LEGISLATIVE ASSEMBLY

Tuesday 29 November 2005

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

Mr Speaker offered the Prayer.

ASSENT TO BILLS

Assent to the following bills reported:

Gene Technology (GM Crop Moratorium) Amendment (Postponement of Expiry) Bill
Health Legislation Amendment Bill
National Parks and Wildlife Amendment (Jenolan Caves Reserves) Bill
National Park Estate (Reservations) Bill
Public Sector Employment and Management Amendment (Extended Leave) Bill
Consumer Credit (New South Wales) Amendment (Maximum Annual Percentage Rate) Bill
Royal Blind Society (Merger) Bill
State Emergency Service Amendment Bill
Infrastructure Implementation Corporation Bill
Retail Leases Amendment Bill
First State Superannuation Legislation Amendment (Conversion) Bill
Shops and Industries Amendment (Special Shop Closures) Bill
Children and Young Persons (Care and Protection) Amendment Bill
Crimes Amendment (Animal Cruelty) Bill
Farm Debt Mediation Amendment (Water Access Licences) Bill
Protection of the Environment Operations Amendment Bill
Rice Marketing Amendment (Prevention of National Competition Policy Penalties) Bill
Statute Law (Miscellaneous Provisions) Bill (No. 2)
Technical and Further Education Commission Amendment (Staff) Bill
Vocational Education and Training Bill
Companion Animals Amendment Bill

MINISTRY

Mr MORRIS IEMMA: During the absence of the Minister for Gaming and Racing, and Minister for the Central Coast due to illness, the Minister for Community Services, and Minister for Youth will answer questions on his behalf.

VARIATIONS OF PAYMENTS ESTIMATES AND APPROPRIATIONS 2005-06

Mr Frank Sartor tabled variations of the payments estimates and appropriations for 2005-06 under section 24 of the Public Finance and Audit Act 1983 flowing from the transfer of functions from the Department of Planning to the Department of Tourism, Sport and Recreation.

AUDIT OFFICE

Report

The Clerk announced the receipt, pursuant to section 63C of the Public Finance and Audit Act 1983, of the performance audit report of the Auditor-General entitled "Purchasing Hospital Supplies: Follow-up of 2002 Performance Audit", dated November 2005.

PETITIONS

Gaming Machine Tax

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

Alstonville Bypass

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

Pensioner Travel Voucher Booking Fee

Petition requesting the removal of the $10 booking fee on pensioner travel vouchers, received from **Mr Thomas George**.

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**.

Colo High School Airconditioning

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

Breast Screening Funding

Petitions requesting funding for BreastScreen NSW, received from **Mr Steve Cansdell**, **Mr Andrew Fraser**, **Mrs Judy Hopwood** 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**.

Coffs Harbour Aeromedical Rescue Helicopter Service

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

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**.

Forster Hospital Services

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

Kurnell Sandmining

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

Isolated Patients Travel and Accommodation Assistance Scheme

Petitions objecting to the criteria for country cancer patients to qualify for the Isolated Patients Travel and Accommodation Assistance Scheme, received from **Mr Thomas George** and **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 **Ms Katrina Hodgkinson**.

Grafton Bridge

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

F6 Corridor Community Use

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

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**.

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**.

Tintenbar to Ewingsdale Highway Upgrade

Petition opposing all route options in the October 2005 route options development report, and requesting an upgrade of the Tintenbar to Ewingsdale route to a class A highway, received from **Mr Donald Page**.

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.**

LEGISLATION REVIEW COMMITTEE

Report

Mr Allan Shearan, as Chairman, tabled the report entitled "Legislation Review Digest No. 15 of 2005", dated 29 November 2005, together with minute extracts regarding "Legislation Review Digest No. 14 of 2005".

Report ordered to be printed.

QUESTIONS WITHOUT NOTICE

DEATH OF MISS VANESSA ANDERSON

Mr PETER DEBNAM: My question is addressed to the Premier. Given that 16-year-old Vanessa Anderson, who died after being hit by a golf ball on 7 November, was transferred to Royal North Shore Hospital from Hornsby hospital without a specialist being advised, then waited nearly 30 hours for a specialist to assess her and then was not admitted to an observation bed at all, was her death preventable?

Mr MORRIS IEMMA: Any sudden loss of life is tragic, none more so than the life of a young person, and our sympathy goes to the family of Vanessa Anderson, who passed away earlier this month. I note the question of the Leader of the Opposition and what he had to say before question time. The matter has been referred to the Coroner, who will, I am sure, conduct whatever investigations are required and appropriate. That may include an inquest with public inquiries. A coronial inquiry is the appropriate forum for serious matters such as this to be fully investigated. There will be an investigation and we will await the Coroner's findings and recommendations.

NORTHERN BEACHES HOSPITAL PROPOSAL

Mr MICHAEL DALEY: My question without notice is directed to the Premier. What is the Government's response to claims about the location of the northern beaches hospital and related matters?

Mr MORRIS IEMMA: As far as the new northern beaches hospital is concerned, the Government remains committed to a two-hospital policy. We will continue to progress the matter of a suitable location for the building of a new high-level hospital for the residents of the northern beaches. In doing so, I extend an invitation to the Opposition, particularly to the Leader of the Opposition, and the local communities to co-operate with the Government in arriving at a consistent and acceptable position in relation to the health needs of the people of the northern beaches. I note that the desire for a massive investment in northern beaches health services was the subject of some debate during the campaign for the recently held Pittwater by-election.

I note the comments of the Leader of the Opposition on Sunday when he attempted to explain away the biggest by-election swing in history by blaming it on the hospital issue. No doubt that is what he would like to believe, but there are a number of lessons to be learned from the Pittwater by-election result. The first obvious lesson is one for all the major political parties: the voters cannot be taken for granted. The ranks of the Independents will soon be joined by another Independent. The second lesson relates not so much to the hospital issue but to the Leader of the Opposition. The voters of Pittwater have had a long, hard look at the Leader of the Opposition.

Ms Noreen Hay: And they didn't like him.

Mr MORRIS IEMMA: That is right. They said, "Thanks, but no thanks." There he was, on television just about every night in the five to six weeks in the lead-up to the Pittwater by-election. That gave the voters a very good opportunity to have a long, hard look at him.

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

Mr MORRIS IEMMA: But most of the time he was on television he was simply attacking the Government, whether it was in relation to the cross-city tunnel or desalinisation. He attacked the Government all the time. There was no lack of opportunity for the voters of Pittwater to have a good, hard, long, serious look, and on Saturday night, as the honourable member for Wollongong so correctly said, they said, "Thank you, but no thanks." When Robert Askin retired in 1975 the swing in the by-election was 1 per cent. When Jim Longley retired, just over a decade later, the swing was 11 per cent.

Mr Andrew Stoner: What are you crowing about? You didn't even run.

Mr MORRIS IEMMA: I will come to that in a moment. On Saturday night the swing was 26 per cent. The Leader of The Nationals said that we did not run a candidate. That it is correct, so it was a one-horse race—and you couldn't even win a one-horse race! During the campaign there was one masterstroke. Unfortunately, it came near the end but, nevertheless, it was a masterstroke. One week out from voting day a lot of voters had not made up their minds. A lot of voters did not know Alex McTaggart, but the Leader of the Opposition said on television and in print, "We are going to lose." All those voters who had not met Alex McTaggart and did not know that he was running suddenly became very aware of him and the fact that the Leader of the Opposition was going to lose the seat—a brilliant electoral strategy! As Mr McTaggart admits, it was a masterstroke. The Leader of the Opposition is a prophet: he predicted the defeat. He gave himself the underdog tag and he kept it right up until polling day.

The third lesson to be learned from the Pittwater by-election is that no matter how many times the Leader of the Opposition attacks the Government, the electorate will not wear a party with no vision, no plans and nothing positive to say. In those five to six weeks the Leader of the Opposition had lots of opportunity to

say something positive on all sorts of issues. We always know what the Opposition is against but it never tells us what it is for. It never presents a positive plan or vision. The fourth and inescapable lesson out of the Pittwater by-election is that no matter how much one tries to blame the candidates, the former leader or the Labor Party—we were not even there, it was the one-horse race that members opposite could not win—the voters had a long, hard look and said, "No, thank you". The electorate will not wear a party that is at war with itself, is full of hatred, bitterness and division. It will not wear a party that cannot govern itself and is barely fit for Opposition, let alone government. That is the conclusion of the former stronghold, the voters—

Mr Andrew Tink: Point of order: We will wear a number of things but the one thing—

Mr SPEAKER: What is the point of order?

Mr Andrew Tink: The one thing we will not cop is the Premier lecturing us about factionalism.

[*Interruption*]

Mr SPEAKER: Order! There is no point of order. The honourable member for Epping will resume his seat.

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Epping to order. He will resume his seat.

[*Interruption*]

Mr SPEAKER: Order! I have already called the honourable member for Epping to order. I am tempted to place him on three calls to order, but given that he is slightly emotional today I will place him on two calls to order.

[*Interruption*]

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

Mr MORRIS IEMMA: What would Parliament be without the honourable member for Epping? What would Parliament be without Crackers over there? What would it be without the usual contributions from Crackers? It would be such a boring place.

[*Interruption*]

Who knows? They might all rush to the Leader of the Opposition. All the members sitting behind the Leader of the Opposition might rush to him and not the Deputy Leader of the Opposition. We know that the Deputy Leader of the Opposition has a majority. We also know that he did not have the stomach to step up to the leadership. But we know he has a majority and it is becoming a lot bigger.

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

Mr MORRIS IEMMA: We know that the Deputy Leader of the Opposition is the majority leader. Indeed, he must be congratulated because he is responsible for a first: He is responsible for the entry into Australian political language of the Americanism of "majority leader". We have in the honourable member for Ku-ring-gai the majority leader and in the honourable member for Vaucluse the elected leader. After Saturday's by-election the majority held by the Deputy Leader of the Opposition got a lot bigger. Who knows? At some stage he may well develop the stomach to step up to the leadership. Certainly, members opposite sitting behind him know that the judgement passed on Saturday was not about Mona Vale Hospital, it was not so much about the candidate that the Liberal Party ran, and it was not about the local roads. It was all about the five to six weeks before that, when every opportunity was taken, whether on television or in the newspapers, to promote the Leader of the Opposition and every attack that he made.

Before that we had announced plans for a desalination plant, and what did he do? Did he welcome the Government's decision? No! Just five months ago the Leader of The Nationals was urging the Government to

get on with it and build a desalination plant. However, when we announced the decision to build the plant, there they were. Then the Pittwater by-election was called, and Liberal members were in the electorate railing against and attacking the Government. That is the lesson out of Pittwater, as well as the war. What Pittwater showed was that the war continues unabated, and it will not end until one side has eliminated the other or until the rush from Vaucluse gets to Ku-ring-gai.

DEATH OF MISS VANESSA ANDERSON

Mrs JILLIAN SKINNER: My question is directed to the Premier. Given that 16-year-old Vanessa Anderson's CT scan was lost and her blood pressure and neurological observation notes are missing, what does the Premier say to the parents—her father is in the gallery—who want to get to the truth of how and why their daughter died?

Mr MORRIS IEMMA: And so it should be the case, with the coroner undertaking an investigation appropriately. As I mentioned earlier in response to the question asked by the Leader of the Opposition, we will await the coroner's findings.

[*Interruption*]

I have extended condolences to the family.

SYDNEY WATER SUPPLY

Ms VIRGINIA JUDGE: My question without notice is addressed to the Premier. How is the Government supporting more water recycling to secure Sydney's precious water supply?

Mr MORRIS IEMMA: I thank the honourable member for her work in securing the future water supply of Sydney. The Government is totally committed to the initiatives outlined by the honourable member in her question. Our Metropolitan Water Plan ensures sustainable supply over the next 25 years, and a key part of that plan is recycling. We have practical and workable plans under way to deliver up to 70 billion litres of recycled water for non-drinking purposes, such as watering parks and gardens. Today our recycling plan advanced a step further with the release of the Independent Pricing and Regulatory Tribunal [IPART] report entitled "Water and Wastewater Service Provision in the Greater Sydney Region". I welcome the report and thank IPART for its efforts.

In response, I can advise the House that the Government will embark on significant competition reforms for the water industry—reforms that will encourage growth in water recycling over the next few years, creating a dynamic water reuse industry. These reforms will create a level playing field for competition, enabling the private sector to compete with Sydney Water for the efficient reuse of effluent. Our reforms will introduce an access regime enabling the private sector to utilise existing water and waste water assets in competition with Sydney Water. Both Sydney Water and all new entrants into this field will have stringent obligations on public health, consumer protection and the environment. We will also ensure that all Sydney and Illawarra residents continue to pay the same for drinking water, irrespective of where they live.

The bottom line is simple: This access regime will place New South Wales at the forefront of national competition reforms in the area of water. Today's announcement builds on the work that is emerging under the Government's $120 million Water Savings Fund. The fund allows private sector players to bid competitively for funds for water saving and recycling projects. The first round of applications for the fund has now closed. I can inform the House that businesses and councils have submitted more than 70 applications for innovative water savings ideas. Competition for the funds has been fierce and the successful applicants will be announced early next year. Today I can also inform the House that the Government is ready to go further. Over the coming months we will be issuing expressions of interest for organisations to undertake a series of recycled water projects in Sydney.

The first project is a major recycled water scheme at Camellia near Parramatta. This area has many large factories that use drinking water when recycled water would serve equally as well. The project could deliver up to two billion litres a year. This is the first in a long line of water recycling projects the Government is pursuing. With our growing population and the pressure of climate change, water recycling and water savings will not be enough to secure Sydney's water supply. At current levels of usage we will face a gap of 200 billion litres by the year 2030.

[*Interruption*.]

The honourable member for South Coast pipes up, but that is all she does. All Opposition members do is talk about recycling but they have no plans to do anything about it.

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

Mr MORRIS IEMMA: The honourable member makes motherhood statements about recycling but has no plans. She makes constant criticisms. That is all the Opposition has done, and she is the latest example of it. She simply talks about it. The question the honourable member has to answer is: How will she fill the gap of 200 billion litres by 2030? The honourable member for South Coast says recycling. That will not get her there. Recycling on its own will not get her there, and that is why she needs a plan. That is why she has to do something about it, not sit there and talk and give us motherhood statements. When it comes to recycling the Government's approach is to get on and do it. That is what we announced today. That is what BlueScope is about, that is what Camellia is about and that is what the other projects we currently have under assessment are about. That is what the expressions of interest are about and that is what the investment is about. We are doing something about recycling, not just sitting there making motherhood statements.

When we released the plans did we get one word of encouragement from the Opposition? No. We got more motherhood statements like the one we just heard from the honourable member for South Coast about recycling. She will not tell us how she would close the 200 billion litre gap by 2030. That is why we are pursuing desalination, recycling, more efficient devices for households and demand management. That is why we have a comprehensive plan to secure the future water needs of a growing city like Sydney. The honourable member just sits there talking and criticising us at every turn but never engaging in any positive ideas. She has no plan and certainly no vision. By 2030 there will be a 200 billion litre gap. What does the Opposition propose to do about it—absolutely nothing, just more talk.

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

Mr MORRIS IEMMA: The Government is investing in a range of things—water from the catchment, desalination, recycling, and water-saving efficient devices, a plan that is workable, practical and one that will secure the future of water needs of Sydney. As I said, it is simply cheap talk on the part of the honourable member for South Coast, which reinforces all the cheap talk of the Opposition. The honourable member for South Coast talks about industrial recycling.

Mrs Shelley Hancock: No.

Mr MORRIS IEMMA: Yes, she did. She just said the plan on recycling was restricted to industrial recycling.

Mr SPEAKER: Order! The honourable member for South Coast will come to order. The Premier will address the Chair.

Mr MORRIS IEMMA: This is just another flip-flop. Twelve months ago the honourable member for Wakehurst presented a glass of recycled sewage and challenged the former Premier to drink it. Now we have the flip-flop: no, we are not recycling for residential purposes, it is only about industrial reuse.

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

Mr MORRIS IEMMA: Guess how much of our water supply industrial users use? It is 14 per cent. The Opposition's recycling scheme would only ever reach about 14 per cent of our supplies. What about the remainder? Does the Opposition have a plan for the rest? None whatsoever. Twelve months ago it was about extensive recycling. As of last Friday that became recycling only for industrial purposes. Industry uses 14 per cent of our supply. What would the Opposition do about the rest? Five months ago the Leader of The Nationals had an idea about the rest. In a rare moment of bipartisanship in this Chamber the Leader of The Nationals was urging the Government to get on with desalination. He was accusing the Government of not being fair dinkum about desalination, saying that we would not deliver it. He should look up *Hansard* of 22 June this year. He said:

> … announce where the plant would be located and get on with the job of building it.

That is what he said. At least he had an idea about closing the gap—desalination. What did he say when we said we are getting on with the job?

Mr Andrew Stoner: You are taking that out of context.

Mr MORRIS IEMMA: I suppose the next quote was out of context too. On radio station 2UE on Thursday 21 July, in response to a question about a small desalination plant, the Leader of The Nationals said, "Well, we would look at that as an option." That is, supplementing the water supply with a small plant. What did the Leader of The Nationals have to say when we announced we were getting on with the job? We announced recycling and the Opposition attacked us for it. We announced desalination and the Opposition attacked us for it. We announced water-efficient devices for households and the Opposition attacked us for it. We announced other programs, plans and projects and the Opposition attacked us for it.

At the same time the Opposition tells us to secure Sydney's water supply. How? Where is its plan? The honourable member for South Coast will never get there by simply uttering motherhood statements about recycling. What will secure our future water supply? A desalination plant, extensive recycling and those other measures that I outlined earlier will secure our future water supply. It is a plan that is workable and efficient and a plan that we will implement despite not getting any support from the Opposition.

PACIFIC HIGHWAY UPGRADE

Mr JOHN TURNER: My question is directed to the Minister for Roads. Given that the section of the Pacific Highway in my electorate that claimed four lives yesterday and three lives five years ago has not been upgraded, and given that the Federal Government has increased its funding to the highway by a further $100 million a year, why has the Minister not ensured that this stretch of road is made a high priority for reconstruction?

Mr JOSEPH TRIPODI: I am sure that the Opposition would join me in extending deepest sympathies to the families of the victims in yesterday's accident. It was a shocking tragedy and devastating not only for the families but for their communities as well. I will not speculate on the cause of the accident, which is the subject of a police investigation. The crash site is four kilometres north of the work now under way as section one of the Karuah to Bulahdelah upgrade. Construction of this 12-kilometre stretch of road is well advanced, transforming a two-lane highway into a four-lane divided highway. The work is costing $114 million and is jointly funded by the State and Federal governments. Work is due to be completed in the second half of next year.

The crash occurred in what will be section two of this major upgrade. This work will also be jointly funded by the New South Wales and Federal governments through Auslink. The Roads and Traffic Authority has called tenders for the 23-kilometre stretch of road comprising sections two and three. The contract will be to design, construct and maintain the road for 10 years. I am advised that tenders close in March, contracts will be awarded in July and construction will commence shortly thereafter. The work is expected to cost in excess of $200 million. As with section one, the work will turn the current two-lane road into a four-lane divided road. The safety benefit of a divided road is that it virtually eliminates the possibility of head-on crashes. That is why it is essential for the State and Federal governments to upgrade all of the Pacific Highway from Hexham to the Queensland border as a dual carriageway. This must happen as quickly as possible.

Since 1996 a total of 44 projects have opened to traffic, with motorists now benefiting from 229 kilometres of four-lane dual carriageway. A further eight projects are under construction or have been approved awaiting start of construction. A further 17 upgrading projects are in the planning phase. By the end of this financial year approximately 44 per cent of the highway from Hexham to the Queensland border—a distance of 677 kilometres—will be dual carriageway either completed or under construction. Every road death is a terrible loss. Once again I express my sympathy to those affected yesterday.

CRIME STATISTICS

Mr ALAN ASHTON: My question is addressed to the Minister for Police. What is the latest information on crime trends in New South Wales?

Mr CARL SCULLY: I am sure that members of the House join with me in commending New South Wales police for their tremendous efforts in driving down crime. The latest data from the State's official, independent crime umpire shows that crime is continuing to fall. In the 24 months to September 2005, 8 of the

16 major offences were trending downwards, 7 remained stable and only 1 showed an upward trend. The data for the 24 months to September 2005 showed major statewide decreases in robbery without a weapon, down 7.9 per cent; robbery with a firearm, down 39.6 per cent; break and enter a dwelling, down 11.2 per cent; break and enter a non-dwelling, down 9.7 per cent; motor vehicle theft, down 9.7 per cent; steal from motor vehicle, down 5.6 per cent; steal from dwelling, down 7.7 per cent; and steal from person, down 17.2 per cent. Cases of murder, assault, sexual assault, indecent assault, act of indecency and other sexual offences, robbery with a weapon not a firearm, steal from retail store and malicious damage to property, remained stable. Only fraud showed an upward trend, up 8.4 per cent. This was the result of an increase in the number of persons driving off without paying for petrol. Armed robberies have fallen by 39.6 per cent—the third fall in a row, following falls of 44.7 per cent and 31.9 per cent in previous quarters.

The drop in armed robberies follows a number of significant firearm policing strategies including: a new Vikings mobile unit, security industry reforms that removed hundreds of guns from the sector, tougher penalties for firearms crimes, a $3.5 million integrated ballistics identification system which enables guns to be identified from the bullets they fire, the forensic armed robbery unit, and improved storage requirements. The Government continues to support New South Wales police—record numbers, record budget, tough new laws. Through intelligence-based policing, tough new laws and modern crime-fighting technology we are gradually ridding our streets of illegal guns and the thugs who carry them. We believe the trend will continue. It can be directly attributed to smart policing strategies, intelligence-based deployment and high visibility. It is also the result of the Government's commitment to funding increased police numbers and modern crime-fighting technology. These figures are a tribute to the hard work and dedication of each and every police officer. I take the opportunity of thanking the police commissioner and each and every police officer who contributed to the tremendous results in those crime figures, unlike the Leader of the Opposition.

Mr Gerard Martin: Debonair Pete.

Mr CARL SCULLY: I was going to say that: Debonair Debnam.

Mr SPEAKER: Order! The Minister will address the Chair. The honourable member for Bathurst will come to order.

Mr CARL SCULLY: The Leader of the Opposition has always attacked the police. At every opportunity he bags the cops. This is what he said about Commissioner Moroney on 25 October 2003: "The commissioner's office has been asleep at the wheel watching the gang warfare." Then on 1 February last year he said, "If the commissioner's office had acted on these reports properly years ago people would not have died on the streets." Yesterday did he give credit to the police? No. He could not bring himself just once to say, "Ken, well done! The Opposition acknowledges the terrific work done by all police." When he did not like the figures—I guess he would not like the figures after Saturday, so he is in the mood for not liking the figures—he attacked the figures. When the Bureau of Crime Statistics told him of the figures his response was that the figures were not right: they had rorted the figures just to come up with some falls. The Bureau of Crime Statistics is a little offended. The Leader of the Opposition has no credibility. I want to take this opportunity to comment on a few other things about the Leader of the Opposition. I have been busy with the Premier on a few water initiatives.

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

Mr CARL SCULLY: To follow on what the Premier had to say, I checked out some comments the Leader of the Opposition made on 2UE on 23 September this year. He was asked about his proposals to determine what his water plans would cost families. In response he said, "We're certainly, um, doing that." I thought that was great: the Opposition had water plans and was, um, um, costing them!

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

Mr Ian Armstrong: Point of order: On relevance, the question was about police, not water police. The Minister should come back to the point of the question.

Mr SPEAKER: Order! I intended to uphold the point of order until the honourable member for Lachlan made reference to the water police. There is no point of order.

Mr CARL SCULLY: It is a matter of tremendous amusement. Last Friday there was an article in one of the major dailies saying that we should be recycling effluent. The Opposition members did not read it

properly. They could not put two and two together to realise that the story was about recycling effluent into our drinking system. I went on radio and said that we were not doing it. The Leader of The Nationals said, "Hurry up and do it." Halfway through the morning he realised that it meant forcing people to drink recycled effluent. So he hid and wheeled out the Leader of the Opposition, who said, "No, we do not support it either." This is policy by talkback radio. There is the breakfast policy, the midday policy and the drivetime policy.

Mr Malcolm Kerr: Point of order: My point of order is relevance. There was no reference to water police. The Minister is straying from the question he was asked. I ask you to bring him to order.

Mr SPEAKER: Order! I uphold the point of order. I ask the Minister to return to his answer.

Mr CARL SCULLY: We back the police. We support them with the powers, resources, pay and, when they are injured, disability benefits. We are changing the promotions—

[*Interruption*]

Let us talk about numbers. I am happy to have a debate about numbers because all of you are out in your electorates, lying, misleading and deceiving your communities.

Mr Ian Armstrong: Point of order: Liar! The Police Association can't get the numbers in the Lachlan patrol at Parkes.

Mr SPEAKER: What is the point of order?

[*Interruption*]

Mr SPEAKER: Order! Members of the Government will come to order. The Minister has the call.

Mr CARL SCULLY: On another occasion I will be happy to talk about police numbers because we made a commitment to increase the authorised strength by 1,000 to 13,1254. There are more police now than there were when the Coalition was in office. Tell the truth!

JAMES HARDIE AND ASBESTOS-RELATED DISEASES LIABILITY

Ms PAM ALLAN: My question without notice is addressed to the Premier. What is the latest information on securing compensation for victims of James Hardie's asbestos products?

Mr MORRIS IEMMA: I thank the honourable member for her long-held interest in justice for the victims of James Hardie's asbestos products. In February last year, almost unnoticed, the New South Wales Government commissioned David Jackson, QC, to preside over an inquiry into allegations of underfunding by James Hardie of a compensation fund for asbestos victims. By September last year when Jackson reported, the campaign for fair compensation for victims of asbestosis and mesothelioma covered the front pages of newspapers across the nation.

Flanked by unions and victims, former Premier Carr declared that the Government's guiding principle would be to secure the best deal for victims. He tasked the Australian Council of Trade Unions [ACTU], the Asbestos Diseases Foundation of Australia and Unions NSW with the job of negotiating a heads of agreement—a task that was completed last December. One of my first acts as Premier was to reaffirm the Government's resolve to secure fair compensation from James Hardie.

Today I can advise the House that we stand on the threshold of an historic agreement, a deal that implements the heads of agreement in a legally binding agreement and secures, in today's dollars, $1.5 billion in compensation for victims to be paid over at least 40 years from James Hardie's cash flows through a special purpose fund to protect victims and their families. I am advised that the deal is acceptable to both negotiating teams and will be acceptable to the unions and victims.

The final hurdle is for James Hardie's board to approve the deal. The company has announced that its board will meet on Wednesday night and release its response on Thursday morning. The terms of its announcement were encouraging and I now urge the board to endorse the deal. If the board approves the agreement I hope to be able to sign the deal on behalf of the Government on Thursday, and the Government will then immediately introduce legislation to give effect to the deal and provide justice to the victims.

That legislation will achieve three main aims. First, it will implement the special purpose fund and its governance arrangements. Second, it will extend asbestos compensation to the Baryulgil community. Third, it will provide limited releases for James Hardie and its directors, protection from being sued for further compensation, which, if not excluded, would be over and above the actuarially agreed amounts payable under the deal.

[*Interruption*]

This is an important deal. Listen! The legislation does not provide releases from other civil penalty orders, such as fines or banning orders for directors, and it does not release the company from any criminal charges. If, for some reason, James Hardie's board does not endorse the deal by Thursday morning we remain ready to introduce alternative legislation to reinstate the company's liabilities. The best outcome by far to provide certainty to the victims is a negotiated deal, but the Government is resolute. We want there to be legislation on the statute books one way or the other. It is now time for James Hardie's board to ratify the agreement, the result of the negotiations, and to endorse the agreement so on Thursday we can sign it and introduce the legislation that will provide justice for the victims of James Hardie asbestos products.

PACIFIC HIGHWAY UPGRADE

Mr ANDREW FRASER: My question is directed to the Minister for Roads. Given that his Government has allocated $137 million for the Bonville deviation and $269 million for the Sapphire to Woolgoolga upgrade, two sections of the Pacific Highway that have claimed in excess of 20 lives since 1997, when will he start spending the money that has been allocated instead of blaming the Federal Government?

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

Mr JOSEPH TRIPODI: Tenders have been invited for the design, construction and 10-year maintenance of the Bonville upgrade and will close on 23 December 2005. The contract for the upgrade will be awarded by mid-2006, with construction to commence soon after. The upgrade will result in local residents having a 17.5-kilometre stretch of dual carriageway from Coffs Harbour to Urunga.

I have also recently announced that the Federal Government has agreed to provide up to $5 million for an additional program of safety works at Bonville. This program has been devised by the New South Wales Roads and Traffic Authority [RTA], which will carry out the work. The works proposed by the RTA include installing a median barrier at Pine Creek, increasing the width of shoulder edges on the road and making changes to lane contours in current sections that merge from four lanes to two.

These extra interim safety measures follow a first round of safety improvements funded by the New South Wales Government, which I announced in September. This combined package of works will make this stretch of road much safer pending the construction of the Bonville deviation. Construction of this almost 10-kilometre deviation will begin midway through next year. The first round of interim safety measures saw speed limits through the township reduced. At the request of the mayor on behalf of the local community, two speed cameras will be installed at this location before Christmas. I am hopeful that the speed cameras on the Pacific Highway at Bonville will reduce the number and severity of crashes on that section of road.

SKILLS SHORTAGES

Mr GRAHAM WEST: My question without notice is to the Minister for Education and Training. What is the New South Wales Government doing to secure the long-term supply of skilled workers in this State?

Ms CARMEL TEBBUTT: I thank the honourable member for Campbelltown for his important question about skills shortages. It is a pressing national issue, one that faces the Commonwealth and the States and Territories. The New South Wales Government has given top priority to reducing industry skills shortages, particularly in the area of traditional trades because we know that that is where they are predominantly impacting. We know that providing skilled workers now and into the future is crucial to our economic success, but we also understand the importance of well-trained, job-ready employees for employers.

Earlier this year the Government announced a detailed plan to secure a skilled work force for New South Wales that included more than $7 million in extra funds for apprenticeship training and incentive programs. These new programs provide incentives for young people to take up apprenticeships. The

Government is helping around 5,000 apprentices who need to travel from regional and rural areas, by doubling their accommodation allowance when they have to be away from home for at least two days. In addition, thousands of first-year and second-year apprentices can now apply for a $100 rebate on the cost of their car registration.

TAFE NSW is also piloting a new scheme called TradeStart, under which 675 apprentices will complete the equivalent of a year's TAFE training in just 16 weeks. The scheme will enable young workers to be more job ready and to have a clear idea of what their future careers will involve, and therefore we will see improvements in completion rates. The graduates will be placed in apprenticeships with up to one year's credit because of the pre-vocational training they have undertaken. The Government has invested additional funding in group training to place 800 new apprentices with employers in small business and in regional and rural areas. We get great feedback on group training. It provides the opportunity for small businesses to take on apprentices knowing they have the support of the group training company.

The Government is also looking at our own backyard. We are introducing a new reporting system to ensure that 20 per cent of trade work on government construction projects worth more than $2.5 million is performed by apprentices. These plans are in addition to other measures, including spending a further $3.5 million in 2005 creating 2,400 pre-apprenticeship places, conducting additional TAFE courses in areas of skills shortage, and continually improving our vocational education and training in schools. So far our approach is working. Since 1995 there has been an unparalleled growth in apprenticeships and traineeships. More than 136,000 apprentices and trainees are currently employed in New South Wales; 44,000 are apprentices. In the last 12 months a record 19,288 people have started apprenticeships, representing a 26 per cent increase from 2003.

We know that planning is required to cement our position as the engine room of the New South Wales economy in the longer term. That is why I am pleased to inform the House today that we have asked the Independent Pricing and Regulatory Tribunal [IPART] to undertake a review of the skills base in New South Wales and the future challenges for education and training in this State. Australia's ageing population and the demographic changes to the work force mean significant challenges for the future. We need to start planning now to ensure that our vocational education and training system is geared towards meeting longer-term skill demands. A comprehensive and independent analysis of this kind will assist the Government in responding to the challenges ahead—to be proactive, to think ahead, and to be prepared.

The IPART will undertake this review as part of its role of undertaking special reviews in areas such as public policy. The tribunal is well respected within New South Wales, as well as both nationally and internationally, particularly in relation to the quality, diversity and transparency of its work. It has widespread experience in problem solving, especially in areas of complex public policy. It has a quality team of analysts, and it places a strong emphasis on transparency and consultation. The terms of reference include a review and report on the future demand for skills in New South Wales over the next 20 years; future supply sources of skilled labour, including the possibility of retraining mature workers; the future demand for vocational education and training, particularly by TAFE; and the capacity of the vocational education and training system to accommodate these demands.

Throughout the review process stakeholders will have the opportunity to comment and make submissions. The review will assist the Government to respond to the long-term skill requirements of the State and identify the role that the further education and training system can play. We will also look at the interplay between the Commonwealth and State systems. This is obviously critical to the future of further education and training in New South Wales, but also to our capacity to secure a skilled work force for our economy and our community. The IPART review will provide additional information. The Government will continue to implement its plan to make sure that we can secure a skilled work force for the future. We would like the Commonwealth to do likewise.

DEATH OF MISS VANESSA ANDERSON

Mrs JUDY HOPWOOD: My question without notice is directed to the Premier. Given the series of systemic failures that contributed to Vanessa Anderson's tragic death, when will the Premier finally admit that the State's hospital system is in crisis, and provide the necessary resources to ensure such tragedies are not repeated?

Mr MORRIS IEMMA: The honourable member for Hornsby's question is identical to the two questions asked by the Leader of the Opposition and the shadow Minister. As I said earlier—for the benefit of

the honourable member for Hornsby, who appears not to have been listening—the matter has been referred to the Coroner, who will conduct whatever investigations are required into this tragic incident, and that may include an inquest with public hearings. A coronial inquiry is an appropriate forum for serious matters such as this to be fully investigated.

Mrs Judy Hopwood: Point of order: I ask you to direct the Premier to answer the question. I asked about the system, not the circumstances of the death.

Mr SPEAKER: Order! There is no point of order. The Premier is answering the question.

Mr MORRIS IEMMA: As I said, a coronial inquiry is an appropriate forum to fully investigate the serious matters that have been raised. I restate my earlier response as to whatever outcome is provided by the coronial inquiry, and I again extend my condolences to the family in this tragic matter. In relation to the system and the part of the question that related to resources, the honourable member for Hornsby might note that the current Health budget provides for a $900 million, or 9 per cent, increase. I answered the other part of the question in my responses to the previous two questions on the matter.

Mrs JUDY HOPWOOD: I wish to ask a supplementary question.

Mr SPEAKER: Order! The time for questions has expired.

SELECT COMMITTEE ON THE CROSS-CITY TUNNEL

Membership

Mr CARL SCULLY: I announce the receipt of correspondence nominating the following members of the Legislative Assembly as members of the Select Committee on the Cross-City Tunnel:

Mr Matthew James Brown
Mr Andrew James Constance
Mr Paul Edward McLeay
Mr John Harcourt Turner

Message sent to the Legislative Council informing it of the Legislative Assembly members of the Committee.

BUSINESS OF THE HOUSE

Routine of Business: Suspension of Standing and Sessional Orders

Mr CARL SCULLY (Smithfield—Minister for Police, and Minister for Utilities) [3.28 p.m.]: I move:

That standing and sessional orders be suspended at this sitting to:

(1) provide that the routine of business be varied to not call on motions for urgent consideration and matters of public importance;

(2) permit the passage through all remaining stages of the following bills:

Industrial Relations Amendment Bill
Mine Safety (Cost Recovery) Bill
Residential Parks Amendment (Statutory Review) Bill
Water Management Amendment Bill; and

(3) permit the introduction and passage through all stages of the following bills, notice of which was given this day for tomorrow:

Crimes and Courts Legislation Amendment Bill
Police Amendment (Death and Disability) Bill.
Workers Compensation Legislation Amendment (Miscellaneous Provisions) Bill

Mr ANDREW STONER (Oxley—Leader of The Nationals) [3.28 p.m.]: The Opposition vehemently opposes the Government's attempt to hijack the legitimate functions of yet another question time in this House. Due to its own mismanagement—

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

Mr ANDREW STONER: The Government has had all year to get through the legislative business of this Parliament. Now it wants to shut down the Parliament early, because it wants to escape scrutiny over the cross-city tunnel, the desalination disaster, and every other disaster of this Government. It wants to deny us the opportunity to debate serious issues of concern—including the Pacific Highway and the uptake of ethanol in fuel—not only in the public sector but also in the private sector. Just yesterday a family of four was killed on the Pacific Highway. What is the Government's response? Its response is, "We don't want to debate that. We want to bring on routine legislative business that should have been processed earlier during the sittings."

This is a disgrace. The people of New South Wales are being denied the opportunity to have their concerns on issues such as the Pacific Highway debated in this place. We want to know why the Government has wasted more than $900 million of taxpayers money on the Pacific Highway upgrade projects over the past nine years. That is a nearly $1 billion cost blow-out on the Pacific Highway; money that should have gone towards delivering a divided dual carriageway. Had this project been managed efficiently there would have been a lot more people alive today in New South Wales because they would have been driving on a safe road. But with the same inefficiency and the same incompetence, the Government wants to shut down the Parliament and deny us the opportunity to debate these matters. We want to know how many more people have to die on the Pacific Highway before the road is fixed. But the Leader of the House wants to shut down the Parliament and do away with matters of urgency. A recent NRMA report on the mid North Coast stated:

> There have been massive project delays and a $467 million blow-out in costs.

These are matters that are urgent and should be debated in this House today. The NRMA report found that one-third of the upgrade projects scheduled to be completed by now are still not complete—and that includes a stretch of road north of Karuah where four people tragically died yesterday. Of the 12 finished projects, eight were late in their completion; only one project was completed on time and on budget; and there are projects that are four, five, or six years late. How many lives are to be lost on the Pacific Highway due to this Government's appalling project mismanagement?

In an effort to thwart scrutiny over this and other issues—a desalination plant that this State does not need; a cross-city tunnel that is a white elephant and that motorists are not using; the Lane Cove tunnel, which has had two collapses recently, and a ventilation shaft that was moved 65 metres under a unit block that no-one was told about—the Government wants to shut down the Parliament early. It is appalling. The Government wants to shut down the Parliament because it wants to avoid questions about the budget. There is a massive budget crisis looming. We are already seeing front-line services in this State cut back, including our being 600 police down. Shame on the Minister!

The Minister for Transport has bolted. The Government is shutting down CountryLink services because of a budget crisis in this State. We are being denied the opportunity to debate these matters, to question the Government, and to demand accountability from the Government. Time and again we have seen the Government run away from its responsibilities. No wonder it wants to shut down question time and shut down the debate on urgent motions. The Government is a disgrace.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 50

Ms Allan	Ms Gadiel	Mrs Paluzzano
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 McLeay	Mr Tripodi
Mr Chaytor	Ms Meagher	Mr Watkins
Mr Collier	Ms Megarrity	Mr West
Mr Corrigan	Mr Mills	Mr Whan
Mr Crittenden	Mr Morris	Mr Yeadon
Mr Daley	Mr Newell	*Tellers,*
Ms D'Amore	Ms Nori	Mr Ashton
Mr Debus	Mr Orkopoulos	Mr Martin

Noes, 34

Mr Aplin	Mr Hazzard	Mrs Skinner
Mr Armstrong	Mrs Hopwood	Mr Slack-Smith
Mr Barr	Mr Humpherson	Mr Souris
Ms Berejiklian	Mr Kerr	Mr Stoner
Mr Cansdell	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 Pringle	
Mr Fraser	Mr Richardson	*Tellers,*
Mrs Hancock	Mr Roberts	Mr George
Mr Hartcher	Ms Seaton	Mr Maguire

Pairs

Mr McBride	Ms Hodgkinson
Mr Price	Mr Merton

Question resolved in the affirmative.

Motion agreed to.

INDUSTRIAL RELATIONS AMENDMENT BILL

Second Reading

Debate resumed from 17 November 2005.

Mr CHRIS HARTCHER (Gosford) [3.42 p.m.]: The Industrial Relations Amendment Bill was introduced in this House just before 8.00 p.m. on Thursday 17 November. The second reading of the bill was delivered not by the Minister but by the Minister for Aboriginal Affairs, who read a prepared speech. The legislation then found its way onto the notice paper for today and the Government has suspended standing orders, with no notice whatsoever to the Opposition or to the House, to bring debate on this afternoon. That says a lot about the Government's operation of the House and the failure of the Government and the Minister for Industrial Relations, John Della Bosca, in the Legislative Council, to get their act together. It also says a lot about the failure of the Attorney General, who has an interest in the legislation. These are sloppy people, this is sloppy legislation, and the Parliament has been treated with their usual contempt.

The Opposition is not impressed with the way in which the Government handles legislation or presents it to the Parliament. It is important to place that on the record. The Minister has no defence or justification. There is no reason why the Parliament could not sit next week, which are the reserve dates in the calendar. It is scheduled to sit but the Government has no intention of sitting those reserve dates. The Government wants to adjourn the Parliament this week. The reserve dates are put out each year only so the Government can pretend to the press gallery and the media that it is sitting so many days, but the Government has been caught out yet again trying to put a fraud over the public and the Parliament.

The Coalition does not support the bill. The legislation is simply part of the ongoing game that the Government plays by backing the Industrial Relations Commission against the Court of Appeal. It is clear that for a long time the Court of Appeal has believed it has a proper role in the supervision of the functions of the Industrial Relations Commission as a court. The Court of Appeal is the highest court in the State. The Industrial Relations Commission exercises the appellate functions of the Supreme Court and it is appropriate that, like all courts, it should be subject to oversight by the Court of Appeal.

I have no argument with the quality of a number of judges on the Industrial Relations Commission. As I have told the House before, I have the highest respect for the competency and integrity of the President of the Industrial Relations Commission, the honourable Justice Lance Wright, but that does not alter the fact that the appropriate system of justice in this State is that the Industrial Relations Commission should be subject to appeal to the Court of Appeal. The privative clause that the Government has inserted into the legislation is inserted not

in the interests of the community nor, really, in the interests of litigants before the Industrial Relations Commission. There have been many applications to the Government, especially by employer organisations and by other litigants before the commission, to have the privative clause taken out and to allow the full range of appeals from the Industrial Relations Commission to the Court of Appeal.

So far the Government has not seen fit to accede to those requests but it should be clear that the Coalition believes the Government should accede and that there should be such an appellate right. The Coalition also believes that the role of the Industrial Relations Commission, after the Federal legislation comes into force on 1 March 2006, needs to be stated by the Government. The Government is aware that the Parliament in Canberra is about to finalise passage through the Senate this week of the Federal industrial relations legislation. This will mean a massive diminution of the role of the Industrial Relations Commission.

The Government needs to state what will be the role of the Industrial Relations Commission after 1 March 2006 noticing, particularly, that many of the cases now before the commission will be cancelled out by the legislation already before the Federal Parliament. The High Court challenge that the Government has mooted, through the Premier—it would force New South Wales taxpayers into supporting, along with Queensland taxpayers—cannot be heard until the end of 2006 or 2007 at the earliest. The Industrial Relations Commission is to be left in limbo during all that time. It is only appropriate that the judges, many of whom are highly respected, need to be advised as to what plans the Government has for their future role, as do the staff of the Industrial Relations Commission.

I turn now to the specific items of the bill. Section 106, which follows on from the old tradition of section 88F of the Industrial Arbitration Act and has been the subject of many amendments and much argument and discussion both here in the Legislature and throughout the courts, is designed to ensure that there is fairness in the contract of employment between employer and employee. It is not designed to be a measure that enables supervision of contracts generally. After all, that is governed by the Unfair Contracts Act and the jurisdiction for the Unfair Contracts Act is vested in the Supreme Court. Section 106 relates to contracts of employment.

The concept of contracts of employment has been amended several times and widened by various judicial applications, most particularly in the Empire Bay Tavern case, where section 106 was extended to a relationship which was effectively not an employment relationship but a relationship of landlord and tenant where the tenant of Empire Bay Tavern sought redress through the Industrial Relations Commission under section 106 in respect of his tenancy lease agreement.

Section 106 was never intended for that purpose; it was intended for contracts of employment. The Industrial Relations Commission has certainly gone far beyond the powers vested in it by the Parliament to supervise the fairness or otherwise of employment contracts. The effect is that there is now confusion as to what powers the IRC has or purports to have over retail leases. The Shopping Centre Council of Australia has indicated that it has grave concerns about this legislation. The Executive Director, Mr Milton Cockburn, said:

> We are concerned that, despite the changes the Bill makes to section 106 of the Industrial Relations Act, it does not fix the basic problem—that the Industrial Relations Commission (a body established to resolve employer-employee disputes) has been able to assume jurisdiction over retail leases (which have nothing to do with the employer-employee relationship).
>
> This is even more absurd given that there is already a readily accessible, low cost dispute resolution process for retail tenancy disputes and a specialist tribunal has been established by the NSW Government for this very purpose. The Retail Leases Act contains extensive provisions for the resolution of disputes between lessors and lessees of retail premises. As a first step, the Retail Tenancy Unit engages a team of mediators to assist in the resolution of these disputes and more than 80% of such disputes are successfully mediated. If the dispute cannot be mediated, it is referred to the Retail Leases Division of the Administrative Decisions Tribunal, which is a specialist tribunal established in October 1998 to hear and adjudicate disputes.
>
> The Retail Leases Act also incorporates the provisions of section 51AC of the Trade Practices Act relating to unconscionable conduct by landlords as well as a range of other provisions which regulate the provisions of retail leases.
>
> The present duplication has only come about because, over the past couple of years, the Industrial Relations Commission has accepted the proposition that a retail lease is an employment contract because leases in shopping centres can require the shop to open during the centre's core trading hours and that this constitutes "requiring work to be performed in an industry". The Commission therefore considers it has the power under section 106 of the Industrial Relations Act to declare a lease void because it is a contract "whereby the person performs work in any industry".
>
> Quite apart from this absurd interpretation of a retail lease as an employment contract, allowing the IRC to hear retail tenancy disputes completely defeats the purpose of establishing the Retail Leases Division of the Administrative Decisions Tribunal (ADT) specifically to hear retail tenancy disputes. It is also a discriminatory measure. On the basis of the IRC's construction, it would have no jurisdiction over retail leases outside shopping centres (where the vast majority of retail tenancy disputes occur).

> While the amendment to section 106 contained in the Bill seems to go some way towards resolving this problem, it does not go far enough. At the very least it would probably require a long and expensive (and unnecessary) case before the Industrial Relations Court and then another costly case before the Court of Appeal challenging the jurisdiction of the Industrial Relations Commission in this matter.
>
> A far more sensible solution to the problem would be to put beyond doubt the jurisdiction of the Retail Leases Division of the Administrative Decisions Tribunal in relation to retail leases.

So the Industrial Relations Commission is exercising a power under its Act that it was never intended to exercise—that is, the power to determine retail leases—when the Retail Tenancies Act was specifically designed for the Administrative Decisions Tribunal to exercise jurisdiction over retail leases and the Unfair Contracts Act provides the Supreme Court with a general supervisory role over all contracts. Therefore, this bill is unnecessary, wasteful and confusing. It means that the purpose for which the Industrial Relations Commission exists, which is, as its name states, to adjudicate disputes and mediate and determine matters of industrial relations, is being extended far beyond its intended power and is therefore venturing into roles beyond its proper jurisdiction.

That has been a criticism by the Court of Appeal. That is the point that the Court of Appeal made when it said that the Industrial Relations Commission was interfering in purely commercial contracts. The Court of Appeal has not been impressed with this usurped—if I can use that word without casting an aspersion—or purported exercise of jurisdiction. The Court of Appeal has come down firmly upon that. The Minister in his second reading speech cited the cases of *Mitchforce v Industrial Relations Commission*, a 2003 decision of the Court of Appeal, and *Solution 6 Holdings Ltd & Ors v Industrial Relations Commission & Ors*, a 2004 decision of the Court of Appeal.

According to its terms, this legislation seeks somehow to cut back the power of the Court of Appeal to make those determinations. In other words, instead of backing the Court of Appeal, which is the highest court of the State, the Government has decided to back the Industrial Relations Commission. One must wonder about the Government's motivation. Is it simply to ensure a work stream for the Industrial Relations Commission? If so, the Government should say that; it should be up front about that. Earlier I invited the Government to set out its proposed role for the Industrial Relations Commission. If that role is not to give a work stream to the Industrial Relations Commission over retail tenancies and similar matters, why has the Government introduced this bill when effective legislation is already in force to deal with these specialised issues?

I suspect that the Government is developing a basis for trying to undermine the Federal Government's industrial relations reforms, because the core of those reforms, which come into force on 1 March 2006, is individual employment contracts. The New South Wales Government is setting up the Industrial Relations Commission to try to exercise jurisdiction over and supervision of those individual employment contracts and thus undermine the Federal Government's intent. If that is the State Government's plan, it should be courageous and honest enough to say that.

I suspect that that is the Government's secret agenda. Indeed, I invite the Minister to deny that—if it is to be denied—when he speaks in reply to the debate. But that will not work. The Federal Government will not allow its legislation to be undermined by devices and contrivances passed by the State Parliament. The Federal Parliament will simply enact necessary legislation to ensure that all State legislation is excluded from the operation of employment contracts made pursuant to Federal law. The State government would be exposed for its artifices and contrivances. The role of section 106 is important. Traditionally it has been exceeded, in that it was being used—

Mr Bob Debus: On your view there will not be a point to it at all from next March.

Mr CHRIS HARTCHER: Of course there will be a point to it. The Attorney raises a valid point. Is the Opposition arguing there will be no role? Of course it is not. There will be a role for section 106 in relation to contracts of employment for public servants. There will be a role for section 106 for employment contracts between individuals. There will not be a role for section 106 in employment contracts for the great majority—the usually quoted figure, of which the Attorney is aware, is between 80 per cent and 85 per cent of all employees—who are employed by corporations.

The Attorney is well aware that, although there is a small window of opportunity, public servants do not normally bring their matters before the court. They have their own public service forums in which to ventilate their disputes. The matters that will come before the Industrial Relations Commission will be mainly in relation to individual arrangements between natural persons not caught by the Federal industrial relations legislation.

The Attorney's comments indicate to me that the Government has a more sinister agenda in mind for the legislation: as a device to undermine the Federal Parliament's necessary industrial relations reforms that will benefit the workers of New South Wales. The Federal industrial relations legislation is a great step forward for the people of this State and of Australia. The Industrial Relations Amendment Bill is not necessary. No justification has been made out for it. Its intrusion into retail agreements, its major role, is unnecessary and unjustified. Alternative specialised bodies exist to deal with these matters. The Supreme Court can determine them under the Unfair Contracts Act. Therefore, the Coalition will not be supporting the legislation.

Mr PAUL LYNCH (Liverpool) [4.02 p.m.]: The allowing of appeals from the Industrial Relations Commission [IRC] to higher courts, specifically the Court of Appeal, has been generating some heat for some time. In that context the complaints by the honourable member for Gosford that he has not had time to get his head around this are just nonsense. There was a debate on these issues between the honourable member for Epping and me when we debated the Courts Legislation Amendment Bill in November 2003 in this place. My position then was to oppose the call by Opposition members and others to allow appeals on points of law from the IRC to the Supreme Court.

My concern then was that if such appeals were possible, a great tactical advantage would be granted to employer organisations and to others whose interests are diametrically opposed to those of the constituents I represent in this place. Well-financed employer organisations would, as a matter of course, be able to take expensive legal appeals, often on unmeritorious points, in an effort to waste the resources of unions and those representing workers. That would be a significant and unfair tilting of the balance against ordinary workers and in favour of the rich and powerful.

In 2003 I conceded that while issues might well need to be resolved, introducing a right of appeal on a point of law was not an appropriate course to pursue. The case of Mitchforce had been decided earlier that year. On the basis of those arguments, however, this bill should be supported. Other cases since Mitchforce in 2003 have provoked discussion, most particularly Solution 6, which has a series of additional problems. Since the debate in 2003 there has been the Stein report, which I have had the benefit of reading and which in the final event was supported by Unions NSW. I also note the assurance from the Attorney that Unions NSW supports this bill.

The cause of particular discussion and dispute has been what is now section 106 of the Industrial Relations Act. This section allows the IRC to make orders against unfair contracts. These used to be called section 88F applications, and they were first introduced in 1959. Under this clause a number of cases have been brought that some people do not think belong in the IRC because they are not sufficiently related to work or industrial relations. Some of the comments I have read or heard on this issue seem a tad overblown and verging on the hysterical. That includes some of the things the honourable member for Gosford said earlier.

Cases that are not glaringly industrial have been dealt with by the IRC for decades. There is authority all the way back to Chief Justice Barwick, of all people, confirming this. I would have thought, as he is one of the people before whom the honourable member for Gosford genuflects, the honourable member might pay a bit more attention to what Chief Justice Barwick used to say about these things. A couple of years ago Justice McHugh in the case of *Veta Ltd v Evans & ors* made the point that the IRC empire was established some time ago. It is hardly a recent invention. Some of the categories of things held to be within jurisdiction include lease contracts, franchise agreements, partnerships, dealership agreements and financial agreements. This stretches back over many years and it is certainly much broader than merely the shopping centre contracts the honourable member for Gosford was referring to. Of course, all the cases have to be validly ones whereby work is performed in an industry.

Obviously it becomes a question of degree in each case as to whether a case is validly within jurisdiction. Critics now say that too often the IRC has drawn the boundaries of jurisdiction too widely. Curiously enough, I have heard it said that some judicial figures now criticising the outcome were partly responsible for this state of affairs through their previous activities as advocates. The core of the issue is the privative clause, which is an attempt by Parliament to say that one cannot appeal from decisions of the IRC; that is, decisions of the IRC cannot be challenged in other courts.

The call by critics has been to remove or alter this privative clause so as to allow appeals to make sure that the IRC is not hearing cases it should not be. Privative clauses go back to 1901, so it is not quite as horrific a provision as the honourable member of Gosford was suggesting. Despite the privative clause and the complaints of critics it is worth making the point that the Court of Appeal can still manage, under the present law, to issue orders to overrule or alter IRC decisions already on the basis of the Hickman principles. So, clearly, some of the complaints are unjustified.

The bill does a number of specific things. In one regard it clarifies the jurisdiction of the IRC. The bill attempts to make clear the jurisdiction extends to any related condition or collateral arrangement in or to a contract provided it is a contract whereby persons perform work in an industry and that the performance of the work is a significant purpose of the contractual arrangement between the parties. Those conditions or arrangements might include superannuation arrangements, share options and franchise agreements. That change is effected by amendment to section 106 of the principal Act. That is necessary to undo some of the damage that seems to have been done by Solution 6, which would have unreasonably narrowed the jurisdiction of the IRC.

However, some things are done to the privative clause. One is to remove the provision that applies the privative clause to purported decisions. The privative clause excluding the jurisdiction of the Court of Appeal no longer applies to purported decisions—that is, decisions that are made but are outside jurisdiction. That was the recommendation of the Stein report. The bill also has a specific provision on the jurisdictional point beyond that. Section 179 has a provision that exclusively restricts the privative clause so that it does not apply to jurisdictional appeals. In that sense, it has a double-barrelled approach to try to solve this problem.

The appeals can only occur after procedures within the IRC have been finished. That prevents the current practice of lodging appeals from the IRC as soon as applications are made to it. That was an attempt to avoid the prohibition on appeal from decisions made by the IRC. That practice was allowed in Solution 6 and in a plethora of other cases. The Stein report referred to some 29 similar cases where applications were made to the Court of Appeal before decisions had been made—indeed, almost as soon as papers were filed. The other danger that flows from all that is that if issues are not resolved there is the possibility that that sort of mechanism will be used in cases other than simply ones under section 106. Two other changes are made by the bill. The Industrial Relations Commission in Court Session is now to be called the Industrial Court of New South Wales. The IRC now has power in exceptional circumstances to extend the time in which an application relating to alleged unfair contracts may be made. That allows a further three-month extension to the current strict 12-month period.

I should make a couple of brief comments about the contribution of the honourable member for Gosford. I note the irony of his quoting Milton Cockburn in view of what he and his colleagues said about Milton Cockburn in relation to Westfield and Orange Grove. It is interesting how the worm turns. The honourable member for Gosford complained that we were spending a lot of time dealing with the IRC and trying to defend it and that somehow that is a bad thing. That is in stark contrast to the last time he and I debated in this Chamber, on entitlements for workers over the Christmas period. He attacked the Government roundly for not going to the IRC and bringing in legislation instead. I know that it is unusual for the honourable member for Gosford to be consistent but it would make a pleasant change if he were.

Some of what he said was very odd. He claimed that we were backing the IRC and excluding the Court of Appeal and doing terrible things. I wonder whether he has read the bill. The bill significantly expands the jurisdiction of the Court of Appeal in relation to the IRC. It makes it clear that there can be jurisdictional appeals. Claiming that by increasing the jurisdiction of the Court of Appeal the Government is backing the IRC against the Court of Appeal shows that he has fundamentally misunderstood what this bill is actually doing.

Mr Bob Debus: Exactly.

Mr PAUL LYNCH: He just does not understand. The bill is doing precisely the opposite of what he said it was doing in that part of his speech. In the earlier part of his speech he spoke about a need for a right of appeal from the IRC to the Court of Appeal—by inference, on all points of law not only on the narrow jurisdictional point. That is interesting because that is not the call that has been made. No-one has said that there ought to be a full right of appeal to the Court of Appeal. The issue has been the jurisdictional point, whether the Court of Appeal is able to supervise the jurisdiction of the IRC. The honourable member for Gosford has missed the point altogether. He also claimed that everyone thinks it is a good idea to open up a range of appeals to the Court of Appeal. That is certainly not the view of the Stein committee.

No doubt the honourable member for Gosford will make a whole series of ideological aspersions against a number of the members of that committee. But I note that one of the members is a partner of Clayton Utz, a firm that is more on his side of the fence than on mine. It is not known particularly as a workers' advocate. A representative of Australian Business Ltd is also on the committee. Both of those individuals supported the thrust of the Stein report, which was to allow Court of Appeal supervision of the IRC on jurisdictional issues. All that means that the rhetoric of the honourable member for Gosford is as empty today as it has always been. He has missed the point of the bill. He misunderstands the nature of the criticisms that have

been made of the bill. People that would normally be on his side of the ideological fence support the proposal. It is of considerable regret to me that the honourable member for Gosford has so little conception of the bill.

Mr ANDREW TINK (Epping) [4.13 p.m.]: The Industrial Relations Amendment Bill recasts section 179 of the Industrial Relations Bill to entrench the finality of decisions of the Industrial Relations Commission [IRC]. Apart from the wording in the bill, the bold black heading of section 179 is "Finality of decisions". Any ability to go behind the finality of decisions is very small. The amendments to section 106 leave no doubt in my mind that the overall effect of the bill will be to entrench the commission's power to deal with what are, in substance, commercial contracts. Section 106 emphasises the point about collateral arrangements, conditions not relating to performance by a person at work, with certain qualifications. That moves away from the test of work being at the centre; it becomes peripheral.

The appealability of decisions, if I can put it that way, is marginal in the extreme. The bill entrenches the Industrial Relations Commission at the centre of what are in many cases commercial contracts. The honourable member for Liverpool mentioned the former Chief Justice of Australia, Sir Garfield Barwick, and made aspersions about his antecedents. I will mention the present Chief Justice of New South Wales and will not cast aspersions about his antecedents. The President of the New South Wales Court of Appeal, Justice Mason, spoke for him in the Mitchforce decision. Paragraph 147 is well known in the context of this debate. Nevertheless, I think it should be put on the record again. It reads:

> Like the Chief Justice, I am profoundly troubled by the march of the Commission's jurisdiction into the heartland of commercial contracts that Hungerford J's decision and other single instance decisions in the Commission represent.

That march continues apace with the provisions of this bill. The President of the Court of Appeal went on to say:

> The matter is... troubling because it must frankly be stated that the members of the Commission do not generally have the experience of the judges of the Equity Division in such matters and because... the Commission lacks the ongoing assistance of... the Court of Appeal or the High Court in such matters.

The situation, if it has changed, has changed only marginally. The fundamental problem remains. Contracts that centrally involve work should be matters for the Industrial Relations Commission and other contracts should be the business of the Court of Criminal Appeal and the commercial courts. A letter was written to me by Don Grieve, QC, who appeared in the Mitchforce case and also for QSR and in the appeals on Solution 6, QSR and Old UGC. The letter came to me unsolicited and represents the concern of an advocate who is well experienced in this area on the side of those who remain concerned about the march of the jurisdiction of the Industrial Relations Commission into commercial law. His letter to me of 23 November makes the following points:

> It is well recognised that if an inferior court erroneously decides that it has jurisdiction, its decision in that regard, although wrong, cannot be reversed by an appellate court. Hence the proposition expressed in paragraphs 12, 18 and 19 of the second reading speech (that the amendments to section 179 will not preclude the Court of Appeal from reviewing decisions of the IRC (but) "... only after the processes of the commission, including appeal to the Full bench..., are complete [are just wrong].

In the opinion of Mr Grieve, and in my view, that proposition in the second reading speech is untenable as a matter of established principle. His letter continues:

> The thrust of the applications which have been made, in many cases successfully, to the Court of Appeal since ***Mitchforce*** (exemplified in ***Solution 6***) is that the respondent to an application under section 106 is entitled to maintain that upon the facts as alleged in the summons filed in the IRC by the applicant (conceding for the purposes of the argument that those facts are capable of proof), no case within that section is disclosed. In other words, the respondents have... demurred and... demonstrated their entitlement to prerogatives of relief in the nature of prohibition.

He claims that the people who propose this amendment have maintained that this is unfair in the sense that in such a case the applicant should have the right or opportunity to have a full hearing before the IRC to lead evidence that may demonstrate the existence of a case. Implicit in the argument is that the case as pleaded in the summons, while inadequate, should be allowed to proceed on the basis that it can be patched up with evidence. Basically it is patching it up with evidence beyond the scope of the pleadings, which in any other case would make it irrelevant.

This is the basis of all commercial pleading in the commercial courts. It is important because the New South Wales jurisdiction has, for many years, prided itself on having a commercial court which, in my opinion, is second to none in the English-speaking world. When I was at the bar cases were argued in the commercial list that had no factual nexus to New South Wales. In the airway bill or the bill of lading, or whatever it might have been, there was a clause that stated, "It is agreed between the parties that the law in New South Wales will

apply." That was an indication that the reputation of New South Wales courts was such that that alone was reason enough for the parties to litigate here, even if the facts of the case had nothing to do with the jurisdiction. That is the sort of thing that this type of legislation seriously puts at risk, because it does away with the certainty of pleadings in commercial cases and rigorous directions hearings and the like narrowing down the issues and getting to the heart of a case quickly.

It is said that New South Wales prides itself on being a regional centre for commerce and a regional headquarters for business. Central to that claim is a reputation for being able to adjudicate disputes between parties who do business in New South Wales, or may want to do business here or, if they do not do business here, they come here to litigate because of the reputation of the courts. That certainty and speed will go out the window with the passage of this bill, which entrenches the jurisdiction of the Industrial Relations Commission to deal with contracts that have only a tenuous connection with work, and at the same time it gives the Court of Appeal only the most tenuous oversight.

The next point Mr Grieve made was in relation to the Industrial Relations Commission being quicker, cheaper and less adversarial than the Supreme Court. The second reading speech in this regard refers to the Mitchforce and Solution 6 cases as being quicker, cheaper and less adversarial. Mr Grieve stated that in the Mitchforce case his client was forced to endure inordinately protracted litigation in the Industrial Relations Commission at massive cost, decisions against the client being ultimately found by the Court of Appeal to be wholly without foundation. Mr Grieve stated:

> Leaving aside legal costs, Mitchforce Pty Ltd suffered irrecoverable loss well in excess of $1 million solely in consequence of the Industrial Relations Commission's misguided treatment of the matter.

That is the point. People who may want to do business here, or those who may want to litigate here even though their businesses are offshore, will not come here. I have appeared in cases dealing with airway bills and bills of lading in which the only connection with New South Wales was the fact that the parties had enough confidence in our judicial system to bring their disputes here. Everyone knows about the notorious Mitchforce case. It is infamous because of its mishandling by the Industrial Relations Commission and its cost to that litigant.

Business will be litigated and key contracts will be undertaken outside this jurisdiction because people will look at the Mitchforce case and say, "This Government is basically about entrenching the IRC in most of its Mitchforce application, we will go elsewhere, we will not come to New South Wales, we will not do business here. Where we have an opportunity to do business we will base ourselves in Brisbane, Melbourne, Singapore or Hong Kong. We will not come to New South Wales, because we are not going to get into the procedural and litigious muck and mire that Mitchforce had to endure." That is what happens when a court that does not have a background or expertise in commercial matters gets involved in matters that are essentially commercial. In my view the Mitchforce case was most definitely one such matter.

The final point that sums up all of the foregoing is Mr Grieve's argument that the proposed amendments to section 106 are designed to entrench in the Industrial Relations Commission a power to review contracts of a commercial nature that have practically no industrial character. That neatly sums up the point. That is the point: this bill entrenches the jurisdiction of the Industrial Relations Commission in relation to non-industrial matters. The Industrial Relations Commission deals with industrial matters—and it should deal with industrial matters; it should not deal with matters that are not industrial in character. To that extent the effect of the bill will be to pull into the Industrial Relations Commission work that is commercial in nature. We will lose the benefit of the commerce that results from litigation when that litigation goes to other jurisdictions to be heard or settled.

That will cost us jobs in this State. If at the end of the day workers are central—and they should be—it is important to get right the distinction between industrial and commercial matters. There is a division of responsibility. I am not saying it is easy to get that distinction right. It is not, but this bill does not achieve it. The balance is not right. The real risk is that we will all miss out as people look at Mitchforce and at this bill and say, "Well, they have not got it right. We are not going to litigate here, we are not going to do business here, we will go to Melbourne, Brisbane, Singapore, Hong Kong or somewhere else." That will not do the State any good. It will not do the economy any good, and it will not do the people who need the employment generated by that commercial activity any good.

Mr BOB DEBUS (Blue Mountains—Attorney General, Minister for the Environment, and Minister for the Arts) [4.26 p.m.], in reply: I acknowledge the contributions to the debate, and I particularly congratulate the honourable member for Liverpool on his demolition of the arguments put forward by the honourable member for Gosford. This bill clarifies the jurisdiction of the Industrial Relations Commission to declare void or to vary

unfair contracts and allows for appeals on questions of the jurisdiction of the Industrial Relations Commission [IRC] in Court Session, but only after the processes of the commission are complete. These amendments will clarify the situation that has followed a number of recent judgements of the Court of Appeal—Mitchforce, Solution 6 and others— which threw the scope of the unfair contracts jurisdiction of the Industrial Relations Commission into doubt and allowed parties to remove disputes from the IRC to the Court of Appeal before the IRC had a choice to consider whether they fell within its jurisdiction.

The constitutional validity of the industrial relations legislation that the Commonwealth Government seeks to pass is not clear. Its scope could well be read down by the High Court. I shall certainly be part of a New South Wales Government application to that court that will seek to have that effect; in the meantime it is important that the uncertainty brought about by the decisions of the Court of Appeal be resolved. The bill seeks to reinstate the jurisdiction of the commission in relation to section 106 claims and, indeed, to end the most undesirable uncertainty that exists for both employers and employees in that context.

The honourable member for Gosford suggested that in some way or other he had been ambushed by the introduction of the bill. More than five days have passed since the second reading speech was delivered, deliberately, late on Thursday 17 November so the Opposition would have ample opportunity to examine its provisions. It should be borne in mind, however, that these issues have been under debate, at some level or other, for at least several years. Therefore, it is complete nonsense for the honourable member for Gosford to suggest that the introduction of the bill represents some kind of Government manipulation. Quite the contrary is the case.

I turn to the relationship of these amendments to the powers of the Supreme Court to hear purely commercial contract matters. I make it clear that the bill's amendments do not broaden the jurisdiction of the Industrial Relations Commission; they simply clarify the commission's jurisdiction following the series of Court of Appeal cases to which I have referred that threw the commission's jurisdiction into doubt. I do not believe that the bill will have any substantial impact on the commercial jurisdiction of the Supreme Court of New South Wales, and I do not intend it to. I greatly respect the commercial jurisdiction of the Supreme Court. Indeed, I understand that it has the capacity to attract business to this State through the accomplished exercise of its jurisdiction.

The test for the commission's jurisdiction has been established by the High Court. For a contract to fall within the unfair contracts jurisdiction it must lead directly to a person's performing work in an industry, or be related or collateral to such a contract. The bill requires that the performance of work is a significant purpose of the arrangements. The commission will decide, on all the facts, whether the case is one in which the performance of work is a significant purpose of the contractual arrangements between the parties. When a case does not include such an "industrial flavour"—the phrase used in the precedent cases—it will properly be excluded from the commission's jurisdiction.

There will be an opportunity to appeal to the Full Bench of the Industrial Relations Commission when a party does not believe that the case relates to the performance of work, or that the performance of work was a significant purpose of the arrangements between the parties. Ultimately, the parties will also be able to challenge the commission's jurisdiction in the Court of Appeal, but only after the commission's appeal mechanisms are exhausted. That allows the Court of Appeal to continue to have a clear and ongoing role in determining jurisdictional questions involving section 106, as it has in recent cases.

In response to remarks made by the honourable member for Epping, I point out that the bill supports the proposition in the cases of Mitchforce and others that there should be an appeal from the commission's full bench to the Court of Appeal. However, the system proposed in the bill is expected to be more effective for all parties, because the commission focuses more on conciliation and its processes are quicker and cheaper. It is hoped that, rather than pursuing costly adversarial proceedings in the Court of Appeal, parties will be more likely to settle their differences on a commercial basis in the commission's conciliatory environment. Presently, around 90 per cent of all section 160 matters heard by the commission are resolved by conciliation. That should save the parties, the courts and the community time and money, and it should enhance the reputation of New South Wales courts in the settlement of disputes of this nature.

It is important to recognise that the proposed amendments and other case law and legislative provisions place real limits on the jurisdiction of the Industrial Relations Commission to prevent it from trespassing into the area of purely commercial matters. The legislation does not attempt to specify the degree of connection between an arrangement and the performance of work in an industry, other than the "significant purpose" test I have

mentioned. That has been done deliberately to allow the Court of Appeal to continue to apply the necessary degree of rigour in determining jurisdictional questions involving section 106, as it has in recent cases.

Apart from the use of the accepted test for jurisdiction in section 106 matters—that they involve "a contract whereby a person performs work in an industry"—there are two other significant restrictions on the reach of section 106. First, it does not apply to contracts for the sale of goods or services. Second, since the Government capped unfair contract claims in 2002, employees and partners earning remuneration in excess of $200,000 a year are not eligible to bring claims in the Industrial Relations Commission. I believe that those restrictions, together with the bill's intention—for the first time since 1996, to give the Court of Appeal a clear and ongoing role of review to define the limits of the commission's jurisdiction—and the intention of the section 106 amendments to restore the jurisdiction to the commonly understood position prior to the case of Solution 6, will ensure that the bill will not unduly affect the court's commercial jurisdiction. Those propositions respond directly to matters raised by the honourable member for Epping concerning the relationship between the Industrial Relations Commission and the Supreme Court's commercial jurisdiction. We are simply seeking to clarify and restate the respective roles that the Legislature expects those bodies to have.

The bill seeks to remedy a situation arising particularly in relation to section 106. The arbitration work of the commission has not been subject to review as part of this process. Notwithstanding the somewhat confusing remarks made by the honourable member for Gosford, no-one has asked that the arbitral jurisdiction of the commission be changed, and there is no intention to do so. Indeed, the opposite is the case. In response to remarks made by the honourable member for Epping, the proposed amendment to section 179 returns the situation to that which existed under the former Coalition Government's industrial relations legislation, introduced by the then Minister for Industrial Relations, John Fahey. The honourable member for Epping seemed to suggest that the amendment to section 179 creates an entirely new situation which gives the Industrial Relations Commission some kind of jurisdictional capacity to spread itself into new areas of the law. In fact, we are returning to a circumstance that existed under the former Coalition Government's industrial relations legislation.

Under the bill, the person who brings a claim must be the person who performs work under the contract, and that work must be a significant purpose of the overall contractual arrangements between the parties. It seems that this clarification is successful, and notwithstanding some of the remarks of members opposite, it certainly reflects the conclusions of the Stein committee, whose membership was detailed in the second reading speech.

Its members have considered the circumstances affecting the jurisdiction of the Industrial Relations Commission in unfair contracts and the commercial jurisdiction of the Supreme Court with the greatest of care, and have made recommendations to resolve the ambiguities that had arisen between those two jurisdictions. The Government has implemented those recommendations. In this context the Government is not conducting an exercise that is meant to favour any particular jurisdiction: rather, to the contrary, it is trying, with the assistance of a task force comprising distinguished people representing a range of relevant interests, to bring about a resolution of a difficult circumstance. Implementation of that exercise required a great deal of thought and care.

The honourable member for Gosford is concerned that retail leases not be excluded from the commission's jurisdiction as there is already a specialist retail leases division of the Administrative Decisions Tribunal. This is a matter that was also considered with some care by Justice Stein's task force. Although the retail leases division of the Administrative Decisions Tribunal has wide powers, they do not extend to varying or amending a contract found to be unfair. Additionally, most employment situations where the lessee is working for or carrying on a business for the lessor are excluded from the Administrative Decisions Tribunal's review. Therefore, people in those situations would have very limited avenues of regress available if section 106 specifically excluded them. In any case, the Stein task force did not consider that there was any harm in the Administrative Decisions Tribunal and the commission providing alternative remedies.

The Opposition appears to be concerned that a matter brought to the IRC that involves a retail lease will not be promptly resolved because there are several alternative remedies, but, as I have already indicated, approximately 90 per cent of all section 106 cases before the IRC are settled before a full hearing is completed. There is no reason to believe that that will not continue to be the case and therefore that the jurisdiction will continue to operate successfully. Once the bill is passed, workers in New South Wales will once again be able to fully utilise these quicker and cheaper processes of the Industrial Relations Commission, whose purpose is to bring parties together in a spirit of conciliation. The clarification of the commission's jurisdiction is, of course, a good thing for workers, employers, the courts and the community.

The bill makes two other amendments. It enables the commission in exceptional circumstances to accept an application in relation to an alleged unfair contract that is made out of time; and it changes the name of the IRC in court session to "the Industrial Court of New South Wales", just to ensure that those who come before it appreciate that it has a status as a court of superior record. With those observations, I commend the bill to the House.

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

The House divided.

Ayes, 51

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

Noes, 32

Mr Aplin	Mr Hazzard	Mrs Skinner
Mr Armstrong	Mrs Hopwood	Mr Slack-Smith
Ms Berejiklian	Mr Humpherson	Mr Souris
Mr Cansdell	Mr Kerr	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 Pringle	Mr R. W. Turner
Mr Fraser	Mr Richardson	*Tellers,*
Mrs Hancock	Mr Roberts	Mr George
Mr Hartcher	Ms Seaton	Mr Maguire

Pairs

Mr McBride	Ms Hodgkinson
Mr Price	Mr Merton

Question resolved in the affirmative.

Motion agreed to.

Bill read a second time and passed through remaining stages.

CRIMES AND COURTS LEGISLATION AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

Mr BOB DEBUS (Blue Mountains—Attorney General, Minister for the Environment, and Minister for the Arts) [4.54 p.m.]: I move:

That this bill be now read a second time.

This bill makes a number of miscellaneous amendments to the criminal law and court procedure that are designed to improve the administration of the justice system. The principal amendments are made to the Bail Act 1978, the Drug Court Act 1998, the Law Enforcement (Powers and Responsibilities) Act 2002 and the Electronic Transactions Act 2000. Schedules 1 and 2 to the bill amend the Bail Act 1978 and the Bail Regulation 1999, following the passage of the Commonwealth Law and Justice Legislation Amendment (Serious Drug Offences and Other Measures) Act 2005, which creates a new regime of Commonwealth drug offences.

First, it deletes offences relating to illegal drug importation from the Customs Act 1901 of the Commonwealth. Secondly, it adds a new part to the Criminal Code of the Commonwealth called serious drug offences. That part both replicates the old offences under the Customs Act, and creates an extensive number of new Commonwealth drug offences. The new Criminal Code drug offences are not limited to conduct that has a drug importation or exportation element. Included in the new part of the Criminal Code is a full range of offences relating to illegal drug activity. Among other offences, the Commonwealth Act creates new offences of trafficking controlled drugs, supplying precursors with the knowledge that they will be made into controlled drugs, and procuring children to traffic, import or export controlled drugs.

The relevant changes to the Commonwealth drug offences take effect on 6 December 2005. Under the New South Wales Bail Act, Commonwealth drug importation offences currently carry a presumption against bail when the quantity of drugs involved would be sufficient to carry a presumption against bail if the alleged offender had been charged with one of the drug supply or manufacturing offences in the New South Wales Drug Misuse and Trafficking Act. Schedules 1 and 2 to the bill amend the Bail Act to remove a reference to deleted Commonwealth Customs Act offences and insert a reference to the new Commonwealth drug offences in the Criminal Code. The policy behind the amendments is that criminal behaviour which attracted a presumption against bail under the old regime will continue to attract a presumption against bail under the new regime.

Similarly, for offences in the mid range of seriousness, drug-related crime that has no presumption in favour of bail now will continue to have no presumption in favour of bail, regardless of whether it is charged under existing New South Wales law or the new Commonwealth law. Schedule 6 to the bill amends the definition of "serious narcotics offence" in the Listening Devices Act 1984 to accurately refer to the new Commonwealth offences. Schedule 3 to the bill amends the Drug Court Act 1998 in relation to compulsory drug treatment orders.

In 2004 the Government passed an Act to provide the legislative basis for the Compulsory Drug Treatment Correctional Centre, which will commence in early 2006. The scheme will allow the Drug Court of New South Wales to make compulsory drug treatment orders in relation to offenders who have already been sentenced to imprisonment in the ordinary court system, provided the offenders have a drug dependency and meet other criteria, such as having a remaining non-parole period of between 18 months and three years on their sentence. Offenders subject to such treatment orders will receive intensive drug treatment within the Compulsory Drug Treatment Correctional Centre and, if successful in the first two phases of that treatment, will be eligible for home detention while undergoing the third phase of treatment.

The amendments made by schedule 3 to the bill are twofold. First, the bill amends the Drug Court Act to provide for where an appeal court has allowed a sentence appeal and imposed a new sentence. The amendment makes it clear that, when considering whether to refer the offender to the Drug Court for it to decide whether to make a treatment order, the court must consider the offender's eligibility after the new sentence is handed down, not before. Alternatively, if the appellant is already subject to a treatment order the appeal court need not make an unnecessary second referral to the Drug Court. Second, the bill amends the Drug Court Act to remove any doubt that a decision of a sentencing court to refer an offender to the Drug Court for it to consider whether to make a treatment order cannot be appealed.

Schedule 4 to the bill amends the Electronic Transactions Act 2000 to facilitate the greater use of technology in the courtroom through the use of electronic case management, or ECM, courts. The amendment allows ECM courts to be used in any hearings other than those at which oral evidence is to be received. An ECM court is a virtual courtroom that allows a judicial officer to consider and determine issues while communicating electronically with the parties. Initially, ECM courts will operate through CourtLink in certain proceedings in the Supreme Court and the Court of Criminal Appeal.

Schedule 5 to the bill amends the Law Enforcement (Powers and Responsibilities) Act 2002. That Act commences operation on 1 December 2005. The commencement of the Act will be a significant event because

for the first time the vast bulk of powers that police exercise will be in one Act, rather than in a range of disparate Acts. As police and other relevant agencies prepared for the commencement of the Law Enforcement (Powers and Responsibilities) Act it became apparent that some relatively minor amendments needed to be made to ensure that the Act operates as it was intended to. The most significant of those amendments cover two topics: they amend the provisions of the Act that deal with duration and extension of warrants, and they make changes to the new crime scene warrants scheme created in Part 7 of the Act.

The bill proposes that the provisions of the Act that deal with duration and extension of warrants will be divided into separate sections, and the relevant rules will be set out more clearly. The bill does so by omitting current section 73 of the Act, which covers both duration and extension of warrants. Instead, the bill inserts a new section 73, which addresses how long each warrant has effect, and a new section 73A, which addresses which types of warrants may be extended and how they may be extended. The greater clarity offered by these new sections will benefit both police officers, who apply for warrants and extensions to warrants, and authorised officers, who must decide whether to grant their applications.

There was concern that the crime scene warrant powers in Part 7 of the Act as currently drafted might be interpreted to require that the police officer who established the crime scene must remain on the crime scene at all times. Such an interpretation would present major operational problems. For example, a junior general duties police officer may come across the scene of a major homicide. The proper role of the general duties officer will generally be to secure the scene and protect the evidence at the scene until specialist homicide police arrive, at which point the junior officer will continue with usual duties, notwithstanding that it was the junior general duties officer who established the crime scene.

It would be pointless and impractical to require that junior officer to remain at the crime scene, and theoretically in charge of it, although he or she has no ongoing role in the investigation. The amendments will clarify that, provided a police officer has lawfully established a crime scene, another police officer may exercise crime scene powers if allowed to do so by the Law Enforcement (Powers and Responsibilities) Act. They will also clarify that specialist crime scene officers who are not police officers but who are employed by NSW Police may lawfully perform their duties at crime scenes, once the crime scene has been established. A concern has been raised that the part as now drafted might be interpreted to require that only the individual police officer who was intending to exercise crime scene powers could apply for a crime scene warrant and be named in that warrant.

Officers actively involved in the investigation of a case are often busy at the crime scene urgently making measurements, taking photographs, taking statements and so on before that evidence is no longer available. It would be impractical to require one of those officers to leave the crime scene and prepare an application for a crime scene warrant, with all investigative activity ceasing while the application for the warrant is prepared. The amendments make it clear that an officer may apply for a crime scene warrant on behalf of another police officer or officers, and that the crime scene warrant, once issued, may authorise any police officer, not just a particular named police officer, to exercise crime scene powers.

Schedule 5 to the bill makes other amendments to the Law Enforcement (Powers and Responsibilities) Act of a more minor or technical nature. Schedule 7 to the bill makes a minor consequential amendment to the Independent Commission Against Corruption Act 1988. The amendments to the Law Enforcement (Powers and Responsibilities) Act will help to ensure a smooth transition when that Act commences on 1 December 2005. I commend the bill to the House.

Debate adjourned on motion by Mr Daryl Maguire.

POLICE AMENDMENT (DEATH AND DISABILITY) BILL

Bill introduced and read a first time.

Second Reading

Mr DAVID CAMPBELL (Keira—Minister for Regional Development, Minister for the Illawarra, and Minister for Small Business) [5.05 p.m.], on behalf of Mr Carl Scully: I move:

That this bill be now read a second time.

I am pleased to introduce the Police Amendment (Death and Disability) Bill. The death of a police officer performing his or her duty is tragic, and it is important that should such an event occur the family of the police officer is looked after. Likewise, if a police officer is injured as a result of their occupation it is appropriate that assistance and support is provided to the police officer. On 9 May 2005 the Government formally announced a $105 million package of initiatives to overhaul the way in which NSW Police will support police officers who are killed or injured in the performance of their duty. The package was endorsed by the New South Wales Police Association on 23 June 2005. A major component of the package is a new death and disability scheme. The purpose of the bill is to introduce minor amendments to the Police Act 1990 and the State Authorities Superannuation Act 1987 to facilitate the introduction of the new scheme.

The scheme will be established by a specified industrial award. The bill is based on deliberations of the Police Superannuation Working Party, chaired by the Premier's Department and with representation from the Ministry for Police, NSW Police, the Police Association of New South Wales and New South Wales Treasury. The working party was formed in 2003 in recognition of the limitations of the current system of death and disability coverage for police officers and the need to provide police officers with insurance protection commensurate with the level of risk they face in the line of duty.

Under the current system, serving police officers operate under different death and disability insurance schemes. Prior to April 1988, police operated under the Police Superannuation Scheme. When this scheme was closed by the Greiner Government, police officers who joined the force after April 1988, who comprise some 70 per cent of the current force, became members of the State Authorities Superannuation Scheme, unless they transferred their benefits to First State Super.

These latter schemes are not police specific but, rather, cover all public sector workers in New South Wales. This has produced the unusual situation whereby two officers rostered on the same shift and responding to the same incident would be treated differently with respect to insurance payments if they were both injured or, indeed, killed. The introduction of new death and disability insurance, available to police officers employed on or after 1 April 1988, other than those who contribute to the Police Superannuation Scheme, will redress this inequality and ensure that the unique dangers faced by all police officers when performing their duty are duly recognised.

In addition, police officers who are currently members of the State Authorities Superannuation Scheme will be able to elect to participate in the new death and disability scheme and pay the additional benefit levy. The bill also contains a provision to enable the commissioner to still make a special benefit payment if for some reason a police officer is injured on duty but for some reason is not covered by the new scheme. The bill will thereby permit all police officers to go about their daily tasks safe in the knowledge that should they suffer injury or illness support will be provided to them and their family.

Some aspects of the new death and disability scheme include the availability of a lump-sum payment for work-related injuries—the benefit will be paid if the injury prevents the injured officer from continuing to work with NSW Police, or the broader public sector—benefits paid based on the injured officer's age and the degree of incapacity suffered. Should an officer be killed while on duty their benefits will be payable to their spouse or their estate; and police will be able to pay additional insurance for off-duty injuries. The benefits for death or total and permanent disablement will be covered under an insurance arrangement with Metlife Insurance Ltd. The benefits for partial and permanent disablement will be met by NSW Police.

Separate to this bill are a number of additional measures that have been developed to foster the health and welfare of police officers. These measures, to be included as part of the award to establish the scheme for death and disability, include the creation of a specialist unit within NSW Police to oversight and improve the injury management process. The specialist unit will administer the new death and disability scheme and provide advice and education to local area commands on the management of injured police officers.

Another measure is the extension of the Wellcheck program. The Wellcheck program, piloted within the Child Protection and Sex Crimes Squad, enables staff at high risk of psychological injury to participate in quarterly wellbeing check-ups with an employee assistance program psychologist. This program recognises that not all injuries are physical and able to be treated with a course of physiotherapy. Clearly, tasks performed by police officers can cause mental anguish and it is critical that a program is available to police officers who are at risk of suffering psychological injury. The occupation of policing is demanding, both physically and psychologically, and the establishment of the special unit and implementation of the Wellcheck program will help prevent, detect and manage injury to police officers.

I now move to the detail of the bill. Schedule 1 amends the Police Act 1990. Item [1] of schedule 1 repeals section 216 of the Police Act, which currently provides the Commissioner of Police with discretion to make a payment called a special risk benefit in respect of a police officer who is retired from NSW Police, or dies, as a result of being hurt on duty. The special risk benefit will be replaced by the new death or disability benefits that will be available to police under a scheme to be established by a specified industrial award. The scheme will be available to police officers employed on or after 1 April 1988 and who are not contributors to the Police Superannuation Scheme.

Item [2] provides that the special risk benefit as applied to students of policing will remain, as the new scheme will not extend to students of policing. Item [3] amends section 216A of the Police Act to allow only a student of policing or the spouse or personal representative of a student of policing to apply to the District Court for a determination in relation to a decision of the commissioner regarding a special risk benefit. Should the commissioner fail or refuse, within six months of a student of policing suffering an injury, to make a decision about payment of a special risk benefit, the commissioner is taken to have made a decision to refuse to pay any amount in relation to the student. Item [4] further amends section 216A of the Police Act to remove the ability for the District Court to make decisions with respect to section 216.

Item [5] provides for savings, transitional and other provisions to be specified by way of regulation. Item [6] provides that the Commissioner of Police can still make a payment under section 216, as if that section had not been repealed, if a police officer is hurt on duty prior to the commencement of the new death or disability scheme, but is not entitled to, or eligible for, payment under the new death or disability scheme. Conversely, provision is made for recovery of the special benefit if for some reason both a special risk benefit and a death and incapacity benefit is paid.

Schedule 2 amends the State Authorities Superannuation Act 1987. Item [1] of schedule 2 enables police officers who are currently members of the State Authorities Superannuation Scheme to elect to participate in the new death and disability scheme and pay the additional benefit levy. Item [2] provides for savings, transitional and other provisions to be specified by way of regulation. A regulation will be made to permit police officers who are currently members of the State Authorities Superannuation Scheme to elect to participate in the new death and disability scheme and pay the additional benefit levy. This bill, by facilitating the introduction of the new death and disability scheme, confirms the Government's strong commitment to protecting the very people who perform the demanding job of protecting the State of New South Wales. I commend the bill to the House.

Debate adjourned on motion by Mr Andrew Constance.

WORKERS COMPENSATION LEGISLATION AMENDMENT (MISCELLANEOUS PROVISIONS) BILL

Bill introduced and read a first time.

Second Reading

Mr DAVID CAMPBELL (Keira—Minister for Regional Development, Minister for the Illawarra, and Minister for Small Business) [5.14 p.m.], on behalf of Mr John Watkins: I move:

That this bill be now read a second time.

The bill represents a further step in the process of reform of workers compensation legislation. I will first list the major reform areas dealt with by the bill and then explain the specific provisions in more detail. As honourable members are aware, the workers compensation legislation was extensively amended during 2001 as part of major reforms to the workers compensation scheme, with subsequent amendments in 2003 and 2004. The aim of these reforms has been to build a scheme that is fair, affordable and efficient. I am pleased to report that these aims are being achieved as a direct consequence of the reform process. Injured workers are receiving payments and treatment faster, return-to-work rates have improved and the number of disputes has dropped significantly.

A number of further amendments have now been identified, as part of the first area of reform, to further improve the Workers Compensation Commission dispute resolution process. Schedule 1 gives effect to these amendments. Their purpose is to encourage earlier settlement of claims and to enhance the efficiency of both pre-dispute and dispute resolution processes. These amendments will further improve earlier reforms. The proposals follow a consultation process with various stakeholders representing employer and employee interests.

The second area of reform is contained in schedule 2 to the bill and is aimed at clarifying outworker and labour hire deemed worker provisions and also in making the premium compliance and audit system fairer. These reforms are based on recommendations of the Hon. Dr James Macken, AM, former judge of the Industrial Commission of New South Wales, in his capacity as facilitator of an advisory panel of employer and employee representatives who reviewed submissions made in response to a WorkCover discussion paper entitled "Definition of Worker" issued in January of this year.

The third area of reform encompasses various miscellaneous amendments set out in schedule 3 to the bill. The most significant of these is an increase in benefits payable to workers who suffer spinal injuries of 5 per cent in dollar terms, as announced by the Premier on 9 November 2005. Other reforms relate to improved settlement procedures and reform of legal costs provisions relating to disputed claims. I take this opportunity to acknowledge the input of the many stakeholders who have commented on various aspects of the proposed changes.

I will now outline the amendments in more detail. On early settlement of claims, the bill contains a number of measures aimed at facilitating earlier settlement of claims and ensuring that matters referred to the commission are genuinely in dispute. These measures provide for the exchange of all relevant documents and identification of all relevant issues as part of the claim and dispute process. This up-front exchange of information is key to the success of the commission. The bill requires an insurer to review a decision to dispute a claim and give to the worker the option of seeking a further review before the dispute is referred to the commission. This will make sure insurers are acting in the scheme's best interests—that they are making appropriate decisions about claims and, where they are going to dispute a claim, they can back it up.

Let me be clear—this is not about accepting every claim made on an insurer. It is about making sure matters that go before the commission are genuinely in dispute. It is not in employers' interests if scheme money is spent on disputes where one party has not had a chance to consider the issue before the dispute application is lodged, or if the insurer automatically disputes the claim because they have not considered its merits. That is why the bill contains provisions that strengthen the commission's powers to decline to deal with disputes that do not comply with statutory prerequisites and to limit consideration of disputes to matters notified prior to lodgement. In addition, the power of the commission, including the registrar, to dismiss proceedings in certain specified circumstances is confirmed. However, the commission will acquire a specific new power to deal with a matter if it is in the interests of justice to do so.

On improved dispute resolution, the bill contains a number of measures aimed at streamlining and simplifying procedures within the commission. This will be achieved by expanding the expedited assessment process, firstly, by increasing to $7,500, from $5,000, the maximum that can be awarded for medical expenses and, secondly, by enabling past period weekly benefit claims of up to 12 weeks to be dealt with as part of the expedited assessment process. This latter reform gives the registrar the powers of an arbitrator for such purposes, whilst at the same time such decisions retain existing appeal entitlements as if an arbitrator had exercised the function. The bill also allows for clearer referral pathways in respect of medical and legal issues so as to ensure referral to the appropriate expert by the most expeditious means.

For example, the registrar will refer disputes in respect of the degree of permanent impairment directly to an approved medical specialist and disputes in respect of liability will be directed to an arbitrator. This change will contribute to the speedier resolution of disputes. The opportunity is also being taken in this bill to make it clear that the assessment of permanent impairment is to be made in accordance with WorkCover guidelines as are in force when the assessment is made. This will ensure that when performing an assessment the medical assessor will only be required to consider one set of guidelines—those in force at the time of the assessment.

Further, requirements in respect of attendance by a worker at medical examinations requested by an employer will be contained in WorkCover guidelines rather than in the regulations. These guidelines will require insurers to be reasonable in their requests for examinations. The guidelines will be developed with the stakeholders in the workers compensation scheme—the employers and workers. A number of measures contained in the bill are aimed at streamlining appeal and review procedures in the commission. The current appeal processes have led to unnecessary delays in resolution of disputes. The new measures will provide alternatives to appeals in minor matters, and will lead to the quicker resolution of disputes in a more cost-effective way.

These measures clarify the registrar's existing power to decline to accept a medical appeal where the registrar is not satisfied that a ground of appeal is made out. They also broaden the registrar's power to refer

such appeals back to the approved medical specialist for further assessment, as an alternative to appeal. Further, the registrar will be able to reject an appeal from an arbitrator's decision where the appeal does not comply with procedural requirements, for example, if the appeal does not meet the minimum monetary threshold or the appeal application does not attach all of the required supporting documentation. This will be a limited procedural power and will not affect a party's right to appeal or the outcome of such appeals. In addition, the bill provides for the development of regulations identifying interlocutory disputes that can be more efficiently dealt with by means other than an appeal to a presidential member as is currently required.

The regulations setting out these interlocutory matters will be determined in consultation with stakeholders. To lessen the need for formal appeal or review and to expedite resolution of matters the registrar, approved medical specialists and medical appeal panel are each given an additional power to reconsider their decisions provided that such reconsideration takes place within two months of a referral. Such a reconsideration power will allow, for example, an approved medical specialist to reconsider his or her decision, taking into account documentation that was available at the time but was inadvertently overlooked or was not referred on by the registrar. This reconsideration power is consistent with similar powers in other jurisdictions such as the Dust Diseases Tribunal and the Commonwealth Defence Force Remuneration Tribunal.

Throughout the year the New South Wales Government has been consulting with employers and unions on the key question of the definition of "worker" for the purpose of paying workers compensation premiums. There was extensive statewide consultation following the release of WorkCover's discussion paper in January this year. Given the diverse views expressed during the consultation, the Government asked the Hon. Dr James Macken, AM, former judge of the Industrial Commission of New South Wales, to facilitate a panel to consider this issue. The panel included representatives from small business, employer and union groups, and together they considered more than 50 submissions from the public on the definition of a worker.

The report from Justice Macken recommends the Government retain the existing common law definition of "worker" but makes five recommendations to improve the current system: first, provide more certainty on the current base definition of worker, but not in a way that would limit the common law test; second, give WorkCover the ability to issue prospective determinations on "worker" status to employers; third, enhance WorkCover's education and support to assist business, particularly small business, when determining "worker" status; fourth, review premium wage audit and related penalty arrangements; and, fifth, clarify outworker and on-hire deeming provisions. The Government accepts the recommendations and thanks Justice Macken for his report and his constructive recommendations. The Government also thanks the members of the advisory panel for their time and effort in considering this difficult but important question.

The bill provides that WorkCover can make prospective determinations on the status of workers to improve certainty for employers, particularly small business; confirms protection of outworkers if they get assistance to complete work; clarifies the labour hire agency is the employer of labour hire workers, even if they have signed a contract for service, unless they are conducting a genuine business or trade; reduces the wage audit period to three years, from seven years, where no serious non-compliance issues are identified; allows WorkCover to waive late payment fees payable as a result of an audit; and reduces the rate of late payment fees payable for workers compensation premiums, ensuring consistency is maintained with current market penalty rates and penalty rates imposed by the Office of State Revenue. These amendments will significantly improve premium compliance in New South Wales, making it fairer and simpler for employers. In support of these improvements WorkCover will enhance its education and support functions to assist business, particularly small business, when determining the status of a worker.

Schedule 2 of the bill refines the deemed worker provisions to improve clarity without changing the scope of individuals to be generally covered. The bill includes a provision concerning "contractors under labour hire service arrangements" confirming that a labour hire agency is the employer of labour hire workers, even if they have signed a contract for services, unless they are conducting a genuine business or trade. This will cover the "Odco" type arrangement that has been promoted as a means of reclassifying workers as independent contractors to avoid attracting "worker" status and to evade premiums. The type of contract or arrangement to which this provision will apply is one which can involve the labour hire agency providing services to a contractor such as: services for finding work for the person; services for payment for work performed by the person; and services for insurance coverage in connection with any such work. These are indicative criteria only.

In regard to clothing workers, all members will be aware of the vulnerable situation of many clothing outworkers in our community. To confirm protection of outworkers the bill makes it clear that outworkers

continue to be a "worker" for workers compensation purposes even if they get help to complete work. For example, a person working in the clothing industry from home altering garments, who gets family members or friends to complete part of the work under contract and does not earn a profit from this work-sharing arrangement, will continue to be deemed a worker. In regard to private rulings, in an important step forward the bill gives WorkCover the ability to provide prospective determinations, called private rulings, on "worker" status to assist employers, particularly small business, in meeting workers compensation obligations. This is similar to a service provided by the Australian Taxation Office and will be an important new function for the authority, and I am sure will provide enormous help to those businesses who want greater certainty up front about the status of their work force. Private rulings will apply only for premium collection purposes. As workers will not be involved in the ruling process, the rulings will have no impact on "worker" status for claiming workers compensation, and will be inadmissible in proceedings concerning an entitlement to benefits.

I turn to wage audits. The bill also provides some changes to the provisions dealing with late payment fees, to provide greater equity for employers. WorkCover will be provided with the discretion to approve the waiver of some or all of a late payment fee where an employer has understated wages, where the circumstances warrant waiver. Guidelines will be developed regarding appropriate circumstances for the exercise of this discretion in consultation with the WorkCover Advisory Council. The bill also proposes that the rate of late payment fees be set annually in the Insurance Premium Order, to ensure consistency is maintained with current market penalty rates and penalty rates imposed by the Office of State Revenue. Currently the rate is set in the Act at 1.2 per cent compounded monthly. The rate of the Office of State Revenue is approximately 13.68 per cent per annum or 1.074 per cent compounded monthly and is more consistent with market interest rates

In addition, in February the Minister for Commerce announced that the workers compensation wage audit period would reduce from seven years to three years where no serious non-compliance issues are identified. The bill confirms that policy in legislation. Where serious non-compliance issues are identified, WorkCover will still conduct an audit over the seven-year period. To assist in the implementation of this reform package, WorkCover will provide a comprehensive education, information and support program to ensure employers, particularly those engaged in small to medium businesses, are better able to meet their workers compensation obligations. Schedule 3 to the bill provides for a 5 per cent increase in dollar terms in the benefit payable to workers who suffer spinal injuries. This increase will apply to impairment that results from injuries occurring on and from I January 2006.

The bill makes a number of miscellaneous amendments, including a provision to ensure that an injured worker has been properly advised before proceeding with a permanent impairment and pain and suffering settlement. The change will require an insurer to be satisfied that a worker has obtained independent legal advice prior to accepting a lump sum payment from the insurer. This will not affect a worker's legal representative's entitlement to costs. The bill also introduces a new system for recording lump sum compensation settlements. Currently parties may register a permanent impairment and pain and suffering settlement with the commission. Approximately half are not registered and the bill removes the registration provision. Regulations will be developed to ensure access to records and certification by insurers as to details of complying agreements, that is to say, settlements. WorkCover will audit insurer compliance with this provision.

An amendment is also made to the commutation provisions to require legal practitioners assisting workers to certify they have advised the worker of the desirability of obtaining independent financial advice. This is similar to provisions in civil liability legislation. The legislation currently includes several cost sanction provisions in relation to unsuccessful and unmeritorious disputes and appeals. It is proposed to clarify and confirm their intended operation. The new provisions will require legal practitioners to certify reasonable prospects of success as a prerequisite to lodging applications, replies and appeals in similar terms to section 345 of the Legal Profession Act 2004. To ensure scheme funds are not used for unmeritorious disputes, where the commission is satisfied that any party's costs in a claim have been unreasonably incurred, the commission will be required to order that those costs are not to be paid by any other party to the claim, or the insurer. Similarly, if an appeal to a presidential member is unsuccessful, the commission will be required to order that the costs of the appeal are not to be paid by any other party to the appeal.

Finally, schedule 3 to the bill contains an amendment of a consequential nature enabling WorkCover to access documents of the registries of the commission or the District Court rather than the Compensation Court. In conclusion, the bill continues the program of reform and improvement to the workers compensation scheme operating in this State, in the interests of workers, employers and the broader community. I commend the bill to the House.

Debate adjourned on motion by Mr Donald Page.

PARLIAMENTARY SUPERANNUATION LEGISLATION AMENDMENT BILL

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

BUSINESS OF THE HOUSE

Notices of Motions

Madam ACTING-SPEAKER (Ms Marie Andrews): Order! It being after 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.

PRIVATE MEMBERS' STATEMENTS

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PORT STEPHENS ELECTORATE FORESHORE AREAS CLOSED-CIRCUIT TELEVISION CAMERAS

Mr JOHN BARTLETT (Port Stephens) [5.40 p.m.]: Recently the *Australian Financial Review* published an article written by Rachel Lebihan concerning closed-circuit television [CCTV] cameras. The article reads:

> The state government last month committed $50 million to upgrading CCTV cameras across the Sydney CityRail network and Sydney Buses fleet. The CityRail network has more than 6200 digital CCTV cameras in 302 stations, a similar number to those in the London underground.

I note that the placement of CCTV cameras in the George Street area of Sydney, for which the Council of the City of Sydney is responsible, has had a marked effect on people's behaviour in that area. Coastal communities are also troubled by antisocial behaviour along beachfront areas. In many cases the local Tidy Towns committee works on the foreshore and has a great deal of ownership of the improvements they make to the foreshore for the benefit of residents and visitors. The two surf clubs in the Port Stephens area, Buribi Point and Fingal Bay, also do a lot of work to improve the amenities in the foreshore area. The foreshores in Port Stephens include Fingal Bay, Shoal Bay, Nelson Bay, Anna Bay and Lemon Tree Passage. All these foreshore areas face problems late on Friday and Saturday evenings and early the following mornings, when they seem to attract antisocial behaviour by young people. Understandably, given the ownership of the foreshore by the local community and the amount of time they spend looking after the area, there is a lot of anger about what is occurring on the foreshores.

In the foreshore area where I go for my morning jog, every day the local residents pick up broken glass and bottles. It is distressing to see tyre marks through the parks, burnt garbage cans, cut-down trees, and the restoration work—fences and plants—simply uprooted. Earlier I referred to the anger that is generated in the local community by this type of antisocial behaviour. Last week the Committee on Children and Young People, of which I am a member, travelled to Brisbane, where we looked at making public spaces safe for children. During the trip it emerged that a lot of young people like CCTV cameras because they make them feel safe. Antisocial behaviour may be only a minor nuisance, but it breaks the heart of the volunteers who look after and improve these areas.

At present CCTV cameras in coastal and country areas are the responsibility of councils. I suggest to the Government that funding for the installation of CCTV cameras along the foreshores of some of our most beautiful beaches be shared equally by the State Government, local government and the local community, with perhaps $1 million allocated in next year's budget. In many cases the foreshores are not hard-stand areas; they are areas where it is relatively easy to install the necessary infrastructure. I note that the schools program, which funds improvements such as covered outdoor learning areas and playground amenities, is funded on a 50:50 basis with the local parents and citizens association. When I was elected to Parliament in 1999 the State Government allocated $1 million to that program. The program has been so successful that this year State Government funding has been increased to $3.5 million, which means that local school communities contribute something like $3.5 million to ensure improvements to schools.

I suggest a similar funding model regarding the installation of CCTV cameras in foreshore areas, involving a commitment by local communities and councils. Speaking on behalf of all the Tidy Towns

committee members and the volunteers who work on the foreshore, I believe that the suggestion is well worth considering. When those who engage in antisocial behaviour around railway stations go on holidays, we get the same problem along our foreshores areas. The funding model I have suggested may be a way of improving the safety of our foreshore areas and addressing some of the stupid vandalism that takes place weekend after weekend.

Mr MATT BROWN (Kiama—Parliamentary Secretary) [5.45 p.m.]: Once again the House will be impressed by the hard work and dedication of the honourable member for Port Stephens, who always seeks to ensure the safety of his community and the special places in his electorate, especially Fingal Bay and Buribi Point. The article to which the honourable member referred makes important points about the effectiveness of CCTV cameras. The risk of recognition faced by those who get up to such mischief is indeed one of the most effective deterrents around. The honourable member has not only raised a problem in his community but has suggested a solution to it. I look forward to ensuring that his speech and his suggestion are brought to the attention of the Minister for Transport and the Government as a whole so that the one-third funding model he has suggested can be considered.

JOSHUA ROE SPECIAL NEEDS SCHOOLING

Mr CHRIS HARTCHER (Gosford) [5.46 p.m.]: I raise the concerns of a constituent of mine. Joshua Roe, who is 5 years and 11 months old, is the son of Anthony and Elizabeth Roe of Kincumber, in my electorate. Joshua has cerebral palsy and is globally developmentally delayed. He currently attends Terrigal Public School. In fact, he is the first child in a wheelchair the school has had to accommodate, so there have been multiple problems over the past year. I point out that Joshua's parents are quite happy with the provisions in place at Terrigal Public School. The school has made a conscious effort to make school life for Joshua as positive as possible.

Joshua's parents are seeking to enrol him in Gosford East Public School, which has a well-regarded special facility for children with mobility issues. Joshua was placed on a waiting list for Gosford East Public School mobility unit. However, because Joshua is considered to need 1½ places due to the fact that he has mobility and intellectual needs, his parents were told that there would be a long wait. Joshua's parents have been waiting patiently to hear of any progress. However, they have now been informed that due to several issues, class numbers at Gosford East Public School for next year will be reduced from 10 to 8. Funding is simply not available to look after 10 children next year, so the school has been forced to reduce the number of children in the class to 8. The obvious result is that Joshua, who is still on the waiting list, is unlikely to be placed in the class at Gosford East Public School. Of course, that is devastating for his parents, who are worried that it will have a negative effect on Joshua's long-term development. Quite simply, Joshua deserves better.

I wish to make it clear that neither Joshua's parents nor I blame teachers or staff employed by the Department of Education and Training. Our local Department of Education and Training staff are excellent. They are always helpful and courteous, and are willing to do whatever they can for those in my electorate and on the Central Coast generally. Our local teachers are a credit to our education system. It is certainly not they who are responsible for Joshua's plight. The blame for Joshua's situation lies at the feet of the Minister for Education and Training and her inability to provide proper resources and funding for Central Coast schools. The fact is that Joshua is waiting for a position in a class at Gosford East Public School, which has now had its numbers reduced from 10 to 8. Instead of increasing funding and resources to a growing area, the Minister has sat on her hands while funding has been reduced.

Joshua's case needs to be carefully looked at by the Minister. The situation is simply not good enough and the Minister needs to get her act together. Gosford East Public School has long had a proud tradition of looking after children with a disability, either intellectual or physical. The staff, the principal, the parents and citizens association, the students and the entire school community have rallied around those with a disability and made Gosford East Public School famous on the Central Coast as a haven for young children with a disability, providing both an excellent environment and an excellent education.

It is tragic that the funding has now been substantially reduced and the school simply not able to offer the placements it would wish to children with a disability. For many years I have taken a keen interest in the school. Since I became member for Gosford in 1988 I have always admired the dedication of the staff and the enthusiastic and happy way that the students look after their fellow students who suffer from a disability. It is important that the capacity of Gosford East Public School be maintained, retained and strengthened. It is unfortunate that the Minister is not prepared to provide the resources necessary to ensure that the school can

grow. It is not even providing the necessary resources so that all children can attend: children like Joshua are missing out. I urge the Minister to examine the situation, to look sympathetically at the plight of young children like Joshua Roe, who is all of five years old, to assist him, given the enormous challenges he must face in life, and to provide the necessary resources so that he is able to attend a school which has the specialist facilities for him, and that school is Gosford East Public School.

MR PETER AND MRS CARMEN OLSEN CHRISTMAS LIGHTS DISPLAY

Mr KEVIN GREENE (Georges River) [5.51 p.m.]: One of the great traditions of Australia during the Christmas season is the tradition of people placing Christmas lights and decorations at the front of their properties each year. In 1999, during one of the traditional Greene family tours we undertake at Christmas when we go around looking at Christmas lights, we came across a magnificent display in Maple Street, Lugarno. What particularly struck me in that street were the decorations and the Christmas lights on display at the house of Peter and Carmen Olsen. Not only did they have a magnificent display of Christmas lights, but they also had a beautiful nativity scene in one of the rooms of their home that could be seen at the top of the driveway. All the people of Maple Street were very much into the spirit of Christmas lights and decorations.

In the year 2000, as part of the Christmas lights display, Peter and Carmen decided to ask for donations for the Make-A-Wish Foundation. With publicity from the radio broadcaster Alan Jones, Maple Street has become an extremely popular spot for people from all over Sydney to visit to see these Christmas lights. In fact, there are now busloads of tourists who visit the area in December to see this magnificent display. The annual display has been well documented both in the newspapers and in the television media. As a result of the display's popularity, there have been a number of logistical problems in moving people in and around the Maple Street area. Lugarno is a peninsula and one of the difficulties with Maple Street is that there is one way into it and one way out, and that is by Forest Road. About three or four years ago Hurstville council became involved in assisting with the movement of people.

The Christmas lights will be turned on this Thursday night and there will be limitations on the period that the lights will be on display. They can be seen from 8.00 p.m. until 10.30 p.m. each evening from 1 December to 30 December. Hurstville council has been extremely co-operative and on very busy nights has provided traffic marshals to assist. Hurstville council is encouraging locals to walk, if possible, to Maple Street and it is encouraging visitors to the area to park some distance away and to walk down to the street to look at the Christmas lights, particularly the display at the house of Peter and Carmen Olsen.

The Olsens' display has now raised just over $233,000 for the Make-A-Wish Foundation. Last year alone $112,000 was donated from the Olsens' Christmas decorations, and there are now five volunteers per night who assist in collecting money. This has become a major community event. In 1999, when Peter Olsen started, he had 13,000 lights on display. There are now 86,000 lights. It takes Peter almost the 12 months, from one Christmas to the next, to get this display organised, and it is a magnificent tribute to the Christmas season. Carmen does an amazing job with the nativity scene in the front room of their home. People visit the street with their families each year. My family visits probably at least twice a year. I will be there this Thursday night for the turning on of the lights and certainly I will take my children back there on at least one or two occasions. Often we have relatives with us and we park at the Chivers Hill shopping centre and walk down. It is probably a kilometre to walk but it is well worth the effort, and it is something we have enjoyed doing.

Another organisation that has assisted with this annual event is the Lugarno Progress Association. That association has been proactive in making sure that traffic is monitored because, sadly, while there is a magnificent community display, the residents of Lugarno have suffered as a result of mistreatment of the area by some of the visitors. Rubbish has been strewn all over the streets; some people, unfortunately, do not know how to behave well in public. Throughout December thousands of people visit the area—there is probably 1,000 each evening—and on many occasions that leads to traffic nightmares and bottlenecks. That makes it difficult for Lugarno residents to get home to their own properties, but generally they have been extremely understanding and accepting of the disturbance the display causes. Sadly, I must report that this will be the last year of the Maple Street lights because Peter has decided that after seven years he has had enough. I congratulate Peter and Carmen Olsen on the work they have done.

GLOUCESTER HOSPITAL COOK-CHILL MEALS

Mr JOHN TURNER (Myall Lakes) [5.56 p.m.]: Tonight I want to speak about a proposal by the Department of Health to consign people in my electorate, particularly in the Gloucester area, to a polystyrene and plastic food hell for years to come. I refer to the proposal for a cook and chill food service for hospitals in my region, and I specifically refer to Gloucester hospital. The proposal has created a great deal of concern in the community. When the Department of Health was asked the reason for the proposal, it said it is making the changes to save money for front-line services. I make two points in relation to that statement.

First, the department is admitting that it is downgrading the present service when it claims that money will be saved for other services and, second, there is no more important front-line health service than the provision of fresh nutritional food to the patients in the hospitals. The proposal also affects the Meals on Wheels service that is provided out of Gloucester hospital. At Gloucester hospital there are 14 permanent staff in the kitchen, two permanent part-time staff and seven casuals. They serve 320 meals a day. It is likely that the cook and chill meals will come from Sydney, and that will mean a significant reduction, of course, in the number of people who are employed by the Department of Health in the Gloucester region. Losing that many staff will be a great impost on a small community.

There are a number of other reasons why this proposal should not proceed. The present freshly cooked nutritional meals are prepared by trained staff at the hospital who also supply a little extra to the patients and recipients of the Meals on Wheels service. They cook a little extra in the mornings and afternoons and it certainly makes a big difference to the recipients. There is also the certainty of supply from the hospital kitchens, whereas the cook and chill meals will have to come in from outside the area. Local businesses provide fresh food and that enhances the local economy. That enhancement will be taken away from the economy if this proposal goes ahead. Most important, the significant staff reductions will have ramifications for country communities, and this proposal goes right to the Hunter and New England Area Health Service.

A number of people have written to me on the issue and tomorrow there will be a large gathering of people in Gloucester to protest about the proposal. The residents of Gloucester take matters that affect their community to heart and they rally as a proud community. I am sure that the Minister will hear from them. Jim Mallan, a well-respected member of the community and secretary of the Gloucester Sub-branch of the Returned Services League, wrote to me as follows:

> I am writing on behalf of the Gloucester Sub Branch of the RSL to protest against the introduction of the "cook chill" meals into the Gloucester Soldiers Memorial Hospital
>
> It is our unanimous opinion that the introduction of the so-called meals is a poor option. A good number of our members have experienced these meals in hunter Hospitals and are disgusted with the quality and content …
>
> The people of Gloucester are used to fresh cooked quality country style meals and we feel that this standard should not be compromised.

Gloucester Shire Council, which has also taken a leading role in opposing the proposal, has written to me in the following terms:

> Council is most concerned about the ramifications of such a proposal [cooked chill] if introduced, particularly in relation to patients, employment and services such as meals on wheels.

The local newspaper has stated that it has not dealt with an issue as big as this for many years. Its recent editorial stated:

> Not only does this service provide valuable local jobs and inject money into the local economy it also gives those patients at the hospital a food service that is the envy of other facilities.
>
> There's nothing like a meal prepared on site and delivered with pride by local staff.

I endorse that view. Councillor Julie Lyford, wife of a local doctor, stated in a letter to the editor of the *Gloucester Advocate*:

> The hospital staff are a credit to their profession. They are employed within this productive and essential vital service that is invaluable to our community and shire.
>
> Now economic rationalisation … seems once again to raise its ugly head to destroy the local jobs and take away thousands of dollars from local retailers and employers …
>
> The Gloucester community deserves better than this. Consultation is the least we should expect.

Jim Henderson also wrote to the editor. He stated:

> The proposal currently under consideration by the area health bureaucracy to change the current food supply arrangements at Gloucester Hospital is a repeat performance of "health bureaucracy" gone mad.

As well as locals, outsiders have also written to the editor. They have loved ones in hostels in the area. The father of Elaine Hutchison from Newcastle is in one of the nursing homes in the area, and she stated:

> My father so looks forward to the delicious meals that are currently being served. There is not a great deal to look forward to at this stage of their lives. The meals are the highlight of their day.

I ask the Minister to reconsider this proposal.

CLIMATE CHANGE

Mr GRAHAM WEST (Campbelltown—Parliamentary Secretary) [6.01 p.m.]: Over the weekend of 18 to 20 November 2005 I attended a conference on climate change organised by Catholic Earthcare Australia. Catholic Earthcare is an agency of the Bishops Committee for Justice, Development, Ecology and Peace and is chaired by Bishop Christopher Toohey. At the conference a position paper called "Climate Change: Our Responsibility to Sustain God's Earth" was presented. Bishop Toohey offered:

> This Position Paper as an invitation to open a dialogue on the phenomenon of climate change … We want to bring a theological and spiritual perspective to the best of what science and the broader community have to offer. We hope and pray that together we can play our part in stimulating and sustaining the "*ecological conversion*" called for by the late Pope John Paul II.

The conference was supported by many other groups, including the World Council of Churches, the Uniting Church in Australia, educators, people from government agencies—including representatives from the New South Wales Department of Environment and Conservation and the Victorian Department of Sustainable Living—and non-government organisations. The conference also heard presentations from people such as Archbishop John Bathersby; Col Brown, the Chair of Catholic Earthcare; Mike Bailey, the well-known journalist and weather presenter; Alexandra de Blas, an ABC journalist; and many other experts in the field.

The conference aimed not only to raise awareness of climate change but also to gain a greater understanding of the effects and challenges of this real problem and responses to it. Some of the predicted consequences of rapid climate change include an increase in severe and frequent natural disasters such as floods and droughts. Cyclones will range further south in Australia. Patterns in ocean currents that transfer energy between the polar regions and the equator may change, slow down or cease to circulate. Global temperatures could rise by as much as five degrees over the next century, and melting of the Arctic ice cap could result in a change in sea temperatures and sea level rises, which will have major impacts on many of our neighbouring communities.

As Australians, we are aware of the effects of drought and forecasts of increasing temperatures. Although we are concerned about this problem, it can be hard to grasp. Campbelltown has a vibrant Pacific islander community. Members of that community have direct experience of the impact of climate change. For me the reality of climate change and its potential effect was rammed home by a presentation from Father Michael McKenzie from Kiribati. Kiribati is a tiny nation of Pacific islands and home to a population of 100,000 people. For many years the island was considered to be a Hollywood example of the way a tropical island should look: palm trees at the edge of the sea, white beaches and coral atolls. However, because of the effects of climate change this island is now at risk of being destroyed by the sea. Being only two to three metres above sea level, it will be overrun by increasing sea levels. Already increasing tides and storm surges have washed away homes, beaches and farming lands. The saltwater that washes over the levees also makes the soil saline and harder to crop. Eventually seawater will enter the watertable, and wells will be unsuitable for drinking water.

As a Pacific superpower Australia must assist our neighbours, but these events should also send a warning to us in Australia: climate change is happening. As well as working to help adapt to the change we also need to reduce its effects. There are many things that individuals can do, such as switching off lights, putting in efficient showerheads and walking instead of taking the car. But the whole community, in conjunction with the Government and with industry, must take part for such measures to have required effect. Later, with the Bishops Committee, I will organise a forum in Parliament, through Catholic Earthcare. In the meantime I encourage members of Parliament, especially those who are Catholic or people of faith, to get a copy of the statement on climate change, which can be obtained from www.catholicearthcareoz.net It is a well-scripted document, with a direct appeal for action. I will conclude by quoting from it as follows:

> This human induced accelerated climate change suggests a lack of understanding of the integrity and the cycles of nature. It raises serious moral and spiritual questions, not just for Catholics but for all Australian citizens and leaders, and calls for change in our way of life.
>
> The joys and hopes, the pains and anxieties of all people of this age are intimately linked with human history and Earth's cycles. As pastors of more than a quarter of the Australian population, we urge Catholics as a matter of conscience to cooperate in facing global warming as one of the major issues of our time and take roles of responsibility proper to them. Several times we have

addressed environmental issues and recently called for ecological conversion. We now urge Catholics as an essential part of their faith commitment to respond with sound judgements and resolute action to the reality of climate change.

A wise response will address both the human causes of accelerated global warming and develop a strategy to manage the future development of our society. Given the gravity of the problem, detailed and resolute responses need to be both swift and radical.

HENTY MULTIPURPOSE SERVICE

Mr GREG APLIN (Albury) [6.06 p.m.]: Last Thursday I attended an event which recognised the culmination of years of community determination, local and State government planning, personal sacrifice and the achievement of a common vision. It was the formal opening of the Henty Hospital and Health Service, known as the Henty Multipurpose Service [MPS]. The concept of the multipurpose service is relatively new but has become essential in delivering health care to small rural communities. Planning for the construction of a new Henty hospital began in 2001, but a group of local people had long been campaigning to ensure that the town retained its health care services in a local hospital because the old building could not provide for future needs. The community health care committee transformed into the Henty MPS Advisory Committee and the Chairman, Michael Broughan, was the driving force of community representation for 10 years.

It was unfortunate that Mick was not able to be present at the formal opening because he was attending his daughter's wedding overseas, but fellow committee member and Henty identity Milton Taylor ably represented him. During his address Milton Taylor acknowledged the work of the former hospital manager, Jenny Wardrop, who handled the initial planning phase and who is now based at Culcairn. He made special mention of the health service manager, Jeff Bedford, who had done an incredible job in overseeing the detailed planning and construction of the new hospital and who performed the role of master of ceremonies for the day's events. Mr Taylor also thanked the management of the neighbouring Myoora Homestead hostel, operated by the United Protestant Association, for all their support in helping retain the hospital and promoting the adjacent siting, with an enclosed corridor between the facilities to allow for sharing of services, functions, training and social activities.

The project involved a road closure, and several residents were greatly inconvenienced by the new construction. Bill and Vera Walkden, together with Ted and Jean Pertzel, were singled out for thanks, while Robert and Dot Armstrong earned the gratitude of the whole community for being prepared to relocate their home to make way for the MPS. This was truly a community achievement and when there was a need for additional funding, Stephen Scott led a committee in successfully raising over $100,000 to purchase furnishings and equipment. It was a magnificent effort at a time when frost and drought had decimated grain crops in the region.

The community role in the construction and presentation of the Henty MPS is evident as soon as one walks into the building. In the entrance is a flood-lit portrait of Dr Phillip Powell, a highly respected former town doctor for over 30 years, and a plaque reflects his community's respect and admiration. A display case has been purpose-built below the portrait to house a doctor's leather case and a range of old medical and surgical instruments. The historical display was made possible by the generosity of the Henty Millennium Committee and the Henty Saddle and Harness Club, and it is a striking reminder of our links to the past. Just inside the hospital doors is a magnificent handcrafted porcelain artwork by Glenda Bourke and her students from Gumleaf Garage and Student Workshop. This striking solid artwork reminded me of a patchwork quilt, as it captures in a series of small squares many of the important landmarks and activities of Henty and the surrounding districts. It is a great tribute to community achievements and interests in the region.

The community was totally involved in the opening of the MPS. Children from Henty Public School band played the national anthem and a selection of musical items; Roger Klemke from Henty Ministers Fraternal blessed the hospital and health service; and Councillor John Ross, the Mayor of Greater Hume Shire, welcomed the Minister for Health, official guests, and the many local citizens and residents of the aged care units. It was the sustained effort and commitment of the community and its original health care committee that brought about the planning and construction of the new facility, and there was a sense of satisfaction and pride that a new hospital and aged care service had been delivered. It was also pleasing to know that the old hospital had been purchased by a local church group and would be refurbished as a conference centre so it would remain as a landmark in the town.

The new multipurpose service includes 12 aged care beds funded by the Commonwealth Government, three acute beds, including one for palliative care, an accident and emergency department, facilities for the local doctor, allied health and community nursing services, and a two-bedroom unit for overnight accommodation of nursing staff. During my address I complimented the area health service project manager, Mr Rodney Bray, for

the planning and community consultation undertaken by his team. The $5.8 million project was constructed by Colin Joss and Company of Albury, and was completed in September 2004, with residents and patients moving in on 7 October last year. It was pleasing finally to attend the official opening by the Minister for Health, and I wish the staff of the Henty MPS every success in their care of the residents and patients of this wonderful new facility.

NATIONAL MULTICULTURAL MARKETING AWARDS

Mrs BARBARA PERRY (Auburn) [6.11 p.m.]: In my previous private member's statement I paid tribute to the Ethnic Business Awards and its founder, the head of Etcom, Mr Joseph Assaf. The main purpose of the speech was to acknowledge the significant contributions the diverse communities of this State have made to the economic prosperity and richness of the culture and society we enjoy today. I noted also the tremendous challenges faced by many immigrants on their arrival in this country, and the fortitude, determination and incredibly hard work they so eagerly embrace as a means of providing a bright future for their families and respective communities.

This afternoon I shall expand on this theme by highlighting the valuable asset we have in the cultural diversity that has accumulated over decades of immigration, specifically in relation to the contemporary life of the economy of our State. The importance of encouraging the growth of this cultural asset was first noted by the Community Relations Commission 16 years ago with the establishment of the National Multicultural Marketing Awards. Just a few weeks ago I had the pleasure of attending the 2005 annual awards gala presentation dinner, hosted by the Minister assisting the Premier on Citizenship at Sydney's Westin Hotel.

The evening featured winners of award categories including the Office of Fair Trading's Commercial Small Business Award, the Commercial Big Business Award, the Integral Energy Community Award, the Technology Award, the Government Award and the Advertising Award. The awards are open to anyone meeting the prescribed criteria, such as having developed a plan to utilise our cultural diversity as a means for producing, exporting or marketing a product, service or event; or anyone who has used the language and cultural skills of their staff to market a product or service either domestically or internationally.

There were a number of notable winners, such as Cisco and the New South Wales Department of Community Services, whom I congratulate, but some of the smaller, lesser-known recipients impressed me most by their extraordinary skill and creativity in breaking into highly competitive foreign markets. One such company is Salutist, which sells health care products such as bee pollen, emu oil, shark cartilage and royal jelly to Asia and the Middle East. Interestingly, it was in partnership with Etcom as the marketing campaign managers that Salutist managed a stunning 150 per cent growth in its business over just 18 months. The joint effort was focused on utilising the cultural, linguistic and even religious background of the work force to communicate in the most innovative and effective manner possible with new markets.

An example of this was the strategy used by the company to export back to Asia traditional products such as Ginseng, which as one could imagine is no mean feat. On advice from employees, packaging was designed to make the product Asia friendly, which incorporated amongst other things Asian-Australian faces. In addition, promotional and advertising material included carefully crafted cultural symbols and colours to capture consumer interest and goodwill. This is a fantastic illustration of a company drawing on the richness and skills of the diverse work force of our State to penetrate highly prized foreign markets, and in the process generating meaningful employment and export earnings for the benefit of the wider community.

Another worthy winner was Lote Marketing, which conducted a multicultural child protection campaign for the Australian Children Foundation entitled Every Child Is Important, delivered on multilingual audio-visual material or talking books via DVD. The messages were designed to reach parents of children aged 0 to 10 and were produced in Amharic, Arabic, Chinese, Croatian, Farsi, Khmer, Macedonian, Somali, Spanish, Turkish, Vietnamese and English. The company had an enormous job on its hands in ensuring that the scripts were assessed correctly in light of cultural uniqueness and sensitivities before translation and then after translation by the use of extensive focus group trials. The importance of providing such critical information in a well-thought-out, culturally appropriate context cannot be overstated and provides another example of the value of the diverse work force we have at hand.

I note yet another wonderful illustration, the joint initiative Know Your Medicines, which was developed by the National Prescribing Service and the Federation of Ethnic Communities Councils of Australia [FECCA], which won the Integral Energy Community Award. I acknowledge the outstanding contribution made

by my good friend Abd Malek, the President of FECCA, to ethnic communities in New South Wales. This project was designed in response to statistics which revealed a significant number of hospital admissions each year resulting from incorrect medicinal use.

The cause for this lay in language and cultural barriers, and hence a strategy was formed in partnership with bilingual general practitioners and pharmacists, community leaders and service providers to produce a practical bi-lingual guidebook which was printed in various languages, including English, Greek, Italian, Vietnamese and Chinese. I use this opportunity to congratulate all the winners of this year's awards and all past winners whose contributions have served to inspire and encourage others to follow suit.

I also make special mention of the Chair of the Community Relations Commission, Mr Stepan Kerkyasharian for his enthusiastic endorsement and guidance over the years. The awards would not be what they are today were it not for his vision, hard work and relentless dedication. Stepan has consistently displayed extraordinary devotion to the cause of building harmony and unity between all the multicultural communities of our State, and his achievements towards this end are incalculable. I thank and honour him before the House. Finally, I strongly urge any business or organisation employing a diverse work force to consider how they could put to better use the resources at their disposal.

Mr MATT BROWN (Kiama—Parliamentary Secretary) [6.16 p.m.]: I acknowledge the honourable member for Auburn's outstanding work with our multicultural communities, not only in her electorate of Auburn but across the State. She is an ambassador and champion for those communities, and she ensures that the Parliament is aware of the economic prosperity and cultural enrichment these communities bring to our country. I thank her for her unrelenting dedication and the enormous amount of time she spends on attending functions such as the National Multicultural Marketing Awards. She referred to those who made the awards happen and some of the award winners. Having seen her work in her electorate of Auburn, I know she is a great ambassador for modern Australia, and the Parliament should pay tribute to her.

PACIFIC HIGHWAY UPGRADE

Mr ANDREW FRASER (Coffs Harbour) [6.18 p.m.]: I speak yet again about the Pacific Highway in my electorate of Coffs Harbour, and firstly about the Bonville bypass, which, as honourable members know, has been an ongoing bone of contention with not only me but many of my constituents. The Federal Government has now contributed $5 million for road barriers, but we have been told by the Minister for Roads that it is doubtful that these barriers can be installed prior to Christmas or, indeed, June 2006. On 6 April this year I had a meeting with the then Minister for Roads, Mr Costa, who gave me a guarantee about—and requested the manager of the Pacific Highway, Mr Bob Higgins, to go away and examine the possibility of—dividing the carriageway as an interim measure until such time as the deviation is completed. The response of the current Minister for Roads—that the barriers will not be installed until maybe June next year—clearly indicates that either the former Minister did not instruct Mr Higgins or, indeed, Mr Higgins did not undertake the investigation.

The speed limits have been reduced but we are doing nothing in the interim to improve safety in Bonneville, where the 21-year-old young lady was killed. The speed camera there is located in a bad position and adds to the road danger. The mayor of Coffs Harbour has said that the recent accident between two cars caused only minor damage and no-one was hurt because the speed limit was 60 kilometres an hour. He and this Government fail to recognise that if a heavy vehicle had been involved in that accident the lady would have been killed. Speed limits and speed cameras will not save people's lives on this section of road. I implore the Minister and the Government to act immediately to ensure that some barriers are installed on the worst section between now and Christmas. It can be done; where there is a will there is a way.

I am yet to receive a response to the letter I wrote to the Minister some weeks ago with regard to lowering the speed limit between Coffs Harbour and Woolgoolga. There have been a number of tragic accidents and deaths there over the past three or four years. One was young Tyne Nicholson. I thank her father and family for coming out in my support. It would have been her birthday this month. She was a brilliant girl whom I met only once, but she impressed me so much as a wonderful young girl that when she was tragically killed I rang her family and expressed my sorrow.

Again, we need some road dividers on this section of road. The Government has allocated more than $100 million for Bonneville and somewhere between $270 million and $280 million for Coffs Harbour to Woolgoolga. It should spend $5 million of that money immediately and divide the sections where deaths are

occurring. It could put in wire barriers similar to those near Ballina and at New Italy before Christmas, because the mix of local traffic with through traffic between now and Christmas will be horrific. With the Chinderah bypass, in excess of 3,000 heavy vehicles a day are now using that section.

Coffs Harbour City Council has approved a major development that will open on 6 December—a Coles supermarket and 50 specialist shops at Moonee—with only a seagull intersection to cope with the extra traffic. The speed limit has been reduced to 80 kilometres an hour while construction takes place; the sign says the speed limit is reduced to 80 kilometres an hour until December. I urge the Minister to reduce the speed limit there permanently—I suggest to below 80 kilometres an hour. We have a population of about 18,000 to 20,000 on the northern beaches, and the Moonee Beach Reserve and Caravan Park is one of the most popular destinations in the Coffs Harbour area for families over Christmas. With the increased traffic on the highway when locals start to use that intersection and the increase in heavy vehicles, the traffic flow through that intersection will be a recipe for disaster.

The Rural Fire Service members in the area have said to me, "We are the first accident response team out there. We do not want to have to go to these accidents." Instead of giving lip service to this roadway it is high time the Minister acted in a positive manner, listened to the people, listened to the representations I have made, responded to them and reduced the speed limit. We in the Coffs Harbour electorate have had enough of a government and a Minister being inactive on the Pacific Highway.

FEDERAL GOVERNMENT INDUSTRIAL RELATIONS POLICY

Ms NOREEN HAY (Wollongong) [6.23 p.m.]: I wish to discuss an issue of great concern to constituents of my electorate of Wollongong. On Tuesday 15 November 2005 a second community day of protest was held to demonstrate against proposed changes to industrial relations laws by the Federal Howard Government. I have been approached by a host of people about their fears and concerns in relation to how the proposed industrial relations legislation will affect particularly mature aged women from non-English-speaking backgrounds. The women who came to see me work predominantly for contractors, in a couple of cases for contract cleaning companies. They have sufficient concerns under the current projections and therefore are quite dismayed at the proposed changes, under which they will be expected to negotiate their conditions with their employers individually.

The Federal Government talks about people having more flexibility. It refers in its $20 million or $50 million advertising campaign about changing the industrial relations system, but it wants to take it back to what it was prior to 1901, to the old bull system. Predominantly the employers in my electorate are honourable and operate with integrity, but there are a few exceptions, and those few are the concern. If the commodity they sell is labour and if some of their competitors tell their employees to take what they can get or lose their Centrelink payment, it will not be long before the bona fide employers are forced through that competition process to put downward pressure on the conditions of their employees. So much, then, for a level playing field. Undoubtedly we will we back to a system where people will barter away their conditions to get a job. My concern is for mature women for whom English is not a first language and who will be expected to negotiate a set of conditions for themselves. That is difficult enough now with award protection; it will be absolutely impossible under the proposed legislation.

On 15 November and at the previous meeting of workers—that is men and women from blue-collar trades who participated in a demonstration at WIN Stadium in my electorate—10,000 people displayed their concern about the proposals. I intend to have further discussions with the Chief Executive Officer of the Illawarra Business Chamber about his quite flippant comments in the media about those demonstrations when he referred to colourful activities and the unions having no influence. These people have not come to me about unions. It is about a reliance on a system that ensures conditions that union members and non-union members alike have relied upon. Those who are not members of unions have been able to go to the Department of Industrial Relations to seek advice about conditions, and union members can do that. I congratulate all those who participated in that demonstration to show their concern. I congratulate Unions NSW, the South Coast Labour Council, the Australian Council of Trade Unions and union members and non-union members alike for demonstrating their concerns about this proposed legislation.

Mr MATT BROWN (Kiama—Parliamentary Secretary) [6.28 p.m.]: I acknowledge the continued contribution the honourable member for Wollongong makes in representing the interests and concerns of her constituents. She has dedicated much of her working life to looking after, especially, mature aged women from non-English-speaking backgrounds. She fights for the underdog all the time and she has made some very cogent

arguments today, especially in relation to many businesses in her area not wanting to start competing with other businesses to drag their workers' conditions further and further down. I congratulate her on raising the fears and concerns of her community and letting Parliament know about the impact the industrial relations laws will have on the constituents she represents so well.

HOSPITAL WAITING LISTS

Ms GLADYS BEREJIKLIAN (Willoughby) [6.30 p.m.]: I raise today a heart-wrenching story about a local Chatswood man in his early fifties suffering from peritoneal mesothelioma, which is an asbestos-related cancer. I have been advised by my constituent's family that he has been given just over six months to live unless he undergoes a new surgical procedure called a peritoneotomy. Upon his diagnosis my constituent was put in touch with a leading surgeon at St George Hospital, who advised that my constituent would benefit from this new technique. My constituent has since been put on the waiting list at St George Hospital to undergo this treatment.

Unfortunately, the waiting period for the surgery is six months. I can only imagine the level of angst that my constituent and his family are experiencing as a result of this news. It is just not good enough that patients whose lives can be saved because of a surgical procedure run the risk of succumbing to their illness prior to receiving lifesaving surgery. My constituent's family have been advised that the waiting period for this procedure is six months because the State Government will only provide funding for surgery at St George Hospital, where this specific procedure is done, one day per week. I find it simply unacceptable that individuals and their families must undergo the anguish of waiting for life-saving surgery in addition to dealing with the illness at hand—all because the State Government is so incompetent in running our hospital system.

I wish to place on the record my utmost support for the medical staff, who do an admirable job under very difficult circumstances. Their work environment must be quite dire when the lack of appropriate resourcing means they must tell their patients they must wait six months for surgery, albeit that is also that patient's anticipated life expectancy. To ensure the privacy of my constituent I will not use his name, but I would like to read excerpts of a letter written to me by my constituent's son which outlines his family's plight. The letter reads:

> My father [who lives] in Chatswood, was very recently diagnosed with peritoneal Mesothelioma, an asbestos related cancer. My father is only 53 years old, and his cancer was caused by working in a factory while he was in his teens.
>
> As you are no doubt aware, Mesothelioma is a very serious and usually untreatable condition. However, a new surgical technique for this form of Mesothelioma (called a peritoneotomy) has been developed by a Professor at St George's hospital in Sydney. The success rate of this surgery has been very good to date and it offers those with this form of cancer their only realistic chance of survival.
>
> The reason I am writing to you is that my father met with the Professor recently, who agreed to put him on the waiting list for the surgery. This would appear good news at first, however, we have been informed that the waiting list for this urgent surgery is six months long, because the State Government will only provide funding for surgery one day per week. Given that the typical life expectancy for someone with my father's condition is only slightly longer than six months, you will understand that we are concerned that the length of this waiting list is a potential death sentence for people with this condition.
>
> … we ask for your help and ask you to look into this situation as a matter of urgency...

I have also written to the Minister for Health asking for his intervention. I thank my constituent's family for bringing this matter to my attention, notwithstanding the obvious stress they are experiencing. I trust that the Minister for Health will respond to this matter positively. I look forward to his response.

DUBBO ELECTORATE YEAR IN REVIEW

Mrs DAWN FARDELL (Dubbo) [6.33 p.m.]: As is common at this time of year, we are encouraged to analyse and reflect on the past 12 months as Christmas and 2006 loom large on the horizon. I would like today to share with the House a summary of the year that was in the great electorate of Dubbo. Mine is an electorate that has had tragedy and victory, and I will remember the past year fondly, my first in this place representing an electorate that has rejected party-political thinking on three past occasions. I welcome the community of Pittwater to the same club.

The year 2005 started with the region still reeling from the big dry. Dust was as common a sight in the tills of country businesses as it was in paddocks. The resolve of the electorate's farmers was tested to the extreme It was at this time we experienced a phenomenon common when dealing with the Federal Government—feet dragging. The financial futures of those involved in agriculture around the region hinged on

the stroke of a bureaucrat's pen. Thankfully kind hearts and generous spirits existed, with charity groups and city dwellers offering food and aid parcels for drought hit families.

Sustained pressure from lobby groups finally convinced the Government to attend an emergency drought summit in a dusty paddock in Parkes mid year. Farmers told of their heartbreak at watching stock die of hunger or thirst and seeing crops wither in the ground. Politicians that stayed to show a genuine interest would have been shocked, but instead some treated it as a quick photo opportunity before hopping back on a plane, convinced they had become an expert on farming and drought. There is more than a little irony in the fact that we have recently felt the sting of torrential rain and hail and flood, and natural disaster areas have again been declared.

Farmers again wait nervously to see whether they will finally harvest that crop or salvage something from the debris. The village of Alectown, which was besieged by smoke and flame with a bushfire over Christmas 2004, took most of the first half of this year to recover. Twenty-five farming families stood by and watched as valuable crops, stock, fences and machinery were destroyed. The tragedy was that many of these standing paddocks of crops were ready for harvest. Today if you visited the area you would only see a hint of scorched earth and blackened trees among shiny new fences, but what is missing is an official answer contained within the pages of a coroner's report. We are still waiting for that report.

Meetings and forums have dominated this year. Some have yielded positive results; many others held disappointment. A rally organised by the New South Wales Farmers Association against the full sale of Telstra was one, but according to the Federal Government the many hundreds of people who took part are wrong, and the opinion of 80 per cent of the electorate's residents that are opposed to the full sale do not count. A severe shortage of skilled labour in country New South Wales has recently rung alarm bells. The electorate hosted an upper House forum only last week. Those of us who travelled for hours to present submissions to the committee in Parkes would have appreciated it if a member of the committee had stayed awake to listen to our concerns. Perhaps the fresh country air was too much for that city-based upper House member.

A social turnaround has been seen this year: communities once plagued by crime and violence stood up to say "No more." Painful efforts were needed to get government departments and agencies to co-operate. Even now many senior bureaucrats are still offended at the mere thought of the community actually wanting to have a say in its own affairs. For the most part reaction was positive and we are making the electorate a better place in which to live. Locally organised public forums throughout July also offered the community the chance to grill those in charge of programs and funding delivered to the area. It was a success because it was driven by the community as opposed to some of the forums this year that were arranged by public servants and special interest groups. Whilst they promising to consider the views of the community, more often than not they forge ahead with their original plans anyway.

The amalgamation of area health services still rankles because of concerns that jobs are being moved away from the electorate by stealth. Still we suffer like many other electorates with shortages of doctors, nurses, dentists and specialists. Confidence in the system is shaky, but admiration and respect for those working on the front line remain solid. Jobs have also been lost due to pressure from overseas countries where labour and life are often cheap. More than 100 workers in Parkes were left to contemplate their futures when the Austop Plant closed, and yet we are being told that free trade deals can only benefit our nation. By contrast, some events of the past year have proven that the system can work. Only recently in this place one such victory played out with the simple reading of a bill that paid tribute to an 8-year-old boy. Brendan's law, named after Brendan Saul, can be held up as an example of community willpower—and a father's will—whereby perhaps at last our expectations of crime and punishment are being noticed

Finally, this year the electorate has also experienced unprecedented attacks from self-proclaimed experts in the political, media and academic fields. Some members of Parliament are confident they have their finger on the pulse of community simply by reading a newspaper and then issuing statements a week later. News and current affairs reporters fly in amid a flurry of aggression looking for the scoop. They lie in wait outside quiet country stores, not realising they do not exactly blend into a crowd, and they walk streets seeking confrontation and scandal. After discovering that none exist, they decide to create it for themselves. A common trait with these identities is that you would not find them in the local phone book. Our year of extremes has passed on, but the one thing that remains constant is the strength, determination and pride of our communities to see off all of these challenges. We remain optimistic that 2006 will provide better circumstances and a continued growth in prosperity and spirit for the electorate of Dubbo.

COMMUNITY COLLEGES FUNDING

Mr ROBERT OAKESHOTT (Port Macquarie) [6.38 p.m.]: Today is a day when the worst fears of an education sector have come true. Over the past several weeks there was speculation about community colleges receiving a substantial funding cut, a continuation of funding cuts from the Carr-Egan era. More than 75 per cent of the sector's budget has been cut, leaving many community colleges at the point of almost closing their doors. I understand that today letters have gone out to community colleges throughout New South Wales announcing that the State Government will cut funds by a substantial $1.9 million. As the overall sector funding in 2005 was only $6.2 million, the funding for 2006 will be $4.3 million. That is obviously very disappointing for the community college sector.

I am informed that the executive officer has been unable to arrange a briefing from the Minister or the Department, or any member of the Government, about the details of the funding cuts. In my view closing the door on this important sector and then making sneaky funding cuts without talking to the executive body reflects very poorly on a Government that supposedly prides itself on promoting fresh ideas. I have also been informed that one community college, and perhaps others, will be advised by letter of funding cuts of up to 14.9 per cent. That is a substantial funding reduction for any operation to face in one year. Honourable members who have been involved in running an organisation—either for profit or not for profit—will be aware that one important aspect is the ability to do long-term planning and budgeting.

Letters from this Government can contain good news or bad news and those who are to receive them are left to speculate on which it will be. During the past three or four years it has all been bad news for community colleges. I ask the Minister for Education and Training, the Premier and the entire Labor Government to reconsider this decision and to think about the benefits of the community college sector and lifelong learning. The principles of lifelong learning are important. For example, community colleges provide opportunities for people from non-English speaking backgrounds to learn a second language. I would have thought such skills would be important to a Premier who is himself the son of migrants. In addition, the Minister for Education and Training represents a western Sydney electorate and her constituents would include many from a non-English speaking background.

I recently attended a function to award the Country Energy Landscape Art Prize. It is a fantastic program initiated by Country Energy and I congratulate Craig Murray and the team for having organised the event. One of the finalists was Wendy Stokes from Port Macquarie. The first prize was won by Fiona Bennell from the mid-North Coast. Many of the finalists may well have learned their skills at a community college. It is one more example of the broader community benefits of lifelong learning. If the Government wants to continue to be regarded as the team that believes in education and lifelong learning, it has to put its money where its mouth is and stop imposing these cutbacks in funding that have resulted, in the past four years, in a reduction in State grants from $8.9 million in 2002-03 to $2.8 million at the present time. We have witnessed a gutting of the community college sector by the State Labor Government. It is shameful if that is a reflection of fresh ideas from the new Cabinet team of this so-called education Government. I ask them to reconsider this decision and to protect and support community colleges in New South Wales.

Private members' statements noted.

[*Madam Acting-Speaker (Ms Marianne Saliba) left the chair at 6.44 p.m. The House resumed at 7.30 p.m.*]

SESSIONAL ORDERS

Mr CARL SCULLY (Smithfield—Minister for Police, and Minister for Utilities) [7.30 p.m.], by leave: I move:

That for the remainder of this session, unless otherwise ordered, Standing Order 112 be amended as follows:

112A. The procedure for the placing or disposal of business (with the exception of establishing the program for General Business Days) is:

(1) Before notices of motions or orders of the day are called on the Speaker will call over each category on the Business Paper for that day.

(2) A Member may, without debate, withdraw or postpone any notice of motion standing in their name on the Business Paper for that day.

(3) A Member may, without debate, withdraw, postpone or discharge an Order of the Day standing in their name on the Business Paper for that day.

(4) An Order of the Day for a bill may be discharged on motion, without debate or amendment, and a motion moved forthwith, without debate or amendment, "That the Bill be withdrawn".

112B. The procedure for establishing the program for General Business Days is as follows:

(1) On the sitting day preceding a General Business Day, Members shall advise the Clerk in writing by 1.00 p.m. which General Business Notices of Motions for Bills, Orders of the Day for Bills, or Notices of Motions (not for Bills) standing in their name on the Business Paper are to be postponed. Party Whips may also advise the Clerk in writing of which items of General Business standing in the name of Members of their party are to be postponed.

(2) The first ten notices on the Business Paper, not advised to be postponed by 1.00 p.m. on the day preceding a General Business Day, will be deemed to be proceeding. Any General Business Order of the Day for Bills or Notice of Motion re-ordered by the House to have precedence in accordance with Standing Orders 110 and 118 will retain such precedence.

(3) On a General Business Day, a Member may, without debate:

(a) withdraw or postpone any notice of motion standing in their name on the Business Paper for that day.

(b) postpone or, on motion, discharge an Order of the Day standing in their name on the Business Paper for that day.

(c) discharge an Order of the Day for a bill on motion, without debate or amendment, to be followed by a motion moved forthwith, without debate or amendment "That the Bill be withdrawn."

This motion endeavours to streamline the processes for dealing with the callover. Individual members of Parliament will be required to give notice to the Clerk by 1.00 p.m. on Wednesdays if they wish to postpone their notices of motion. If they do not the motion will be listed for business. That will save about ten minutes. I commend the motion to the House.

Motion agreed to.

MINE SAFETY (COST RECOVERY) BILL

Second Reading

Debate resumed from 17 November 2005.

Mr THOMAS GEORGE (Lismore) [7.32 p.m.]: I lead for the Opposition on this somewhat contentious legislation. I state from the outset that the Opposition will not oppose the Mine Safety (Cost Recovery) Bill 2005. However, as the name of the bill suggests, the Opposition has a number of concerns regarding the imposition and administration of the mine safety levy to fund the mine safety regulatory activities of the New South Wales Department of Primary Industries. Before I discuss these concerns in greater detail, I state that the Opposition is extremely supportive of any measures to improve mine safety in New South Wales. This State is fortunate to have one of the lowest levels of mining fatalities and serious injuries in the world. There has not been a death in the coal industry for approximately 18 months. Further, in recent years, the New South Wales mining industry has been lucky to experience a significant decrease in deaths and serious injuries.

According to the New South Wales Department of Primary Industries Mine Safety Advisory Council's Industry Performance Measures Quarterly Report, dated March 2005, the lost time injury frequency rate in this State's coal mining industry fell steadily from 39 in 1998-99 to 22 in 2003-04. Over the same time the rate for the metals mining and extractive industries has oscillated between lower rates: 8.46 in 1998-99 and 11.5 in 2003-04. Fewer people than ever in the New South Wales mining industry are sustaining serious workplace injuries. In the coal mining industry the number of serious injuries fell from 61 in 1997-98 to 23 in 2003-04; and in the metals mining and extractive industries from 42 to seven. Eight deaths occurred across the New South Wales mining industry over the four years 2001-2004—an average rate of 0.07 based on the number of fatalities per million employee hours worked. These losses, though tragic, compare favourably with the 28 deaths that occurred during the preceding four years from 1997 to 2000, at an average rate of 0.19.

The Opposition is supportive of achieving zero deaths and serious injuries in the mining industry. To achieve this end, we have supported the Government on appointing former Premier the Hon Neville Wran, QC, to review mine safety in New South Wales. The review made 31 wide-ranging recommendations to improve mine safety in this State and all of them, except one, have been adopted in this State. Included in the review's

recommendations was the formation of a Board of Inquiry by the Minister under the Coal Mines Regulation Act 1982 to examine enforcement policy and the processes used to implement that policy.

The review also recommended that the Mine Safety Advisory Council be reconstituted, strengthened and enhanced for future examination and progression of mine safety and health issues. The review recommended that the Mine Safety Advisory Council be resourced appropriately to carry out its charter and work program. The review favoured the imposition of a small levy on the coal companies in order to provide financial independence for the Mine Safety Advisory Council, together with the capacity for that council to engage independent advisory consultants as required. The review stated that this levy might also be used to help provide funds necessary to enhance inspectorial resources and mine safety initiatives in-New South Wales.

At the same time the Government would need to give consideration to an appropriate levy system on the metalliferous and extractive sectors of the industry. The bill provides for the raising of a levy through the workers compensation system from mining employer across New South Wales that will cover the cost of mine safety regulation and the implementation of recommendations of the Wran safety review. The estimated cost to cover the two activities in 2006-07 is $13.55 million with an amount for the administration of the levy to be added. This is a blatant money grab from the mining industry by a greedy, debt-ridden Government.

The New South Wales Government has recovered $396 million from the coal industry in mining royalties this financial year to help fund police numbers, schools, hospitals, and other important public works. This is in addition to the environmental levies, lease fees, high workers compensation premiums paid by the coal industry to Coal Mines Insurance, not to mention the community development funds of mining companies that are used to invest in local communities. For example, the Westpac Rescue helicopter, local hospitals, and local sporting clubs are all major beneficiaries of the community development funds of mining companies. By lumping the industry with yet another levy, the New South Wales Labor Government is removing a proportion of the funds that mining companies would otherwise invest in their local communities. This Labor Government is unashamedly bleeding the New South Wales mining industry dry.

A key recommendation of the Wran Review was that responsibility for the regulation of mine health and safety be given to the Department of Primary Industries, rather than being left with separate agencies as is currently the case. The Opposition is supportive of this recommendation, but shares the industry's concerns that the Government is not removing the duplications and inefficiencies that are inherent in Coal Services Pty Ltd providing the same functions through coal mines insurance, coal services health, statistical services, dust diseases services and health inspections. The Government, in true Labor style, instead of cutting red tape and inefficiencies, is forcing the industry to pay twice for mine safety regulations. The bill is testament to the fact that the Government is heading towards a user-pays system for industries it considers are able to afford their own regulation. It is a significant concern from a public policy point of view that a Government is depending on an industry to fund the functions and services of its departments.

The bill creates a dangerous precedent that the Government may continue to introduce separate taxes for each different industry sector depending on the perceived capacity of the industry to fund its own regulation. It is ironic that the mine safety levy to collect $13.55 million from the mining industry for the 2006-07 financial year comes shortly after the Minister for Primary Industries ripped $149 million from the department's budget. The Opposition is concerned that the details of the mine safety levy will not be settled with industry until after the bill is passed.

During the second reading the Minister indicated that the mine safety levy will be modelled on the other levies in place in the workers compensation system and will be charged as a small percentage of an employer's wage bill. According to the Government's briefing note, the levy will amount to less than 1 per cent of the wages bill of the mining industry. There is no mechanism in the legislation to cap the levy to ensure the industry's future capacity to pay the levy and ensure it does not spiral out of control. In the other place, the Opposition will seek a commitment from the Minister to guarantee that this percentage of an employer's wage bill will not increase over time.

Clauses 9 and 10 of the bill give the Director-General of the Department of Primary Industries unfettered power to determine an estimated amount of revenue collected from the mining industry to be contributed to the fund, the times at which contributions are to be paid, and the manner in which they are to be paid. It is entirely unacceptable that the funding of the Department of Primary Industry's mine safety activities is entirely at the discretion of the director-general. While the Government has indicated that the director-general's annual estimate will be passed on to the Mine Safety Advisory Council, which will have a high-level oversight

role in advising the Minister, who approves the estimate, the Opposition remains concerned that there is no other independent body or process whereby the contribution, expenditure and investment of the levy collected by the Mine Safety Fund can be further reviewed and scrutinised.

The Government's justification for the introduction of a mine safety levy is that it will bring the mining industry into line with all other industries, and that funding for work safety is contributed to by the industry. What the Government has failed to mention is that the coal industry has not received the same workers compensation reforms as other industries. The coal industry also pays much higher workers compensation premiums and has higher liabilities than most other industries. It is the concern of both the Opposition and industry that there is a distinct lack of accountability and transparency regarding this legislation. The Government is forcing the mining industry to pay for the cost of its mine safety reforms and the mine safety regulatory activities of the Department of Primary Industries, yet there is no capacity for the mining industry to audit the processes of the Department of Primary Industries to ensure that industry funds collected through the mine safety levy are being used efficiently.

If the regulatory functions of the Department of Primary Industries are effective and work safety in the mining industry is being improved, it stands to reason that workers compensation premiums for the industry will decrease. This essentially means that there will be less money to fund mine safety activities within the New South Wales Department of Mineral Resources. The Opposition is concerned that the Government has a vested interest in keeping premiums high to enable the funding of the department's mine safety regulatory functions to continue—similar to its costly, inefficient WorkCover scheme. Another justification the Government has given for the imposition of the mine safety levy on industry is that it is in a good position to pay. While the New South Wales mining industry is certainly benefiting from a boom in the mineral resources industry, it is unlikely the boom will last forever.

The Opposition has significant concerns that if there is a considerable downturn in the minerals sector, the smaller mining companies, which are major employers in regional areas, will experience great difficulty in contributing to the Government's mine safety levy. Unlike the ad valorem coal royalty scheme payments—which are based on the market price of coal and therefore fluctuate in line with commodity prices—the levy, being a percentage of a wages bill, will most likely increase over time. A reduction in levy payments will only decrease if the mining industry reduces its wages bill. This means that workers, a large proportion of whom are located in rural and regional New South Wales, will be laid off.

Another concern that has been brought to the attention of the Opposition by industry is that the definitions of "employee" and "employer" in the legislation are not used to extend coverage of generous workers compensation provisions available to the mining industry to people who are not considered employees within the mining industry. The effect of doing so would bring more people into the Coal Mines Insurance Scheme and add significant costs to mining industry employers. This is dreadful legislation. It forces the mining industry to pay for the functions, services and wages of the New South Wales Department of Primary Industries without any accountability or transparency whatsoever. In conclusion I foreshadow that the Opposition will move two amendments in the other place, the first to ensure that the Mine Safety Fund is used to fund only the Department of Primary Industries mine safety functions and the second to place a cap on the levy.

Ms PETA SEATON (Southern Highlands) [7.47 p.m.]: The Mine Safety (Cost Recovery) Bill could equally have been called the "Another Labor Tax Bill" or "Another Labor Slush Fund Bill". This is yet another new tax by the highest-taxing State government in the country. The tax will reap around $13 million a year, with no clear limits as to where government can spend the money. As usual, there is no accountability, no discipline, no benchmarking, no way anyone could know whether money is being spent effectively or with due process, and no cap on how much the tax may be increased by. As the honourable member for Lismore said, the Opposition will move amendments in the other place in order to get some discipline and rigour back into those two issues.

This new tax comes hot on the heels of the increases to the coal royalty tax two budgets ago, which again happened with absolutely no consultation. Whilst original forecasts were that the tax would raise around $44 million, the Government has reaped a windfall from the tax and used that money to plug its budget deficit—which has been caused by its failure to rein in its spending on wasteful and duplicative government programs. The Government is getting a large amount of revenue from the coal royalty tax. Members representing electorates in the Illawarra area ought to be very concerned about this because it is money that is being taken out of their region. Absolutely no justification has been given for this new mine safety cost recovery tax, as indeed no justification was given for the increase in the coal royalty tax.

It is important to acknowledge the great advances that have been made as a result of co-operation and very clever work between mine managers and mine employees, particularly in the Illawarra area, with regard to long-term safety improvements. Illawarra Coal statistics show that in 2001 there were slightly more than 180 total recordable injuries in terms of frequency rates. That figure has steadily decreased to an all-time low in 2005 of slightly less than 40. That is a great achievement. I congratulate all of Illawarra Coal's employees and mine management on what is obviously a productive and co-operative arrangement to try to drive down accidents and injuries and improve mine safety. It is something all members of this Chamber should acknowledge and congratulate.

Labor regards the coal sector as simply another means of filling its budget black hole. However, I want to speak about the contribution that the coal industry makes in my region, which includes the Southern Highlands, the Wollondilly area and the Illawarra. In our area we have two major coal companies: Austral Coal, which operates the Tahmoor colliery and Medway, near Berrima, and Illawarra Coal which operates mines at West Cliff, Appin, Elouera and Dendrobium and, as a result, creates jobs and industry, particularly at the steelworks in Port Kembla.

Illawarra Coal is a major employer in our region, employing more than 2,000 people, contributing $167 million in wages last year, spending $285 million annually on goods, materials and services in the Illawarra and producing 6 million tonnes of coal, mostly premium hard coking coal. It is important to understand that the success of the coalmining industry in our region contributes also to the success of major employers and producers such as BlueScope Steel, which is the largest employer in the Illawarra region and the largest steel producer in Australia, and OneSteel in Whyalla. Austral Coal is an important contributor to our local economy, with its Medway coalmine producing coal that feeds the Berrima plant of Blue Circle Cement, which is a valuable contributor to the manufacturing industry in our area. The cement plant at Picton is also a major employer producing specialised cement products.

Illawarra Coal has invested around $500 million in the past three years in our local area, around $160 million in both 2003 and 2004 and $180 million in 2005, and it has a long-term plan which involves proposed investments and extensions to activities it currently undertakes, such as the longwall replacement at Appin and West Cliff, upgrading coal handling systems at West Cliff washery, the investment that has recently been made at the Dendrobium mine and expansion at the washery. That is a significant investment and it has created a significant number of jobs in our area. In my area there has been a lot of community discussion over recent months about proposed extensions to the Douglas Park area. There has been a significant amount of community debate, many community meetings and a lot of concern over the long-term need to protect the environmental qualities of the Nepean River and other waterways in our area.

The people involved in the Nepean Action Group should be pleased with the persuasive case they have put forward. We should also acknowledge that Illawarra Coal has responded positively to those concerns and has changed the mine layout proposal for that region so that now there will be no longwall extraction directly beneath the Nepean River, which has sterilised around 12 million tonnes of coal. It is important that we acknowledge that that change has occurred and that the action group has made a very strong case, to which Illawarra Coal has responded, that will be of great benefit to water users and farmers downstream who have concerns about potential loss of water in the waterways, as well as legitimate environmental concerns.

The Mine Subsidence Board has the heavy responsibility of making sure that people understand that proposed future coalmining could well occur in their area, that those people get a fair hearing and that appropriate compensation is given to them, if that is necessary. I understand that an additional $500 million investment is proposed for our area, partly through the extension that I have just mentioned as well as some other local projects. It is important that we also acknowledge that further development is needed of the coal resource in our region because it makes an enormous contribution not only to our local economy but to the State and national economies. That development requires certainty and clarity in the approval process, appropriate arrangements being made for stakeholder input, rigorous environmental assessment balanced with an acknowledgement of the environmental solutions where they are delivered, and appropriate fair and speedy outcomes in Mine Subsidence Board matters.

The importance of clear and long-term future planning for the coal industry and investment in our local industry and jobs must be thoroughly understood. It must also be understood that plans to invest an additional $500 million in our area have the capacity to deliver an additional 500 direct and indirect jobs. I hope that everyone in this place is keen to play a part in ensuring that those things happen and that the process balances environmental interests as well. In relation to one coal company alone, Illawarra Coal, I have noted the

$500 million investment over the past three years and the potential for an additional $500 million over the next three to five years. I understand that the $500 million invested so far is practically a total reinvestment of the profits made in that period. That is admirable.

These investments are essential not only to future economic development and jobs growth in New South Wales steel production but also to the Australian economy. The investments have the potential to create hundreds of jobs. It is worth noting that during the first three months of the Iemma Government there has been a continuous worsening of the unemployment rate in New South Wales and New South Wales has almost continually maintained a situation where its unemployment rate is worse than the national average. We need to get every single job opportunity we possibly can—

Mr Paul McLeay: You said there is a declining unemployment rate. Hear! Hear!

Ms PETA SEATON: A worsening of the unemployment rate. The figures show that the unemployment rate has worsened every month for the past three months. The point has been made to me by many coal industry representatives that investment in the coal industry is a long-term process. It cannot be done in one year, two years, five years; it needs long-term planning over a 20-year or 30-year horizon. That is why it is important that planning processes are clear, effective and efficient. That is why it is urgent that we see the Metropolitan Strategy, which has been promised again and again by the Government, but which it has continually failed to produce. It is essential to introduce certainty for those who are planning to develop and build homes in areas that may also be of interest to coal producers.

If the Government is serious about harnessing all of that investment potential, it is important that it gets its planning processes right and makes sure that both industry and local communities have confidence in the process. As I said, the Opposition will move amendments in the upper House in an attempt to seek guarantees that the Government will only spend this money on mine safety. We question again the accountability in the bill, how the money will be spent and the effectiveness of the proposed measures. We need to be sure that the levy will not spiral further out of control with more and more increases in the rate. We are concerned that the levy will be regarded as yet another blank cheque by a cash-strapped, wasteful Labor Government that is trying to find every possible opportunity to squeeze more tax out of businesses and families, who are already paying the highest tax rates in the country.

Mr PAUL McLEAY (Heathcote—Parliamentary Secretary) [8.00 p.m.], in reply: I thank honourable members for their contributions to the debate. The bill introduces a levy on mining industry employers to pay for the implementation of the recommendations of the Wran review into mine safety. The levy will also cover the costs associated with the safety regulation of mine workplaces undertaken by the Department of Primary Industries. The bill is an important step in making sure that mine safety continues to improve. It is also important in bringing the mining industry into line with other industries, which pay for regulation of their workplace safety through the WorkCover scheme. It is a responsible bill with an important purpose, and I commend it to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

STATE REVENUE LEGISLATION FURTHER AMENDMENT BILL

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

WATER MANAGEMENT AMENDMENT BILL

Second Reading

Debate resumed from 17 November 2005.

Mr DONALD PAGE (Ballina—Deputy Leader of The Nationals) [8.02 p.m.]: I lead for the Opposition in the absence of the shadow Minister for Natural Resources, the honourable member for Murrumbidgee. The Opposition has serious concerns about several aspects of the bill. Water management is a complex issue and must be treated with great care so that we do not end up with unfair or unexpected consequences. At the outset I should inform the House that the Opposition is concerned at the Government's

lack of consultation on the bill, particularly with industry stakeholders. The Government has apologised but, frankly, that is not good enough. Indeed, consultation on some amendments has been zero.

The Opposition has consulted various industry groups and they all tell the same tale. The Government has failed miserably in its duty to properly consult on the bill. Given the complexity and importance of the legislation, that is a major failing. The Government has stated that the object of the bill is to amend the Water Management Act 2000 to ensure that this State complies with the national water initiative. That is true, but the bill goes much further than that. The Opposition has consulted with relevant stakeholders, including the New South Wales Irrigators Council, the New South Wales Farmers Association, Murray Irrigation, Murrumbidgee Irrigation and the State Water Customer Services Committee, which all indicated that they have not been consulted appropriately on the bill.

First, it is important to address how far New South Wales, and even Australia, have come in water management. As many members of this House would be aware, I was the shadow Minister for Land and Water Conservation during the passage of the principal Act, the Water Management Act 2000, which was certainly comprehensive and complex legislation. It basically rewrote water legislation in this State. That legislation was overdue, and at the time Minister Amery and I worked closely to achieve an excellent outcome. That Act was further amended in 2004 and I contributed to the debate on the amendments. I have had an ongoing interest in water management and although I am no longer heavily involved, it remains an interest of mine.

In 2004 the Commonwealth and all States and Territories, with the exception of Western Australian and Tasmania, took an historic step towards water management and signed the national water initiative at the Council of Australian Governments meeting. The initiative is a comprehensive strategy designed to improve water management across Australia. It is the aim of this agreement to improve productivity and efficiency of our water use while maintaining healthy river and ground water systems. It is important to strike a balance between the often conflicting use of water for agricultural production and the environment. The Opposition supports endeavours to do so, but it does not support the rushing of this legislation through Parliament without appropriate industry consultation.

Key stakeholders are concerned with several aspects of the bill and I would like to address some of those concerns. The New South Wales Irrigators Council is concerned with amendments that seek to clarify the definition of environmental water. The amendments to section 8 (1A) and schedule 9 of the Act seek to provide a fuller definition of environmental water and one that reflects how water access is managed in practice on a daily and long-term basis through the water-sharing plans. The amendments provide for planned environmental water to be identified in at least two of the following ways: first, by reference to the commitment of the physical presence of water; second, the long-term average annual commitment of water; and, third, that water remaining after the commitments to basic landholder rights and for extraction have been met.

The Opposition asks the Minister in his second reading speech in another place to guarantee that no entitlement holder will be disadvantaged by this amendment, that no water entitlement will be afforded a higher level of security than it already enjoys and that compensation will be paid to any entitlement holder whose access to, or the security of, his or her licensed entitlement is diminished by the amendment. The Opposition is aware that the Government has introduced these amendments to prevent a legal challenge by the Nature Conservation Council. This is a timely amendment.

Proposed sections 8A (1) and (3), proposed section 74 and the amendments to schedule 12 of the Act deal with the conversion of supplementary licences to planned environmental water. The amendments provide for supplementary water licences to be purchased and converted to planned environmental allocations to the Macquarie Marshes. The amendments are not timely and further consultation is necessary. Stakeholders believe that it is imperative that all water must be tagged and must retain its original characteristics and that the security of other entitlement holders must not be diminished by these sales. The Opposition asks the Minister in the other place to guarantee that in his second reading speech.

Proposed sections 8A to 8E and the amendments to schedule 12 of the Act allow for water to be committed as adaptive environmental water by the conditions of access licences for specified environmental purposes at specific times or circumstances. Adaptive environmental water can be created through an individual licence holder committing all or part of his or her licence as a result of government funding of on-farm or other water efficiency measures or via systems delivery improvements funded by governments. This water will be licensed and become adaptive environmental water with the licence held by the Minister, the catchment management authority, other public body or the licence holder. The amendments provide for the grant of these

licences and cover implementation aspects, such as the way the water will be accounted for, how the licences will be held and administered, and will require the holder to prepare a plan approved by the Minister, specifying how the adaptive environmental water will be used and traded. These amendments are not contentious and simply allows for the administration of water in the environmental account.

In relation to the risk assignment framework under the national water initiative—proposed sections 43A, 46 and 87AA—the national water initiative requires legislative effect be given to a framework for the sharing of costs between licence holders and the State and Commonwealth governments for changes to a water-sharing plan. This framework recognises three factors for such a change: those arising from a change in natural conditions, with impacts to be borne by the licence holder; those arising from a change in government policy, costs to be compensated by State Government; and those arising from changes in science or knowledge, with the first 3 per cent to be borne by licence holders and the rest shared between the State and Commonwealth governments.

As per the national water initiative, the amendments provide for this framework to be applied in New South Wales for all second-term plans, from 2014. The existing compensation provisions of the Act will prevail until that time. If the Natural Resources Commission recommends to the Government that a plan should be amended for its second or subsequent term, the commission will also specify the factor driving the change. Although industry has not been appropriately consulted on this amendment, it is familiar with and supports the risk assignment principles of the national water initiative. However, the New South Wales Irrigators Council seeks clarification on the extended role of the Natural Resources Commission and how it is proposed to "specify the factor responsible for any change and the impact on a licence holder's water availability". In particular, it seeks clarification of subsection 3 (c) of proposed section 87AA.

In relation to the removal of barriers to trade out of irrigation corporation areas, schedule 2, the national water initiative requires the five irrigation corporations in New South Wales to allow, if applied for by their shareholders or members, up to 4 per cent of their tradeable entitlement to be permanently traded out of their areas. The aim of the threshold is to free up water trading within New South Wales and between States. The amendments to the Act will allow civil penalties to be imposed on irrigation corporations if they do not comply. To support the irrigation corporations in the implementation of this requirement, provision is made for water supply contracts to be amended by notice to members and by removing the opportunity to be made in respect of their actions. In essence, these rules are in line with the national water initiative and have already been agreed to, although some concerns have been raised as to the heavy-handed nature of the civil penalties.

Under current legislation, a co-holder of an access license can only exit or trade out of their holding by subdivision and transfer of the license with the agreement of all the other co-holders. Proposed sections 72A and section 74 provide for a new dealing that requires only majority consent for the exit. If consent is not given, the parties may apply to the Supreme Court to allow the trade, and the court must take account of the effect on the remaining co-holders. Stakeholders are concerned that this amendment seeks to impose conditions on irrigators, shareholders or members of a joint scheme, private irrigation districts and/or other amalgamations of water without prior consultation with those who will be affected and a full analysis of the implications involved. That is strictly contrary to the principles of the national water initiative. Consultation on this amendment is lacking; there needs to be further consultation.

Industry has sought from the Government details on the following: the number of schemes affected, the number of irrigators or licensed entitlement holders affected, the location of each of the licences that will be impacted by this amendment, the management of stranded assets, the application and calculation of exit fees, the management implications of the cost of change to the small schemes, the impact on the viability of the affected schemes, and details of any impact analysis undertaken on the cost or benefit that will occur subsequent to the introduction of this amendment. Appallingly, none of this has been provided. The Opposition asks the Government to clarify how it intends to manage these issues.

The amendments to section 58 deal with changing the priority for reducing allocations. Under the current provisions of the Act, in times of restricted supply allocations for utilities must be reduced at a lesser rate than allocation by other licence holders. The greater Sydney water-sharing plan will require the Sydney catchment authority, by far the major water user in the system, to operate within a benchmark extraction level. The amendments allow for a management plan to provide for a different rule of priority in order to accommodate the requirements of the Sydney water-sharing plan. The amendments to sections 66 and 78 deal with the review and adjustment of the entitlements of local water utilities. The amendments provide for the compulsory five-year review of all water utility licences to be replaced by a more practical approach, when a review would be undertaken where population growth is occurring or at the request of the local water utility.

The local water utility must also demonstrate that it is implementing best practice water supply guidelines prior to its entitlement being increased. In addition, civil penalties as currently apply to major utilities are to be introduced where a local water utility breaches the conditions of its licence. The Act allows the review of the water utility's entitlement to reflect any variation in population and associated commercial activities. The amendments also include the requirements of food and fibre processing in the definition of "associated commercial activities". The Irrigators Council has major concerns about this amendment, as it believes that it is contrary to broad and specific principles of the national water initiative and will undermine the security of property rights.

Sections regarding enhanced water dealings, cold water pollution measures, gauging stations and other monitoring equipment, the prevention of claims for compensation changes to plans that have not commenced and entitlements under replacement water access licences are relatively uncontentious. In relation to schedule 12 to the Act, the inclusion of floodplain harvesting in water -sharing plans, I understand that the Government has agreed to consult further with the New South Wales Irrigators Council on this matter. In summary, the Opposition is extremely concerned about the lack of consultation on the bill. It is not good enough for the Government simply to apologise for that. My colleagues in the other place will further detail industry concerns, and will ask that sections of the bill be delayed until March 2006 to allow stakeholders to take part in further important consultation.

While the Coalition will not oppose the legislation, because we want to support the national water initiative, we are concerned about the lack of consultation in relation to those sections that go beyond the national water initiative. The Government should try harder to address the concerns that have been raised by stakeholders and industry stakeholders in particular. As I said, we are concerned about the lack of consultation, particularly in relation to those matters that are outside the national water initiative.

Mr PAUL McLEAY (Heathcote—Parliamentary Secretary) [8.17 p.m.], in reply: I was shocked and disappointed that the honourable member for Murrumbidgee did not lead for the Opposition on this bill, considering its importance. This has been a contentious issue for many years. I thought the honourable member was passionate about the issue and would have been here to speak on the bill. However, I have since found out that not only is he in a much better place but he was admirably represented by the honourable member for Ballina. I am sure honourable members wish the honourable member for Murrumbidgee all the best on his marriage and wish him well for the future.

I thank the honourable member for Ballina for his contribution to the debate. As for consultation, while the exact details of this bill are new, extensive consultation was held with all stakeholders throughout 2004, in the lead-up to the signing of the national water initiative. Almost all of the provisions give effect to the national water initiative or allow for negotiated changes—for example, the ground water structural adjustment program—to be integrated into the national water initiative. The Department of Natural Resources has also been meeting with water users and irrigation companies on a regular basis to discuss these issues.

A briefing on each specific change was provided to the Irrigators Council prior to the bill being completed, and the bill was sent to them by the Minister's office as soon as it was completed. Testimony of this fact was provided by the New South Wales Farmers' Association. When it was consulted, it stated that it had anticipated such changes and was broadly supportive. Similarly, since the finalisation of the bill, briefings have also been provided to a wide variety of environmental groups. These discussions continued until as recently as a few hours ago, and I have no doubt they will continue.

The bill covers a range of amendments for New South Wales to implement the national water initiative, for a clearer definition of environmental water, for improved trading and licensing arrangements and for a strengthened process that subjects local water utilities to greater efficiencies in their water supply and use. I firstly reiterate that, despite concern from conservation groups, the primacy of environmental water under the Water Management Act 2000 is not changed through these amendments to the Act. The priority of environmental water remains as stated in the water management principles of the Act: that in any sharing of water from a water source, the water and its dependent ecosystems must be protected.

This Government and this State, more than any other, have committed substantial volumes of water to the environment and are continuing to look at ways to find additional water for the environment through water saving and other measures. The amendments do not in any way change or lessen these commitments; they simply allow for a more practical definition of "environmental water" as it is exercised through water-sharing plans. The definition recognises that environmental water is provided in two ways. The first is through the

environmental rules in the plan that target specific environmental requirements, such as passing natural high flows into wetlands or making specific releases for environmental purposes.

However, the bulk of water for the environment is that which is simply retained in the river, and this is protected through the second means—the planned limit on extractions. As a result, all water above this extraction limit is retained for the environment. In regulated rivers this can be from 56 per cent to 80 per cent of the long-term flow. This clearly recognises the importance of the environment and does not imply that the environment comes second after extraction.

Of particular interest to environmental groups has been the Government's commitment to mitigating cold water releases from major storages and the timetable for this program. A detailed schedule of works from 2004 to 2009 has been developed. Some of these are already under way, such as a trial of specific works at Burrendong Dam, works scheduled for Keepit Dam, Tallowa Dam, Jindabyne Dam, and improvements to operating protocols at a number of other major storages across the State. In 2009 a report will be prepared on the effectiveness of these measures and then, based on that report, a longer-term program of measures will be developed. The amendments to the Act will ensure that these measures can be implemented through approvals for the storages.

One area of the bill that has generated a bit of interest is the process for increasing the entitlement of a local water utility based on population growth and associated commercial activities. I point out that the amendments provide for much stricter requirements than are provided in the legislation as it now stands. A local water utility must demonstrate that it has implemented best practice management guidelines. That is, it must demonstrate that it is using water efficiently and has implemented demand management practices.

The bill also includes penalties if a local water utility breaches its licence conditions—putting it on a par with other licence users. Although the amendments allow food and fibre processing to be considered as part of a local water utility's associated commercial activities, it is not intended that this be extended to include high-water-using industries such as pulp mills. The intention is limited to commercial activities that normally require potable water and are associated with an increased population. The New South Wales Irrigators Council and the New South Wales Farmers Association have indicated that they oppose entitlement simply being granted to local water utilities. Instead, they believe utilities should have to buy any additional required water from the market.

It should be pointed out that the favoured position of local water utility supply was extensively debated when the Act was originally introduced in 2000. It was acknowledged at that time that irrigation use in New South Wales far exceeds the requirements of towns, particularly in inland New South Wales. The agreed position was that local water utility as well as major utility and domestic and stock access licences would have priority over other licences. This is stated in the Act and is recognised through the water-sharing plans. Therefore it is not a compensable change to a plan as provided for under the existing compensation arrangements of the Act or those under the risk assignment framework of the national water initiative. Nonetheless, while the amendments do not alter the priority of town water supply, they substantially tighten the criteria for the consideration of an increase.

The amendments also allow additional conditions to be imposed on a local water utility's licence when an increase is granted. Further, although a local water utility has priority in supply, this does not mean they can automatically expect an increased entitlement above their current supply if it is already highly committed. A utility may be required to source alternative supplies or, in the case of unregulated rivers, to build off-river storages to access high flows when there is less demand from other users. At all times an application for an increased entitlement will be considered in the light of the economic and environmental impacts.

Members of The Nationals have expressed some concern about the option in the bill that allows the Government to purchase licences for environmental purposes. I point out that this is only an option; the Government's preferred approach is to fund water savings works and commit the saved water to the environment. This is clearly demonstrated by this Government's contributing $115 million to fund water savings works as part of the Living Murray initiative and $150 million to fund water savings works as part of the Snowy River initiative. However, the purchase of licences may be the best approach in some cases. For example, the purchase of supplementary water and its conversion to rules-based water is being investigated as a means of topping up critical environmental allocations to the Macquarie Marshes, and some irrigators have already expressed interest in selling all or part of their supplementary licences. The sales would be on a voluntary basis and the licence holder would be paid the market value for the licence.

The purchase of supplementary water and its conversion to environmental water would not involve significant quantities of water and would not affect the long-term security of supply to the irrigators remaining in the system, including high security, general security, and other supplementary licence holders. This is because the purchased supplementary licence would be deleted and an equivalent amount deducted from the licensed pool of water. Therefore, the remaining irrigators would still have access to the same amount of water they were each entitled to before the sale. Any water purchased in this way will retain similar characteristics; that is, it will be opportunistic in terms of when the water is available in the system. Management of this type of water would be via "commence-to-pump" rules in the plans, to ensure that whatever water is purchased by the Government does not affect the security of other types of licensed water.

In the consideration of these amendments, the allocation of water for the environment in New South Wales and the potential for it to be extracted downstream has again been raised. This is an old issue, which was also extensively debated when the Water Management Act was originally introduced into the Parliament five years ago. Any water allocated, recovered, or bought for environmental purposes in New South Wales, and which may eventually flow downstream to South Australia, is protected from extraction through the Murray-Darling Basin cap. New South Wales, Victoria and South Australia are all subject to this cap or limit on their extractions, which has been in place for a number of years. Therefore any additional environmental water provided will be protected throughout the system.

For example, under the Living Murray agreement between the Commonwealth, New South Wales, Victoria, South Australia and the Australian Capital Territory governments, significant volumes of environmental water are to be delivered to six key ecological sites from the Barmah-Millewa Forest in New South Wales to the mouth of the river in South Australia. Exit dealings do not affect private irrigation districts; only licences that are held jointly by more than one person do. Rights in private irrigation districts will be reviewed over the continuing months, with full consultation. When it comes to risk management the Natural Resources Commission will have an important role as an independent authority in specifying the factors requiring change to water-sharing plans. The commission will take into account reports from catchment management authorities, scientific experts and agencies before reporting to the Government with its views.

Finally, there has been some concern about removing the potential to seek compensation for decisions based on a gazetted plan that is changed prior to commencement. This amendment was required as a result of subsequent changes that are now being made to the five inland alluvial ground water plans to account for the changed approach to reducing entitlements in these aquifers. In the past few months the Australian Government has agreed to contribute $55 million in matching funds to the structural adjustment package to be paid to affected ground water irrigators and communities. As a result, some $100 million will be provided to farmers and an additional $9 million to affected regional communities once the plans commence.

While some people may have bought a ground water licence on the basis of the entitlement reduction specified in the gazetted plan, the purchaser is entitled to structural adjustment assistance under the new package. It is not appropriate for them to also claim further compensation. The Government is working with the ground water irrigators to provide a fair assessment of their level of development and use on which the assistance payments will be based. A validating provision has been included to ensure that all existing plans are valid. As three legal appeals to the ground water plans have been held over to 5 December 2005, awaiting the changes to entitlement reduction methods, the Government will now pay the court costs of these appeals. I am confident the Water Management Amendment Bill 2005 represents a fair and balanced approach to ensuring the long-term sustainability of our water resources and rural communities and industries. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

RESIDENTIAL PARKS AMENDMENT (STATUTORY REVIEW) BILL

Second Reading

Debate resumed from 8 November 2005.

Mr JOHN TURNER (Myall Lakes) [8.32 p.m.]: The Opposition does not oppose the Residential Parks Amendment (Statutory Review) Bill but in Committee will move an amendment that in essence provides

that park residents who have their tenancies terminated for purported redevelopment purposes and who leave the dwellings on site must be paid the bona fide value of the dwelling as set by the Consumer Trader and Tenancy Tribunal. I will discuss that matter further later. Again I have to comment on the timing of the bill. The Government issued a discussion paper on a review of the Residential Parks Act in 2004 with submissions to close in August 2004—15 months ago. The report was available over 11 months ago. Now, with literally just a few days to the Christmas shutdown of Parliament, the Government has introduced a bill that will affect the 30,000 residents of residential parks, not to mention the park owners. Why was there such a delay in bringing on this bill? Looking at the specifics of the bill, it appears that many of the recommendations in the discussion paper have been incorporated in the bill. Of course, there was significant input to the discussion paper by many park groups and individuals.

I note that the Parks and Villages Service made a comprehensive response to the discussion paper, as did the Central Coast Residential Park Residents Network, and the Combined Pensioners and Superannuants Association, through Morrie Mifsud, to mention a few. Two particular issues were of concern to the Combined Pensioners and Superannuants Association, although it highlighted a number of other concerns in its submission. The two significant issues were the provision of access to emergency services to parks, and the power of the Department of Fair Trading to apply to the Supreme Court for the appointment of an administrator if the actions of the park owner seriously threaten the wellbeing of the residents. This provision would have to be used as a matter of last resort and obviously would be a very serious step to take. In relation to "unimpeded access for emergency services", representatives of the park owners would like "unimpeded" be changed to "ready". They raise this change on a security basis in that it effectively means all boom gates exits would remain open. The bill does spell out that occupation is leasehold only. In that regard the bill specially states that any advertising must state that fact—and that is important. The fact that the land is leasehold is somewhat lost.

The Parks and Villages Service argues that site location should influence the price on the sale of relocatable homes. I am sorry but I cannot support that proposition. But as I said, and as my foreshadowed amended provides, I do support bona fide value being paid for a dwelling when it is purchased by the park owner. The changes concerning redevelopment of the park by and large seem to have encapsulated the concerns of the residents, but may not be welcomed by the owners. It is a tough area to negotiate because on one hand we are dealing with people's residences and lifestyles, often with older people, and on the other hand with the rights that freehold title brings.

Specifically in relation to the amendment, I note a significant change in the need for a development application to be in place before notice can be given to tenants, and the extension of the notice time from six months to 12 months. Additionally, compensation will be paid for relocation of up to 500 kilometres instead of 300 kilometres, and compensation will be paid up front before a move takes place. Park owners have raised concerns about compensation for relocation being paid in advance. This has worried me also. Usually, to use a freehold phrase, vacant possession is given on completion. The park owners say that there may be residents who are paid out but who may have a change of heart about moving. The park owners would like to see the payment to, say, a statutory authority which could then make the payment upon the tenant vacating the park.

In addition, a person can return to the tribunal for a further hearing if its believed the compensation is not sufficient. The use of compulsory written tenancy agreements, I am sure, will be welcomed by both owners and residents as it will clearly define each party's rights and must lead to less disruption. In relation to rental increases, there is a prohibition on challenging an increase that is less than the increase in the consumer price index [CPI]. The Combined Pensioners and Superannuants Association does not agree with the proposal. In its submission it states that park owners will be encouraged to tweak—my word, not the association's—the rents by just less than the CPI to maintain a constant increase that is not subject to challenge. Whilst that argument may not have merit, I think it fair and reasonable that this provision apply.

A constant worry for owners and tenants is a proper costing for the provision of utilities to residents such as water, gas and electricity. The bill contains provisions that it is hoped will make these negotiations easier and clearer. However, the park owners groups have a counter point of view, in that they believe that the proposed reduction of the availability charge means that park residents supplied by the park owner will pay less for electricity than residents who purchase directly even though both residents consume the same amount of energy. Effectively, they argue that the park owner will be supplying energy at a lower price than the park owner pays.

The protection of residents who are absent for long periods when in care is also of concern to many of the peak groups. Again the Combined Pensioners and Superannuants Association points out in its submission

that it is not only those who go into nursing homes or hospital that are affected; many others face the possible loss of substantial rights if the park ceases to be their principal place of residence. These losses can include significant rights regarding termination, compensation, and problems with arranging or subletting their tenancies. The Opposition believes that, as provided in our foreshadowed amendment, the provision of a specific statement in the bill about the payment of bona fide value or market value for the residence in the instance of redevelopment, particularly as the resident would have entered into a long-term commitment, both as to the site and of course the cost of the dwelling, is warranted. As happens, it is often the very few who make it difficult for others.

In regard to bona fide payments, there have been instances, few in number, of an owner having dealt from a position of strength to the detriment of a resident. In some instances this has resulted in a resident receiving far less for their dwelling than is realistic. Of course, many people put their life savings into these dwellings, which can be worth in excess of $200,000. If there is a redevelopment of the park, through no fault of their own, these residents face the very real proposition of having to start over again, and of course they will need the capital from their home to do so. Unfortunately, because of a few unscrupulous owners we have to ensure that vulnerable people are not let down. Fundamentally, legislation should not be against a few but in this case it is necessary. As I said, I will deal with this issue in greater detail in Committee. Finally, I thank the Minister's staff for co-operating with the Opposition on the bill and particularly on the foreshadowed amendment.

Mr BARRY COLLIER (Miranda) [8.40 p.m.]: I am pleased to speak on the Residential Parks Amendment (Statutory Review) Bill. The object of the bill is to amend the Residential Parks Act 1998 as a result of a review that has been completed under section 156 of that Act. The bill sets out the rights and obligations of park residents and park owners, establishes legislative protection for residents, and establishes procedures for resolving disputes between owners and residents. Park residents are in the unique position of being owners and renters at the same time. Most own their homes but rent a small plot of land. Perhaps the only analogy is a person living on their own houseboat tied up to a rented berth at a marina. But, of course, there are 30,000 Park residents in New South Wales, and the Residential Parks Act recognises the unusual circumstances that arise in park living, and takes account of the issues that really do not apply to conventional tenancies.

The bill makes a number of changes to the Act, and it is worth noting that the Act is entitled the "Residential Parks Act" as opposed to the "Caravan Parks Act", perhaps in recognition of the nature of park homes, in which many people now live. The concept of a caravan park often carried unfair and negative connotations, and the Act goes a long way to recognising the positive lifestyle that many residents have adopted in parks over the years. The Act has operated effectively since its commencement in 1999 and, since then, the escalation in land values in many New South Wales coastal locations has raised a series of new challenges, with park owners beginning to explore other business choices and opportunities that may be available to them.

The bill continues to allow park owners to make such choices, but it identifies and clarifies rights and promotes greater protection for residents, who might otherwise suffer as a result of a park owner's decision to withdraw from the industry. It is right and fitting that residents who have to leave a park as a result of redevelopment should receive as much notice as possible. It is only fair that residents should be compensated for having to uproot and relocate their homes through no-fault of their own.

The bill makes a number of important amendments that I wish to refer to. First, a number of amendments have been made to the process applying to a park owner seeking to obtain possession from a park resident where the intention is to redevelop the park or to change its use. Important amendments include the giving of 12 months notice in lieu of the current 180 days stipulated in the Act. Development approval will also have to be obtained before a valid notice of termination can be given to the park resident.

Second, there is to be compensation for the relocation of residents' homes. The provisions that deal with the payment of compensation to park residents who are required to vacate due to the park owner gaining possession for redevelopment purposes have been refined. The changes are that payment of compensation to residents is to be made before they vacate; residents awarded compensation by the tribunal will have the right to remain in the park until compensation has been paid to them; and compensation will be extended to cover relocation of the home to another location up to 500 kilometres away, in lieu of the present 300 kilometres.

Third, park owners will be required to disclose additional information to prospective residents. This includes whether any development application was lodged in connection with the park during the previous five years, whether the sale of the resident's home while located in the park is prohibited, and whether the park

owner would be prepared to buy the resident's home if the resident were to move elsewhere. The legislation creates a new offence for disclosing false or misleading information to incoming residents or existing residents, which carries a maximum penalty of $2,200.

Any advertising material directed to prospective park residents must spell out the tenancy nature of the arrangement and the fact that there are no perpetual occupation rights. Significantly, and for the first time, it will be an offence, incurring a penalty of up to $1,100, for a park owner or manager not to give a resident a written tenancy agreement. However, if there is no written agreement, the park resident will still have the full protection of the law. The regulations will be able to prescribe clauses that may not be used in tenancy agreements. The Residential Parks Amendment (Statutory Review) Bill makes significant changes to the way in which residential parks and residential tenancies are operated. It provides protection for residents and procedures for resolving disputes between owners and residents. It provides certainty to tenants and to owners of residential parks. The bill is a positive step forward that is undoubtedly welcomed by all members of this House, and I commend it to the House.

Mr CHRIS HARTCHER (Gosford) [8.46 p.m.]: This residential parks legislation is important because it deals with the very lives of thousands of people throughout New South Wales. I participated in debate on the original legislation in this Chamber when Joe Schipp was Minister for Housing in the late 1980s. There was additional legislation in the 1990s and now, as a result of the statutory review laid down by the Residential Parks Act, yet more legislation is before the House. Each stage has seen an evolutionary process of trying to improve the rights of residential park homeowners and the establishment of a fair relationship between them and the owners of the land, the park owners.

This legislation arises from that review, and it is to be supported. I believe it is a step forward in protecting the rights of some 30,000 people across New South Wales who live in residential parks. Most of these people—although not all—are older Australians, and for most of them their residential home is often their only investment. They are anxious that their future be assured and that they be allowed to live out their retiring years in peace and quiet. It is important that, as much as possible, they be allowed to have the security of their properties, the respect to which their age and service to their country entitles them, and the ability to spend their years in relaxation and enjoyment undisturbed by the legalities or technicalities of the law.

There are a number of residential parks on the Central Coast. In fact the Central Coast was probably founded on what were formerly caravan parks. Even the Skillion at Terrigal, a famous landmark now, was for many years a caravan park leased out by the Department of Lands. Over the years many of the caravan parks that were owned by the Department of Lands and managed by councils have had altered use, but some remain.

There is a very large caravan park at Toowoon Bay, in the electorate of my colleague the honourable member for The Entrance. Quite a number of caravan parks that were in private ownership have been developed but a number remain. Some 2,000 people in my electorate alone live in large residential home parks, such as Erina Gardens, Karalta Court, Tingari Village, Broadlands Estate and, of course, Kincumber Nautical Village.

The parks are beautiful; their gardens are well kept. Kincumber Nautical Village is next to a golf course. It is on Brisbane Water, so it has a magnificent water setting as well as a splendid golf course right next to it. Indeed, it in is a superb location. The fundamental point that the review seeks to address is to ensure that people have security in their property and in their own future lives. I commend the provisions of the bill that provide for a written agreement, which is important, and for a process to be put in place if the park is to be redeveloped. It is inevitable that many of the parks will at some stage be redeveloped. We must always remember that we are not simply dealing with property; we are also dealing with people lives. The legislation, and the amendment—which I am pleased to understand from the Minister's staff is to be supported—will go a long way towards trying to secure these people's lives.

I commend the residents of Erina Gardens and Karalta Court, who fought so hard to secure a proper settlement so that if a residential park is redeveloped not only will a proper process be followed but a mechanism will be put in place whereby the home owner can achieve the true value of his or her property. The legislation, together with the amendment, seeks to achieve that. No legislation is perfect; no legislation will give every side what they want. The whole essence of a society such as ours, which is based upon commercial principles and the principle of freedom of contract whereby people make their own arrangements, depends upon negotiation and compromise.

I acknowledge the presence in the gallery tonight of the representative of the Park Home Owners Association who has sought on its behalf to negotiate a compromise that is acceptable to the association. I

acknowledge the good spirits of the people who are members of the Park Residents Association, some of whom are in the gallery tonight, who have worked very hard to secure the rights of home owners. Of great importance is the generosity with which everyone has approached this—not seeking any personal advantage but seeking only, in the finer sense, the common good.

The fact is that many residential parks are magnificently located. Once residential parks were simply areas of the coast. The coast was undeveloped, there were no shopping centres, the roads were only basic, there was no adequate public transport, and the parks were only used for holidays. Then people came to live in them permanently, and the townships grew around them. Residential parks now find themselves located close to shopping centres, public transport, beaches, and all the arteries of our society, and accordingly represent to the park owners attractive areas for redevelopment.

As I said earlier, even though zoning changes take place, if there is to be redevelopment it cannot be at the expense of residents. The residents must be respected, and they must be secured. I acknowledge the role of the Minister for Fair Trading in introducing the bill and also in her former capacity as Assistant Minister for Planning when she was instrumental in assisting the residents of Karalta Court and Erina Gardens with the approval of the Gosford local environmental plan. The plan was designed to ensure that even though the zoning had changed there could not be any redevelopment of those two major residential home parks unless a proper process had been followed which would secure the rights of residents. The Minister and I have had our differences on various other issues, which I will not go into now. However, I acknowledge her role in both those positions.

I also acknowledge the assistance of the Minister's staff in briefing my office and the office of my colleague the honourable member for Myall Lakes last week, and for the assistance they provided me tonight with regard to the reorganisation of the amendment in a way that is acceptable to all sides. As I have said, I would not necessarily expect that everyone will be 100 per cent satisfied with the legislation, but I am sure many people will be very satisfied with it.

Mr MATTHEW MORRIS (Charlestown) [8.55 p.m.]: I am pleased to support the Residential Parks Amendment (Statutory Review) Bill, which addresses the issues that have arisen since the Residential Parks Act 1998 came into operation on 1 March 1999. The bill has been introduced following a statutory review of the legislation, and more than 12 months consultation with the park industry and park residents and their organisations. At the outset I place on record my appreciation to the residents of the three residential parks in the Charlestown electorate who participated in a community forum I hosted when a discussion paper on the matter was issued for broader consultation.

It is very pleasing that a great majority of the issues that came out of the forum have been addressed by the bill. I refer to issues such as security of tenure, compensation, relocation costs, emergency access, residents' input into decision making, and information sharing. Many other issues were raised at the forum, but certainly the majority of them have been addressed. I have to ensure that the Minister is aware of the residents' appreciation for her contribution and her administration of this area. The residents are grateful for the time and commitment the department has dedicated to ensuring that they can be a lot more confident that their interests will be looked after. Of course, this always needs to be balanced with the park owner's interest as essentially a business.

New South Wales has pioneered the laws relating to this unique form of housing in our community, and the amendments contained in the bill will further strengthen those laws. I wish to focus on the provisions that deal with information required to be given to residents. Many residents have reported that when they entered into their housing arrangements on the park they were promised a comfortable and relaxed retirement way of life for the rest of their days. However, it is clear that the reality for many residents has been quite different. Some of the retirement lifestyle magazines and seniors publications have carried bold advertising from parks that paints a picture of the eternal contentment in their establishments. In general publications, this type of advertising is often under the "Retirement Living" classifieds, and so it is not difficult to see how a person looking for a pleasant lifestyle change in their senior years could be misled.

Residents have reported again and again that when they moved into their parks there was no mention of redevelopment possibilities—no inkling at all that their tenancies might come to an end due to a change of business direction by the park owner. When it does occur, it can be quite distressing for residents. After all, we are talking about people's homes here—their nightly shelter. It is not, as some park owners still seem to believe, a transient place where residents are free to move at whim—here one day and gone the next. Park living is not like that at all. A resident's home is just that: their home. It is where their mail is delivered, where the doctor

calls for a home visit, and where their friends and relatives catch up with them. Residents deserve some certainty about their home and future, so it is crucial that at the outset residents are given clear and precise information on the details of their housing arrangements. It is plainly wrong to build up an expectation that a person will be able to see out the rest of their days in the park of their choice when the park owner has alternative plans in mind.

I want to put on record an experience that I encountered whilst I was a member of Lake Macquarie City Council. In my view, residents at a park in Caves Beach were certainly mistreated in that they were able to undertake upgrades to their dwellings and spend and invest money in their homes and yet only a short time later, after some disputes with individual residents, the owners eventually came clean and declared that the real agenda had always been about a redevelopment. I will remember that case forever. It was a pretty nasty case and in my role on the council at that time I met with those residents to go through the issues. It was clear that reform was needed and it is extremely pleasing to be at that point tonight.

This is why I am particularly supportive of the bill's provisions that will require park owners to provide more specific and relevant information to residents before they move in. These are basic details that the residents need to know about their occupation arrangements. The chances of park residents being hoodwinked by hollow promises will be significantly reduced by the provisions of this bill. Again, I want to commend the Minister for including specific provisions in the bill about the advertising of park occupation arrangements and the requirement that the tenancy nature of the deal be spelt out. Residents will also have to be informed of any previous development applications, termination notices for redevelopment purposes, electricity and gas arrangements and the sale of homes on the park. This is essential if people are to make an informed decision—and rightly so. It is fundamental information that residents must have access to or must be aware of before they make probably—and certainly in the majority of cases—the biggest investment decision of their lives.

People making a housing choice of this magnitude need to be made aware of the fact that they are not buying the land or a site for perpetual occupation, that they will be under a tenancy arrangement which may come to an end. The bill ensures this will be the case. This is a very fair bill as it does not remove the right of park owners to change his or her business direction that is their choice, but residents who have so much at stake after choosing to locate their homes in the park must be kept in the loop. Also, no-one could dispute the fact that if the tenancy comes to an end for justifiable reasons then residents should be treated with as much dignity, respect and courtesy as is possible in the circumstances. The bill's provisions to extend the notice of termination from six to 12 months where redevelopment is involved and to ensure that compensation is payable in advance are completely appropriate to help residents make alternative housing arrangements, and are significant additions to the legislation. I welcome the Government's initiative in bringing forward these reforms to the Residential Park Act and ensuring a balanced and fair legislation framework for park residents and park owners alike.

Some comments were made during debate tonight that these homes are the biggest investment for individuals, but I point out that this style of living equates to affordable housing. Often, people—and some of them are young; not all individuals who live in residential parks are old—pursue this form of living as the only real means of giving themselves some long-term protection and investment for the future. Community attitudes around residential parks have also changed—and rightly so. The majority of these places are not caravan parks, nor should they be referred to as caravan parks; they have significantly passed the point of being caravan parks as we traditionally know them to an affordable housing choice, lifestyle and opportunity.

The rights of individuals must be protected, and whilst I acknowledge that owners certainly have a significant investment in these particular places, we need to balance that against those individuals' rights. It is also pleasing to note that a new code for energy supplies will be established. I again place on the record an example of a particular park in my electorate where a service availability charge levied against the owner works out to be about $187 per annum, yet that particular owner is collecting $8,500 across 77 sites. It is quite staggering. Clearly there is a huge discrepancy with the issue of service availability charges, and I know that the Minister's office is very conscious and very committed to resolving a process through the code to address these inadequacies.

Nevertheless, I have full confidence in the department and in the Minister and I know that the code will go a long way to ensure that that imbalance is corrected and a more reasonable and acceptable amount of fees is collected and contributed by those individual residents. In conclusion, I thank the Minister and congratulate her on an absolutely terrific job with this review. I am sure she is aware that the vast majority of residents right across this State living in residential parks are extremely grateful for her commitment and the commitment of her staff.

Mr PAUL LYNCH (Liverpool) [9.06 p.m.]: I support the Residential Parks Amendment (Statutory Review) Bill. The Residential Parks Act is an important piece of legislation. This bill comes after a review that was conducted five years after the commencement of the principal Act as prescribed in the Statute. I have spoken on a number of occasions in the Parliament by way of private members' statements about the problems those living temporarily or permanently in caravan parks have had with the managers and/or owners of those parks. It is no great surprise that these problems have developed. The park owner, as owner of the land, clearly had a preponderance of common law legal power. If a caravan were easily moveable, then in practical terms problems could often be resolved by van owners moving. However, vans were often much more permanent than this and moving simply was not realistic. That essentially means that van owners would have no negotiating position at all. Mobile homes, as opposed to vans, of course, were even more problematic in this sense. The Residential Parks Act was an attempt to try to deal with some of those sorts of issues.

The size of this sector is quite substantial. There are over 900 residential parks in this State. It is estimated that there are 30,000 permanent residents. Many residents in Liverpool have a caravan down the coast which they leave there permanently but which they regularly visit and live in. There are certainly residential parks near to my electorate and indeed prior to a previous redistribution there was one within my electorate. This bill arises from the statutory review after five years of operation of the principal Act. Naturally, the bill will reflect contemporary developments. With the rising value of land, there are considerable temptations for park owners to redevelop their properties into something else other than caravan parks. Most obviously, this applies to parks near to the coast.

However, it is not restricted to those locations as the notorious example of the Lansvale Caravan Park, owned by Meriton, makes clear. That park was not in my electorate although close enough for me to pay considerable attention. The replacement of that caravan park with suburban development was a disaster for those restricted to low-income housing in south-west Sydney. The fact that it happened is a melancholy reminder of the weaknesses of a private enterprise economy where private landowners are able to maximise private financial benefit regardless of social consequences. The destruction by the Commonwealth of the Commonwealth State Housing Agreement [CSHA] and Howard's starvation of funds for public housing makes it even more bleak. These pressures add significantly to housing stress. In that context, the closure of the Lansvale park was an absolute disaster.

Another factor having a broad influence on caravan parks is the increasing tendency of Australians to travel at home rather than overseas. There are more holidaymakers wanting to stay at residential parks, thus making it financially attractive for park owners to replace permanent residents with short-term holidaymakers. In this context it is not surprising that many of the provisions in this bill relate to the impact on residents when a park owner seeks to redevelop the park. Some of the provisions in the bill include the following. There is to be more specific information to be disclosed to residents about the continued occupation rights, energy payments, redevelopment proposals, sale of home conditions and other matters before they move in. Park owners who mislead incoming residents about park occupation arrangements are to be subject to a new offence.

It will be compulsory for park owners to provide written agreements. Twelve months notice of termination rather than six months will have to be given to residents if the park owner seeks to redevelop the park. Development approval will have to be obtained before notice can be given. Compensation for relocation is to cover moving a dwelling up to 500 kilometres away, which is an increase on the current limit of 300 kilometres. Compensation is to be paid upfront to residents affected by redevelopment.

Residents will be able to go to the tribunal more than once over compensation if the original estimate was inaccurate. Where there is a dispute over sale of a home by the resident to the park owner, the tribunal will be able to rule on a fair price. Rent increases at or below the consumer price increase will not be challengeable in the tribunal. Park owners will have to provide access for emergency services needed by residents. Residents will have a right to form their own residents committee. Fair Trading will be able to seek the appointment of an administrator by application to the Supreme Court to operate a park where residents are adversely affected by the park owner. Residents who are moved to long-term nursing or aged care will retain their rights. I commend the bill to the House.

Mr DARYL MAGUIRE (Wagga Wagga) [9.11 p.m.]: The Minister and other speakers have explained clearly the intent of the Residential Parks Amendment (Statutory Review) Bill. The shadow Minister, who led for the Opposition, said that amendments would be moved in Committee, and I indicate my support for those foreshadowed amendments. This afternoon Marg Preston and Jim Clarke lobbied me energetically and professionally. Indeed, it was their representations that prompted me to make this contribution. Jim was

involved in the Park Residents Association some 17 or 18 years ago. Those two people sat in my office and told me what they would like to see come out of this bill.

First, I acknowledge the Minister's contribution because I understand the importance of what this bill is seeking to achieve. Park residents do not want to be a burden on society. Many have been encouraged to invest in their homes in residential parks in the understanding that they will be able to live out their days enjoying the surroundings that they call home. Indeed, many of those investments have cost a great deal of money. Sometimes people have been put in difficult positions when unfair offers have been made for their property.

These residents are proud of their homes. During this afternoon's meeting I made the mistake of referring to their homes as "vans" and I apologise for that mistake. These people have made large investment in their properties and, as the honourable member for Charlestown said, this is their mailing address and should be referred to as their residential home. The bill deals with the lives of people and their future. We ask that they be given a fair go and that there be some balance. The foreshadowed amendments seek clear guidelines. Something I was told this afternoon has really driven home what this is all about. It deals with increases in rents and subsidies. Aged pensioners and self-funded retirees work to a budget. They have invested their money and they have invested in their home, in the residential park. Many of them are less fortunate than we are, and they rely on rental subsidies to meet their rent.

I understand that many of the subsidies have reached their peak so that any further increases will come from their own pockets, making it difficult for them to survive. I accept that life is difficult at times, but the intent of this bill is to reach a balance and any increase above the consumer price index [CPI] will cause hardship. Traditionally, members of Parliament ask the tribunal for increases in accordance with the CPI and the media castigates us if we are given anything above that; indeed it castigates us if we get less. Many of these residents have to fight to ensure that the CPI is adhered to. Elderly people should not have to do that, particularly those who do not have the ability to challenge increases that are foisted upon them.

My predecessor, Joe Schipp, a former Minister for Housing involved in the original legislation, said to me before I was elected, "The Parliament is a melting pot. It has people from all different backgrounds, different religious persuasions and political views." How right he was. Sometimes we are painted as being silvertails, but I want to give the House a little history because not all of us come from a privileged background.

Many of us have been accommodated in a residential park or caravan park, or have needed accommodation in our youth. Indeed, I lived in a van during my early years. In fact, Marg Preston can attest to this because she comes from my home town of Ivanhoe and the honourable member for Murray-Darling will be impressed with this. When I was a kid Prestons owned the local café and Lloyd and Isabell Preston had a family of girls who all went to school, many of them with me, and then moved on. As the world revolves, so the old saying that the world really is a small place was proved this afternoon when Marg introduced herself to me.

I want to put on record the Preston family's involvement in the Ivanhoe community. They were good friends of my family. When my mother was very ill, Mr and Mrs Preston helped our family immensely. They were great business people who were wonderful for the local community but they had to struggle. However, today we see an example of one of the Preston siblings advocating on behalf of 30,000 people who live in residential parks. That is another example of the commitment shown by small communities, by people who understand and are passionate about the issue. I am pleased that I have had an opportunity to be lobbied by two people who have a cause and understand the issues. Clearly, the Minister has listened to the representations because kind words were said about her earlier. I will support the amendments. I hope that the intention of this bill is realised and gives some permanency, planning and certainty to the 30,000 people who reside in residential parks. I commend the bill to the House.

Mr NEVILLE NEWELL (Tweed—Parliamentary Secretary) [9.20 p.m.]: I support the Residential Parks Amendment (Statutory Review) Bill. As the bill's title suggests, the bill has resulted from the review of the legislation already in place, which was ably overseen by the Minister for Fair Trading. I thank the Minister and her staff for their work throughout the review process and for introducing a bill, which, by and large, has the support of both sides of the House. The reforms contained in the bill will deliver reassurance to those residents who have been left in some uncertainty over future housing arrangements. The current legislation was introduced in good faith. However, as is the case with most legislation, it is part of an evolving process and it takes time to catch up to certain needs of the community. The bill takes us another step in that direction.

This bill is even handed: it recognises the unique arrangements that arise in parks, where the majority of residents are home owners yet tenants at the same time. Issues arise in residential parks, which are largely

foreign to the rest of the community. Park living is a distinctive lifestyle. In many situations it is different to the experience of other people, yet at the same time a great community develops within various residential parks. That is why it is important that legislation is in place specifically to cover the relationship between park residents and their park owner or manager. The general tenancy laws are not appropriate to those who have residential parks as their principal place of residence. Again I congratulate the Minister on introducing these amendments to further improve the Residential Parks Act.

It is a difficult task to find a fair balance between the need for park residents to have as much security in their accommodation arrangements as possible and allowing park owners to pursue legitimate alternative commercial options, which may become available to their business. However, I believe that the bill achieves this reasonable balance. Residents will have far more accurate information provided to them before they make a decision to move into a park. They will have a longer period in which to make new arrangements, and better access to compensation should their tenancy be affected by a park redevelopment. They will also have a dispute resolution process should they want to sell their home to the park owner but are unable to agree on a fair price. That matter has caused considerable angst in the past. Unfortunately, in many cases people lost an asset simply because they did not have the knowledge or understanding to be able to dispute the price they were offered by the residential park owner. Indeed, in some cases park owners were prepared to exploit their position.

Park owners will also have more certainty over small rental adjustments as they will not have to defend in the tribunal $2 and $3 rent increases that are in line with the consumer price index [CPI]. As other honourable members have said, that will remove particular arguments from the tribunal; small rental adjustments that are essentially in line with the CPI will no longer be arguable. Park owners also will know that they are not inhibited in their redevelopment plans if they follow the correct procedures. The Government does not resile from that, but it also wants to ensure that that is balanced against the rights of tenants. Park owners will also have reduced administrative costs as a result of not being forced to set up a liaison committee unless the majority of residents want it.

Some parks are certainly well run. I probably represent more residential park owners than any other member in this place. The electorate of Tweed has some 6,000 or 7,000 residents in 15 or so parks of varying sizes, many of which are quite large. Some residents are more than happy with informal arrangements. Others are not so happy and consider that a liaison committee is necessary so that they can air their grievances and ensure that their rights are not trespassed on by owners. The bill goes about as far as it can reasonably go to regulate the relationship between park residents and park owners. It provides an appropriate balance of rights and obligations on both parties, and deals with issues that are relevant to parks only.

Two particular initiatives in this bill are of interest to me: first, those measures that will ensure that park residents, like the rest of us in the community, have access to the emergency services that we all take for granted; and, second, the provisions relating to the appointment of a park administrator when things have gone horribly wrong. For most of us, if there is a life-threatening situation in our home we ring 000 and in minutes the ambulance, fire or police services will reach us directly. However, it is not always the same in a residential park. The ambulance or police might be able to get to the front gate of the park quickly but might then be confronted with the challenge of gaining access through a security gate and of locating the home in the park. Those minutes of delay could be vital when a person is facing a medical emergency.

It is imperative that park residents are not disadvantaged, potentially in the most serious ways, as a result of emergency services being unable to reach them promptly. Park owners will need to take this responsibility seriously and to talk to residents about devising the most appropriate solution for their park. Each park will be different but suitable arrangements must be put in place. I am pleased that home care services are included in the new provision relating to access to emergency services. Why should a park resident in need of aged or health care services not have the same rights of access as someone living in a house in the same locality as the park? This is a forward thinking and responsible provision, and I am proud to be part of a government that has recognised its importance in this bill.

The other significant new provision in the bill that I am pleased to support is the measure allowing for the appointment of an administrator by the Supreme Court when things have gone horribly wrong. Park owners should not act in a way that results in residents fearing for their lives or living in substandard conditions that are dangerous to their health or wellbeing. It is a serious proposition to take away from a person the right to operate his or her business. However, when assaults are occurring, when personal property is being vandalised, when the park owner makes no attempt to take any responsibility for the occupants brought into the park, and when tribunal orders are consistently ignored in a cavalier fashion, it is clear that the most severe remedy needs to be available.

Park residents can, by the very nature of the self-contained community in which they live, suffer extreme hardship when a park owner or manager engages in the practices of harassment and intimidation. No-one deserves to live under such repression, and I am pleased that the bill provides measures to bring such unfortunate occurrences to a swift end. The appointment of an administrator will ensure that the rights and appropriate mechanism are available. A similar provision is already in the Retirement Villages Act, and there is no reason that it should not be extended to residential parks. As the Minister noted in her second reading speech, it will be an option of last resort, and the fact that the Supreme Court will make the final appointment will ensure that the highest level of scrutiny is undertaken before an administrator is appointed. Reputable park owners have absolutely nothing to fear and, indeed, should welcome this provision so that the cowboys of their industry are cleaned up. I cannot imagine why any member of the House would oppose this bill. It will deliver greater fairness and equity, and it should be supported by all members. I commend the bill to the House.

Mr JOHN BARTLETT (Port Stephens) [9.29 p.m.]: I also support the Residential Parks Amendment (Statutory Review) Bill, which is defined as a bill for an Act to amend the Residential Parks Act as a consequence of a review carried out under section 156 of that Act and in connection with which a report was tabled in Parliament in December 2004. In short, it was a compulsory review of the existing Act to consider ways it can be amended. I commend all honourable members who took part in the debate. Each member had dealt with a different point. That shows how comprehensive the bill is in looking after the residents of residential parks. I do not propose to go over the items that have already been addressed. I recommend that people read the debate to get an overview of the bill.

Port Stephens, being a coastal area, has a number of residential parks, from Karuah down to Heatherbrae through Fern Bay to the Tomaree peninsula and the Tilligery peninsula, to name a few. Bay Way at Fern Bay would have more than twice as many residential dwellings as Fern Bay community. There are about 220 in the Fern Bay housing community and well over 400 in Bay Way. Banksia Grove caters for an elderly population and also has large numbers. Many concerns were raised during the review of the Act. I was happy to attend meetings about it with local residents. The biggest concern of residents was their future. That was especially upsetting. At a number of meetings I was with representatives of the Port Stephens Residents Parks Association—Darrell Dawson, the chair, and Janice Epstein the secretary.

Residents were concerned about a number of issues. We discussed those concerns and worked through their submissions. Because of the comprehensive debate that has already taken place my contribution tonight will relate basically to those discussion points. There are 900 such residential parks in New South Wales with 30,000 permanent residents. These homes are worth up to and more than $100,000. The owners pay rent to occupy the site and pay for services. Residents were worried about forced evictions from the sites as they become more valuable for development purposes and residents are forced to move. There was a loss of security and an increase in worry, especially for the aged. Residents were also worried about price increases for those on fixed incomes and compensation if they were forced to move. A number of specific items were discussed. One was item [57] of schedule 1, which inserts a new section 102AA, which relates to consent by the tribunal to notice of termination on the ground of change of use. Paragraph (1) of that section states:

> A park owner may apply to the Tribunal for consent to the issue of a notice of termination …

Residents were concerned that "may" did not address the issue. They were concerned that if the park owner may apply to the tribunal, other action could take place that need not go to the tribunal. After a discussion with the Minister's staff it is clear that that concern does not have any validity, and I am pleased to tell residents so. The reason is that section 102AA has to be read in conjunction with section 102 (1B). They work together. In summary, there are only two ways park owners can terminate on the ground of change of use. The first is if they get a development application under section 102 (1A). The second is by application to the tribunal under section 102 (1B) if no development application is required. There is no way to avoid having to go to the tribunal to establish the change of use. Although the wording seems to imply one thing, that is not the case. As I said that issue caused a deal of concern and the discussion went on for about half an hour.

Residents were also concerned that if a development application were approved, they would only have six months in which to leave. They will be pleased to know a 12-month notification to move is required. We hope that the stress and anxiety, especially to the elderly, has been removed. The amendments will apply to thousands of people in the Port Stephens electorate. I recommend they look at the debate, and I commend the bill to the House. My speech tonight is only part of an extensive debate and time does not allow me to go through the whole bill.

Mr ROBERT OAKESHOTT (Port Macquarie) [9.35 p.m.]: I also support the Residential Parks Amendment (Statutory Review) Bill, which I believe is sensible and balanced. Many members representing coastal electorates have spoken in the debate. That is a reflection of the conflict in coastal areas between increased land value and affordable housing on the one hand, and respect for residents in caravan parks, manufactured homes and relocatable homes on the other. They consider their homes to be their castles, and rightly so. That conflict is an issue that all of us should deal with.

I have had several meetings with representatives of the Residential Parks Association. There is a particularly active group of residents in one caravan park in my area, Taskers Caravan Park. I have held several detailed meetings with them not only about this legislation but also about the impact of potential relocation of residents on their lives. That is big hurdle for them and they will be pleased that this bill will pass through the House tonight. They have been following it closely and they have had discussions with the Minister. I appreciate the fact that the Minister has had those consultations with the residents of Taskers. They were often aware of issues before I was. That shows the level of consultation that was occurring from the Government, and it is appreciated.

I am also pleased about the amendment will be moved in Committee. The residents at Taskers and the Residential Parks Association in general have had concerns about the definition of "fair price" in the legislation. They would prefer the wording to include a more market relevant term of "fair market value". I understand from the Opposition spokesman, the honourable member for Gosford, that an amendment was put forward as a result of discussions with the Residential Parks Association. That amendment has been modified and will be agreed to by the Government.

It is pleasing that we can reach agreement across the board in a bipartisan way. I congratulate both the honourable member for Gosford and the Government and thank them for thinking of the best interests of the residents of caravan parks, particularly those on the on the mid North Coast, whom I represent. I will support that good and worthwhile amendment. I support the bill. It has been followed closely in the electorate of Port Macquarie and on the mid North Coast. However, there have been concerns about comments by various park owners.

An article given to me by a caravan park resident was headed "You people are just trailer trash". It is alleged to be a comment that was made by the head of the Caravan Camping and Touring Industry and Manufactured Housing Industry Association. If that comment was made it is completely out of line. We have to respect the rights of residents of all homes in New South Wales. Everyone's home is their castle, and that includes relocatable homes, manufactured homes and caravans. This is good legislation and I am pleased that is receiving bipartisan support.

Ms DIANE BEAMER (Mulgoa—Minister for Western Sydney, Minister for Fair Trading, and Minister Assisting the Minister for Commerce) [9.41 p.m.], in reply: I thank all honourable members for their contribution to this important debate on the bill to amend the Residential Parks Act 1998 and the foreshadowed amendment. I note the presence in the gallery of Mr Jim Clark and Mary Preston of the Affiliated Parks Residents Association and Mr Bob Browne of the Caravan Camping and Touring Industry and Manufactured Housing Industry Association. Mr Clark, Ms Preston and Mr Browne have been tireless advocates for their respective associations and their efforts are greatly appreciated by the Government. Honourable members representing the electorates of Myall Lakes, Gosford, Charlestown, Liverpool, Wagga Wagga, Tweed, Port Stephens, Port Macquarie have contributed to the debate.

In view of what is happening to Australian society in general, this area is important to the Government. The population is aging and lifestyles are diverging. Many people will enter retirement in the next 10, 20 or 30 years. We have to consider their security of tenure in their golden years. The bill will encourage the development of more residential parks to provide the tremendous community and lifestyle residents enjoy in them. We cannot provide security for residents without balancing the rights of the owner and the rights of residents. I visited many residential parks. Those running in absolute harmony were the best. People talked about living in a complete community, living with friends, living in a way in which they can explore things that they want to do, without the maintenance of gardens but knowing that they can go to the croquet court, the tennis court or the swimming pool. They have meeting halls and enjoy the way they live. They want to enjoy their lives for the longest time possible with a degree of surety about their future.

At the same time, we want to encourage investment in residential parks. The owners should be able to run their business profitably. I thank the honourable member for Gosford and the honourable member for Myall

Lakes for the incredible praise of me, something that I have not experienced much before. The honourable member for Gosford will know, in relation to the caravan and parks and residential parks in his electorate, the amount of work that was done when I was Assistant Minister for Planning in relation to the local environment plans and the Government's commitment to maintaining affordability for people entering the golden years of their lives. We had to find ways to look after these people. I also pay tribute to previous Ministers for Fair Trading—Minister Aquilina, Minister Meagher and Minister Hatzistergos—for the work done preliminary to the preparation of the bill. The issue was like a boomerang: I came back on my desk again. I was happy to have the bill proceed.

The bill takes a number of important steps to refine and improve the coverage of matters arising from the statutory review of the legislation. I also give praise to my staff and the Opposition for the way in which we have worked through the amendment that has been foreshadowed. The bipartisan support has resulted from the level of consultation that we have undertaken with a range of community representatives. I also congratulate the Office of Fair Trading on the way in which it has undertaken the exhaustive review. A large number of comments and suggestions were considered during the development of the proposals contained in the bill. I am confident that the bill fairly and reasonably addresses these issues. The Government has taken steps to ensure that residents are given proper information before they move into a residential park about any special conditions that apply to the agreement. The information will make it clear that they will be under a leasing agreement and there is no entitlement to land. Arrangements for their energy supply and rights to sell their homes have to be addressed. These changes will help deliver better management of parks for residents and park owners.

The bill ensures that residents have rights to meet in the internal residents committees but other committee structures have been streamlined to make arrangements more efficient. Having park liaison committees will no longer be an obligation on park owners unless the majority of residents want one, and park disputes committees have been abolished. Water, electricity and gas supply and charging arrangements, where such essential services are provided by the park owner to residents, have been made more consistent. Penalties for offences have been increased so that everyone recognises the significance of obligations set out in the Act. A circuit breaker has been provided for disputes over the fair value of a resident's home when the park owner and a resident are in negotiation over a sale but cannot agree on a price. The bill also provides encouragement for park rents to remain within CPI adjustments. That is an important part of the bill. Often owners apply to the Consumer, Trader and Tenancy Tribunal for CPI adjustments in rents. In this instance there will be an easier path for the owners, but residents will also be able to argue that park facilities be maintained.

Access to the park by emergency services has been dealt with: many previous speakers have spoken about it. The new power for the Office of Fair Trading to apply to the Supreme Court for the appointment of an administrator to take over the operation of a park, in the most extreme circumstances, should be welcomed by the industry. The vast majority of park owners manage parks reasonably, fairly and efficiently. There are some exceptions—albeit few operators—who deserve condemnation. The new provision will be welcomed by the whole industry and by residents. As I said in my second reading speech, the most significant issues that have arisen since the Residential Parks Act commenced in March 1999 relate to park redevelopment and the impact on residents needing to make other housing arrangements. This bill addresses these critical issues by making the termination process more transparent and fairer for residents. Compensation for residents in the circumstances has been made more accessible and more broadly based. Park owners are not impeded should they have genuine and properly approved redevelopment plans, but residents are given a more dignified and fairer departure mechanism with the compensations that are put in place.

New South Wales has been the leader in Australia in recognising the unique residential park lifestyle, where most tenants live in their homes on rented land. The bill takes further steps—important, fair and reasonable steps—to improve that lifestyle. Once again I thank honourable members for their contributions to the debate, and all the park residents and park owners who took part in the consultation process for their part in formulating the bill, which I commend to the House.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 3 agreed to.

Mr JOHN TURNER (Myall Lakes) [9.50 p.m.]: I move:

Page 14. Insert after line 20:

[58] Section 113 Application to Tribunal by park owner for termination and order for possession.

Insert after section 113 (3):

(3A) The Tribunal must not make an order for possession as a consequence of an order terminating a residential tenancy agreement pursuant to a notice given by the park owner on the ground referred to in section 102 (Termination by park owner for change of use) unless it is satisfied that:

(a) compensation for the cost of relocating the dwelling to its new location has been determined under section 128, or

(b) the park owner has agreed to buy the dwelling from the resident at a price no less than its value, as determined by the Tribunal under section 130A, or

(c) the park owner and the resident have reached an acceptable negotiated settlement, and that agreement is bona fide.

I express my appreciation of the Government for the negotiations and discussion that resulted in a consensus view of this amendment. It has been a matter of concern to the residents of caravan parks that they are properly compensated when they have to move on. We all recognise that there are times when residents have to move on, not the least of which is when, fortunately or unfortunately, the owner seeks to redevelop the site.

As the Minister noted in the latter part of her reply, there are very few rogue operators who do the wrong thing. In the second reading debate I said we should legislate for the many, not for the few. However, a very few operators have created a problem and the Opposition felt obliged to move this amendment to protect residential park tenants. We believe that this amendment will have the desired effect, and that it will provide equity and fairness both for owners who do the right thing and tenants who are required to move to another place. The amendment will ensure that tenants are properly compensated for relocation costs, and that they receive bona fide compensation if they choose to leave their mobile homes on site. I commend the amendment to the Committee.

Ms DIANE BEAMER (Mulgoa—Minister for Western Sydney, Minister for Fair Trading, and Minister Assisting the Minister for Commerce) [9.52 p.m.]: As I said in my reply, after talking to the Opposition and working through the issues, the Government is happy to accept the amendment.

Mr CHRIS HARTCHER (Gosford) [9.53 p.m.]: The purpose of the amendment moved by the honourable member for Myall Lakes and supported by the Minister is to ensure a satisfactory resolution of a situation that arises when a park is to be redeveloped. The legislation provides for an extended period of notice in order to give everyone fair warning. It also provides a mechanism to value a property. What the legislation lacked, and what the amendment seeks to address, is a means to close the transaction. The amendment will ensure that when a park is to be redeveloped, once the termination process has been set in place and the property has been valued in accordance with the Act, the home owner receives proper compensation for his or her property.

Proposed subsection (3A) deals with the process of valuation. The tribunal will not force the parties into an agreement, but the subsection provides that before the tribunal makes its final orders, it must be satisfied that proper arrangements had been made in the sense that the park owner and the homeowner have reached agreement, in which case it simply ticks the agreement—but it has to be a bona fide agreement. I acknowledge the Minister's modification of the amendment to achieve that result.

The agreed value will be paid by the park owner to the homeowner so that at the end of the day the process will be satisfactory to everyone. As I said, it is not necessarily the case that everyone will feel they have achieved 100 per cent satisfaction, but there are few negotiations in life where we all get 100 per cent. I once again thank the Minister, the honourable member for Port Macquarie and my colleagues. Agreement has been achieved on a bipartisan basis, and we can all go from here knowing that we have tried to do our best by the park owners and park residents.

Amendment agreed to.

Schedule 1 as amended agreed to.

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

POLICE AMENDMENT (DEATH AND DISABILITY) BILL

Second Reading

Debate resumed from an earlier hour.

Mr ANDREW CONSTANCE (Bega) [9.57 p.m.]: I lead for the Opposition on this bill, and from the outset I state that the Coalition does not oppose it. Ever since the police superannuation scheme was closed in

1988, NSW Police has been calling for an equitable death and disability scheme across the force. Over the past 17 years NSW Police has lobbied governments for a commitment to introduce adequate death and disability coverage for all officers regardless of when they joined the force. On visits to their police stations, honourable members will have heard references to pre-1988 and post-1988 officers, and their different levels of compensation. NSW Police has negotiated with the Government a lump sum system for work-related injuries based on multiples of salary, which vary according to age and degree of disability.

After 10 years in office and four police Ministers, Labor has finally realised the critical need to enact a death and disability insurance scheme that recognises the unique dangers faced by officers in the course of their duties. This is about the Government supporting police with insurance protection that recognises the level of risk they face in their everyday work. Given the lack of recognition of officers under the current arrangements relating to the State Authorities Superannuation Scheme, the bill is long overdue.

The Coalition recognises that the scheme includes a number of aspects that are welcomed by New South Wales Police. They include a lump sum payment to be paid if the injury prevents the injured officer from continuing to work with the force; benefits paid based on the officer's age and degree of injury; and should an officer be killed on duty, his or her benefits will be payable to the spouse or estate. The bill will facilitate the introduction of a new death and disability benefits scheme for police officers employed after 1 April 1988. The scheme came into effect on 23 June 2005.

The death and disability scheme was offered to the New South Wales Police Association as a key part of the settlement of salary negotiations in May this year. The budget committee has specified that the special risk benefits payable under the Police Act 1990 will be abolished. The new industrial award will set out the detailed arrangements. The special risk benefits that apply to students of policing will remain effective, as they are not covered by the new scheme. The commissioner can still make a payment under section 216 if a police officer is hurt on duty but for some reason is not entitled to a death or incapacity benefit. Provision is made for recovery of the special risk benefits if, for some reason, both a special risk benefit and a death and incapacity benefit are paid.

The estimated cost of the scheme is $105 million over the next four years. The benefits for death or total and permanent disablement will be covered by MetLife Insurance Ltd. Payroll deductions will commence on 15 December 2005 at 1.8 per cent of salary. State Authorities Superannuation Scheme members who elect to maintain their additional benefit cover will pay 0.88 per cent. Membership of the scheme is compulsory for all police officers employed since 1 April 1988, except members of the Police Superannuation Scheme or the State Superannuation Scheme, as well as for officers who do not meet the eligibility criteria due to long-term sick leave.

As I said, the Opposition will not oppose the legislation. The bill has been a long time in the making for the State's police force. The Opposition is very mindful of the pressures that New South Wales police are under through the line of work officers undertake and the risks they face at all hours of the day, seven days a week. The Opposition recognises the importance of this legislation in supporting the efforts of New South Wales Police. From time to time we in this place reflect on officers who are lost in the line of duty. Our communities go through a very disturbing and painful time when that happens. Not having an appropriate scheme in place over the last 17 years has been an enormous frustration for New South Wales Police. It is therefore pleasing that through the association and its lobbying that an outcome has been reached that is satisfactory to all parties involved.

Mr JOHN BARTLETT (Port Stephens) [10.03 p.m.]: I have great pleasure in supporting the Police Amendment (Death and Disability) Bill, which amends the Police Act 1990 and the State Authorities Superannuation Act 1987 with respect to death and incapacity benefits for police officers. The overview of the bill states:

> The object of this Bill is to facilitate the introduction of a new death or incapacity benefits scheme for police officers. The bill:
>
> (a) amends the *Police Act 1990* to remove the special risk benefits that are currently payable to police officers as a consequence of the introduction of the new death or incapacity benefits under a police officers award, and
>
> (b) amends the *State Authorities Superannuation Act 1987* to enable regulations to be made to provide for the relinquishment of coverage for the additional benefit under the State Authorities Superannuation Scheme in relation to police officers who are covered for death or incapacity benefits under that award.

The bill provides for a lot more equity in the system. I was elected to the seat of Port Stephens in 1999. At that time I had conversations with local police officers who were members of the Police Association, and two issues were raised. The major issue was that all police officers were doing the same job, but since 1988 there had been a difference in the way they were treated. Injured officers appointed prior to 1988 were treated in one way, and injured officers appointed post-1988 were treated in another way. In other words, two police officers could be injured in exactly the same way but the State provided different compensation for them. Of course, the Liberal Government was in power between 1988 and 1995, and I am not aware of the detail as to why that Government introduced that system in 1988, but obviously it led to a lot of injustice and inequity in the system.

The other issue raised with me was the impact the system was having on police personnel in the Port Stephens electorate. Because the system did not provide a financial incentive for many police officers who were injured in the line of duty, Port Stephens ended up with a large number of officers on long-term sick leave and quite a large number of officers on short-term sick leave. That caused enormous difficulties with regard to police manning in the Port Stephens electorate. If, say, a teacher, such as I was, is away on sick leave there is an automatic replacement. However, the police force does not have such a policy, and therefore when a police officer is away his or her fellow police officers have to replace them on the roster. So rosters became very difficult issues, as did the coverage required.

The Government has announced a $105 million death and disability package for New South Wales police officers killed or injured in the performance of their duty. On 23 June 2005, under the award, the Police Association agreed with the changes that Minister Scully suggested should be put in place. The bill redresses those years of inequality that started back in 1988. It allows the commissioner to apply special support if required. It also provides for a lump sum payment if an officer is no longer able to work, and for police officers to pay for additional insurance for off-duty injury cover.

In about 1988 when I was a member of the RAAF Reserve in No. 26 Squadron at Williamtown RAAF Base, I befriended a police officer there, and we have now been good mates for around 17 years. That police officer was shot twice, and he and I have had many discussions about the fact that the way we support the welfare of police officers does not measure up with what is expected in this day and age. I am very pleased that the package includes $2.45 million a year towards improving injury management. That money will fund key initiatives such as a specialist unit within New South Wales Police to oversight and improve the way the organisation manages its officers on sick leave. On many occasions my police officer mate and I have discussed the fact that historically there had not been such a provision. He felt that if a police officer was badly injured physically or badly scarred emotionally, there was not adequate support in the organisation.

The NSW Police Wellcheck Program has been expanded to all high-risk specialist areas. The program provides officers who work in high-risk areas, such as child protection and the sex crimes unit, with a regular psychological assessment to help identify problems and provide assistance at an early stage if they are in danger of burn-out or other psychological injury. My friend and I have had many conversations about our not putting enough into the rehabilitation, either physical or psychological, of injured police officers. The bill certainly has my support because I believe that its package of improved injury management will enable many police officers to regain 100 per cent of their physical and psychological ability, and get them back to work more quickly and allow them to enjoy their job and get on with their lives.

With those few words, it gives me a great deal of pleasure to support the Police Amendment (Death and Disability) Bill, and offer my best wishes for the success of the measures I have spoken to. I say to all police officers: You are doing an amazing job for the people of New South Wales in circumstances in which you never know from one minute to the next whether what looks to be a common incidence will turn extremely nasty. Hopefully the bill will give police officers and their families a greater deal of security in the unfortunate event that they are injured or disabled.

Miss CHERIE BURTON (Kogarah—Minister for Housing, and Minister Assisting the Minister for Health (Mental Health)) [10.11 p.m.], in reply: I thank the honourable members for Bega and Port Stephens for their contributions. Policing is a dangerous occupation. Whether responding to a domestic violence incident at two o'clock in the morning, investigating alleged child sexual offences, or performing surveillance on organised crime figures, there can be no doubt that police officers experience challenges and face risks that the vast majority of professions simply do not. Under current arrangements, two police officers responding to the same event, experiencing the same situation, and incurring the same injury can receive notably dissimilar insurance cover. The bill, developed in consultation with the Premier's Department, the Minister for Police, NSW Police, the Police Association of New South Wales, and New South Wales Treasury, provides greater consistency in the way in which death and disability protection is provided to our police officers.

The bill amends the Police Act 1990 and the State Authorities Superannuation Act 1987 to facilitate the introduction of a new death and disability scheme. The scheme, to be established by a specified industrial award, will be available to police officers employed on or after 1 April 1988, other than those who contribute to the Police Superannuation Scheme. Contributors to the State Authorities Superannuation Scheme [SASS] will be able to elect to participate in the new scheme and pay the additional benefit levy. The amendments recognise the extraordinary and diverse duties that police officers perform every day, and they give police officers and their families some peace of mind in the event that they are injured or killed in the execution of their duty. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

CRIMES AND COURTS LEGISLATION AMENDMENT BILL

Second Reading

Debate resumed from an earlier hour.

Mr ANDREW TINK (Epping) [10.14 a.m.]: The Crimes and Courts Legislation Amendment Bill was introduced only this morning so I have not had a full chance to consider it and put it to the Coalition party room. It appears that the amendments are reasonably technical in nature. I would have preferred to have more time to look at them. I shall try to do that, and if we have problems we will do something about the amendments in the upper House.

Mr BARRY COLLIER (Miranda) [10.15 p.m.]: I am pleased to speak on the Crimes and Courts Legislation Amendment Bill, which encompasses four matters of importance and of some urgency. The bill makes a number of miscellaneous amendments to the criminal laws and procedures, all of which are designed to improve the administration of justice in New South Wales. First, as a result of comprehensive changes made recently by the Commonwealth Government to the Federal drug offences regime, the bill makes necessary amendments to sections 8A and 9 of the Bail Act 1978. The new Commonwealth regime deletes offences relating to illegal drug importation under the Customs Act 1901, and creates a new, wider range of drug offences under the Criminal Code of the Commonwealth. Relevant changes to the Commonwealth drug laws will come into effect on 6 December.

Sections 8A and 9 of the Bail Act are amended to provide for the application of a presumption against bail or in favour of bail for drug offences under the Criminal Code of the Commonwealth. The bill also remakes a list of Commonwealth offences for which there is a presumption against bail and for which there is no presumption in favour of bail. It also amends other statutory instruments that referred to the old Commonwealth drug offences in the Customs Act 1901, by updating their references.

Changes are also required to the Law Enforcement (Powers and Responsibilities) Act 2002. While a number of minor adjustments are made in the use of terminology and cross references, a number of particularly useful changes will simplify and clarify the regime in place for various types of search warrants. The amendments set out the rules that apply to the duration and extension of warrants quite clearly. The amendments also clarify the role of crime scene officers, to ensure the continuity and the chain of possession in evidence gathering. These changes will ensure the Act works as originally intended upon its commencement on 1 December, 2005.

The bill also proposes changes to the uncommenced Compulsory Drug Treatment Order Scheme contained in the Drug Court Act 1998. In so doing, the Government is preparing for the opening of the compulsory drug treatment gaol at Parklea in early 2006. These changes will ensure there are no opportunities to simply frustrate the operation of the Compulsory Drug Treatment Order Scheme. Towards this end, the bill amends the Drug Court Act 1998 to ensure that appeal courts are clear on when they do and when they do not have to refer an offender to the Drug Court in order to consider whether to make a compulsory drug treatment order.

Finally, the bill amends the Electronic Transactions Act 2000 to facilitate and promote the greater use of technology in the courtroom through the electronic case management system. The amendments are aimed at enhancing e-forums—or virtual courtrooms—in hearings other than those at which oral evidence is to be

received. An e-forum is a virtual courtroom that allows a judicial officer to consider and determine issues in proceedings whilst communicating electronically with the parties. All these amendments are designed to support and enhance the operation of the State's court system. I commend the bill to the House.

Miss CHERIE BURTON (Kogarah—Minister for Housing, and Minister Assisting the Minister for Health (Mental Health)) [10.19 p.m.], in reply: I thank all honourable members for their contributions to this debate. I wish to address some matters raised in debate. The bill makes a number of amendments designed to improve the administration of the justice system. In particular, the amendments to the Bail Act will ensure that criminal behaviour involving Commonwealth drug offences will continue to attract the appropriate presumption of bail. The bill will also help to ensure the smooth transition when the Law Enforcement Act commences on 1 December 2005. 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

COMMISSION FOR CHILDREN AND YOUNG PEOPLE AMENDMENT BILL

MENTAL HEALTH (CRIMINAL PROCEDURE) AMENDMENT BILL

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

WORKERS COMPENSATION LEGISLATION AMENDMENT (MISCELLANEOUS PROVISIONS) BILL

Second Reading

Debate resumed from an earlier hour.

Mr CHRIS HARTCHER (Gosford) [10.21 p.m.]: This bill was introduced into the Parliament today. The second reading speech was delivered this afternoon, and standing orders were suspended to force the debate through this evening. The Government has had this bill for some time but it has not released it to the public or the Opposition. The bill comprises about 27 pages and makes at least 24 amendments to the workers compensation legislation. One can only comment once again on the inadequacy of the Minister for Industrial Relations, who is unable to organise the affairs of his department and present them properly to the Parliament.

The Minister's staff sought to notify my office this morning about this bill but they were unable to even provide a briefing note regarding it. Therefore, the Coalition reserves its rights in the Legislative Council in respect of the legislation. I place on record once again the incompetence of the Minister and his sheer contempt in the way in which he presents legislation to this House. The bill relates to a number of issues, including guidelines for deeming workers to be workers or independent contractors. There are currently no guidelines for auditors to determine the audits of the amounts owing for workers compensation premium. This is a cause of great concern but the legislation does nothing to improve the situation. Audit results are still based on everything from an auditor's weak assessment of the situation to the auditor's mood on the day. There are no guidelines for auditors; they have no idea whether a subcontractor is an employee or a contractor in his or her own right.

In some cases audits last only 20 minutes. These auditors come into people's businesses and homes, pick up a list of subcontractors and walk out. A few days later the employer gets a massive bill and, if unable to pay, files for bankruptcy. There have been cases in the construction industry of contractors who have their own business name, branded vehicle, Australian business number, builder's licence, and multiple clients, doing a three-hour job for a construction company. For that time on that worksite they are deemed to be employees for whom the company should have paid workers compensation. These contractors have their own liability insurance and personal injury insurance. There is no good reason why the construction company has to pay for the contractors as employees. The situation is made worse because the auditors have no idea who should be classed as contractors and who should be employees, and WorkCover has no idea either.

Companies who use subcontractors, are audited, and receive a massive bill from their insurance company have only one recourse: WorkCover. Unfortunately, WorkCover provides no more information to the

company than the original auditor. In one case in regional New South Wales a company asked WorkCover for a definition of a worker and guidelines to determine whether someone was a worker. WorkCover staff told the owner of the company that they could not provide this information, and suggested he talk to his insurance company. The insurance company could not provide the information either. The company owner was a member of the Housing Industry Association, which provided him with a list of the Australian Taxation Office guidelines for determining if someone is worker or a contractor.

The business owner was not told but, of course, WorkCover does not use the Australian Taxation Office guidelines. Those guidelines are not even close to the WorkCover's requirements. When the business owner was audited, he was hit with an unpaid premium bill for $45,000—because WorkCover is incompetent. The Minister's answer is that it is not a big enough problem to change the system, so leave it as it is.

Although the retrospective period has been changed from seven years to three years, auditors can still go back three years and audit unpaid premiums. These are premiums that should have been paid because the auditor believes that one of the company's subcontractors was, in fact, an employee, even though the company had no access to a determination as to who was to be classified as a contractor and who was to be classified as an employee. I imagine it will be some time before WorkCover establishes the determination system, so employers will continue to suffer.

One prominent Central Coast employer was audited. In all, some 300 businesses from around New South Wales have contacted her with concerns about audits and the deemed worker issue. She went public with the issue, and received considerable attention in the Central Coast media, and as a result has attracted the attention of many businesses, which find themselves in a similar plight. Most of these businesses have been audited and hit with huge premium bills. They have contacted this Central Coast employer, June Gibson, in desperation. It says a lot about the WorkCover scheme when unpaid private citizens have to provide advice to businesses about audits and premiums.

WorkCover's incompetence means that June Gibson has become a famous figure within the small business community, by word of mouth alone. As a member of the Small Business Reform Group, June has given advice to literally hundreds of businesses throughout New South Wales. She has taught them how to fight WorkCover, its insurers and their incompetent auditors. The system is a mess. Businesses cannot rely on the Government for advice because it has not got any advice to give. The Government's response is to introduce this bill, after next to no proper interest group consultation, and force it through with little debate before the end of the year.

I turn now to the so-called consultative panel that the Government employed to consider this legislation. It included four business representatives, including a body that relies on State Government funding for survival and has no real incentive to speak out against the useless WorkCover scheme, and four of the biggest unions the New South Wales. I have it on good authority that as soon as the business representatives put their views forward on the definition of a worker, the unions had a big sook, ran away, and refused to come to any panel meetings until the very last meeting. How pathetic! The Labor Party and unions have no interest in ensuring that small businesses are looked after. They just want to sook, run away, and then come back and impose their will on the businesses of New South Wales.

There are other examples of these audits, especially those that result in the bankruptcy of a business. Last month no fewer than 86 businesses were listed for bankruptcy in the *Daily Telegraph* and the *Sydney Morning Herald* for non-payment of workers compensation premiums. It would be interesting to hear from the Minister how many of those were as a result of audits, including problems with the definition of a worker. I shall give the Government some examples in case it would like to know how many businesses it forced to close and how many lives it has ruined. A bricklayer in Orange received a bill for $57,000 because WorkCover could not tell him if his workers were contractors or deemed employees. He filed for bankruptcy. A small business like his cannot handle a $57,000 bill because WorkCover is incompetent and unable to give advice. A contractor from Avoca, on the Central Coast, received a bill for $44,000 because the people who worked for him were classified under the WorkCover system as deemed workers, although they had their own Australian business numbers and business names.

Another bricklayer—this one was from Terrigal, on the Central Coast—received a bill for $36,000. He received legal advice, which cost him a further $4,000. He was advised to pay because there is no adequate definition of "worker" and it would be hard to argue the case with the determining body, which is WorkCover. The bricklayer has informed the Small Business Reform Group and will have to consider his business options. The Minister responsible for WorkCover wrote to Mrs Gibson in March 2005 and said, "I have instructed

WorkCover to waive late payment fees because I was concerned that the distinction between a worker and a contractor is not clear. As you may be aware, WorkCover is conducting a review to resolve this problem." The Government has acknowledged the problem, yet it is unable to do anything to provide assistance. Mrs Gibson gave further examples:

> A brickie worked for us for 3 months. He asked us to pay him up as he had found a job paying $30 per hour cash so we did. 2 Months later he asked for his job back which we gave him. He started on the Monday morning and worked 2 hours and then had a hernia. The CFMEU phoned us up and said it was a genuine claim and we had better pay it. All his wages (4 weeks) and medical bills for the operation were paid by us. He then went on to light duties working in the yard sweeping up for 4 hours a day. On the Friday before the Monday he was due to go back to site on full duties he resigned and went back to the same subbie working for $30 per hour cash. The same subbie stood up in the Royal Commission—

employed by the Federal Government—

> and admitted to always paying cash and is still doing so to this day.
>
> …
>
> The Thursday night before Anzac Day one of our brickies said he fell of the bus while coming home from work. He broke his leg so badly it was at a 90 per cent angle and needed a 2 hour operation to straighten it. He did not know what bus it was or the time of the accident. There were no witnesses. He then walked home … and spent all the next day (Friday Anzac Day) with his leg in this condition. Most of the other brickies were out drinking and playing 2 up. On the Saturday morning he decided to go to hospital. The Doctor who performed the operation phoned us up and said it was impossible for someone to put up with an injury of this nature for so long and would sign a statement saying so. We explained all of this to Workcover but they paid him.

There are hundreds of stories about WorkCover's poor performance, inadequacy and unwillingness to give advice—the advice it provides is inadequate. However, none of those matters is properly addressed by this bill, which is being forced through the Parliament hurriedly this evening. The Government has a duty to ensure that the workers compensation scheme is properly administered and administered for its purpose, that is, to collect premiums from employers and to pay them into a fund from which injured employees, who are genuinely injured in the workplace, are properly compensated and rehabilitated, and given the opportunity, where possible, to return to their original job or a similar job.

That is the simple mission of WorkCover, yet the Government is ignoring that simple mission and this bill does not address it. The Coalition objects to the way the bill is being forced through the Parliament. I draw the attention of honourable members to a letter dated August 2005 from the Minister for Industrial Relations to Bab Lalor, the Secretary of the Small Business Reform Group at Wamberal, which states:

> I refer to your letter concerning the definition of a worker.
>
> As you are aware, the definition of a worker is a key definition within workers compensation legislation, as it determines who is covered and eligible to receive workers compensation benefits in the event of a workplace injury.
>
> I acknowledge your concerns that the initial discussion paper concerning the review of the definition did not include mention of a Panel. However, more than 50 submissions on the discussion paper were received from a wide range of stakeholders, highlighting a number of issues relating not only to independent contractors, but also labour hire workers and outworkers. The Definition of a Worker Panel was formed to develop solutions to these issues …
>
> The membership of the Definition of a Worker Panel was selected to draw upon the many views that exist in the small business community and industry.

The Government put four union people on the panel supposedly to represent small business. As an explanation for his conduct, the Minister further said:

> Unions, as representatives of organised labour, have a valid concern regarding the definition of a worker, as does the small business sector.

So the panel, including four trade union representatives, met. The panel also had representatives of employer organisations but no representatives of small business. Yet it is small business that is afflicted with this ongoing problem of what is a worker and what is an independent contractor. Who should pay workers compensation insurance and who should arrange their own insurance? Accordingly, the Opposition is not impressed with the legislation. As I said, we reserve our right to oppose it if it appears expedient upon further consideration to do so in the Legislative Council. The Government has further failed to take appropriate action to reduce WorkCover premiums, which are already the highest in Australia, apart from those in South Australia.

Business is crippled with the huge premiums that must be paid. The Government's offer is a paltry 5 per cent, when there would be every justification to reduce it by at least 10 per cent if jobs are to be encouraged in

this State. That is the Coalition's policy—a 10 per cent reduction as a bare start in the high cost of workers compensation premiums, to give business the opportunity simply to employ more people. The Government has abolished workers compensation concessions for trainees, failed to provide a proper workers compensation rebate system and made employment a cost disincentive. For that reason, 95 per cent of the jobs created in the last quarter in this country have been outside New South Wales. Australia's biggest economy and most populated State has produced only 5 per cent of the jobs, and a major part of that must be laid at the door of the Government and its failure to rectify and remedy the inadequacies of its workers compensation system.

Mr ANDREW FRASER (Coffs Harbour) [10.37 p.m.]: I too have concerns about aspects of this bill. Like the honourable member for Gosford, I compliment Mrs June Gibson on the great job she has done in representing small businesses in New South Wales that are suffering badly under WorkCover given the way it is run and orchestrated in this State at the moment. As a result of probably unfair claims, the debt owed by WorkCover has escalated—the Government is desperate to get it down, as we all are. Changes have been made to WorkCover over the past couple of years so that premiums now include superannuation, overtime, all the things that workers do not get back if they are on workers compensation. Businesses are copping this sort of penalty retrospectively. We must seriously ask where WorkCover is going in New South Wales? Why do Queensland and Victoria have better WorkCover schemes at a reduced cost, with workers receiving greater benefits than those in New South Wales?

I raise my concern with the legislation and I feel somewhat unprepared this evening because of the way the bill has been rushed into Parliament. A number of issues relate to a number of firms in New South Wales. According to paragraph (l) of the legislation's overview, the bill provides that certain contractors are deemed to be workers employed by labour hire agencies where the labour hire agencies provide services to the contractors to facilitate the contractors' performance of work

I suggest that is directly aimed at a couple of firms that are known very well to the Labor Party. The principal of one of the firms was closely related to a Minister in this Labor Government. That person happens to be Steve Harrison, who used to be the secretary of the Australian Workers Union. Steve Harrison saw through the guise of the unions in this State and looked at how a service could be provided to employers that would give far greater benefit to the workers and the firm. It was a way of putting workplace agreements in place in this State. The firms I know of that utilise this form of labour hire increased their productivity, reduced sick days and had a far happier workplace across the board. But the unions did not like it.

As the honourable member for Gosford said, a committee was formed with four union representatives and one business representative to look at the definition of worker in this State. That was the most biased process I have ever seen. I suggest the whole idea of that committee was to stop hire firms prospering and therefore stop workers and businesses prospering in New South Wales. One company that has since gone belly up for want of a timber supply in my electorate adopted this scheme about three years ago. Immediately following that work hire arrangement the company had the first profitable January it ever had, its output was up, workers wages were at a record high and everyone was happy.

I am at a loss to understand why the Government would want to get rid of this type of opportunity for employers and employees alike when it has had such a positive result. A number of firms, and I am not going to name them all, took that opportunity. I am fearful of naming the firms on the North Coast who are adopting this arrangement—though I feel sure that the Government probably knows them already—because they will be ostracised through the usual occupational health and safety and WorkCover inspections.

I am also concerned about the bill requiring a person to make available records relating to work performance. I am concerned about this because of an example of a small business in Dorrigo, a mum and dad firm that employed themselves, their son and a couple of casual employees. It was inspected by WorkCover. WorkCover came up and went through their books. Those people went to their accountant and their solicitor and provided all the information WorkCover required. At the end they were complimented by the inspectors from WorkCover on what a good job they had done and how they kept their books and everything else. But it cost them $1,900 in legal and accounting fees to provide that information. They were then given an audit fee of some $350 or $400 by WorkCover. So, to comply with the inspection procedures of WorkCover cost these people $2,500. I suggest that for a small business in a town of 1,200 or 1,500 people that was a huge cost for no good reason.

I cite the case of a security firm in Coffs Harbour that was inspected by WorkCover. WorkCover came up and went through the books. The firm was asked to provide certain information, which it did. For personal

reasons the WorkCover inspector had to return to Sydney. WorkCover then rang a person from the firm and said, "We would like you to send all your records to Sydney so we can further examine them." This person said, "I am not prepared to send my records away from my accountant's office and away from my business. You are at liberty whenever you wish to come up and inspect those records in Coffs Harbour." It turned out that the inspector who initiated the inspection had left WorkCover. Someone had then picked up the file, incomplete as it was, and decided that the easy way out was to deem all payments to subcontractors to be wages.

Another example is a security firm in Coffs Harbour being asked by a client to pick up a package in George Street and deliver it to Elizabeth Street. The firm would ring a contract firm in Sydney and get it to do the job. It would bill it through its business. If it cost $100, that $100 would be paid to him and he would send it off to the other firm and the original business would not make one cent out of it. It was done to keep the principal client in Coffs Harbour happy, a good work practice. WorkCover, by the stroke of a pen, deemed all these payments to be wages. The firm has now been hit with a bill for $44,000.

WorkCover is refusing to look at the books unless they are sent to Sydney. I suggest if WorkCover is sending out a bill for $44,000 it has an obligation to provide the firm with a proper audit and to give the reasons. The principal of this business has been in business of 23 years. He has never had a claim. He is now faced with a bill for $44,000 and a threat to go further back into his work history. That is an absolute disgrace.

These are odd cases. The honourable member for Wagga Wagga will talk about BioSeptic, which I would love to talk about. I spent a day with Bob Martin at his business. A member of Parliament from Western Sydney has had countless discussions with this man. He has tried to set up appointments with the Minister. This fellow is copping a $63,000 bill which has been forgiven by the Minister one day and reinstated the next. I feel sure that the honourable member for Wagga Wagga will go into that case because he, like me, has talked to this man. His wife is a survivor of breast cancer. The pressure that WorkCover is placing on that man—and the further pressure that I believe this legislation will place on him, his family and business—is unacceptable. Jobs will be lost because of the actions of this Government. The Hon. John Della Bosca and this Government are, or are choosing to be, blissfully unaware of the problems being caused.

During estimates we put a question to the Minister for Small Business as to how many businesses in New South Wales were being wound up by WorkCover or by WorkCover-related issues, and we showed the Minister a piece of paper. The Minister claimed the documents leaked to the Opposition could not be given any credence and the proposition was probably a lie. The Minister could not give us an answer as to how many businesses were being wound up. Unfortunately, because of the speed with which this debate was brought on this evening, I have been unable to access the files in my electorate office that could tell us exactly how many businesses have been wound up this year. I will be happy, if the bill is amended in the other place, to make those figures available when the bill comes back before the Committee in this place. On average something like 15 businesses a day were being wound up by WorkCover. The Minister claimed I got that figure from a leaked document. If he regards the company notices in the *Sydney Morning Herald* and the *Daily Telegraph* as leaks, that shows the competence of the Government in dealing with WorkCover issues.

I talked to a man from Gosford whose WorkCover premiums have gone to $444,000 because the F-factor had doubled. Jean Gibson put me on to him. That man expected an increased premium because he had increased his business throughput. He put away something like $200,000 to pay the extra premium, but what he was not told and given no warning of, even though his claims experience was excellent, was that the F-factor had doubled. As a consequence, he cops a bill of $444,000.

How does he pay that bill? He liquidates. He cannot afford to pay it. Every week dozens of businesses—perhaps hundreds—go to the wall. I am happy to provide that list to the Minister and to the media. Let us get it out of the company notices and put it on the front page. Maybe then the Minister will understand the hardship being caused by WorkCover inspectors, by poor audits, by audits that deem people to be workers regardless of whether they are workers, and maybe he will realise that this system the Government is employing at the moment to reduce the debt is sending businesses broke. There are in excess of 375,000 small businesses in New South Wales, employing more than 1.2 million people. That figure does not include farmers or micro businesses. Yet WorkCover is sending up to 50 to the wall each week. It is destroying businesses, families and jobs. [*Extension of time agreed to*.]

The bill increases compensation for permanent back injuries by 5 per cent, abolishes the requirement for permanent impairment, provides for compensation grants to be registered with the commission, et cetera. I wonder whether anyone has costed the effect of workers compensation premiums on small business and the

livelihoods of the people who employ most of the people in this State. Depending on the estimates used, government employs between 7 per cent and 18 per cent of the work force. The rest of the work force is employed by private business. The way the Government has treated these businesses under occupational health and safety and workers compensation regulations is an absolute disgrace. Small business people are going out of business purely because the WorkCover Authority, or an insurer under the WorkCover legislation, has deemed someone to be a worker, or they have doubled the F- factor in the past 12 months.

I do not have the time to go to through the whole file I have but during estimates committee hearings I raises a case of a sawmill, a husband and wife operation in Dorrigo. WorkCover deemed that the director's fees earned by the wife were wages. From memory, they copped a bill of $17,000 and an interest payment on top of $6,000 or $7,000. This is a mum and dad outfit with one casual employee. Yet that lady has never set a foot in that bush mill in her life. These are strugglers. The operation involves a little salvage mill. They had to go to relatives to borrow the money to pay a premium that I believe was absolutely unjustly levied under the present system. The provisions in the bill are nothing less than a huge impost on workers compensation.

During estimates committee hearings the Minister for Small Business was asked about the effect of New South Wales Government legislation on small business. All we heard about from him were Federal issues. I suggest that the Minister, David Campbell, and Mr Della Bosca by association, do not go out to talk to the chambers of commerce and business associations. The reports I have had suggest that all they have done is lecture employers and small business. They have not gone to listen; they have gone out to tell them how bad they are going to make it for these employers. That is a damnation of the Government. Small business is the only section of this State that provides taxes and export and domestic income. It is a shame.

Tony Kelly, as a farmer, might have been a Labor Party small businessman. Ian Macdonald may have been a share farmer at some time but he always had other income to supplement his share farming activities. But other Government members do not understand what is being done to the economy, small business and personal lives with this type of legislation and the Government's non-attention to the cries and pleas for help from small business. I commend June Gibson and the Small Business Reform Group on the great job she has done and continues to do. We will bring all the information she has collated into a proper debate in this House that is not rushed on at this time of the night at the end of the year. Hopefully, we will have it collated for the upper House debate on the bill. We will expose the Government as an uncaring government that is out to destroy the true workers, not only the employees in small business but also the small business people themselves. Government members should get out and get square with people such as Steve Harrison, who is conducting a good business outside the union realm. The bill is all about paying back the Government's mates in the union movement. It is not about enabling small business to prosper and progress. If I had the opportunity here this evening I would vote against the bill because I do not think that it serves this State well at all.

Mr DARYL MAGUIRE (Wagga Wagga) [10.56 p.m.]: I had cause during the Macquarie Fields by-election campaign to have a long discussion with Mr Bob Martin from BioSeptic, whom the honourable member for Coffs Harbour referred to. I met with him for two and half hours at his factory, where he explained to me the problem he was having with workers compensation and the difficulties he saw in regard to the bill. I will read his concerns onto the record. One small injury and the WorkCover system could result in the loss of 26 jobs. This document gives the history of what is turning out to be a saga as a result of the WorkCover regime that the Minister and the Government are presiding over and their fundamental lack of understanding of the impact on business. The document reads:

> The company is a small manufacturing and service company established in 1992 and located in southwest Sydney. It employs 26 people, 42 per cent are aged over 50 years old and 53 per cent have been with the company for more than two years
>
> In September 2004 a production worker fell over and injured his knee while using a crowbar in a manner in which he had just been instructed not to do. He received treatment and continued doing the same work for another five months. He complained that there was a problem with his knee (although it was not apparent as he walked around the factory) and a claim was made against the Workers Compensation (WC) insurance policy.
>
> From January to July 2005 the effect of the declining economy and the Vendor Tax on the New South Wales construction industry caused the company's business to be almost halved and a production cut back meant that the worker had to be let go in February 2005. After he left the company the WC insurer arranged for him to have minor surgery on his knee. He is still receiving weekly wages from the WC insurer.
>
> By undertaking the extreme economic measures of asset sales and not replacing staff the company has managed to struggle through the tough times of the last ten months. It was hoped that a new venture manufacturing water tanks to solve Sydney's water crisis would provide job security and prosperity for the company. Everyone thought that the company's fortunes had changed for the better and new staff members were being employed.

Unfortunately the New South Wales Government has managed to thwart these plans. Advice was received a week ago that a $65,000 'Experience Premium' was retrospectively payable for last year's WC insurance. The additional premium is on top of the $57,000 premium that had already been paid. This has increased last year's premium to $122,000, or about $4000 per employee.

The estimated base premium for the 2005/6-year is $48,000, with a whopping $74,000 'Experience Premium' on top for last year's injury. The total for this year is $122,000, or $4700 for each of the current employees, this year there are fewer employees.

This means that before starting to make any profit this year the company has to find $187,000 for WC insurance, made up of the balance of last year's and this year's premiums, or $139,000 more than last year. The total 2005/6 insurance premiums of $122,000 will be 2.1 times greater than the expected premium that was based on last year's $57,000 base premium.

It is both interesting and frightening to look at where the money is going. Last year the injured worker received wages, medical and associated costs of between $20-30,000 and it is estimated that he will receive $23,000 in 2005/6.

The insurer is obliged to estimate the claim cost using WorkCover rules and this injury claim is recorded as costing either $116,143 or $130,091 until the year 2011, it is difficult to understand their calculations. The two Experience Premiums amount to $139,000 with another slug expected next year. The two Experience Premiums provide either a $9,000 or $23,000 excess over costs to WorkCover with next year's Experience Premium being a 100 per cent profit even allowing for the worker to be paid $250 every week until the year 2011.

What happens to the two base premiums of $105,000, are these the administration costs, if so there seems to be a need for a review? $50,000 a year to collect and administer funds for 26 workers should be a profitable business, but WorkCover reports a budget deficit, what happened to all of the money?

The company has been paying premiums since 1992 and as far as is known the premiums have exceeded the cost of the claims. The insurance documents show three year's records and that there were no claims in the preceding two years. Besides three journey accidents (there are 25 vehicles) the other claims have been for sprained ankles and a knee injury, both requiring only two weeks rest and no surgical treatment.

There was a conference at the insurer's office 26th June 2005 to settle a claim for wages by the worker while he was undergoing treatment. When the matter was settled the insurer stated that the outcome provided that about $30,000 experience factor would be added to the next year's wages as a means of calculating the 'experience factor'. The company knew that this should add a few thousand dollars to the premium and was not unduly concerned. It was also stated that the costs would continue for six months and then drop back to an amount close to $250 per week.

The work sheets provided last week to support this year's premium advice now reveals that by 29th June the estimated cost had increased to $116,143 and by 30th June the printed advice had increased the estimate to $130,091. At no time was the company invited to reemploy the worker. He is now the highest cost worker supported by the company.

If the worker finds a job in 2005/6 and his benefits cease the company will receive no refund from the $65,000 experience premium for last year, that money simply disappears into WorkCover's coffers/black hole. Note that the legal costs were the largest cost.

If the employer has to pay the full cost of the injury it would be more reasonable to pay the costs on a monthly basis, this could be better accommodated into the company's cash flow, rather than a monstrous slug in advance.

Last year's premium of $122,000 equates to $4,700 for each employee. The premium is paid on gross over award earnings including overtime and superannuation, but the employee only receives the award wage, or sometimes only 80 per cent of the award wage. It would probably be cheaper to forget about the WorkCover scheme and purchase individual sickness and accident policies for each employee in the commercial insurance market.

Employers now need to have insurance against a WorkCover Experience Premium; this could be a whole new market for the insurance industry. There would be an outcry if car insurance operated the same way, try making motorists pay for accident repairs in addition to the premium.

The company survived the New South Wales construction industry downturn last year and struggled to breakeven after paying State Payroll Tax of $45,314.00. This is not a good result for the proprietors who have worked up to twelve hours a day, six days a week for a pittance while putting their assets on the line every day. At least company tax will not be a problem.

The company conducts corporate governance of the highest order, but it cannot plan for retrospective insurance premiums.

A review of the premium is to be requested, but the insurer advises that it is only executing WorkCover guidelines and the amount of the Experience Premium cannot be changed. An Act of Parliament sets the rules. The only way that the company can now avoid paying the huge premium is to reduce staff as fewer staff reduce the premiums.

Last week before discovering the size of the premiums the company was running job advertisements and engaging new staff and there are more jobs to fill. Next week those jobs will have to be left unfilled until the premium is reduced to a manageable level.

If WorkCover requires the premiums to be paid then there will be no choice, but to cut existing jobs. As the payroll decreases so will the Payroll Tax, the combined reduction should bring the premium cost closer to last year's figure.

The New South Wales Government will receive about the same money from the reduced WC premiums and Payroll Tax, but fewer people will have jobs as the company will have to cut out the least profitable and most labour intensive operations. This situation seems to be contrary to the normally accepted policy of increasing business to provide jobs and profit, not diminishing them.

> If the company closes a number of local support companies have indicated that they will also have to close.
>
> The company is hoping that the costs for another worker more seriously injured after being attacked by an animal on a client's property will be paid by the client's public liability insurance. If the WC insurer makes a 'commercial decision' not to pursue the other insurance company and applies another Experience Premium the company will have to immediately close.
>
> Trying to put the matter into perspective, if WorkCover winds up the company because the exorbitant experience premiums are not paid, the loss of all of 26 jobs will be caused by one worker slipping over while using a crow bar in a way that he had just been told not to do.
>
> This incident was no equipment failure that caused a horrific injury. The worker said that he had previously sustained far worse injuries falling off his bicycle. Weekend footballers sustain similar or worse injuries on the sports field.
>
> Yet WorkCover rules may mean that a $4 million company and 26 jobs have the potential to disappear because of a cartilage tear injury.
>
> The 26 employees are ordinary fair dinkum Aussie workers ranging in age from 20 to 60. Seventeen are married, fourteen have dependent children, at least eighteen have their own homes/mortgages and probably three quarters have some sort of finance payments. Over half were unemployed before commencing work with the company.
>
> The company's demise will be catastrophic for the proprietors who are in their mid fifties. They will have to sell the family home of 23 years to pay guarantees and as the company was their superannuation they face a bleak retirement. With 42 per cent of the employees over 50 it is unlikely that many will find new positions. Many of the staff take ownership of their positions and they have put a tremendous amount of effort into building the company and seeing their efforts succeed, all this effort will disappear, causing other social problems.
>
> I am willing for these circumstances to be publicised if it achieves a fairer deal for New South Wales businesses...

I have additional correspondence from Bob Martin in which he states:

> I feel a little weak burdening you with our problems, as I know that the life of a parliamentarian is also fraught with difficulties and frustrations, but by describing what has happened to us you may be able to change legislation to assist us and like businesses. If not NSW business owners must be made aware of these draconian new assessments.
>
> Sadly I wish to inform you that the single biggest casually may be my wife... She has stood my side running this business since 1986 and we have suffered every disaster imaginable, but this year has been by far the worst. We have both lost our Mothers in the last three months and she also lost her brother-in-law two days before her Mother passed away. We have absolutely struggled financially and emotionally since November last year.

He goes on to state:

> Everything that we have done we have foolishly done correctly, we have the proper insurances, we declare the correct amounts for tax, we pay Payroll Tax which reduces our competitiveness. Our friends and competitors think we are crazy for running the business in such an ethical way. However this latest slug from WorkCover is the final straw that may break the camel's back.

Finally, he states he will go to his local member, the honourable member for Camden, Mr Geoff Corrigan, to seek meetings with the Minister and to plead his case for this business. The 2½ hours I spent with the business proprietor highlighted the fact that this company is under pressure. The Government must realise the difficulties that will be caused as a result of this legislation. This company has created jobs, it is investing in the local community and it is affording opportunities to many in the community. If Bob Martin has to find that money he will have to sell off the family home and all those people will become unemployed. He will have gained nothing.

At some point Government members, including the Minister, have to understand the difficult circumstances that this legislation continues to create for people throughout New South Wales. Like the honourable member for Coffs Harbour, I did not have access to my electorate files tonight because this debate came on late. However, I wanted to put on the record the example provided by Bob Martin. I am able to pull from my files dozens of examples of businesses that are suffering and under stress because they have to find these amounts of money. To be faced with these retrospective payments would be equally daunting to someone on a salary equivalent to that of a member of Parliament and a person running a $10 million business.

The honourable member for Coffs Harbour named some of the businesses that have folded. It is clear that Government members need to take action to ensure that the legislation is modified to accommodate the views of those people, particularly the case I referred to in the electorate of Camden. I would have expected the honourable member for Camden to be in the Chamber talking about Bob Martin's problems. I know that he has spent a few hours with him. Whether he has been able to influence the Minister or the Government remains to be seen.

Ms LINDA BURNEY (Canterbury—Parliamentary Secretary) [11.10 p.m.], in reply: I thank honourable members for their contributions to the debate. This bill will achieve many worthwhile reforms to workers compensation benefits and procedures, and to premium compliance arrangements.

Motion agreed to.

Bill read a second time and passed through remaining stages.

SPECIAL ADJOURNMENT

Motion by Mr Carl Scully agreed to:

That the House at its rising this day do adjourn until Wednesday 30 November 2005 at 10.00 a.m.

The House adjourned at 11.12 p.m. until Wednesday 30 November 2005 at 10.00 a.m.