as dutiable for payroll tax. In recent times that has been done in revenue bills. The bill extends the net even wider, with two new aspects that are subject to payroll tax. They include long service leave and redundancy payments, which will now be included in calculations of benefits to employees who are particularly involved in construction and related industries. Generally, they are people who are mobile, work on a project-by-project basis and move between employers and projects.

I am told that the bill recognises that industries such as the construction industry have set up funds, including the Construction Employees Redundancy Trust and Mechanical and Electrical Redundancy Trust, and payments that used to be made by the employer on behalf of an employee are now dutiable for that employer for the time the employee was with that employer. The extension of this dutiability results in a revenue gain to the Government of between \$1 million and \$2 million, according to Treasury officials. I am told that those figures were derived from an assessment of the annual reports of the funds identified. That is another nail in the coffin of the New South Wales contestability.

New South Wales already has one of the highest payroll tax regimes in the country. That is why the Liberals-Nationals Coalition pledged to rebuild the New South Wales economy by increasing the payroll threshold from \$600,000 to \$850,000, matching that of Queensland. Because of the reducible threshold in Queensland, our reforms will put the competitiveness of New South Wales consistently ahead of Queensland. I have legislation before the House that will exempt 4,500 businesses from having to pay payroll tax at all. The bill will bring about a reduction of up to \$15,000 for each of the 22,000 businesses that are liable for payroll tax. I look forward to debating that bill in this place. We will see whether Labor members will back that important reform for small business and stand up for a reduction in payroll tax. In this bill Labor is set to increase the tax take it already gets from payroll tax.

Another provision in this bill affects the Petroleum Products Subsidy Act 1997. I understand that those measures will enable the Government to more effectively target people who incorrectly claim the subsidy that is provided to address cross-border petrol price anomalies. People are required to repay the subsidies if they have incorrectly claimed, but apparently there is no formal mechanism to do that. The provision includes a new formal assessment process and penalty and also extends the right of appeal to the Administrative Decisions Tribunal. The final provision relates to the Taxation Administration Act 1996 and the ability to enter into agreements with other States to investigate certain matters.

I am advised that a number of bodies were involved in consultation on this bill, including the Law Society of New South Wales, business organisations, the Property Council of Australia, the Real Estate Institute, financial planners and the State Chamber of Commerce. I understand that Australian Business Limited has not been party to those consultations. It is important to remind the House that the Opposition first saw and heard about the Government's intentions with this bill at 10.00 p.m. yesterday. The bill goes to the heart of the competitiveness of New South Wales. I am concerned because New South Wales is the highest taxed State in Australia and this bill is being rammed through Parliament less than 24 hours after the Opposition first heard about it.

The business groups with whom I have spoken during today are concerned about it as that was the first they had heard about it. I invited them to comment on the content of the bill. I have not had a chance to speak in detail to many other groups, and I believe the Government probably intended it to be that way. A bill that raises \$13 million of additional taxes and brings forward at least five new taxation measures is obviously something the Government wants to keep quiet. I acknowledge information provided to me today by Mr Peter Procopis from the Minister's office, and I thank Mr Ian Phillips and Peter Johnson from the Office of State Revenue for their assistance.

This desperate Labor Government is trying to fill a budget black hole. It wants every cent it can get. Where is the report that was promised by the Premier on 3 August when he announced a review of the State's finances and admitted that we are in a deep, and deepening, deficit and that he has major problems on his hands as a result of the appalling financial management of the Labor Government? I want to see the report. In volume 4 of his 2005 report, which was tabled today, the Auditor-General, although not criticising T-corp, noted the intention of the Government to increase borrowings during the next four years and urged caution on the management of those borrowings. Clearly the auditor is concerned that the triple-A rating of New South Wales could well be, as he said, "under pressure".

It is urgent that honourable members see the report on the State's finances, although the Government is keen to delay its production for as long as possible. It was to be available in August-September and now we might not see it until next year. I do not know how it will differ from the mid-year report that is normally received by Parliament in mid-December. The Government is yet to account for that matter. The urgency with which this bill is being rammed through Parliament is an indicator of the desperate budget crisis that Labor is trying to avert and cover up.

Under this bill the Government has made a handy \$13 million dent in the deficit with greedy new tax grabs that will not fix the problem. The only way to fix the problem is for the Government to take the tough decisions needed to lower taxes, unlock employment opportunities and reduce the embarrassingly high unemployment rate in New South Wales compared with the national average. We need to improve our embarrassing economic performance. According to last week's national accounts figures our gross State product growth rate is only 1.1 per cent, compared with a national rate of 2.3 per cent. New South Wales ought to be the powerhouse economy of Australia, as we have been in the past. Increasingly we are the anchor on national economic performance. Raising more taxes might give the Government some immediate and superficial relief from a deepening budget black hole but it will not fix the overwhelming problems in the State's finances and the management of the State budget.

Ms ANGELA D'AMORE (Drummoyne) [8.08 p.m.]: I want to speak particularly about the amendments made to the Land Tax Management Act 1956 by the State Revenue Legislation Further Amendment Bill. The amendments include proposals to remove retrospective liability for land tax when an owner vacates their principal place of residence and does not return within six years. They clarify the exemption from land tax for unoccupied land, align the land tax definition of "primary production" land with the definition of "farm land" used for local council rating purposes and amend the exemption from land tax for land subject to conservation agreements to restrict it to agreements held for an indefinite period.

The bill will simplify administration of the exemption for unoccupied land intended to be used as the owner's principal place of residence. A land tax exemption applies to vacant land or an unoccupied house when the purchaser acquires land with the intention of constructing a new house or refurbishing an existing house or structure that is intended to be the purchaser's principal residence. There is an anomaly in the legislation that prevents an owner claiming the exemption if he or she is a joint owner of land in another State that is the exempt residence of another joint owner. A number of residents have come to me with that concern, so I am happy that the legislation deals with this issue.

The bill also amends legislation to allow the exemption to apply in these circumstances providing the New South Wales owner is not entitled to claim the exemption from another residence, whether in New South Wales, another State or overseas. The bill also simplifies the process of claiming the exemption by removing the need for a taxpayer to satisfy the Chief Commissioner of an entitlement to the exemption. That means that the Chief Commissioner can rely on a declaration or return lodged by the owner indicating that the exemption is applicable. The bill also introduces a new offence if a taxpayer makes a fraudulent claim for the exemption.

The bill limits the exemption applying to land subject to conservation agreements under the National Parks and Wildlife Act 1974 and the Nature Conservation Trust Act 2001 to those agreements which are for an

indefinite period. During the development of the State Revenue Legislation Further Amendment Bill 2004 the Government agreed to a request by the Greens and the Local Government Association to amend the exemption from land tax for land subject to conservation agreements to restrict it to agreements held for an indefinite period. That will provide an incentive for owners to sign indefinite conservation orders. The bill implements the Government's commitment.

The bill aligns the land tax exemption for primary production land with the business test in the definition of "farm land" used for council rates purposes where land has an urban or non-rural zoning. The amendments will reduce the scope for contrived arrangements to gain a land tax exemption for primary production land and will also simplify administration by making the classification of primary production land for land tax and council rates consistent. Land currently qualifies for a land tax exemption if it is within a rural or non-urban zone and is used primarily for primary production, or within an urban zone and is used primarily for primary production in the course of carrying on a business of primary production. Hobby farms in rural zones will remain exempt even if the owners do not use and occupy the land as their principal place of residence.

The State Government is always looking to make our taxes more efficient. The people of New South Wales pay \$13 billion a year in GST and, as a result of the Federal Government and the Commonwealth Grants Commission, we receive only \$10 billion. Effectively that means residents of New South Wales are missing out on \$3 billion of tax concessions the State Government could pass on. I note the comments of the honourable member for Southern Highlands, but she failed to put on record whether she supports the residents of New South Wales regaining that \$3 billion by an equitable formula. That would go a long way towards abolishing business taxes, further reforming land tax and providing more beds, teaching hospitals and petrol subsidies. I would be interested to hear what the Opposition has to say about securing that additional \$3 billion from the Federal Government that every single resident in New South Wales pays when they purchase goods and services. That would certainly put the State Government in a position to offer further cuts in essential areas, such as business tax and land tax. I commend the bill to the House.

Mr BRYCE GAUDRY (Newcastle—Parliamentary Secretary) [8.14 p.m.], in reply: I thank the honourable member for Southern Highlands, who spoke on behalf of the Opposition, and the honourable member for Drummoyne for their input to this debate on the State Revenue Legislation Further Amendment Bill. The bill amends the Duties Act 1997, the First Home Owner Grant Act 2000, the Insurance Protection Act 2001, the Land Tax Management Act 1956, the Pay-roll Tax Act 1971, the Petroleum Products Subsidy Act 1997 and the Taxation Administration Act 1996. We listened closely to the Opposition's words. I make it clear that New South Wales cannot afford to abolish mortgage duty and other duties targeted under the intergovernmental agreement because of the failure of the Federal Liberal-Nationals Government to return to New South Wales taxpayers the \$3 billion in GST revenue that is used to subsidise some of the other States, most notably Queensland. The honourable member for Drummoyne made that point clearly.

Anti-avoidance measures are not generally flagged in advance of the introduction of legislation because it would provide opportunities to bring forward transactions and avoid the legislation. The bill aligns the land tax exemption for primary production land with the business test in the definition of "farm land" used for council rates purposes where land has an urban or non-rural zoning. The amendments will reduce the scope for contrived arrangements by land subdividers to gain a land tax exemption for primary production land and will also simplify the administration by making the classification of primary production land for land tax and council rates consistent. The amendments do not affect rural land.

The bill clarifies employers' liability in relation to industry long service leave and redundancy payments schemes. Taxable wages include employers' long service leave payments and lump sum payments on termination of employment or retirement when the employee is paid a lump sum instead of taking leave. In some industries, such as the building industry, a large number of workers are employed for short periods of time by the same employer but may work for a number of employers over an extended period of time. To ensure these workers receive long service leave and redundancy entitlements, industry schemes have been established under which workers accrue entitlements based on their service in the industry rather than the length of service with an employer.

The employer pays an industry levy to pay for leave entitlements based on the length of service with a particular employer. Workers are able to take paid leave and are paid by the employer at that time, but the employer is reimbursed from the industry fund for any leave the employee takes that accrued while working for previous employers. The bill clarifies the employer's liability for tax by taxing the employer's contributions to

the central fund but exempts any amounts reimbursed by the central fund to the employer to prevent double taxation. Some other States and Territories have similar legislation. The honourable member for Southern Highlands referred to a \$13 million tax grab. We should keep clearly in our minds the \$13 billion grab by the Commonwealth Government through the GST structure and the unfair formula that redistributes to only \$10 billion of that to New South Wales. We ask the Opposition to join with us in getting a fair deal for New South Wales. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

CRIMINAL PROCEDURE AMENDMENT (SEXUAL OFFENCE CASE MANAGEMENT) BILL

Bill introduced and read a first time.

Second Reading

Mr BRYCE GAUDRY (Newcastle—Parliamentary Secretary) [8.19 p.m.], on behalf of Mr Bob Debus: I move:

That this bill be now read a second time.

The Government is pleased to introduce the Criminal Procedure Amendment (Sexual Offence Case Management) Bill 2005. This bill proposes amendments to the Criminal Procedure Act 1986 to provide that a pre-trial order made by a judge is binding on the trial judge if the proceedings relate to a prescribed sexual offence that is dealt with on indictment. In circumstances where a new trial is ordered or later trial proceedings commence following the discontinuation of an earlier trial, a pre-trial order also will be binding on the trial judge hearing the fresh or later trial proceedings.

Delay in criminal proceedings, in particular sexual assault trials, is always a concern. Delay can cause secondary traumatisation of complainants, who prepare themselves to give evidence on each occasion the matter is fixed for trial. The delay may be caused by legal and procedural issues not determined prior to the hearing date. That is particularly traumatic in sexual assault cases, where there may be multiple offenders or multiple victims. The proposed legislation will serve to minimise the stress and trauma of giving evidence for these witnesses, and is part of the ongoing process of reform in relation to improving the process surrounding sexual assault prosecutions for complainants.

Rulings on the admissibility of evidence by a judge other than the trial judge are not currently binding and it is not possible to ensure that the same judge will deal with both the pre-trial hearing and the trial. Therefore, in order for rulings made by one judge to be binding on a subsequent trial judge, there must be legislative amendment. One of the key issues in sexual offence trials is effective case management to ensure that all preliminary matters are resolved in advance of the commencement of the trial and to avoid unnecessary legal argument. Effective case management of sexual assault trials would require the court to resolve issues such as the admissibility of evidence and the use and availability of technology prior to the trial commencing. Delay due to adjournment or legal argument on the first day of trial may result in complainant dissatisfaction and trauma.

Schedule 1 inserts proposed section 130A into the Criminal Procedure Act. This section applies only to proceedings in respect of a prescribed sexual offence that is dealt with on indictment. A prescribed sexual offence is defined elsewhere in the principal Act at section 3. Section 130A (1) provides that a pre-trial order made by a judge is binding on the trial judge unless, in the opinion of the trial judge, it would not be in the interests of justice for the order to be binding. Section 130A (2) relates to situations where a matter was appealed against successfully and a new trial ordered. It provides that a ruling made at a listing prior to the trial also apply in a retrial, unless to do so would be inconsistent with a ruling or order given on appeal, or it would not be in the interests of justice. Where, for example, a ruling was made to admit the police electronic recorded interview with a child as their evidence in chief, this earlier ruling will bind the judge hearing the retrial, unless the Court of Criminal Appeal ordered that the ruling was in error.

That provision avoids all of the pre-trial rulings in the earlier trial being re-visited when a conviction has been set aside. Section 130A (3) provides that in circumstances where a new trial is ordered or trial proceedings commence following the discontinuation of an earlier trial, a pre-trial order will be binding also on the trial judge hearing the fresh or subsequent trial proceedings. A pre-trial order is defined as any order made

after the indictment is first presented but before the empanelment of a jury for the trial. Schedule 2 is a consequential amendment that makes it clear that section 130A does not apply to any pre-trial orders made prior to commencement of the section. However, the section will apply to offences where criminal proceedings have commenced already, but where proceedings before the trial judge have not begun. I know that all members of the House wish to have delays in sexual offence proceedings reduced, and to allow complainants to be satisfied that a trial will proceed on the day on which it is fixed. Therefore I am sure that this amendment will be welcomed by all honourable members. I commend the bill to the House.

Mr ANDREW TINK (Epping) [8.25 p.m.]: I am sure all honourable members will support the propositions put forward in support of the bill, namely, to reduce the trauma on victims of rape and serious sexual assault and to ensure that they do not have to revisit, any more than is absolutely necessary, any court proceedings. Obviously, the Opposition strongly supports that policy thrust. However, at the end of the day I do not know whether the bill achieves anything. It refers to prior rulings being binding except if, in the opinion of the trial judge, it would not be in the interests of justice for the orders to be binding. In other words, it is basically left up to the trial judge as to whether the prior order is binding.

From time to time I have been critical of judges in rape cases, but I cannot think of any judge who would not deal with a question in a rape trial in the interests of justice as he saw it. I am struggling to figure out how the bill does anything. The test is whether it is in the interests of justice so far as the trial judge is concerned, but I would have thought that that has always been the case. We certainly do not oppose the bill and we strongly support the policy principle, but I am somewhat at a loss to see where the bill takes things. At the end of the day it appears to be circular. It uses the word "binding", but qualifies that by referring to the opinion of the trial judge and it not being in the interests of justice for the order to be binding. It becomes a subjective test for the trial judge as to whether what has gone before is binding.

Notwithstanding the criticism I make from time to time of judges, I cannot honestly say that I believe any of them judge things contrary to the interests of justice. That is the test. I hope the bill achieves a little more than I think it will, because it is important to move in this area. Time will tell. We can talk about how we think the bill will operate, but this is one of those bills that we will have to see in operation. If this issue remains a problem we may be back here looking for ways to tighten it up. I do not intend to play around with it tonight—that would not be appropriate—because I believe it was introduced in good faith. I hope it works. We do not oppose the bill.

Mr PAUL LYNCH (Liverpool) [8.28 p.m.]: I wish to make a short contribution in support of the Criminal Procedure Amendment (Sexual Offence Case Management) Bill. When the current regime in relation to criminal trials is changed an argument must be established as to why that should happen. It is important to approach it on that basis because our traditional structures to defend people who are accused of crimes are important. Because the State has immensely greater resources than an accused person, it is, therefore, important that our structures are fair to the accused as well as to everybody else. The way to resolve those issues is to go back to first principles to see whether the proposed changes do not offend those principles and have some other benefits as well.

On that basis, this bill should be supported. It is consistent with the basic principles of the legal system, it is not unfair to the accused, and it has the added benefit of making it easier for victims of sexual assault to give evidence. It is undoubtedly the case that sexual assault is one of the offences that is least reported and therefore least prosecuted. Some would argue that that is because of the patriarchal nature of our society or because of the structural issues in our society. If either is the case, it makes sense to try to deal with those matters at a structural level by changing some of the systems and the rules, as this bill purports to do. That is the benefit that is inherent in this bill.

Other changes in this area of the law have offended basic principles. Previously I have mentioned my concerns about accused people not being able to cross-examine victims, which I think fundamentally breaches some basic principles. This bill is certainly not in that category. As I have said, this bill does not offend basic principles and has an added benefit. I must say that I am not as pessimistic about this bill as is the honourable member for Epping. I believe the bill says something important. When the bill becomes an Act it will allow rulings to be given at an interlocutory stage, or in a trial that is held prior to a retrial, or prior to a further trial. It is not simply the case that those rulings do not mean anything: those rulings will be able to be overturned at a subsequent trial. That must be the case to allow for new evidence that comes to light or to allow for matters that were not taken into account when the original rulings were made.

However, it is not simply the case that the prior ruling can be waved away. It is a binding ruling and for it to be changed there must be an onus incumbent upon those who are trying to change it. I think that is the purport of the bill that the honourable member for Epping has construed wrongly, and that the bill has far more substance than he suggested. However, if I am wrong about that and he is right, as he said, there will be the option of amending the bill at a later stage. As I have stated, this bill does not offend basic principles of law. It confers a benefit and makes a change. I am pleased to commend the bill to the House.

Mr BARRY COLLIER (Miranda) [8.31 p.m.]: I am pleased to support this important bill. Its object is to amend the Criminal Procedure Act to provide that a pre-trial order made by a judge is binding on the trial judge if the proceedings relate to a prescribed sexual offence that is dealt with on indictment—in other words, in a District Court or another superior court. In circumstances in which a new trial is ordered or later trial proceedings are commenced following the discontinuation of an earlier trial, a pre-trial order will also be binding on the trial judge who is hearing the fresh or subsequent proceedings. The amendments are intended to contribute to the better case management of trials for prescribed sexual offences. The amendments will apply whether the trial is by jury or by a judge sitting alone.

In the context of consideration of this bill, it is important to note that a pre-trial order is defined for the purpose of this amending bill to mean any order made after an indictment is first presented but before the jury is empanelled for the trial. This bill is about victims and looking after victims of alleged sexual assaults. With this bill the Government builds on a raft of measures that it has already put in place to assist victims of sexual assault to navigate the trauma associated with seeing perpetrators face criminal prosecutions. The trauma experienced by victims during preparation for the hearings must be phenomenal. This bill seeks to go some way toward addressing the experience of a number of victims of sexual assault who, sadly, galvanise themselves to give evidence on a particular day, only to find that, through no fault of their own or anybody involved in the trial, their evidence must be put off until another occasion.

Some of the reasons for postponement may include an application for an adjournment, an application regarding the admissibility of evidence, a voir dire, or a sudden application, in the case of co-accused persons, for a separate trial, which results in postponement of the current trial to a later date. In any of those circumstances the victim of the alleged sexual assault must endure the trauma of preparing herself, or indeed himself, for another trial. In an attempt to mitigate the effects of such an eventuality the bill will amend the Criminal Procedure Act 1986 to allow a judge, other than the trial judge, to make binding determinations about evidence and procedural matters that are relevant to sexual assault trials.

The amendments proposed by the Government in this bill will assist in minimising the stress and trauma experienced by witnesses in giving evidence. As the law currently stands, rulings on the admissibility of evidence by a judge, other than the ultimate trial judge, do not bind the trial judge. Unfortunately, it is not always possible to ensure that the judge who dealt with the pre-trial matters will be the same judge as the one who deals with the trial. That set of circumstances creates uncertainty in relation to the overall management of the trial from the arraignment to the conclusion of the trial. To make an order that has been made by one judge binding upon a subsequent trial judge requires legislative amendment.

This bill reflects terms of a provision that is currently in place in Victoria and amends the Criminal Procedure Act in a number of respects. It provides that a ruling that is made by a judge at a listing prior to trial is binding on the subsequent trial judge unless, in the opinion of the trial judge, it would not be in the interests of justice. It is possible that new matters come to light or that new evidence is presented which makes the earlier ruling during pre-trial proceedings contrary to the interests of justice, necessitating a new ruling on the admissibility of new evidence that has come to light. The bill also provides that a ruling made at a listing prior to the trial will also apply in a retrial, unless to do so would be inconsistent with a ruling or order that is given on appeal—for example, an appeal against conviction. It may be that the ruling given in the trial is inconsistent with an order made by the Court of Criminal Appeal. Another reason may be that it is not in the interests of justice to apply the ruling that was made prior to the trial.

The bill also provides that a ruling made at a listing prior to the trial will apply in a subsequent trial—for example, when a trial is aborted—unless it would not be in the interests of justice to do so. Judges are well skilled in examining potential evidence and deciding whether, perhaps on a voir dire, it is or is not in the interests of justice to follow the earlier ruling. In many respects, this bill advances the position of victims of alleged sexual assault by introducing a degree of certainty into proceedings. The victims will not have to present themselves in the expectation that a trial will take place and, having prepared themselves for the trial, find that the trial is suddenly adjourned, perhaps once or even twice, as a result of applications made by the Crown or the

defence. As I stated earlier, this bill builds on the raft of measures put in place by this Government to assist victims of sexual assault. It will assist victims to deal with the trauma associated with the trial of a case of sexual assault. I commend the bill to the House.

Mr BRYCE GAUDRY (Newcastle—Parliamentary Secretary) [8.37 p.m.], in reply: I thank the honourable member for Epping, who spoke on behalf of the Opposition, the honourable member for Liverpool and the honourable member for Miranda for contributing to the debate and for assisting in dealing with the bill expeditiously. Each member who spoke during the debate commented on the trauma faced by victims of sexual assault, particularly the great trauma they experience when providing evidence. But, beyond that, victims currently face difficulties that this bill is intended to ameliorate.

I take up the point made by the honourable member for Epping, who expressed concern about the interests of justice test being circular and subjective. I emphasise that the interests of justice test is very necessary. Orders that are made prior to a trial will not always be based on the same information that is before the court during the main trial. An instance is when the Crown case has changed or when a witness's evidence is different from the evidence known about at the time the order was made. When additional evidence is significant, the interests of justice test is likely to be made out, and in those circumstances the trial judge would not be bound by the pre-trial order.

Rigidity in making orders in such circumstances is against the interests of justice. It may therefore be unfair, either to the Crown or to the accused, for the pre-trial order to be binding. The community expects trials to be fair and to be conducted in accordance with the law. The interests of justice test is therefore an essential mechanism by which trial judges are able to reject an earlier ruling when that is appropriate. This bill forms part of the Government's commitment to ensuring that the harm suffered by sexual assault victims is not compounded by the processes of the criminal justice system. The bill will result in reduced delays and increased efficiency in the conduct of sexual offence trial proceedings. Reduced delay in trial matters and the efficient administration of justice are in the interests of the complainant, the accused and the community. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

TRANSPORT ADMINISTRATION AMENDMENT (PUBLIC TRANSPORT TICKETING CORPORATION) BILL

Bill introduced and read a first time.

Second Reading

Mr JOHN WATKINS (Ryde—Deputy Premier, Minister for Transport, and Minister for State Development) [8.41 p.m.]: I move:

That this bill be now read a second time.

The Government remains committed to providing a safe, clean and reliable public transport system to better meet the needs of the travelling public of New South Wales. The Rail Clearways Program, new bus and rail fleet acquisitions, the investment in new passenger information and the roll out of the Government's bus reforms are all initiatives aimed at improving services and meeting passenger needs. However, the delivery of public transport is not just about buses, trains, ferries and associated infrastructure. Fundamentally, delivering public transport services is about providing equity and connectivity to a society—and this is a key theme that the Government is making a reality. Earlier this year, with the assistance of the Independent Pricing and Regulatory Tribunal, the Government harmonised bus fares across metropolitan Sydney.

Effectively, this meant lowering bus fares on private buses so that they were the same as those afforded to people travelling on public bus services. For the first time, commuters on private buses are paying exactly the same cash fare for the same distance travelled as their counterparts on public buses. The Government has also extended the pensioner excursion ticket across the metropolitan and outer metropolitan regions, making all-day travel on public transport available to eligible pensioners and seniors for only \$2.50. Now, via the roll out of the new bus contracts across the metropolitan and outer metropolitan regions, equitable concessions arrangements

will be provided between private and public buses—again, for the first time. The next step in furthering equity and connectivity to commuters is the delivery of a universal ticketing medium across all transport modes that will allow commuters to travel on any form of public transport using only a single ticket.

Accordingly, this bill provides the legislative framework for the creation of the Public Transport Ticketing Corporation. The new corporation will be responsible for establishing and managing a common ticketing and fare payment system, known as Tcard and currently under development, for public transport users and operators in the greater Sydney metropolitan area. The corporation will not be a policy-making or regulatory agency; it will be relatively small and have an operational focus on delivering ticketing services. However, the corporation will provide a means for achieving broader policy objectives such as progressing key aspects of the bus reform agenda, by enabling the charging of common fares and providing flag fall free transfers across the metropolitan region and improving transparency for other transport concession payments.

It is proposed that the corporation will take over the development work currently performed by the Transport Administration Corporation, a division of the Ministry of Transport, to introduce the new ticketing system, based on smartcard technology, known as Tcard. Given the relatively narrow focus of the ticketing system—it is essentially a commercial cash-management business—it is not an appropriate long-term activity for the ministry, which is a policy and regulatory agency. Also, with the number of transport operators that will participate in the scheme, it is best that the ticketing agency has no conflict of interest in its dealings. The Tcard system has already been successfully trialled in 2005 for participants in the School Student Transport Scheme, and almost 290,000 cards are now in use across New South Wales.

Work is currently under way to commence trials for commuters and other public transport users in the middle of 2006. Staged roll out of the full system would occur after the trials conclude, with most of the Sydney area covered by the end of next year. This progression from development and delivery of the ticketing system to a fully commercial structure is reflected in the bill by providing for the corporation to progress to a second governance structure. Initially the bill allows for the corporation to be created as a statutory authority, representing the Crown and under the direction of the Minister for Transport, enabling it to establish and bed down the integrated ticketing and fare payment system for public transport in the State. Under this governance model the Government will ensure that the corporation's business rules are appropriate and that its policies on fares and concessions have been addressed.

Once the ticketing system is deemed to be fully operational and its activities are of a routine commercial nature it will be feasible to adopt a more commercial governance arrangement, and the bill allows for the corporation to be converted to a State-owned corporation, with the function of providing for the ongoing management of the ticketing and fare payment system. The bill provides for this transition to occur at a time to be determined by the Governor. Tcard should be fully operational within the next three to five years, but the governance structure will not change until the ticketing system is shown to be operating satisfactorily. As stated, in its initial years the corporation will be a statutory authority representing the Crown. It will have a chief executive officer appointed by the Governor, with a board appointed by the Minister for Transport.

The board will consist of not less than three and not more than seven members, plus the chief executive officer as an ex-officio member. During the phase that the corporation is a statutory authority, the board will have strong representation from public transport operators to ensure it has the expertise and focus to achieve its primary objective of implementing a common ticketing platform for public transport in the greater Sydney metropolitan area. However, it will also include other members with commercial skills and other expertise relevant to the corporation's objectives. As with other statutory authorities, the corporation's board will be subject to the direction of the portfolio Minister. However, before giving any direction that would involve significant financial consequence, the Minister must seek the concurrence of the Treasurer.

For the corporation's ongoing financial responsibilities as a statutory authority, it will develop a corporate plan to specify its separate activities, the objectives of each activity, the strategies, policies and budgets for achieving those objectives, and the targets and criteria for assessing the corporation's performance. Because the new smartcard ticketing system covers all modes of transport and all operators, and because of the need to ensure consistent system performance and security, it is necessary that all ticketing equipment is owned and operated by the ticketing corporation. Accordingly, the Government intends that the bill provide for the transfer of all ticketing and fare collection assets from government-owned transport operators to the corporation to provide clear lines of ownership and accountability for the provision of ticketing and fare collection services and the maintenance of equipment.

However, operators will continue to have operational control of the location of these assets so that safety and customer service can be assured. The corporation will also have responsibility for operating and maintaining existing ticketing systems during the transition period to Tcard and after establishment. The bill provides for the corporation to enter into service agreements with transport operators to provide ticketing and fare collection services. Those agreements will outline the performance and maintenance requirements to be met by the proposed corporation. In addition, because the integrated ticketing project is a whole-of-government project and a whole-of-transport-industry initiative, the agreements will set out the roles and obligations of transport operators.

The fare revenue collected on behalf of operators will be managed in an efficient and financially responsible manner, with funds to be appropriately "ring-fenced" on behalf of public transport users who have loaded money onto a Tcard. Finally, because the ticketing system will offer the opportunity for commuters to register their Tcards—to enable recovery of the cash balance in the event of loss or theft—and because records will be kept of travellers entitled to concession fares, privacy of information will be important. As a statutory authority, the corporation will be automatically subject to the provisions of the Privacy and Personal Information Protection Act 1988. In addition, the bill provides for the corporation, in conjunction with NSW Police, to be able to carry out investigations and inquiries in respect of proposed employees and contractors to establish their fitness to be associated with the exercise of the corporation's functions.

In conclusion, the bill complements the Government's transport reforms by introducing a structure to manage the fully integrated fare payment system, which will dramatically improve the operation of the public transport system for the hundreds of thousands of travellers who use it every day. Boarding times will be reduced, fare collections will become more accurate, and travellers in unfamiliar areas will no longer have to waste time trying to work out the correct fare. Tcard is a step towards a cashless transport system and should be welcomed by all members of the House. The establishment of the Public Transport Ticketing Corporation will allow for one organisation to provide specialist ticketing services to operators and be responsible for introducing a modern ticketing system that meets the needs of the travelling public by improving equity and connectivity across the public transport network. I commend the bill to the House.

Debate adjourned on motion by Mr Adrian Piccoli.

PRIVATE MEMBERS' STATEMENTS

MURRUMBIDGEE ELECTORATE AGRICULTURE AND HEALTH SERVICES

Mr ADRIAN PICCOLI (Murrumbidgee) [8.51 p.m.]: Tonight I refer to an issue that is having a great impact on the Murrumbidgee electorate, that is, the incompetence of the New South Wales Government in the areas of agriculture and health. I refer, first, to agriculture. No industry is more important to the economy and to jobs in the Murrumbidgee electorate than agriculture. However, the current Minister for Primary Industries, the Hon. Ian Macdonald, does not defend agriculture. He is a member of a Cabinet that is not favourably disposed to agriculture. However, I gained the impression that every time there is an attack on agriculture he does not defend that industry.

The Minister commenced by closing full-time residential courses at the Murrumbidgee College of Agriculture because he was told he had to save money. Apparently that move will save the New South Wales Government \$1 million. The Government spends \$400 million every year on Rehome, but it was prepared to sacrifice that educational facility for the sake of \$1 million. It has closed down about half of the Murrumbidgee College of Agriculture. This week the Minister announced the implementation of a regulation for native vegetation management, which is not in the interests of agriculture. He was told he needed to cut \$36 million from last year's agriculture budget, \$50 million this financial year and \$56 million next financial year.

The research station at Deniliquin, which is under threat and on the brink of being sold off, has been closed and de-staffed. Trangie research station and other agricultural research stations in New South Wales are all under threat. There are reductions in staffing levels and to extension services. One of the two citrus extension officers in the Murrumbidgee Irrigation Area has been fired because the Minister has been told he has to save money. Instead of going in to bat for the agricultural industry he bowed to pressure from his masters in the Labor Party and presided over the most devastating funding cuts to the Department of Primary Industries we have ever seen.

Today legislation passed through both Houses of Parliament, obviously with the support of Labor members, to deregulate the rice industry. That will cost \$26 million in payments. It is not money that the New South Wales Government had to pay; it was a fine. Those payments were foregone in the past but this Minister will not forego payments now because he has been told to come up with additional money to help the New South Wales Government through its financial crisis. In the time that he has been Minister for Primary Industries he has never defended agriculture. The deregulation of the rice industry today was the clearest and latest example of that.

I said earlier that agriculture is important to the Murrumbidgee electorate, which is why I raised these significant concerns tonight. The New South Wales Government has not just failed in agriculture; it has also failed in health. Yesterday the honourable member for Wagga Wagga and the honourable member for Burrinjuck—electorates that come under the Greater Southern Area Health Service—asked questions about unpaid bills. Businesses in those respective electorates—

Mr ACTING-SPEAKER (Mr Paul Lynch): Order! The honourable member for Murrumbidgee should raise only one issue in a private member's statement.

Mr ADRIAN PICCOLI: I am making only one statement. I am referring to the incompetence of the New South Wales Government.

Mr ACTING-SPEAKER (Mr Paul Lynch): Order! The honourable member is raising a second issue, which is health.

Mr ADRIAN PICCOLI: In the past you have extended a great deal of latitude to honourable members, in particular, the honourable member for Blacktown, who often refers to a number of issues.

Mr ACTING-SPEAKER (Mr Paul Lynch): Order! I am not dealing with the honourable member for Blacktown. I am not in the habit of making rulings that are jokes. I have ruled on the matter and I suggest that the honourable member for Murrumbidgee adhere to it.

Mr ADRIAN PICCOLI: Government members do not like to hear about these sorts of issues and they do not want the facts on the record. I would like to be able to make two private members' statements every day. This Government has destroyed the New South Wales agricultural industry, which will have a big impact on the Murrumbidgee electorate. That really goes to show that the Government does not care about agriculture in New South Wales. It is happy to see millions of dollars being ripped out of the agriculture budget. It is prepared to sacrifice industries such as the rice industry to shore up its financial position. If it ran the State budget properly it would not find itself in this sort of trouble. This Government is falling over itself doing favours for its union mates. That is one of the reasons why New South Wales is experiencing such financial difficulties. *[Time expired.]*

HONOURABLE MEMBER FOR ILLAWARRA CHRISTMAS CARD COMPETITION

Ms MARIANNE SALIBA (Illawarra) [8.56 p.m.]: Tonight I refer to some artistic young people in my electorate. Recently year 3 students were asked to submit a design for the front of my Christmas card, this year's theme being the International Year of Sport and Physical Education. I chose that theme because it is an important issue for young people. Honourable members would be aware that there is a childhood obesity problem. We must make young people aware of the things they can do to rectify that problem. Physical education and sport is one of those things.

Every year for the past five or six years I have held this competition and every year I have chosen a theme. This year it was the International Year of Sport and Physical Education. In the past we have had the International Year of Rice, the International Year of Fresh Water, the International Year of Older People and the International Year of Volunteers. I cannot recall all the other themes. Young people are given an opportunity to become involved in activities outside their schools. This year I received 383 entries from 11 schools within my electorate. The designs submitted by students were wonderful and, as usual, the task of choosing the finalist and the winner was difficult. In fact, I could not pick the winner on my own. I had to ask members of my staff and my four children to assist in the selection process.

I congratulate all the finalists on their entries, which have been printed on the inside of my card. I am sure all honourable members will take the opportunity to look at those entries. The finalists included Rebekah

Walsh from St Pius X School, Unanderra, Lauren Mathews from Figtree Heights Public School, Taryn Wells from St John's Catholic School, Emily Karagiannis from Balarang Public School, William Searle from Unanderra Public School, Keira Spencer from Mount Brown Public School, Kate Martin from Mount Kembla Public School, Shenae Sumskis from Illawarra Christian School, Cordeaux campus, Samantha Ayuso from Warilla North Public School, and Mandy Li from Dapto Public School. The competition winner was Kieran Bonin, a young man from Nareena Hills Public School.

Recently students, family members and school representatives had the opportunity to have a very nice afternoon tea with Graham Kennedy, Regional Director of the Department of Education and Training at the Ribbonwood Centre at Dapto, where the winner was announced. I would like to take this opportunity to thank Graham Kennedy for taking the opportunity to be there and to recognise the contribution of these young people. Each finalist was also presented with a parliamentary pen, which I hope they will proudly use when they gain their pen licences in year 4. The winner was also presented with a parliamentary pen and a \$50 book voucher from Angus and Robertson. The principal of the winning school, Rob Long, was presented with a \$100 donation to the school library for the purchase of library books.

This year's Christmas card design is unique and I am proud to distribute such an individual design to my family members and to friends, colleagues, businesses and government agencies. These cards go all over the world. So far 600 have been printed—last year I required additional reprints. The people who receive my card will be getting a unique design. I thank all the schools, teachers and principals who participated, and I especially thank the students for their wonderfully unique designs. This card will reach hundreds of people both nationally and internationally and I am very proud to call it my card. The card has a picture of Santa Claus doing a slam-dunk, with elves and parcels as part of his team; there is a basketball and a football in the corner. It recognises that sport and physical education are an important part of our lives and, in particular, the lives of young people. I thank those students for being involved. [*Time expired.*]

HORNSBY SHIRE COUNCIL CSR QUARRY SITE ACQUISITION

Mrs JUDY HOPWOOD (Hornsby) [9.01 p.m.]: I am compelled to speak tonight about a very serious matter that has concerned residents of Hornsby shire for some months, that is, the acquisition by Hornsby Shire Council of Hornsby quarry, which was owned and operated by CSR. This acquisition has produced a litany of correspondence and meetings seeking some form of explanation as to how council was forced to purchase the land, how the price was arrived at and why ratepayers are now being charged increased rates to pay for it. I do not doubt that this issue has been difficult for council, but it is accountable to ratepayers and must be transparent in its actions.

The legislation under which Hornsby Shire Council was obliged to purchase the land is the Land Acquisition (Just Terms Compensation) Act 1991. After examination of the history and chronology of events surrounding the acquisition, I brought the matter to the attention of both the upper House committee inquiring into the Office of the Valuer General and the Ombudsman's review of the Valuer General, and sent information to the ICAC so that certain allegations can be investigated. I have also approached the Auditor-General, who has informed me that his office is unable to examine the history and processes associated with CSR and the forced purchase by Hornsby Shire Council. The upper House committee has informed me that it cannot examine specific cases and the Ombudsman is also unable to pursue the matter. I subsequently called on the Minister to amend legislation to prevent a public body from being in a similar position in the future. I have also made representations on behalf of concerned residents to the Minister for Local Government.

Currently, council awaits legal preparation so that documents can be passed on to the Department of Local Government for the purposes of a review of the process. The Minister for Local Government recently attended a meeting in the electorate, called by Labor councillors and a Labor member of the Legislative Council. At that meeting it was reported that the Minister said the State Government would investigate how and why the Hornsby Shire Council spent \$26 million buying a "useless, unstable piece of land", as stated in the *Sydney Morning Herald* of 11 October 2005. I have some reservations about the Department of Local Government looking into the matter. Local residents want an external, unbiased assessment of the entire process.

Many of my constituents have taken an intense interest in this issue, some opposing the initial plan by council to place high-rise developments on the perimeter of the area under question; some merely asking questions such as why council was ill prepared financially to acquire the land or whether it borrowed the money legally. One constituent in particular, Bogumil Eichstaedt of Hornsby, stated that he was directly involved when he paid increased rates to pay for the debt. In his letter dated 27 September 2005 he stated:

Re: Questions on validity of acquisition of CSR Quarry site in Hornsby.

I am writing this letter to express my concerns that I might suffer increase of Council rates unjustly because acquisition of CSR Quarry site in Hornsby might have been done by a person without power to acquire the land and without due consent of my elected representatives to the Local Government ...

NSW Government Gazette No. 189 of 25 October 2002 published a Notice of Compulsory Acquisition of Land signed by the General Manager of Hornsby Shire Council. The land in question was CSR Quarry site in Hornsby. Further to this notice more than \$25 million of Hornsby Council money went into [the] hands of CSR Limited and the ratepayers, including myself, were burdened with 5.3% special rate increase for the next 10 years.

Because [of] the actual acquisition of CSR Quarry site seems to be different to the due process specified by the relevant Acts of NSW Parliament, I have the following questions:

- Did [the] General Manager have the authority to sign the Notice of Compulsory Acquisition and to submit it for publication in the NSW Government Gazette?
- Is the Acquisition of CSR Quarry Site in Hornsby void because it was done by a person without power to acquire the land?

I understand that due process of land acquisition by the Council requires that a decision to acquire land must be made by resolution of the Council at a Council meeting. Local Government Act protects my rights against arbitrary action of Council's administration by provisions of section 377 that this decision cannot be delegated.

CSR Quarry site in Hornsby was allegedly acquired by the Hornsby Council as authority of the NSW State without resolution of the Council. Hence my concern that Councillors elected to represent my interest might have been excluded from the process.

I am also concerned that Council's administration acquired not only the land but also an operational quarry, which continued to be operational for more than six months after acquisition and became [a] liability for the Shire when it was finally abandoned without decommissioning, stabilisation of faces and rehabilitation of the site.

There are currently more questions than answers. If Hornsby Shire Council has nothing to be concerned about relating to the process associated with the acquisition, then the council should welcome a public inquiry into the matter.

NEW SOUTH WALES FIRE BRIGADES COMMUNITY FIRE UNITS

Mrs KARYN PALUZZANO (Penrith) [9.06 p.m.]: I wish to speak tonight on the NSW Fire Brigades community fire units. On 6 November 2005 I had the pleasure to be with Assistant Commissioner Murray Kear at Glenbrook fire station to commission 10 new community fire units. Back in July 2005 in this House I spoke on the Fire Brigades Amendment (Community Fire Units) Bill when I outlined that there were a number of community fire units both in Glenbrook and Blaxland. I was very proud to be able to hand over the keys for the 10 new units. The community fire units have a specific function. They include undertaking fire prevention work, assisting firefighters during bushfires, assisting with recovery operations after a bushfire and bushfire safety prevention.

The bill that was before the House earlier this year clarified that certain damage caused by a member of community fire units in the line of duty was covered by insurance. As Assistant Commissioner Kear stated, community fire units—or the blue brigade, as they are now called—are reaching their objectives and functions. It should be noted that their trailers have equipment for use by volunteers. They have firefighting hoses, portable pumps, standpipes and fittings, safety helmets, gloves, dust masks, goggles, boots and overalls, tools including rake hoes for making fire trails, first-aid kits and knapsack pumps. The trailers are located in strategic locations on the interface between the urban area and bush vegetation.

The electorate of Penrith has a mobile unit as well as a fixed unit, which is box-like structure on High Road, East Blaxland. I commend the team leader, Graeme Gardiner, for that unit. I gave the keys to these team leaders and their units. They are all volunteers, who live at fairly strategic locations around Glenbrook and Blaxland, which may have bushfires near them in the bushfire season. These team leaders are: Bruce Prince, Honeyeater Crescent, Blaxland; Graeme Gardiner, The High Road, East Blaxland; Ian Short, East Road, Glenbrook; James Auld, Curvers Drive, Mount Riverview; Jeff Konemann, Reading Street, Glenbrook; Lisa Goehner, Wright Street, Glenbrook; Mel Chapman, Brook Road, Glenbrook; and Michael Petrov, Dawn Crescent, Mount Riverview.

Last year we had only one community fire unit in the electorate of Penrith. Now we have 10 and more are to be commissioned. I commend the volunteers for taking the time to train with NSW Fire Brigades. I must also mention Captain Ken Williams and fireman Bob Maxwell. Glenbrook has a retained brigade comprising

part-time firefighters. Bob Maxwell has done an outstanding job going into the community making people aware of the community fire units and prompting people to volunteer for them. The volunteers undergo training that allows them to assist after a bushfire event. They will not provide front-line services but they will certainly mop up. As residents of the electorates of Penrith and Mulgoa know, embers often ignite after a bushfire has passed through and a house goes up in flames. The mopping-up operation can be exceedingly dangerous.

A special ceremony was held at Glenbrook fire station and members of the retained brigade organised afternoon tea for us. NSW Fire Brigades fire units have slightly fewer members than the State Emergency Service in New South Wales. The units have been in existence for only about a decade but the number of community fire unit volunteers is growing. Those volunteers do an admirable job and they should be commended for their contribution.

PITTWATER ELECTORATE BY-ELECTION CANDIDATE MR ALEX McTAGGART

Mr BRAD HAZZARD (Wakehurst) [9.11 p.m.]: The electorate of Wakehurst is serviced by two local hospitals. One is Manly hospital, located on the southern peninsula, and the other is Mona Vale Hospital on the northern end of the peninsula. Residents of Wakehurst report regularly to me their concerns to ensure that both hospitals are retained and upgraded. Our hospitals are critical and both must provide the full range of services. The past 10 years of Labor government have seen services cut back. Maternity was under threat previously and it is again under threat at both hospitals. The computerised axial tomography [CAT] scan at Mona Vale is less than useless—it shows one slice. One specialist joked recently that it should be in the Smithsonian Institute. CAT scans in private practices have 16 to 40 slices, which provide better diagnostic opportunities. Paediatric services have been cut back. Mona Vale's intensive care beds were set to be moved to Manly, until John Brogden and I opposed any such move.

Since 1996 John Brogden and I, as local Liberal members, have fought tooth and nail with the Labor Government which was intent on closing one hospital—and Mona Vale was in its sights. We have had constant meetings fighting for retention of our hospitals. These included meetings with Ministers Refshauge and Knowles and the current Premier. Not once did we resile from the battle for our hospitals but Labor still wants to close one of them, and it has deliberately delayed detailing plans for the upgrading of our hospital services. Now, after John Brogden's sudden and sad resignation, there are those in the community who are unwittingly playing into Labor's hands by assisting in the consolidation of Labor's power.

There is one who appears to have gone beyond the unwitting stage and is deliberately working with the Labor Government to ensure the blocking of the election of another Liberal to replace John Brogden. He is Labor's Trojan horse, Alex McTaggart. Marching in with more hide than Ned Kelly, he claims to support John Brogden yet John Brogden has never had a close relationship with him. John certainly would not want anybody but a Liberal to continue his fight to represent the people of Pittwater and to ensure the continuation and growth of Mona Vale Hospital under a Coalition government.

How close, how symbiotic is the relationship between Alex McTaggart and Labor? That is the question that must be answered by Mr McTaggart. All the evidence is that it is very close. Mr McTaggart recently sent thousands of personally addressed letters to Pittwater residents, mail merged and in a professional system that appears to have been generated by the use of the electronic electoral roll. In fact, I have a copy of a letter that was sent by Mr McTaggart to an elector's nominated Australian Electoral Commission [AEC] postal address. This is not the address listed on the electoral roll but an address that a resident elector has provided to the AEC for the distribution of electoral material. The only way this address can be obtained is through an electronic copy of the electoral roll. This version of the roll is not provided to candidates.

The critical question now is: Which political party gave Mr McTaggart the list? One thing is for sure: It was not the Liberal Party. Mr McTaggart needs to tell the residents of Pittwater, whose trust he seeks to win, just how he managed to access the electronic electoral roll available only to registered political parties. This is about as serious as it gets for someone who purports to be an Independent because the use of the roll by Mr McTaggart reveals a clear link with the Labor Party. The Liberal Party, respecting John Brogden's legacy as a fighter for Pittwater, would absolutely not give the electronic electoral roll to Mr McTaggart or anybody else who was not a member of the Liberal Party or personally approved by John. I call on Mr McTaggart to come clean. If he cannot tell the truth openly on this issue why should we believe he is going to do anything other than Labor's bidding on its preferred option—that is, the closure of Mona Vale Hospital?

Finally, I say to those who are backing Mr McTaggart locally: The Liberal Party has worked with you to save Mona Vale Hospital. It was our two-hospital policy—the Liberal two-hospital policy—that saved it.

Until recently Mr McTaggart and, indeed, Patricia Giles were calling for support for the Coalition's two-hospital policy. The Shore Regional Organisation of Councils [SHOROC] reported Patricia Giles calling for all local mayors to back the Coalition's two-hospital policy. In a recent SHOROC report she said:

I call on the SHOROC mayors to support the Coalition and their two hospital policy for the Peninsula.

Left-wing green journal *Green Weekly* recently reported Mr McTaggart's comments similarly calling for support for the two-hospital policy—that is, the Coalition's two-hospital policy. The report states:

He said that the two hospitals should be upgraded and networked.

In a massive and hypocritical about-face, because there is no Labor candidate in Pittwater, Ms Giles—whom I respect personally—and Mr McTaggart are now attacking the Liberal Party that they sought to support previously. The Liberals will deliver on the two-hospital policy and Mona Vale Hospital will be saved only if the community gets behind the Liberals' Paul Nicolaou and stops Labor's Trojan horse handing Pittwater and continued government to the Labor Party in New South Wales.

Ms Diane Beamer: Signs of nervousness there, Brad.

Mr BRAD HAZZARD: Not at all. We hope that some consideration will be given to supporting our Manly and Mona Vale hospitals. We need new hospitals on the peninsula.

Mr Kerry Hickey: Time!

Mr BRAD HAZZARD: I thank the Minister for Local Government for expressing his strong support for new hospitals on the peninsula.

Mr ACTING-SPEAKER (Mr Paul Lynch): Order! The honourable member's speaking time has expired. I suggest that the next time the honourable member for Wakehurst makes a private member's statement it is a proper private member's statement.

STRATHFIELD MUNICIPAL COUNCIL AMALGAMATION CAMPAIGN

Ms VIRGINIA JUDGE (Strathfield) [9.16 p.m.]: It is with deep concern that I relate to the House the details of a bogus and misleading campaign being conducted by Strathfield Municipal Council in the electorate of Strathfield in the inner west. This bogus campaign is causing local residents to become needlessly worried about the future of local government in the Strathfield municipal area. In addition, the campaign has been a total waste of ratepayers' money. That money could have been used to fill potholes, fix footpaths and clean up the area—work that is sorely needed in the community.

In May 2005 Strathfield Liberal mayor in conjunction with Strathfield United began calling on residents to tie red and white ribbons on their trees, street trees and letterboxes. Banners were hung in public places—even the front of the council chamber was desecrated. This was part of a so-called campaign to save Strathfield from the threat of amalgamation—a threat that does not exist. It is reported on the Strathfield council web site that the mayor joined residents who came out in force in a ribbon-tying blitz on Sunday 22 May 2005. The mayor urged everyone to demonstrate publicly their community unity and their disapproval of amalgamation by tying red and white ribbons around their trees. The mayor is trying to hoodwink and trick the local community. Shame on him! His actions are mischievous in the extreme and an insult to the good, decent people of the area. The Strathfield council web site goes on to explain that the red and white ribbons are:

... a symbol of our growing concern of losing our Strathfield identity, our financial independence, our volunteer workers, our affordable Council rating base and our revitalised, effective Council.

To add insult to injury, Strathfield council has made the red and white ribbons—ribbons for a fake issue—available from council libraries. Residents have also been urged to lend their support to the Save Strathfield campaign by attending Strathfield United meetings held every Monday at 7.00 p.m. at South Strathfield. I inform the people of Strathfield that I have been advised by the Minister for Local Government that there will be no forced amalgamation of Strathfield council with Auburn Council and that the campaign is totally unnecessary.

In response to Minister Kelly's letter to all councils of 3 July 2003, Auburn Council lodged a major boundary alteration proposal with the Minister on 4 September 2003 to combine the majority of Strathfield local government area [LGA] with the existing Auburn LGA plus part of the Rhodes peninsula currently within Canada Bay City Council, being 45 square kilometres. The amalgamated LGA was to be known as the City of Homebush Bay. The former Minister for Local Government, the Hon. Tony Kelly, did not, and I emphasise not, refer the proposal to either the department or the Local Government Boundaries Commission for examination and report, meaning that there will be no forced amalgamation of Strathfield and Auburn councils.

I am informed approximately 72 letters, including some form letters, plus a petition with 107 signatures objecting to the proposal, have been received by the Minister for Local Government. With regard to current policy, it is one of no forced amalgamations. Since late 2004 the emphasis has been toward promoting co-operative arrangements, such as strategic alliances, rather than amalgamations. Local councils are encouraged to keep an open mind about voluntary amalgamations. However, there will not be forced amalgamations. Local governments have been invited to look closely at cost sharing and entering into strategic alliances with neighbouring councils. There is concern regarding the sustainability of local government. The local government sector should consider any reform measures that will improve service delivery to ratepayers and in the near future make serious investments in the in their communities.

Local government—like State and Federal tiers—face ever-changing challenges. This is why the Minister for Local Government has been encouraging local councils throughout the State to think outside the square. But the Minister will not be forcefully amalgamating Strathfield and Auburn. I have invited the Minister for Local Government to the Strathfield electorate to put an end to this bogus campaign, which has been conducted by Strathfield Municipal Council and has caused considerable worry and anxiety among the residents of Strathfield LGA. Strathfield LGA is a wonderful municipality and one that is very dear to my heart. I was a councillor there for 11 years and mayor for four terms. I introduced many environmental initiatives, including a scheme to have rainwater tanks installed in all new houses and all homes requiring major renovations.

I also gave every house a free recycling bin for indoor composting and hosted community forums to discuss a new local environment plan for the whole of the municipality to protect and enhance our wonderful environment. I undertook programs to revitalise the main streets in Homebush, Flemington and Strathfield village centres, and I initiated a state-of-the-art library with a full multimedia centre in Homebush. I organised the first Strathfield Art Eco Prize awarded to one adult and one youth. I also organised the first Strathfield Fair in collaboration with the Strathfield Chamber of Commerce, which I helped revise to support local small businesses. Financially, I restructured the council as it was operating as four separate silos, into two main areas—strategic planning and operations. I set up a customer service centre for the council that was people friendly.

During my time as mayor I never raised the rates and led by example by not having a mayoral car or driver. In conclusion, I now call on the Minister for Local Government to come to the Strathfield electorate as soon as possible and inform the good, decent hardworking residents and ratepayers that he will not be forcibly amalgamating the municipalities of Strathfield and Auburn. I condemn this council for such mischievous, fake and bogus campaign that have caused such angst to the hardworking ratepayers and residents of the Strathfield municipality.

Mr KERRY HICKEY (Cessnock—Minister for Local Government) [9.21 p.m.]: The honourable member for Strathfield has raised the concerns of the community about a possible amalgamation of Strathfield and Auburn councils. Thanks to the tireless efforts of the honourable member for Strathfield, who literally pounds down my door and is constantly in my ear, I am keenly aware of the depth of feeling throughout the community in relation to this important issue. I reiterate that the Government will not force amalgamations. However, I recognise the need for the people of Strathfield to hear that message first-hand. The constituents in the electorate of Strathfield have been subject to a bogus campaign solely aimed at creating anxiety in the community about losing their council and identity.

As Minister I am concerned that the council may be directing funds away from delivering quality services to a baseless campaign, and that is why I want to place on the parliamentary record that the people do not need this worry and the Lemna Government wants to expose the sham for what it is. The honourable member for Strathfield is quite right to say there will be no forced amalgamations. The community should look at the council and wonder why it is running such a bogus campaign. I accept the invitation of the honourable member for Strathfield to go to the town hall and meet with the mayor to ensure that the people of Strathfield know that there will no forced amalgamations.

BETHUNGRA DAM

Mr IAN ARMSTRONG (Lachlan) [9.23 p.m.]: I refer to Bethungra Dam, which is located between Cootamundra and Junee, in Junee shire. The former Department of Public Works transferred trust of Bethungra Reserve, with the exception of the dam wall, to Junee Shire Council in the early 1990s. In 1988, the dam was transferred from the former Department of Public Works to the Department of Lands. In March 1996, the Department of Lands surveillance report said that safety reports were required at five-yearly intervals. Recommendations included that a dam break flood warning system be set up. The report confirmed the dam hazard rating and contained a structural analysis and hydrology assessment.

In 1996, a letter from the Department of Lands advised the hazard rating of the dam was yet to be confirmed. In December 1966, the Department of Lands and Water Conservation acknowledged the need for weekly inspections. In 1999, a meeting occurred between Junee Shire Council, State Water and RSA representatives, and State Water then took over the dam. In 1999, State Water called a public meeting at Bethungra and advised residents the dam did not meet the standards of the Australian National Committee on Large Dams. Dire warnings were issued to Bethungra residents that in the event of a break in the dam wall, they would all be swept away. A State Water representative admitted that the dam did not earn State Water any revenue, and therefore it was not prepared to accept risk of the failure of the dam wall, especially in a "sunny day break" when subject to an earthquake or meteorite strike on the wall.

In 2000, a second public meeting was held at Bethungra with State Water providing residents with further information and the following options: early flood warning system, since installed; construction of levees, not pursued; remedial works including supporting dam wall with ground anchors and buttressing with concrete or rock; and decommissioning, which was the preferred option of State Water. Subsequently, the vast majority of residents of Bethungra decided they want to keep the dam, and a petition was signed by 313 persons—the entire population of Bethungra. In March 2001, a conservation assessment concluded it was an item of heritage significance and recommended that State Water examine the dam structure with a view to retention without detracting from its significance.

An early warning system was then commissioned. State Water advised that site investigation work needed to be done, including concrete core sampling. Permission was given to Junee Shire Council to extract water from the dam for roadworks. Junee Shire Council advised that the Department of Lands had responsibility for Bethungra Dam and that State Water was now pursuing a long-term resolution on behalf of the Department of Lands. State Water tried to get a commitment from the Department of Lands about the level of responsibility it was willing to take for the wall. A State Water "Partial Demolition Option Report" recommended partial demolition of the wall at a cost of \$1.97 million. The report noted previous test results, including very reasonable concrete quality and very high quality meta-basalt rock formation. The report said:

While the slenderness ratio is improved with partial demolition, care is still needed to ensure that the potential for crack propagation through the complete section is well controlled.

It also states:

... very high quality and strength of the foundations at this site, similar acceptance criteria have been used for both the dam concrete and the foundations.

Junee Shire Council wrote to Minister Kelly and sought a review, especially to test the validity of the rationale of the proposed solution. The summary difference in calculations was: State Water, 600 megalitres, Junee Shire Council, using State Water data, 436 megalitres, and Junee Shire Council, 389 megalitres. It would affect only three properties in a sunny day break. Maximum flood quoted varied from a 1 in 1,000 to 1 in 10,000-year flood. The proposed solution was to lower the wall by 2.9 metres and reduce the surface of water body by 75 per cent. State Water calculations did not take into account 900 millimetre evaporation in summer months, which leads to an extreme rise in water temperature and results in blue-green algae. Junee Shire Council advised that the design and tender process for lowering the wall would begin forthwith. In September 2004, a statement of heritage significance, prepared by Sidholm Consulting for State Water, stated in part:

State agencies will conserve heritage assets to retain the heritage significance to greatest extent possible. State agencies shall always seek to conserve assets, in preference to demolition or alteration which reduces the significance of the heritage asset.

Other statements in relation to Bethungra Dam include: it is important in the development of the cultural history of the township of Junee and its relationship with the railways; it has social significance and is highly valued by the residents of Bethungra; and it is the only known dam which completely failed to meet the purpose of its

construction and yet remained in place. The site has the capacity to supply historical information for future research, and documentation of the design, construction and water reticulation.

Bethungra Dam is the only still water available on which Boy Scouts can train in canoeing. It is very important for the retention of flora and fauna. It is an important break against bushfires. It is used for passive recreation and it has been demonstrated time and time again by Junee Shire Council and its consultants that it will affect only three houses. Why not buy the three houses at a cost of less than \$400,000 in the event of a flood? I ask the Minister to appreciate that Junee Shire Council knows what it is doing. I ask the Minister to leave the dam alone and let the residents of Junee decide its future.

HALINDA SCHOOL RELOCATION

Mr ALLAN SHEARAN (Londonderry) [9.28 p.m.]: It is with great pride that I take this opportunity to report my delight at being able to announce last Monday that the Hon. Carmel Tebbutt, the Minister for Education and Training, had given approval for commencement of the planning process for the relocation of Halinda School to new purpose-built facilities on the former Whalan High School site. Halinda School, at Karangi Road, Whalan, is a special education school that provides an invaluable service to those who would have difficulties in mainstream schools. While the school has been very successful for these important students, the current site and facilities are no longer suitable for the number of students enrolled and their level of disability. The announcement on Monday was greeted with excitement and the future plans for this development will be eagerly awaited. The Department of Education and Training is working closely with Halinda School to minimise disruptions and ensure the relocation process runs smoothly.

I am advised by the Minister's office that the new facility will be constructed in accordance with the special education school facilities standards and will include the following: classrooms with shared practical activity spaces, a library, administration area, multipurpose space, a hydrotherapy pool, a special programs room, a half games court, covered walkways between buildings, parking space including disabled car parking spaces, a covered outdoor learning area, passive and active recreation spaces, landscaping and perimeter fencing to ensure the safety of students.

The Whalan High School site is a large site and despite Monday's announcement the new Halinda School will not require the entire site. Accordingly, the department will explore future uses in consultation with the local community. It is particularly pleasing that this announcement will put to rest concerns of local residents about the possible alternative uses of the former Whalan High School site, and it gives a commitment to meet the current and future needs of Halinda School. On Monday when I revealed details of the Minister's decision, some parents who have had a long association with Halinda School were in attendance. Ken Bailey is one of those parents, and although his son no longer attends the school, he remains an important member of the school community. Sadly, Ken's son Scott passed away a few years back, but Ken has continued his association with the school for over 15 years. Currently he is the president of the school's parents and citizens association, a position he has held on and off for about 12 years.

Another parent in attendance was Ross Bennett. He told me how his 12-year-old son, Russell, had been at Halinda for seven years. Despite the overcrowding difficulty, Ross tells me that Halinda has proven to be a place where Russell feels confident and secure. Since my election, Ross has been continuously reminding me of the school's limitations. He has been patiently awaiting this announcement and now looks forward to the relocation of the school. A demonstration of the community support for the school is reflected in the involvement of the Mount Druitt Workers Club. That is one of those clubs that is always there to support worthwhile community organisations. This year marks the third year of the club fully funding the school's annual Christmas party. I believe this involves the provision of a lunch, a disco, a clown, and a present for each student. Last Saturday week the club's vice-president, Vince Ross, attended the school fete and not only provided a donation on behalf of the club, but also personally conducted an auction.

The former high school site occupies a prominent position in Whalan. It is perhaps because of that prominence that rumours have been running wild for some time about future uses for the site. Since my election at the end of May 2003, I have had to keep reassuring people in the local area and the local media that the site will remain as an important education facility. Thankfully, the Minister's decision will help to allay many of these concerns. Since the Whalan High School site was vacated nearly five years ago, local residents have monitored the site and been passionate about it. Vince and Gwen Grinham and their friend Irene Dale, whose nephew is a student at Halinda, were also on hand on Monday to lend their support for the relocation of Halinda and to express relief that the site will not be sold for development. They, like so many others, are passionate about public facilities in the area and are grateful that this asset will not be lost to the community.

It would be remiss of me not to acknowledge the contribution of Barry Higgins, the School Education Director at Mount Druitt; Jan Ecclestone, who I am told was a teacher at the school some 12 to 14 years ago and only last year returned as principal; and the committed teachers and staff at Halinda, along with the parents and friends, all of whom have played an important role in helping me to convince the Minister about the merit of this project. We all look forward with great anticipation to the re-establishment of Halinda at the Whalan High School site.

CHATSWOOD HIGH SCHOOL

Ms GLADYS BEREJIKLIAN (Willoughby) [9.33 p.m.]: I raise a number of issues regarding Chatswood High School. I want to place on the record that Chatswood High School is an outstanding school and a great example of public coeducation. It makes an outstanding contribution to the community. The school excels academically and the school band is outstanding. The school also has a number of outstanding athletes. It engenders a strong community spirit among students and the broader school community. I refer in particular to the annual year 12-bed push, which is renowned as a wonderful fundraising activity and for promoting community spirit.

The State Government needs to address some serious issues that are impacting on Chatswood High School. I refer to the much-needed capital works funding. A concerted campaign involving the entire school community has gone on since at least 2002 to secure capital works funding to meet the school's growing population and needs. The school community has been lobbying the Government strongly since 2002. A number of Ministers have occupied the position of Minister for Education and Training during that time and on each occasion the school has approached the relevant Minister and presented a valid case. This afternoon I contacted the office of the Minister for Education and Training to give her notice that I would be making this address this evening. I also foreshadowed that I will be formally seeking a meeting with her, the principal of the high school and representatives of the parents and citizens association to discuss the much-needed capital works programs.

To give a short chronology of matters that have been placed on the record, I point out that on Thursday 1 April 2004 I moved a motion in this place demanding that the Minister for Education and Training approve much-needed funding for stage two capital works upgrades at Chatswood High School. On 15 September 2004 I gave notice of a motion congratulating the Chatswood High School concert band on coming second in the world at the prestigious Vienna International Youth and Music Festival. On that occasion I noted that the then Minister for Education and Training and Deputy Premier, Andrew Refshauge, publicised the calibre of the Chatswood High School band prior to their departure.

However, the motion I moved to acknowledge the contribution of the band asked the Minister to reverse his bad decision to further stall much-needed capital works at Chatswood High School. The budget papers for 2004-05 revealed that the stage one upgrade at Chatswood High School had blown out another year and the completion date was 2006 rather than 2005. On that occasion the State Government allocated only \$2.2 million of the \$5 million required to complete the project and there was no mention of stage two. As mentioned previously, there has been an unnecessary delay by the department and the State Government in dealing with the much-needed capital works upgrades at the school.

I will summarise briefly what is required: a better planned and more suitably located administration building, a major upgrade of existing PDHPE [personal development-hygiene-physical education] and sporting facilities, relocation and combining of all technology and applied studies teaching areas in one block, addressing major safety issues relating to ingress and egress, providing adequate movement facilities for disabled persons, providing adequate storage facilities, completely refurbishing and upgrading staff facilities, upgrading utilities infrastructure throughout the school, upgrading and relocating current student and staff toilet facilities, refurbishing laboratories and associated preparation rooms to meet minimum current standards, providing additional permanent buildings or classroom and office space, refurbishing the assembly hall, providing covered walkways for movement between buildings, providing proper delivery dock and temporary storage area for goods, and providing adequate car parking spaces for staff and visitors to the school.

These are much-needed upgrades. The Chatswood High School community is bursting at the seams. The Government's urban consolidation policy means that additional people are moving into Chatswood, and school numbers reflect that. It is incumbent on the State Government to address these issues. Applications have been with the department for many years. I look forward to leading a delegation to the Minister to address these issues. I hope she will give due consideration to this much-needed upgrade to Chatswood High School.

MR THOMAS NISBET DISABILITY ACCOMMODATION

Mr DARYL MAGUIRE (Wagga Wagga) [9.38 p.m.]: Thomas Nesbit is a 16-year-old young man with autism. When Thomas was eight years old his parents, Ros and Ralph, made the very hard decision to send their son to live in a Kurrajong Waratah group home so that he could attend the Williams Hill Special School. Although that was an extremely hard decision for Ros and Ralph, they felt that it was a necessary step to provide their son with the best possible future. Recently they found out that when Thomas leaves school at age 18 he will no longer qualify for accommodation with Kurrajong Waratah, and that currently no adult accommodation is on offer through the Department of Ageing, Disability and Home Care [DADHC].

If Thomas is forced to return to the family home to live, the family feels that all their efforts to give Thomas the best chance for an independent adult life will have been for nothing. Thomas needs an environment where he can access services, work or day programs and maintain his independent living skills. If Thomas is forced to return to the family home to live, his routine and skills will be severely jeopardised. We often find that DADHC reacts only when an individual or family has reached crisis point, which puts incredible strain and emotional cost not only on the people concerned but also on the Government because crisis care is always more expensive than successful long-term planning. In a letter dated November 2004 in response to correspondence the former Minister for Community Services, the current Minister for Education and Training, said:

At this time DADHC is not able to guarantee permanent accommodation for Thomas when he completes schooling in Wagga. However, I encourage Mr and Mrs Nisbet to register the anticipated need for supported accommodation with the Department of Ageing, Disability and Home Care. Thomas' situation will then be considered, together with other registered cases, when a vacancy in existing accommodation programs becomes available.

In a letter dated 25 November 2004 Andrea Gray replied:

In response to the Minister's suggestion that Thomas register with the Department of Ageing, Disability and Home Care, Thomas has been registered with DADHC for some time and, as you would know, DADHC provides very few accommodation places especially in comparison to demand. Thomas also has a DADHC case manager who is trying to find him accommodation through other services. Thus, the Minister's response has done little to further Thomas' situation; or provide any relief to his parents who are most anxious that suitable accommodation be found.

A response from John Della Bosca, MLC, dated 6 April 2005 states:

I am advised that the DADHC Community Support Team in Griffith has approached local non-government organisations that provide accommodation for people with an intellectual disability regarding vacant accommodation placements. The Department has also provided Mr and Ms Nisbet with a list of these organisations so that they can make contact directly.

I understand that Thomas has been placed on the Department's Western Region accommodation register and will be considered for available options that can meet his particular support need. However, I have been advised that the Department is not able to guarantee permanent accommodation for Thomas once he has finished school in Wagga Wagga.

In a letter dated 15 April 2005 Andrea Gray responded:

In response to the letter you received from John Della Bosca MLC.

We still come back to DADHC's responsibility to offer suitable accommodation options to young people with disabilities.

I was reading a paper yesterday called Out-of-Home—Not Out of Family: Rethinking the Care of Children with Profound Disabilities. One of the key recommendations was "that DADHC develop and maintain resources to enable it to provide the services it needs to meet its own goals e.g. that respite care resources, host and shared care families, and group home beds are sufficient to provide the opportunities parents need." It goes on to say "DADHC's policy statement about children with disabilities does make room for a full spectrum of supports. (but) As noted in the Ombudsman's report, it is the implementation of the policy that is lacking."

In pushing the Nisbet issue through to ministerial level I was hoping to raise the Minister's awareness of the lack of accommodation options for available families like the Nisbets. However, every time I approach the Minister the issue is referred back to the local services who say they are doing the best they can.

It is all very well for the local branch to say they are doing all that is possible, as I'm sure they are. They want to help as much as we do, but we seem to be losing sight that DADHC does not have the resources to manage the needs of the community.

On 15 November 2005 Andrea said:

I wish there was something I could do for these families. Lobbying hasn't worked and the plight of these families is becoming really desperate.

We have been trying to find a placement for young Thomas Nisbet for 12 months. I urge the Minister's to respond to his needs to find accommodation and help his family to deal with this crisis.

PACIFIC NATIONAL WERRIS CREEK HEADQUARTERS

Mr PETER DRAPER (Tamworth) [9.43 p.m.]: The proud role that the small town of Werris Creek has played in this State's rail heritage and history is continuing following the successful launch of the Australian railway monument last month. This monument pays tribute to the 2,087 men and women who have given their lives serving the railways and the people of New South Wales. It was opened officially on 1 October by the Deputy Premier, and Minister for Transport, John Watkins. I thank the Minister for taking the time to come to Werris Creek on a Saturday and perform those duties. Coupled with the Railway Journeys Museum located at the railway station, Werris Creek has become a must-see destination for rail enthusiasts and for the many visitors to the district simply interested in the history of our State.

Tonight I wish to inform the House that through the investment of rail freight company, Pacific National, the tradition of involvement in rail is continuing today in Werris Creek. Pacific National has its northern New South Wales headquarters in this community, and I had great pleasure accepting an invitation from Pacific National's Communications Manager, Michael Charlton, and Northern Regional Manager, Tony Halman, to tour the facility. Pacific National is Australia's largest private rail freight operator offering a seamless national logistics service for containerised freight, coal, industrial and agricultural products. Across Australia, it has around 2,900 staff, 450 locomotives, 10,000 wagons and 80 sites.

Pacific National's operations are divided into three main divisions—coal, intermodal or containers—and rural and bulk including grain, fuel, agricultural products, concrete and many other varieties. The Werris Creek operation includes a large-scale maintenance facility, which employs quite a few people. In Werris Creek Pacific National employs more than 80 train crew, 11 terminal operators, 18 maintainers to look after locomotives and wagons, and perform all sorts of maintenance and upgrades, three administration staff, and four management positions—a total of 117 jobs for Werris Creek locals, making Pacific National the largest employers in town by some way.

The Werris Creek operations run 27 train services a week out of the facility with a yearly tonnage of 2.5 million tonnes—2 million tonnes of that is for the export market and 500,000 is consumed domestically. When I toured the facility they operated seven or eight coal train services a week from Werris Creek to Newcastle with an annual tonnage of 1.4 million tonnes, but with the new coalmine now operating near Werris Creek that figure is expected to rise to 2 million. There are three container train services per week carrying more than 12,000 containers per annum. Three flour train services also run weekly from Werris Creek. This truly is a large-scale operation.

Pacific National has been able to succeed in some areas where the State Rail Authority has struggled. Pacific National and the unions have an enterprise agreement that has already cut lost time through accidents by 20 per cent, solidified the commitment to random drug and alcohol testing, introduced a fatigue management system, established a safety committee and instituted a bank of 1,760 hours per 12 months for each employee. This bank-of-hours agreement simplifies what used to be a complicated area for train drivers and reportedly has been received well.

Tomorrow I will meet with Xtrata, one of the major players in the coal operations in Australia. It has indicated that there are significant opportunities for further development, apart from the mine operated by Keith Ross, which has been up and running for a number of months, creating significant employment in the district. There is now an opportunity for an even larger operation to be put in place, with Government permission and all the environmental requirements being met by the company. The future prospects for the local area are very exciting. I thank Michael Charlton and Tony Halman for the invitation to tour the Werris Creek facility. I was extremely impressed. I enjoyed the experience. I also thank all of the staff I met on the tour, at the operations base, and at the barbecue afterwards. I learnt a great deal about how the company is contributing so much to the local community. I wish Pacific National every success for the future, especially with its Werris Creek operations.

GLEN INNES HIGH SCHOOL DEMOUNTABLE CLASSROOMS

Mr RICHARD TORBAY (Northern Tablelands) [9.48 p.m.]: As I speak, the Glen Innes High School community is concerned about the potential loss of two of its demountable classrooms. The rationale is a one-size-fits-all statewide formula which does not take into account the difference between metropolitan and rurally based schools. We encounter that metropolitan-induced blindness across many sectors in rural and remote areas of the State, and this is yet another example. The Glen Innes High School is the only local school providing

secondary education in the town and local district. Armidale, which is more than an hour's drive away, is the nearest alternative education centre where there are three secondary boarding schools. Most people in Glen Innes cannot afford that expensive option.

At a time when high schools are expected to encourage more young people to stay on to complete the Higher School Certificate or to take vocational education programs in senior years, it is difficult to understand why the department would seek to make it more difficult for schools such as Glen Innes High School to achieve those goals. The school was not purpose built. It occupies the site of a gaol, which became a school in 1927. The old gaol was never occupied. Since that time the school has adjusted its activities to these premises and it has achieved outstanding results. Next year 588 students are expected to enrol. In 2001 I fought successfully alongside the community of Glen Innes High School to stop the department from removing three demountable classrooms.

Again in 2003 the school was required to justify the use of its demountables and lost one. In previous years, the school was promised new permanent buildings. Now the battle is on again with the department wanting to remove two more demountables. The effect on the school of that loss would result in limiting the educational opportunities of students and make it much more difficult for staff to offer the subjects that students want to study. It should not be forgotten that, in the country, parents do not have the luxuries of choice that exist in big metropolitan cities. They cannot access locally the extra tuition, which might compensate for the shortfall at their local school. Currently the demountable classrooms in question at Glen Innes High School enjoy an average occupancy rate of 84 per cent. They are used by the English department at the school. One demountable is used for physical education, health and personal development and has a 100 per cent occupancy rate.

Removal of demountables could mean that some classes will have to be cut or not offered at all, thus reducing the options for senior students at the school. To avoid that, there will have to be an inappropriate use of available space, with science laboratories doubling for maths classes and kitchen areas accommodating smaller optional subjects. What a disgraceful situation! Glen Innes High School, unlike Tenterfield High School, which is only an hour's drive further north on the New England Highway, does not qualify for country area programs, which provide additional resources to rurally isolated schools. It does not qualify for the four-year Priority Funded Schools Program for a school in the same category, yet its conditions are exactly similar.

On the one hand, the Glen Innes High School misses out on programs as a result of the inflexibility of the formula used by the department and, on the other hand, it faces losing resources for the very same reason. I applaud the Government's decision to reduce class sizes in primary schools, creating a need for more teachers and more classrooms to accommodate this expansion. However, to reduce the opportunities of one group of students to advantage another totally defeats the premise of publicly funded education. Schools policies should not be politically driven. I ask the Minister to intervene to prevent the loss of demountable classrooms at Glen Innes High School. I also ask her to create within her department a better understanding of the challenges and conditions at country schools, where precious resources are fully utilised to provide the best possible educational opportunities for country students.

Private members' statements noted.

FARM DEBT MEDIATION AMENDMENT (WATER ACCESS LICENCES) BILL

**RICE MARKETING AMENDMENT (PREVENTION OF NATIONAL COMPETITION PENALTIES)
BILL**

Messages received from the Legislative Council returning the bills without amendment.

The House adjourned at 9.54 p.m. until Thursday 17 November 2005 at 10.00 a.m.
