

# LEGISLATIVE ASSEMBLY

Wednesday 6 September 2006

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

**Mr Speaker** offered the Prayer.

**Mr SPEAKER:** I acknowledge the Gadigal clan of the Eora nation and its elders and thank them for their custodianship of this land.

## AUDIT OFFICE

### Report

**Mr Speaker** tabled, in accordance with section 38E of the Public Finance and Audit Act 1983, the performance audit report of the Auditor-General entitled "Educating Primary School Students with Disabilities—Department of Education and Training", dated September 2006.

**Ordered to be printed.**

## AUDIT OFFICE

### Report

**Mr Speaker** tabled, pursuant to section 12A of the Annual Reports (Statutory Bodies) Act 1984, the report entitled "Annual Report 2006—Excellence in Auditing".

**Ordered to be printed.**

## INSPECTOR OF THE POLICE INTEGRITY COMMISSION

### Report

**Mr Speaker** announced the receipt, pursuant to section 102 of the Police Integrity Commission Act 1996, of the report entitled "Annual Report for the Year Ended 30 June 2006".

**Ordered to be printed.**

## POLICE AMENDMENT (POLICE PROMOTIONS) BILL

### Second Reading

**Debate resumed from 30 August 2006.**

**Mr ANDREW CONSTANCE** (Bega) [10.03 a.m.]: I lead on behalf of the New South Wales Liberals and Nationals in relation to the Police Amendment (Police Promotions) Bill. We will not oppose the bill but we recognise that the proposed system is yet to be endorsed and agreed to by the Police Association of New South Wales. While we do not seek to halt the passing of the bill, we recognise that it is being taken at face value by police and will be evaluated in due course. This is particularly so given that the regulations are currently being worked through, which I will elaborate on shortly. The bill follows years of frustration and angst by police at the current promotion system. Following a survey of police promotions in 2000, a system of pre-qualifying assessment was established.

During the first such session former Commissioner Ryan changed the pass mark. Subsequently a ministerial inquiry made 26 recommendations. The Police Integrity Commission's Operation Jetz uncovered officers acting unethically in relation to the disclosure of information relating to the exams and led to changes to the Act so the Commissioner of Police could deselect officers. As a result of continuing complaints about

promotions, the Schuberg report was commissioned in July 2002. Geoff Schuberg produced an interim report in September 2002 and a final report in December 2003. The Minister for Police released the Schuberg report in May 2004 and referred it to the working party of former police Minister Peter Anderson for review and implementation. Peter Anderson's final report went to the Minister in February 2005. He in turn released it for discussion.

There are myriad problems with the current system—identified in the speech of the Parliamentary Secretary—including vacant positions being left unfilled and officers who had demonstrated their suitability for promotion not being promoted because eligibility was limited to particular locations. It has also been found that the isolation of the existing promotions system from professional development and training systems resulted in officers being appointed to supervisory roles without having adequate training or any clear understanding of the requirements of the position. Most importantly, it was identified by the Schuberg inquiry that inexperienced and junior officers were promoted into critical command or supervisory positions, and that those officers then sometimes acted or relieved at higher rank—an unacceptable and untenable situation.

The current system also has protracted and costly appeals processes and, as indicated by the Parliamentary Secretary in his second reading speech, there were significant delays in appointment, cost—both time and monetary—and "bad blood" resulting from the Government and Related Employees Appeal Tribunal [GREAT] promotional appeal system. The new system will not be implemented until 2008—eight years after the system started to fall apart. As a result, over the past few years hundreds of officers have been acting in positions with no certainty, and now police are being told to "suck it and see" rather than being given certainty that the "new improved" system will actually work.

As I indicated, the purpose of the bill is to amend the Police Act to implement a new promotion and appointment system for police officers, which does not include constables and executive officers, based on selection for, and appointment from, promotion lists for particular ranks or grades within ranks. The changes to the promotion system will apply to the ranks of sergeant, including senior sergeant, inspector and superintendent, not members of the police Senior Executive Service. There will be separate promotion lists for each rank. It is anticipated that under the new system the first appointments will be made no earlier than 1 January 2008. During this interim period the existing system will continue to operate. Officers will need to serve two years at rank as a precondition of entry into the promotion system.

The bill amends the Act to provide in essence for appointment by way of promotions from promotion lists and not by individual application and selection for individual positions. Appointment to any position by way of promotion is to be made by appointment of the highest ranked available officer from a promotion list for the rank concerned. Individuals seeking placement on a promotion list must have spent the requisite time at the rank below, which is at least two years, and must successfully complete a pre-qualifying assessment, a promotion examination, an applicant evaluation and must meet the eligibility program. Officers who qualify for a promotion list will be given an eligibility mark and will be ranked according to order of merit from the highest mark to the lowest. A new promotion list for each rank or grade will be prepared each year, and an applicant who does not accept promotion can remain on a list only for three years before having to requalify for the list.

Individual vacancies will no longer be advertised given that position-specific appointment is no longer relevant. The number of places on the promotion list for each rank will be estimated at the beginning of each promotion cycle and the numbers of candidates will be restricted on the quotas determined by those estimates. The right of appeal to GREAT against an appointment of another applicant to a particular position will be removed. In its place, a review mechanism will be in place for each stage of the promotions process. The Opposition is concerned about that last point. I intend to check whether there has been a response to it from the Government. The point is highlighted in the "Legislation Review Digest", which clearly states:

The Committee is of the view that a fair promotions and appointments process should include an adequate system of review and appeal of decisions related to that process.

The committee acknowledged that the bill allows for a process of review and appeal to be established by regulation and that the second reading speech of the Parliamentary Secretary made it clear that it is the Government's intention that the regulations will so provide. The committee went on to state:

However, given the importance of a proper review and appeal mechanism for a fair promotions and appointments process, the Committee refers to Parliament the question of whether, to avoid an undue delegation of legislative power, such matters should be provided for in the primary legislation.

It would be interesting to hear what the Government has to say on that point. The Opposition is concerned about it. As I stated at the outset, the Opposition recognises that work on the regulations is in progress, but we would like to see those regulations in their final form before committing to a position of not opposing the process. No doubt my colleague the shadow Minister for Police will deal in detail with this bill in the Legislative Council, but I draw to the attention of the House that the Police Association made it clear in a circular to its members that it is yet to endorse the new system. The Police Association intends to report to the 2008 biennial conference the results of the negotiations to allow delegates to consider the outcomes of the process.

The Police Association has sought a review of the new system by 1 July 2009. Given the contentiousness of this matter over such a long period, it is of key importance for the regulations to surface and for the Opposition to have the opportunity to examine their effect on the police force. It is also of paramount importance that the police force has the opportunity to respond. As I indicated, the Opposition will not oppose the bill. We recognise that the current system has failed badly. The Opposition will not oppose or halt the passing of this bill through the Parliament, but we adopt that position while recognising that the police are yet to endorse the new promotion system.

**Mr KEVIN GREENE** (Georges River) [10.14 p.m.]: I take this opportunity to record my support for the Police Amendment (Police Promotions) Bill. I am pleased to note the comments made by the honourable member for Bega indicating that the Opposition also supports this bill. I believe that this bill represents a significant way forward for the police of this State. It is interesting to note that the system endorsed here today has been developed in consultation with the NSW Police and the Police Association of New South Wales. The Police Association has been intimately involved in discussions that have taken place over the past 12 months or even longer. The review has been underway for approximately two years, and I know there have been discussions throughout the State. Peter Anderson led the committee that consulted throughout the State to take on board the input of officers, which is of great importance.

The Parliamentary Secretary Assisting the Minister for Police did an outstanding job in his presentation of the second reading speech and he described in detail what is involved in this legislation. He has passed all the fitness requirements for the presentation of the second reading speech, matched only by those of Hansard. For that reason, I will not deal with the legislation in detail except to note that the bill will introduce a staged promotion system whereby an individual must successfully complete each stage before becoming eligible for promotion. Stage one retains the rank-based pre-qualifying assessment process. Stage two introduces a rank-based examination and integrity check and a review by management of workplace performance. The combined marks obtained by an individual in the first and second stage will determine whether that individual is able to undertake the third stage, provided there is no integrity issue associated with an individual.

Stage three introduces a rank-based training program where an individual who successfully completes all stages and is not subject to an integrity issue is eligible for placement on the promotions list. The system will ensure that officers are appropriately qualified and trained before they are promoted. I have outlined the nuts and bolts of the proposal. There is enormous detail in the second reading speech and I do not intend to repeat that. One of the reasons that I support this legislation is because I believe, as do all honourable members, that it is important for us to support the police in the good work they do in our community. Young men and women join the police force at various stages in their lives. They go through an extensive process of interviews and assessments to determine whether they can become a member of that fine body of over 15,000 men and women officers who serve this State. They undertake that process on the understanding and belief that they will be serving the community.

As members of Parliament and representatives of our individual communities, we should be supportive of those officers as they undertake potentially dangerous jobs while serving our community. Whatever we can do to support them, either through a fair and better promotion system or in any other way, we should be supportive of our police. Just a week and a half ago, I saw the local area command [LAC] in my electorate engaging in another form of community service. I attended the Police Ball, which is an annual event organised by the Hurstville Local Area Command. The Police Ball is a way for police to come together socially to support their community and raise funds for the Westmead Children's Hospital. The children's hospital has benefited in excess of \$135,000 over the past seven years because of the activities of the Hurstville Local Area Command.

I pay particular credit to committee members Bob Grant, Kelly Dean, Clint Rasmussen, Dave Firth and Sarah Corcoran for their organisation of a great annual event at which people gather in a social setting and successfully raise funds, this year for the neonatal unit at Westmead Children's Hospital. I congratulate Simone

Daly on her efforts as MC and thank the new superintendent of Hurstville Local Area Command [LAC], Adam Purcell, for his hospitality on the night to my wife, Frances, and me. It was good to see the senior ranks of NSW Police represented by Assistant Commissioner Goodwin. This is an illustration of the police gathering together in a different way to serve our community.

As stated before, when young officers join NSW Police, they are looking for a career, and a significant part of that is the promotion system. Anyone who joins an organisation is potentially looking for a career path. It is important that we provide a promotion system in NSW Police that recognises and rewards talent. The system introduced in this bill provides that opportunity. Any promotion system must be based on merit. That merit can be through experience and skills obtained in the occupation and training undertaken that supports skills gained in the field and putting that training into practice, which are all part of the system we are examining today.

In addition, people obviously bring various individual talents to the job, whether intellectual and academic or other skills, such as an ability to communicate well and so on. I could list the many and varied skills and talents that people need to bring to any employment task. As I said, the promotion system must reward merit and talent. We must provide a transparent system that tells young people joining NSW Police—whether they are aged 18 or 25 and bring other life experiences to the force—that if they wish to move through the ranks starting from probationary constable up to superintendent, that opportunities exist for the talented, hardworking, dedicated and responsible, and that they will be rewarded. This bill certainly provides that transparent system through a staged process that will reward individuals for their dedication and commitment to service with promotion through the system.

I support this bill and, most importantly, I support our police in the work they do. In particular, I note the work of the officers with whom I deal regularly in the Hurstville Local Area Command. They are doing a fantastic job for my community. I always enjoy attending our Police Accountability Community Team meetings, as I am sure other honourable members enjoy the local PACT meetings that they attend. It is rewarding to attend those meetings and to see the work that the local area commanders are doing with crime managers and other officers in reducing crime.

It gives me great pleasure to report to the House again today on the work that my local area command is doing in continuing to reduce the incidence of crime in our community. I congratulate the Hurstville LAC team, under the leadership of Superintendent Adam Purcell, for the work it continues to do in driving down crime in our community. No-one wants to see any crime, and it is most important that we continue to work diligently, as the officers of are doing, with the local community to reduce the incidence. I congratulate Hurstville LAC for its efforts. As I said, I support the police and I certainly support this bill, which will see a better, more transparent system for promotions within to NSW Police.

**Mr MALCOLM KERR** (Cronulla) [10.25 a.m.]: I also support police and am I in favour of a promotion system based on merit and transparency. The purpose of the Police Amendment (Police Promotions) Bill is to implement a new promotion and appointment system for police officers, other than constables and executive officers, based on selection for, and appointment from, promotion lists for particular ranks or grades within ranks. The Parliamentary Secretary stated in his second reading speech:

In order to implement key recommendations from the Schuberg report, the former Minister for Police convened a high-level working party in July 2004 ... The report of the working party "Review and Implementation of the Report of the Ministerial Inquiry into Police Promotions", December 2004, proposed the implementation of a new police promotion system based on the recommendations of the Schuberg report

I am pleased that the honourable member for Georges River went to the Police Ball and that it was such a worthy occasion, as it would be. However, the police, whether in Strathfield, Heffron, Bathurst, Cronulla or Bega, will not have a ball when reading the second reading speech because of what it does not say. All honourable members agree that there needs to be a transparent, merit-based promotion system. However, I will point out what is not transparent in the second reading speech. Geoff Schuberg was first asked to prepare this report in 2002. The second reading speech does not say when the report was completed. I have repeatedly asked when that report would be released. The second reading speech indicates that it was not released until December 2003. I hope the Minister or the Parliamentary Secretary will tell us when Geoff Schuberg completed that report and why there has been a delay in its finalisation.

**Mr Tony Stewart:** Consultation.

**Mr MALCOLM KERR:** How long did that consultation take?

**Mr Tony Stewart:** We listened.

**Mr MALCOLM KERR:** It is good to listen. Why are we discussing this bill today—that is, some time after the report's tabling—given the urgent need to implement Schuberg's recommendations? Why the urgency? That was spelled out in the second reading speech:

The inquiry identified some serious concerns about the operation of the existing system including, but not limited to:

- The need to reduce significant delays associated with position-specific appointment through the greater use of eligibility lists. Under the current system vacant positions were being left unfilled and officers who had demonstrated their suitability for promotion were not being promoted because an officer's eligibility was limited to particular locations.

Ironically, because of the lengthy delay, that situation was allowed to persist. The Parliamentary Secretary continued:

- The isolation of the existing promotions system from professional development and training systems. Officers were being appointed to supervisory roles without having adequate training or any clear understanding of the requirements of the position.
- Importantly, the promotion of inexperienced and junior officers into critical command or supervisory positions, and those officers then sometimes acting or relieving at higher rank.
- The ongoing use of relieving arrangements to bypass the promotions system and confer an unfair advantage on officers who were given the opportunity to act in a position, often for lengthy periods, prior to the position being advertised and filled through the current promotions system.
- The difficulties associated with the review by commanders of workplace performance. Police were concerned about inaccurate assessment and possible bias within some command management teams and the impact of this on their promotional opportunities.
- The requirement for all applicants to complete all stages of the promotions process, even if they had little realistic chance of being appointed.
- The perception that inadequate weight was being placed on experience, and the need for recognition and appropriate weighting of length of service.

It is scandalous that that could occur under any government; it is particularly scandalous when this Government identified it, yet it took years to bring some sort of recognition and justice into this situation. The first question that needs to be answered by the Parliamentary Secretary or the Minister in reply is: what distinction is there between the recommendations of Geoff Schuberg and what this Parliament is asked to implement? On reading the Parliamentary Secretary's second reading speech one is given the impression that the role of Mr Anderson and the others was simply to implement the recommendations of Geoff Schuberg. Do the provisions of the bill significantly depart from the recommendations in the report by Geoff Schuberg, which this Government commissioned? It is very important that that question be answered.

I have three areas of concern in relation to this bill: first, the annual examination and sliding mark to control numbers for the eligibility list; second, the rank-based appointment of persons on the eligibility list to positions; and, third, the length of the eligibility program and its content. I will deal first with the annual examination. Under the old promotions system, when examinations were in force some advantage was given to persons who obtained a high mark. That gave an advantage to officers who were in non-operational areas in that they could devote long periods of on-duty time to study. I see no reason why the bill should not give those officers the same advantage. That would be of concern to the honourable member for Strathfield and the honourable member for Heffron, because they want to see all officers on the one level.

Police at the coalface should not be disadvantaged in the promotional system, and that is very important. In New South Wales we want a police force that is well experienced in not only theory but also in practice and experience, having dealt with crime at the street level not simply at the desk or laptop level. Officers must obtain a high rank, or high mark, to be included in the eligibility list. If they do not, they are out of the race, despite their skill, experience and qualifications. No member of this House would want serving police to be disadvantaged in that way. A real problem exists with rank-based appointments. Specialist positions do not include general duty police, traffic police or detectives. Those three areas of policing work because operational police are trained and skilled to perform in them.

The new system proposes that police on the eligibility list can take their pick from any position. For example, a long-serving general duty officer on the top of the list can choose a chief of detectives position, and a long-serving detective placed high on the list can choose a senior traffic position. In the real world, say the electorates of Strathfield, Heffron, Cronulla, Bega or Lismore, it does not work that way. It is horses for courses with each operational area of policing requiring its own area of expertise. The public will see the effect of having unskilled leaders and supervisors attempt to direct and assist junior skilled officers, people who may well be highly experienced and highly trained in those areas. That is a potential for disaster. The Parliamentary Secretary acknowledged in his second reading speech that that has already happened under the present system, where all promotions were based on an application and an interview.

Will the eligibility program involve a one-week course only? Although the course includes an assessment centre, there is no way any assessor or instructor could properly assess a person's leadership ability in just one week while at the same time giving them the training and skills required for a more senior appointment. The new system is certainly an improvement, but I have three areas of concern that I place a caveat on. It is significant that the Police Association has not signed off on this bill. The effect of the bill will be reviewed. Who will review it? That question needs to be addressed by the Parliamentary Secretary or Minister in reply to the second reading debate. Who will do the review? Will it be Mr Anderson or an independent person? It is important that the review be conducted in an impartial and independent way. Anyone who conducts the review would be destined to lose face because the system has not worked.

The Opposition wants a system that is the best for police in New South Wales. The challenges faced by the State in relation to crime and terrorism have never been greater. The safety of New South Wales is being challenged. Therefore, as the honourable member for Georges River has said, it is important that we have a system that is based on merit and transparency. It is disappointing that the Parliamentary Secretary's second reading speech lacked transparency concerning the important matters that I have mentioned. Another area of concern was raised by the Legislation Review Committee. The honourable member for Strathfield has a high regard for that hardworking bipartisan committee. That committee said that it is of the view that a fair promotions and appointments process should include an adequate system of review and appeal decisions related to that process.

The committee said also that the bill allows for a process of review and appeal to be established by regulation. The second reading speech makes it clear that it is the Government's intention that the regulations will provide for that review. Once again, there is a total lack of transparency in one of the most crucial areas. What does the Government do in relation to problems that it identifies as crucial to policing in New South Wales? It attacks the problems with a lack of transparency, after considerable delay. The Opposition will not oppose the bill, but I flag significant concerns that need to be addressed in the review. The integrity of that review must be spelt out now so that the New South Wales police force and this House can have every confidence that this bill is a step forward on the greatest challenge that this State faces to ensure that people are safe on the streets and in their homes.

**Mr GERARD MARTIN** (Bathurst) [10.38 a.m.]: I am pleased to support the Police Amendment (Police Promotions) Bill. I am sure most of the concerns raised by the honourable member for Cronulla will be addressed. A close reading of the bill indicates that most of those concerns have been addressed. I will leave that to others. As a member who represents a country electorate, I am pleased that this bill is before the House. Over the years I have had many discussions with various Ministers in regard to police promotions. I have no doubt that there is a more streamlined and quicker way to fill vacancies within the police force.

The current system has had an impact on smaller, one-officer stations, in particular, which are usually manned by an officer of the rank of sergeant. It has sometimes taken months to fill a vacant position because of various regulations, appeals systems and so on. This bill, which, as the Parliamentary Secretary said, has been widely consulted on, will begin to tackle the problem. Government members—I cannot say the same for everyone on the other side of the House—are supportive of the police. When one compares the situation now with the way it was in the old days of the strict seniority system one can see that we have moved well forward.

This bill is another advance. The amendments contained in the bill provide for appointment by way of promotion from promotion lists to all positions within a particular rank according to the highest ranking on that list, thus removing the delays in filling vacancies that exist under the current system. The amendments also provide that individuals seeking placement on a promotion list for a particular rank must have spent two years at the lower rank before being eligible to start the promotions process, which gives officers the opportunity to gain relevant policing experience to assist them in obtaining promotion. Those amendments address one of the points

raised by the honourable member for Cronulla. The bill will introduce a staged promotion system where an individual must successfully complete each stage before being eligible for promotion. That is part of the transparency of the system mentioned in the second reading speech on this bill.

Stage 1 retains the rank-based pre-qualifying assessment process and stage 2 introduces a rank-based examination, an integrity check and a review by management of workplace performance. The combined marks obtained by an individual in the first and second stages will determine whether that individual is able to undertake the third stage, provided no integrity issue exists in relation to that individual. Stage 3 introduces a rank-based training program. Individuals who successfully complete all stages and are not subject to an integrity issue will be eligible for placement on the promotions list. This system will ensure that officers are appropriately qualified and trained before being promoted. I believe that that will address some of the queries raised by the honourable member for Cronulla.

Officers placed on the promotion list for a particular rank will have been appointed on the basis of merit, having met all of the eligibility requirements. As someone who spent his time before election to this House working in the human resources/personnel area, I regard that as a very professional and appropriate way to go about a system such as this. It addresses the problem we have at the moment of taking too long to fill vacant positions from the rank of sergeant upwards. By creating the promotions lists we will have that pre-assessed data and criteria to enable appointments to be made. Notwithstanding that we probably do not have a perfect system—and it is probably more difficult in policing than in most other disciplines to get perfection—this bill is certainly a giant step forward. Perhaps some members of this House are reading between the lines and think the system is not transparent enough.

The numbers of officers to be placed on the promotions lists are restricted on the basis of quotas determined by the number of vacancies that will be available for the ensuing year. The number of people to be placed on the promotions lists will also determine the number of officers that pass through each stage of the promotions process. That aspect is going to be properly managed. The bill ensures that applicants for promotion have no integrity issues that would prevent them from being appointed, by providing for an integrity check both during the promotions process and prior to appointment to a position. There could not be anything more important in the police force. Officers will also have the right of review in relation to a decision made on integrity matters. Once again, fairness and transparency are two of the aspects that strike me in relation to this legislation.

The new system also provides for a right of review of a decision at each stage of the promotions process. This system of review removes the need for appeals to the Government and Related Employees Appeal Tribunal [GREAT]. In my electorate, where there are a number of small stations, that part of the process has really slowed things down. It has made it difficult for some communities to have a permanent officer; the position has had to be topped up from bigger stations in the area for an extended period. We are working through that. I commend the Minister for introducing the legislation. Like many of my colleagues on this side of the House, I have had many meetings with the Minister for Police during his tenure seeking a review of this process. I appreciate that it has not been an easy process and it has required consultation with various bodies, including the Police Association of New South Wales. We have now got to the stage where we can move forward. Certainly there will be a review down the track, but this is a giant step forward and it will benefit not only the communities that these police officers are serving but also the officers themselves.

On Monday of this week four new probationary constables from the latest graduating class at the Goulburn Police College commenced work in Bathurst. From my experience, if they are like the other probationary constables who have graduated from that establishment, they will be first-class police officers. In recent years the Government has worked extremely hard with police commissioners and the Police Association to ensure that we have probably the best-trained and best-equipped police force in the world. Despite myriad criticisms of senior police officers by the Opposition, who see it as a headline grabber, New South Wales is fortunate not only because of the record numbers of police officers but also because of the capability and competence of those officers. I commend the bill to the House

**Mr TONY STEWART** (Bankstown—Parliamentary Secretary) [10.47 a.m.], in reply: I thank honourable members for their contributions to the debate on the Police Amendment (Police Promotions) Bill. The honourable member for Bega led for the Coalition. The honourable member for Georges River has an outstanding reputation for service to his electorate and for working closely to support local police. The honourable member for Cronulla expressed some mixed opinions about the proposed legislation. I am somewhat perplexed that he took the time to read 20 pages of *Hansard*, which is certainly out of character for the

honourable member. The honourable member for Bathurst has always supported regional policing; his support has made a difference to policing in regional New South Wales.

I thank the Coalition for its support for this important bill, support it deserves because of the momentous changes that will occur to bring equity into police promotions. Reform of the police promotions system is essential. The new promotions system is the result of a tremendous amount of expertise, effort and time on the part of a number of people, including the Police Association and NSW Police. The Minister for Police has worked diligently and co-operatively with all stakeholders in regard to this issue to ensure that the result is something that people can be proud of. As I pointed out in my second reading speech, the new promotions system creates an equitable system for police promotions.

All officers will be given an equal opportunity to achieve promotion if they have the requisite skills, knowledge and experience required for such promotion. Importantly, this bill will ensure that the appropriate legislative framework is in place for this new promotion system. Issues were raised earlier regarding consultation and the involvement of the Police Association of New South Wales in this legislation. There has been extensive and co-operative involvement by the Police Association in the development of this police promotion system. A representative of the Police Association was a member of the ministerial inquiry into police promotions, which produced the Schuberg report. Importantly, a representative of the Police Association of New South Wales is also a member of the working party on police promotions chaired by the Hon. Peter Anderson.

The Police Association of New South Wales played a key role in developing this system. Representatives have contributed to the preparation of the report, which sets out the new police promotions model, and the development of this bill. The Hon. Peter Anderson, as chair of the working party, gave a comprehensive presentation on the new promotion system to the Police Association executive in February and to the Police Association conference in May this year. The Police Association has representatives on the promotion project teams responsible for finalising the policies and processes that will underpin the new promotion system. NSW Police will continue to work with the Police Association during the rollout of this new promotion system and there will be extensive consultation during that process.

Issues were raised concerning the new review mechanism. Honourable members would be aware that the promotion steering committee is in the process of finalising the new review mechanism. For that reason it is not able to be placed in the regulations at this time. The Police Association of New South Wales and NSW Police will be involved in the development of the review mechanism. They will be involved in that whole process, which should alleviate any concerns that were raised relating to that issue. Some honourable members made reference to the Schuberg report. Honourable members would be aware that the report recommends reform of the existing promotion system. These recommendations, without doubt, would have improved the existing system, but police would still be subject to a promotion system that is viewed as fundamentally flawed.

The Schuberg report provided a solid foundation for a new promotion system that will remove many of the problems associated with the existing model. This process has taken time but we wanted to ensure that we got it right. We wanted to ensure that there was adequate consultation and we wanted to ensure that there was understanding and ownership of these changes by those affected by them. This bill will significantly improve the police promotion system. The Schuberg report was critical in identifying the shortcomings of the current promotional system. It made 72 recommendations for reform that have been used for the basis for underpinning and formulating the new promotions model. The promotion system could not have been developed without the Schuberg report.

The recommendations in the Schuberg report have been taken one step further and were used to assist in the development of a new promotion system. The principles outlined in the Schuberg report have been used to develop a new system that moves away from position-specific appointment and towards establishing a rank-based promotion system, ensuring that all officers are qualified for the rank to which they are promoted. The shortcomings of the existing promotion system identified in the Schuberg report are comprehensively addressed in this new promotion model—an issue to which a number of honourable members referred today. In conclusion, this bill was developed in strong consultation with NSW Police and the Police Association of New South Wales. The Police Integrity Commission has also reviewed the bill and does not have any concerns with the proposed promotion system. I thank Minister Carl Scully for his strong and direct input in seeing through these most important changes to the police promotion system. It has resulted in tangible and equitable opportunities for NSW Police. I strongly commend the bill to the House.



**Motion agreed to.**

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

## **POLICE INTEGRITY COMMISSION AMENDMENT BILL**

### **Second Reading**

**Debate resumed from 30 August 2006.**

**Mr ANDREW CONSTANCE** (Bega) [10.55 a.m.]: I state at the outset that the Opposition will not oppose this bill, which obviously is designed to fix a number of anomalies in the system. I wish to touch briefly on a number of amendments. Basically, the purpose of this amending bill is to provide for a system of investigation, referral and oversight of complaints against certain members of NSW Police who are not police officers. The bill enables criminal proceedings relating to certain summary offences to be brought within three years of their commission—currently it is six months—and to confirm that the conduct of former officers of the Police Integrity Commission [PIC] may be investigated by the inspector of the commission.

On 21 February 2005 Cabinet approved the transfer of jurisdiction to investigate all employees of NSW Police from the Independent Commission Against Corruption [ICAC] to the Police Integrity Commission. The Police Integrity Commission believes that NSW Police administrative employees should not be equated with sworn police and that a more robust system for the investigation, referral and oversight of complaints against unsworn members of NSW Police is needed. The bill defines "administrative officer" and forms the basis for the distinction between the complaint system for unsworn members of NSW Police and the complaints system for NSW Police officers.

NSW Police will refer complaints against unsworn staff to the PIC in a similar manner as they are currently referred to ICAC, and administrative members will be dealt with in the same manner as other public servants. A definition of "corrupt conduct" will also be inserted into the Act consistent with the definition of "corrupt conduct" in the Independent Commission Against Corruption Act. The bill will make it an offence to fail to provide information to the PIC, or by providing false information when requested to do so; make it an offence to publish evidence where the person has been given a direction not to do so by the PIC; to publish evidence given at a private hearing of the PIC without authorisation; to make disclosures prejudicing investigations being made by the PIC; and, finally, to fail to comply with a summons issued by the PIC.

In essence, the bill is designed to bring civilians under the jurisdiction of the PIC. It removes the problems relating to the PIC investigating police and ICAC investigating civilians relating to the same matter. Obviously, ICAC jurisdiction remains where it involves a civilian, but it must also notify the Police Integrity Commission. The bill will correct anomalies so that a complaint against a PIC investigator can be investigated even after he or she has left. As I said earlier, the Opposition does not oppose this bill. The Liberal-Nationals Coalition consulted with the Police Association of New South Wales in relation to this matter and it has no problems with the legislation as it stands. No doubt my colleague the shadow Minister for Police, Michael Gallacher, will elaborate on this issue when the bill is before the Legislative Council. The Opposition does not oppose the bill.

**Mr PAUL LYNCH** (Liverpool) [10.59 a.m.]: I support the Police Integrity Commission Amendment Bill. As chair of the Committee on the Office of the Ombudsman and Police Integrity Commission, I have a particular interest in this bill. The issue involved in the bill has certainly exercised the interest of the committee over a period of time. Giving the Police Integrity Commission [PIC] jurisdiction over complaints against civilian employees of NSW Police makes perfect sense. The alternative, of course, is for the jurisdiction to remain with the Independent Commission Against Corruption [ICAC]. This alternative seems far more sensible and far more preferable. Obviously, it is more efficient to have one body deal with all serious matters relating to police rather than two.

Historically, the PIC developed out of the Wood royal commission and ICAC lost jurisdiction over police. One way that is sometimes raised of resolving the issue would be to merge the PIC and the ICAC, which would then remove the argument about jurisdiction. That would strike me as totally inappropriate as well as being contrary to the recommendations of the Wood royal commission. The existence of a stand-alone

investigative agency with special powers and special resources is a very important strategy to combat serious police corruption.

In passing, I should also note that the PIC approach seems to me to be superior to that of ICAC. The ICAC seems at present to be largely relying upon complaints to it, while the PIC, as well as relying on complaints, tries to establish in a more strategic way areas for possible proactive investigation. This matter has certainly been of interest to the committee for some time. As long ago as 16 May 2002, the then commissioner of the PIC, Terry Griffin, gave this evidence to the parliamentary committee that I chair:

There seems to be some sort of logical consistency in having the unsworn members of the police subject to the jurisdiction of the Police Integrity Commission. There seems to be some sort of slight aberration in having individuals who might be sitting across the desk doing something of a conspiratorial nature and one agency would have jurisdiction over one of them and another agency over another. So that I do not understand why there has been the distinction and it would seem to me unexceptional if that distinction was removed.

The committee dealt with the issue in its June 2002 report on its sixth annual general meeting with the PIC commissioner. The report said, in part:

Following the enactment of the PIC Act in 1996, the ICAC retained jurisdiction in relation to corrupt conduct by unsworn administrative members of the police service and the PIC exercised jurisdiction in relation to corruption and serious misconduct by sworn police officers. The police service has submitted to the ICAC committee's review of the ICAC that an amendment should be enacted to provide the PIC with jurisdiction over all NSW Police employees, both sworn and unsworn, in relation to the reporting and investigation of corruption or serious misconduct.

According to the police service, the benefits of this proposal are: consistency of approach in the examination of policies and procedures applicable to employees of NSW Police; consistency in rulings and recommendations about changes to NSW Police policies and procedures; a one stop shop for the investigation of serious misconduct or corruption within NSW Police.

The ICAC deals with a very small number of matters involving administrative officers of NSW Police: in 2000-1 it received 15 notifications under S.10 of the ICAC Act and 34 notifications under S.11 regarding possible corrupt conduct by unsworn officers.

Transferring jurisdiction for investigating the conduct of administrative officers with NSW Police to the PIC seems a reasonable option, consistent with the PIC's role and posing few disadvantages, especially given the small number of cases likely to be involved. The Committee notes that this proposal has the support of both the Commissioner of the ICAC and the Commissioner for the PIC.

The method chosen to achieve the transfer of jurisdiction was to amend the Independent Commission Against Corruption Act in 2005 following the review of ICAC. The transfer of jurisdiction was given effect through schedule 2 of the Independent Commission Against Corruption Act Amendment Act 2005, which amended the definitions contained in section 4 of the Police Integrity Commission Act. A new subsection 3A of section 4 was inserted, which said:

A reference in this Act to a police officer includes a reference to any member (whether or not a police officer) of NSW Police.

Certainly, that amendment seems to have an elegant simplicity about it, which, on the face of it, makes a whole lot of sense. But, whilst that was fine as far as it went, there were a number of unintended consequences. One of the unintended consequences was unnecessary changes were made to significant sections of the Police Integrity Commission Act where the term "police officer" occurs but where the provision does not relate to the jurisdictional transfer that was sought. For example, section 10 (5) of the Police Integrity Commission Act has an employment embargo on officers of NSW Police working for the PIC and this amendment extended that embargo to administrative officers. I am a very strong supporter of the embargo and, indeed, the committee that I chair recently conducted an inquiry into that issue. Whilst I maintain absolutely the need for the embargo, I do not see that there is a particular need to extend it to administrative employees. Indeed, there were a number of administrative employees who had worked for the police and who were working for the PIC—not at the time this amendment came into effect but they had previously worked for the PIC. So there was quite a practical problem.

Other unintended consequences include the inconsistency between the definition of "police officer" under the Police Integrity Commission Act and the definition in other legislation, which has a number of possible consequences; and there is also a bit of confusion concerning the application of the term "police officer" because of other legislation that draws on the Police Integrity Commission Act, such as the Protected Disclosures Act, which derives its definitions from the Police Integrity Commission Act. There is also the section 10 (6) problem that was referred to in the second reading speech. Those unintended consequences are

reasonably significant. As a result of a number of those concerns, as chair of the committee I wrote to the Minister for Police on 13 July 2005. Part of that letter said:

The Committee recently considered amendments made to the *Police Integrity Commission Act (PIC Act)* following the commencement of the *Independent Commission Against Corruption Amendment Act 2005 (ICAC Amendment Act)*, for the purpose of giving effect to the Committee's recommendation.

In the course of examining the amending legislation, the Committee became concerned about the number of unintended consequences of the new definition of "police officer" contained in s.4(3A) of the *Police Integrity Commission Act*. The Committee is of the view that consideration should be given as to the best way to remedy the problems created by the definition of change and the most appropriate means of transferring ICAC's jurisdiction over non-police employees of NSW Police to the PIC.

Correction of the problem by way of subordinate legislation would not appear to be an option as the *PIC Act* does not contain the necessary enabling provision for this to occur. Utilising regulations for this purpose may seem the simplest option available but the Committee is of the view that it would make interpretation of the *PIC Act* unwieldy and cumbersome. Amending the *PIC Act* to resolve the problem by way of the *Statute Law (Miscellaneous Provisions) Act* might allow for repeal of s.4(3A) but it does not seem an adequate means of conferring the proposed extended jurisdiction on the PIC.

The end result of that process, of course, is this bill. I note that in its present form the bill does not deal completely with the problem because the repeal of section 4 (3A) is not contained in the bill, but I understand that the Government's amendment will resolve that problem at the end of the second reading debate. The other provisions of the bill go into some detail with definitions of "administrative officer", "corrupt conduct" and the like, which give effect to the policy intent. I also note the bill takes the opportunity to include another unrelated provision concerning the Inspector of the Police Integrity Commission. At present the Inspector does not have the power to investigate former officers of the police and this bill remedies that gap. As recently as 24 August, the Inspector referred to that issue in evidence he gave to the parliamentary committee. The inclusion of that amendment in this bill is a sensible and welcome measure. I commend the bill and the proposed amendment to the House.

**Mr MALCOLM KERR** (Cronulla) [11.07 a.m.]: As the honourable member for Bega said, the Opposition will not oppose the Police Integrity Commission Amendment Bill. The object of the bill is to provide for a system of investigation, referral and oversight of complaints about certain members of NSW Police who are not police officers; to enable criminal proceedings in respect of certain summary offences under that Act to be brought within a period of three years of their commission; and to confirm that the conduct of former officers of the Police Integrity Commission may be investigated by the Inspector of the Police Integrity Commission. The bill also makes consequential amendments to the Independent Commission Against Corruption Act. As the chairman of the Committee on the Office of the Ombudsman and the Police Integrity Commission said, these anomalies have been in existence for quite some time. They are not a State secret and it is a pity it has taken the Government so long to make these amendments. They seem to be in accord with the wishes of the PIC and, on the material before me, I will not oppose this bill.

**Mr TONY STEWART** (Bankstown—Parliamentary Secretary) [11.09 a.m.], in reply: I thank the honourable member for Bega, the honourable member for Liverpool and the honourable member for Cronulla for their contributions to debate on this important bill, the Police Integrity Commission Amendment Bill. I thank the Coalition for its support. The proposed amendments to the Police Integrity Commission Act 1996 are essential to ensure appropriate direction, investigation and oversight of complaints against all members of NSW Police. This bill ensures that there is an appropriate legislative framework for the management of complaints. That was clearly outlined by the honourable member for Liverpool, who has played an integral role through his chairmanship of the Committee on the Office of the Ombudsman and the Police Integrity Commission. This bill sets up a framework for the management of complaints against NSW Police administrative employees. I commend the bill to the House.

**Motion agreed to.**

#### **In Committee**

**Clauses 1 to 5 agreed to.**

**Mr TONY STEWART** (Bankstown—Parliamentary Secretary) [11.11 a.m.]: I move:

No. Page 3, schedule 1. Insert after line 22:

[2] **Section 4 (3A)**

Omit the subsection.

It is proposed that the Police Integrity Commission Amendment Bill be amended to omit subsection (3A), which extends the definition of "police officer" to include all employees of NSW Police. This provision was in the draft bill but was inadvertently removed during publication of the bill. There is a new definition of "administrative officer" already contained within the bill. The bill was intended to remove the internal inconsistencies that resulted in the Act from the extension of the definition of "police officer" to include all employees of NSW Police under section 4 (3A). By extending the definition of "police officer" in this manner, all the provisions applying to police officers are also automatically applied to administrative officers. For example, this means that certain powers under the Act exercised by police officers in theory could be exercised by administrative officers, which would be inappropriate. In addition, if section 4 (3A) were to remain in the Act, a further conflict would be created between the definition of "police officer" and the new definition of "administrative officer". This amendment is both logical and necessary.

**Mr ANDREW CONSTANCE** (Bega) [11.13 a.m.]: The Opposition was not advised of the amendment so it reserves its position on it. My colleague in the Legislative Council the Hon. Michael Gallacher, who is the shadow Minister for Police, will no doubt make reference to it. However, I am disappointed that the Government has not seen fit to inform the Opposition before moving an amendment to its own bill.

**Mr PAUL LYNCH** (Liverpool) [11.14 a.m.]: I make the point that this amendment deals with the concern that I raised in my contribution to the second reading debate. This amendment is necessary because it removes the original amendment that was made in 2005 that had unintended consequences and, in fact, is the entire point of the bill.

**Amendment agreed to.**

**Schedule 1 as amended agreed to.**

**Schedule 2 agreed to.**

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

## **CRIMES LEGISLATION AMENDMENT (GANGS) BILL**

### **Second Reading**

**Debate resumed from 30 August 2006.**

**Mr CHRIS HARTCHER** (Gosford) [11.06 a.m.]: This is significant legislation in relation to the ongoing war of the New South Wales community against gangs, especially gang crime in this State. The Crimes Legislation Amendment (Gangs) Bill seeks to make a number of amendments to a number of Acts of Parliament, principally to the Crimes Act, by inserting a new definition of "public disorder". It also lists a number of aggravated offences that occur during a period of public disorder. As well, it inserts—a first for Australia—the idea that it is a criminal offence to participate in a criminal group and that such participation can be wilful or reckless. The New South Wales Coalition has long urged the Government to take strong and firm action against the rise of gang crime in this State. Indeed, it is not without significance that the Coalition's concerns are now starting to have an impact and that the Government is finally listening to a number of its concerns.

The honourable member for Epping, my predecessor as shadow Attorney General, as long ago as March 2005 brought before the House—and it is still on the business paper of the House—the Crimes (Sentencing Procedure) (Gang Leaders) Bill, which sought to make leadership of a gang an aggravating offence under the Crimes (Sentencing Procedure) Act. The Government has allowed that bill to languish on the business paper for some 18 months. As happened with so many of the private member's bills of the honourable member for Epping, including the bill to prevent serious offenders holding a passport while on bail, and the bill about majority verdicts, the Government is now moving to adopt yet another of his proposals—that is, to legislatively recognise as criminals those who participate in gang activities.

On a number of occasions the Leader of the Opposition has called upon the Government to take action against 200 identified Middle Eastern thugs. Those are the 200 whom the police have on record at the very least as being ongoing and full-time organisers and principals in criminal activity in western and south-western Sydney. Those remarks have fallen on deaf ears, but the Leader of the Opposition has made it clear that it is an

urgent priority for the Coalition upon election to office in March 2007 to take action—and it will take action—against those thugs, be they 200 or more. It is appropriate to acknowledge that there are large numbers of Middle Eastern thugs and that action be taken against them. In an article in *Quadrant* Magazine in February 2004, Mr Tim Priest, a very experienced police officer, said:

I believe that the rise of Middle Eastern organised crime in Sydney will have an impact on society unlike anything we have ever seen ...

It was about 1995 to 1996 the emergence of Middle Eastern crime groups was first observed in New South Wales. Before then they had been largely known for individual acts of anti-social behaviour and loose family structures involving heroin importation and supply as well as motor vehicle theft and conversion. The one crime that did appear organised before this period was insurance fraud, usually motor vehicle accidents and arson. Because these crimes were largely victimless, they were dealt with by insurance companies and police involvement was limited. But from these insurance scams, a generation of young criminals emerged to become engaged in more sophisticated crimes, such as extortion, armed robbery, organised narcotics importation and supply, gun running, organised factory and warehouse break-ins, car theft and conversion on a massive scale including the exporting of stolen luxury vehicles to Lebanon and other Middle Eastern countries.

As the police began to gather and act on intelligence on these emerging Middle Eastern gangs the first of a series of events took place.

Mr Priest then referred to the dismantling of the crime intelligence system under the former Commissioner of Police, Peter Ryan. Mr Priest continued:

When the Middle Eastern crime groups emerged in the mid-to-late 1990s no alarms were set off. The Crime Intelligence Unit was effectively asleep. I know personally that operational police in south-west Sydney compiled enormous amounts of good intelligence on the formation of Lebanese groups such as the Telopea Street Boys and others in the Campsie, Lakemba, Fairfield and Punchbowl areas. The inactivity could not have been because the intelligence reports weren't interesting, because I have read many of them, and many of them from a policing perspective were damning. Many of the offenders that you now see in major criminal trials or serving lengthy sentences in prison were identified back then.

But even more frustrating for operational police were the activities of this ethnic crime group, activities that set it apart from all others bar the Cabramatta 5T. The Lebanese groups were ruthless, extremely violent, and they intimidated not only innocent witnesses, but even the police that attempted to arrest them. As these crime groups encountered less resistance in terms of police operations and enforcement, their power grew not only within their own communities, but all around Sydney—except in Cabramatta, where their fear of the South-East Asian crime groups limited their forays. But the rest of Sydney became easy pickings.

As set out in the Parliament's paper on gangs, Dr Weatherburn, in various reports on crime and crime statistics, has made the point that it is difficult to analyse trends in gang crime because the success of gangs is their ability to be considered powerful and influential, especially within their own local geographical and ethnic communities. Most gangs assign themselves a territory; everything that happens in their street or on their block is considered their work or an attack on their gang. And a lot of crime, especially in ethnic communities, is unreported. That is an attested figure not only in Australia but also in the United States of America.

It is clear that many criminal activities of ethnic gangs, especially within their own ethnic community, simply do not get reported. Only extreme cases seem to come to public and police attention. Rackets in extortion, blackmail, immigration, sexual slavery and standover activities, and intimidation by gangs within their own community simply go unremarked upon and unnoticed, largely out of fear of the consequences of reporting it to the police. New South Wales has always had a gang problem. Gang crime dates from the early days of the colony. It was remarked upon then that gangs of convicts constituted themselves to engage in intimidation. The 1920s and 1930s were especially famous for gang activities around The Rocks and Woolloomooloo areas. The operation of the razor gangs was well known, and they led to the formation of such police strike units as 21 Division. They led also to the introduction of consorting laws in an attempt to prevent criminals from associating with one another as a gang, and enabled the police to move in and simply prohibit them from being involved in common activities.

At present a number of bikie gangs are well organised and sophisticated, despite their attempts to legitimise themselves in a public relations sense by holding well-advertised and well-promoted Children's Hospital visits. As the Parliamentary Secretary said in the second reading speech, bikie gangs remain active in the amphetamine trade and with the new designer drugs of ecstasy and ice. As has become only too painfully obvious in the past two weeks with the Pitt Street shootings in the heart of Sydney, the bikie gangs have moved heavily into providing both external security outside nightclubs and internal security within the nightclubs. Why do the bikie gangs want to provide security? Not so that their members can stand outside for hours at a time late at night but because control of security gives them control of the drug trade that occurs inside Sydney's nightclubs. It enables them freely to retail drugs such as ecstasy and ice unimpeded, unhindered and unchecked. Indeed, if there is a police raid or police action, the bikie gang operatives maintaining external security are able

to warn those inside so that police entering the club simply find ecstasy pills and ice scattered all over the floor or throughout the toilets but none in anybody's possession. So the bikie gangs remain a real challenge to society.

Gangs such as the Hells Angels are now reputed to have their own apprenticeship group known as the Red Devils. Other bikie gangs continue despite the impact of events such as the Milperra Fathers Day massacre back in 1984. We have witnessed the resurgence of bikie gangs only in the past two weeks with the Pitt Street shootings in the centre of Sydney. That incident arose simply because one bikie gang was arguing about territory with another bikie gang. It is important to acknowledge that. We should not be fooled by the public relations campaigns waged by these gangs; we should acknowledge them for what they are: gangs largely comprised of people who are associated with one another, many of whom, but not all, are engaged either part-time or full-time in organised criminal activity.

We also have organised crime gangs such as the Russian mafia and the Chinese-based triads. Not a lot is known about them other than the fact that they are clearly active and operating within Australia. They specialise in various avenues of crime. The Parliamentary Secretary referred in the second reading speech to a number of ethnic gangs operating within ethnic communities that specialise in different sorts of crime. The Russian mafia and the Chinese triads are known worldwide for organised criminal activities. We also have the ethnic gangs, which in some cases are marked by special colours, tags and tattoos. Mr Priest made this point about the ethnic gangs:

... the Middle Eastern crime problem was an explosion waiting to go off. I had observed the beginnings of Asian organised crime while at the Drug Squad and later at the National Crime Authority where I worked on two task forces, one of which was on Chinese organised crime. When I look back at the influence of Chinese organised crime in Australia I see a gradual but sustained trend, not one of high peaks in terms of activity or incidents but one a well planned criminal enterprise that attracts little attention. It's there but you can't always see it.

It probably took twenty years for the Chinese to become a dominant force in crime in this city. But Middle Eastern crime has taken less than ten years. So pervasive is their influence on organised crime that rival ethnic groups, with the exception of the Asian gangs, have been squeezed out or made extinct. The only other crime group to have survived intact are the bikies, although the bikies these days have legitimised many of their operations and now make as much money from legal means as they do illegally. In many ways they have adopted US Mafia methods of legitimate businesses shrouding their illegal operations.

With no organised crime function, no gang unit except for the South-East Asian Strike Force—

this was before the creation of the middle-eastern organised crime squad—

the New South Wales Police turned against every convention known to Western policing in dealing with organised crime groups. In effect the Lebanese crime gangs were handed the keys to Sydney.

The most influential of the Middle Eastern crime groups are the Muslim males of Telopea Street, Bankstown, known as the Telopea Street Boys. They and their associates have been involved in numerous murders over the past five years, many of them unprovoked fatal attacks on young Australian men for no other reason than they are "Skips", as they call Australians. They have been involved in all manner of crime on a scale we have never seen before. Ram-raids on expensive stores in the city are epidemic. The theft of expensive motor vehicles known as car-jacking is increasing ... This crime involves gangs finding a luxury motor vehicle parked outside a restaurant or hotel and watching until the occupants return to drive home. The car is followed, the victims assaulted at gunpoint, and the vehicle stolen. The vehicles are always around or above the \$100,000 mark and are believed to be taken to warehouses before being shipped interstate or to the Middle East.

Extortion on inner-city nightclubs is largely unreported because of the dire consequences of owners reporting these incidents to police ...

What sets the Middle Eastern gangs apart from all other gangs is their propensity to use violence at any time and for any reason. I thought I would never see the level and type of violence that I saw with the South-East Asian gangs in Cabramatta, particularly the 5T, the Four Aces and Madonna's Mob, which were a breakaway from the old 5T. But the violence, although horrific, was almost always local, that is within the Cabramatta area and almost always against fellow Asians. As a result of that locally based violent crime it was relatively easy to identify the culprits and break them up once we were given the resources after the police revolt of 1999-2000.

The Middle Eastern cycle of violence is not local. It can occur on the central coast, around Cronulla—

once again, this was in 2004—

Bondi, Darling Harbour, Five Dock, Redfern, Paddington, anywhere in Sydney. Unlike their Vietnamese counterparts, they roam the city and are not confined to either Cabramatta or Chinatown. And even more alarming is that the violence is directed mainly against young Australian men and women.

Did we not see an extraordinary illustration of that on the night after the Cronulla incident, when a convoy of more than 40 cars was formed out at Punchbowl to drive unchecked and unhindered to launch a savage attack on the residents of Maroubra. We are faced with serious problems involving crime gangs, be they as impromptu,

such as the one that formed in Punchbowl the night after the Cronulla incident, or on an organised basis, as has been set out in Mr Priest's study of the gangs. The New South Wales community needs to take and must take strong action if it is going to break up these gangs and ensure they are not allowed to continue their criminal activities. There is no point trying to stereotype any community. No community has a monopoly on crime or hoodlums, but there is also no point, as Mr Carr said on a number of occasions, in not saying that a number of these organisations predominate within certain ethnic communities. Mr Priest went on:

The Middle Eastern crime groups and their associates number in the thousands, not the hundreds ... It is the biggest crime problem we have ever faced, and it is growing. Hardly a day goes past without some violent crime involving a "male of Middle Eastern appearance", though I see lately that description is watered down now to include "and/or Mediterranean appearance" ...

That these groups of males can roam a city and assault, rob and intimidate at will can no longer be denied or excused.

He went on to say:

The days of Anglo-Saxon gangs are almost gone, with the exception of one or two local beach gangs.

Ethnic gangs, such as the gangs in the United States, use gang symbols, tattoos, graffiti, gang colours and music to push their message to other gang members. The concept of gang colours and gang tattoos is finding a place on Sydney's streets, and it must be stopped. The web site of the Monster Skate Park, which is within Sydney Olympic Park, sets out a condition of entry for the park. That says that no gang colours, patches or other items that signify gang membership are allowed within the premises of the park. Sydney has reached a stage where these sorts of warnings have to be placed on the web site of such a well-known and well-liked public facility as the Monster Skate Park.

Gang activity in the United States has evolved to include music and graffiti that contains both hidden and sometimes very obvious messages to friendly and rival group members. Rap music that encourages 187 crimes against police became a well-known call sign of a particular Los Angeles-based gang with financial interest in music production companies; 187 is the radio code for officers who have been killed in the line of police duty. We have the chance now to ensure that these sorts of activities do not become commonplace in Sydney. These ideas must never be allowed to find a foothold in New South Wales society. Therefore, it is important that the legislation that seeks to outlaw participation in criminal groups is enacted by Parliament and it is important that the legislation be enforced.

The legislation will be enforced only if the Government ensures that police have the resources and the support to enforce it and that they are not allowed to be intimidated by the activities of organised gangs. The police intelligence unit must be supported and intelligence effectively gathered. The New South Wales Crime Commission must be allowed and encouraged to use its wide powers under statute to investigate these activities, to call people before it, to compulsorily examine them and to develop the evidence necessary to break up these gangs. It is also important that NSW Police and the New South Wales Government work with the Federal immigration authorities to ensure that people are not allowed to come out here on visas sponsored by gang members—that is an important issue for the Federal Government to address—and that people who do come out here on visas sponsored by gang members, or who are on visas and who are not Australian citizens and are associating with criminal gangs operating within certain ethnic communities, are deported quickly.

In the United States and Canada various legislatures have sought to address the issue of gang colours in public places. The Canadian province of Manitoba recently considered an amendment to its criminal code to ban gang colours in public places. It recommended that for wearing gang colours or gang identifying marks within public places there be a fine of not more than \$1,000 or imprisonment for three months or both for a first offence and a fine of not more than \$2,000 or imprisonment for a term of not more than six months or both for a second or subsequent offence.

New South Wales is not unique. The problem New South Wales must address in relation to organised gang activity, gang colours and gangs operating within ethnic communities is found within the United States, in the United Kingdom, in Canada and, of course, in the countries of the European Union. However, the response of the New South Wales Government has been extremely slow. The intelligence that Mr Priest referred to had been gathered in the 1990s, yet it was never acted upon. There was an ongoing period of denial. That was exemplified by the then Commissioner of Police, Peter Ryan, denying that there was any organised criminal activity in Cabramatta and that the drug problem had been solved in Cabramatta. As was revealed very quickly afterwards, and acknowledged by the Government, that was not the truth.

The Government has attempted to simply explain away or to minimise gang activity. If the Government is right in its argument that crime statistics are falling and that everything is wonderful out there in the world, why does it need more police? Why does it need this bill? Why has the Coalition called for more police and for a crackdown on gang activity? Because such criminal activity is prevalent and expanding. New South Wales faces a real challenge from criminal activities.

The New South Wales Coalition has a number of further ideas relating to curbing gang crime in New South Wales that it will put to the public in the lead-up to the 2007 election. It is not appropriate to discuss them at this time as we are not moving amendments to the bill. But the Government should not think that creating a statutory offence of participating in criminal groups and defining public disorder and various aggravated offences committed during a period of public disorder are the solution to a problem which it has sought to minimise and ignore for such a long period. The Coalition does not oppose the bill, but it has concerns about how serious the Government is about the gang problem, particularly given its failure to tackle Middle Eastern gangs over the past 10 years. As I said, the Government should be making more use of the powers of the Crime Commission and should have a vigorous, proactive policy in relation to bikie gangs and ethnic gangs.

This is a problem of the Government's making. It has failed to take action over the past 10 years. It has allowed the Middle Eastern gangs, in particular, to run riot. There are many explanations for that. I do not propose to go into them now, but I think most people in the community are aware of some of the reasons the Government has been so slow to act in relation to Middle Eastern thuggery and Middle Eastern gangs. We will be monitoring the Government's progress. The Government deserves no credit for its Damascus-like conversion on the eve of an election. Only a Coalition government will bring the gangs to heel, and it will do so as a matter of urgent priority. The message for every gang member after 24 March 2007 will be: Go straight or go to gaol.

We do not oppose the bill but we reserve our right, upon further consideration, to take whatever action we think appropriate in the Legislative Council for the protection of the community—a community which the Government, for its own reasons, has allowed to suffer for a long period—from organised crime and organised gang activity. The Government and the Minister for Police deserve no credit for the bill. The Government has been slow to act on this serious challenge to our society. Only two weeks ago the challenge was so manifest that in the centre of Sydney there was open warfare of a type which we used to see only in movies about Chicago in the 1930s.

That type of situation has now come to Sydney. That type of crime is typical of the way life runs under the Carr and Iemma governments. They seek only to spin because they think that the more they spin the more likely they are to win. Everything is spin; nothing is substance. No activity takes place except on election eve, which is fast approaching. No doubt members opposite are about to commend the Minister and the Government. Significantly, in their years in Government they very rarely raised the issue of gang crime and its pervasiveness within the ethnic community. I exempt the honourable member for Bankstown from that statement because he lives in a very difficult electorate, and I understand that. But one would have thought that one would have heard a lot more from him and his associates as to this problem within the community.

**Mr Tony Stewart:** Point of order: Bankstown is not a difficult electorate; it is a wonderful place to be in and to live in and I am very proud to be the member for Bankstown.

**Mr ACTING-SPEAKER (Mr Paul Lynch):** Order! The honourable member for Gosford has the call.

**Mr CHRIS HARTCHER:** The residents of Bankstown are no doubt flattered that the honourable member for Bankstown is proud of them. The great majority of people who live in Bankstown are fine people, just as the great majority of people who live in Gosford are fine people. But the organised crime and gang activity in that community have not been addressed by the Government. It should hang its head in shame. The honourable member for Georges River also has been very silent on this issue. There is no point commending the Government when it has taken 11 years to get to the stage where a bill such as this is before the Parliament. I know the honourable member for Georges River is anxious to speak. I have only got about another 10 minutes to go and then I will sit down.

**Mr KEVIN GREENE (Georges River) [11.46 a.m.]:** The last comments of the honourable member for Gosford probably say more about him and some of his proposed policies than anything: he indicated he was going to talk for another 10 minutes and then he sat down. I listened with interest to his comments when he started out so enthusiastically supporting the Crimes Legislation Amendment (Gangs) Bill. His comments in the last five minutes could apply more to recent Liberal Party preselection activities. That is certainly unfortunate.



However, I will try to contain my comments to the bill. As the honourable member for Gosford indicated, I am very supportive of the Minister for Police and the work that has gone into the preparation of the bill.

The Government has taken the opportunity to increase police powers most appropriately. The Government is on record in the last 11 or so years as being very supportive of the police force. The honourable member for Gosford referred to the large majority of citizens who are law-abiding, but the Government has passed laws to ensure that we live in a safe community. The work undertaken by our police has resulted in crime rates continuing to fall. That shows that the police force has taken on board the legislative changes brought forward by the Government in the past 11 years to strengthen their powers to make our community a safer place.

The bill recognises that crimes committed by gangs—whether they be crimes of violence, revenge attacks, systemic property damage, organised motor vehicle theft, protection rackets, armed robberies or the drug and the gun trade—are a far greater threat to the safety and well-being of the community than most crimes committed by individuals acting alone. The bill introduces new powers dealing with public disorder dispersal orders, fortification removal orders and expanded search warrant powers for criminal gang premises.

New offences relating to criminal groups are in proposed sections 93IJ and 93IL of the Crimes Act 1990. They include a simple participation offence, a violent participation offence and violence against law enforcement officers on behalf of the criminal group. The legislation notes that the group must be an organised criminal group within the meaning of the Act, the person must know the group is a criminal group, the person must participate in the group in a way that contributes to criminal activity and the person must know or be reckless to the fact that his or her participation contributes to the occurrence of criminal activity.

The legislation also contains several provisions giving extra protection to police. Those provisions deal with violence towards police officers during public disorder, assault upon police or any other law enforcement officer on behalf of an organised criminal gang, and retaining personal information about law officers and their families. The legislation aims to encompass the activities of criminal gangs and contains various enforcement provisions that ensure that those found guilty of such offences are appropriately punished. That is the most important issue: this legislation is the Government's measure designed to strengthen police powers to cover recent instances and it covers powers that the police have requested. The research undertaken by the Ministry for Police indicates that the amendments in this so-called gangs bill will ensure greater safety for our community.

Earlier today I spoke on another piece of legislation and highlighted the support that I and, I hope, all honourable members of this House give to our police officers in the work they do. I think that would be a given. Most importantly, we must support our police with strong legislation, because police officers are acting for the benefit for the community; they are acting on behalf of the great majority of law-abiding citizens who wish to go about their activities feeling safe in the community in which they live. This legislation will increase that feeling of safety within our community. No-one wishes to be intimidated by the activities of a few who hide behind a gang mentality and who decide to increase their strength by participating in criminal activity in numbers. We must show this minority of people who are lawbreakers and criminals that if they wish to intimidate and to act illegally in a gang, they will be punished appropriately. That is what this legislation is about.

It is disappointing that the honourable member for Gosford chose to stray from the core of this legislation in his contribution. It is designed to strengthen police powers so that they can deal with the activities of that minority. Those people need to know that the Government is providing our police, the custodians of law in our community, with the powers that they need to enforce the law and to maintain community standards. Like the honourable member for Gosford, I am pleased to support the Minister for Police, the Ministry for Police, the Commissioner of Police and his officers in the work they do for the betterment of our society.

**Mr ANDREW TINK** (Epping) [11.54 a.m.]: The Crimes Legislation Amendment (Gangs) Bill, which has been introduced 11 years after the Government came to office, is proof that its efforts to suppress gang activity have failed. I regret to say that, as with previous attempts by the Government to catch up in the general area of legislative support for our hardworking police, this legislation again falls short. Time and again the Government has had to reintroduce legislation to have it amended and tightened—for example, the gun legislation, the knife legislation and various amendments to the summary offences legislation. We repeatedly deal with amendments designed to tighten up legislation because the Government did not get it right the first time. This bill is certainly not right at the moment.

I will explain to the House why this legislation falls short in at least two respects. I have read it as carefully as I can, but I cannot find any reference to the concept of a gang leader. I have introduced a private member's bill that seeks to change the legislation so that leadership of a gang, of itself, becomes an aggregating factor in sentencing. That is a simple proposition, but the Government is yet to grasp the point. As far as I can tell, the only parts of the bill that remotely deal with the concept of leadership are on page 5, line 18, which contains a reference to some of the people involved in the group being involved in the planning, organising or carrying out of a particular activity, and on page 8, which contains a reference to the concept of recruitment. That is as close as we get to the concept of gang leadership in the bill.

This issue came to a head with the notorious case of *R v Bilal Skaf CCA 2005* at page 297. The judges had no difficulty in finding that there was evidence upon which it could be said that in the incident of 10 August Skaf adopted a leadership role. There is no conceptual difficulty in there being evidence in a trial that points to a person as a leader. It does not mean that one must define "leadership", which I concede might not be an easy task in a bill. However, judges find it easy to identify someone who can be said to have played a leadership role. The example is the Court of Criminal Appeal giving Bilal Skaf that role in the case then before it.

The difficulty I had with the judgment in that case was that even though the judges found that Skaf had played a leadership role, they then said that that did not make it individually or collectively the worst category of aggregated sexual assault. It is time that leadership of a gang, by virtue of that leadership without anything else, puts the activities of the person involved as leader in the worst category of that crime. Gangs form around leaders; a key condition precedent to a gang forming is that there is a leader. Gangs comprise leaders and followers, and most members are followers. There may be one or two leaders, but nothing in this legislation tackles leaders. The Government has failed yet again. This legislation is said to address the gang problem, but it has missed the fundamental point, which is that gangs form around leaders. The legislation contains nothing whatsoever to provide any specific penalty for, or acknowledgment of, that leadership and that is one of the problems.

I would have thought that there is still time to draft an amendment to this bill, if the Government is so minded, to make it an aggravating factor in sentencing for the leader of a gang to be identified as such on the evidence before the court for sentencing purposes. That is the first point I want to make. The second point goes to penalties. There was a great song and dance by the Minister for Police about increased penalties. That is all well and good, except that once again he has missed a fundamental point, which is that the Government has done nothing—as far as I can tell and unless someone wants to correct me—to amend the Crimes (Sentencing Procedure) Amendment (Standard Minimum Sentencing) Act.

I turn now to page 3 of the bill. The Government wants to insert into the Act new section 60 (2A) to impose a sentence of nine years imprisonment on a person who assaults a police officer during a public disorder. I can see no amendment to the standard minimum sentencing legislation to provide a standard minimum sentence for this offence. Does that mean that there is to be no standard minimum sentence for a person who, during a public disorder, assaults a police officer and the assault occasions actual bodily harm? Or is it somehow to be implied that the standard minimum sentence under section 60 (2) as it presently stands in the Crimes (Sentencing Procedure) Act will cover that offence? If it does cover it, why has the standard minimum sentence not been increased? If, as the Minister for Police has suggested, this is all about increasing sentences, why is there no increase in the standard minimum sentence?

The Government had better get it right because no court is going to fill in the blanks in respect of this sort of statutory law when sentencing someone to a potentially significant term of imprisonment. If this is not right, there will be no standard minimum sentence. The criminal courts do not fill in the blanks: it is either here—I do not think it is—or it is not. If it is not, the Government appears to have no standard minimum sentence for this type of offence. However, the Minister for Police boasted that it has been increased. If it is here, clearly it has not been increased. The same thing can be said of new section 60 (3A). We now have the concept of wounding or inflicting grievous bodily harm on a police officer, with a penalty of 14 years. I can see no reference to a standard minimum sentencing change. Perhaps we go back to the Crimes (Sentencing Procedure) Act and say, "The standard minimum sentence for this offence will be five years." I think it is a pretty big leap of faith to assume that. It seems to me that there is a gap in this legislation in identical terms to the provision I mentioned a few moments ago.

My third point—which is highly relevant to this bill by way of omission and to the sentencing issues generally—is that the time has come, and a case can be made, for these types of sentences to be imposed by a jury. The Attorney General recently made some comment about the Law Reform Commission and the work that

it is doing following comments by the Chief Justice of New South Wales a little while ago that it would be a good idea to have the jury involved in sentencing. It would appear from the commentary on that proposal that there is not much support for it from the Government or, as is predictable, from the legal profession. There is not much appetite to adopt it. However, I believe adopt it they should. There is a perfectly reasonable way to do this, which will provide the right balance between the jury becoming involved in sentencing and a basis for the judge to continue to be involved.

I refer to the bill and take, for example, the malicious wounding of a police officer with a sentence of 14 years in prison. For the purpose of the argument, I give the Government the benefit of the doubt—which I do not believe it deserves on the current wording of the bill—and there is somehow a standard minimum sentence imported here, let us say of five years under section 63 of the Crimes (Sentencing Procedure) Act. Generally speaking, it would work this way in argument to the Law Reform Commission: To make the courts more reflective of community standards, juries can and should be involved in the sentencing of serious offenders. As I have said before, that was acknowledged by Chief Justice Spigelman. There is a way to do it without the jury undertaking the judge's role and without the judge being required to consult the jury behind closed doors.

As the law stands, Parliament has a set number of standard non-parole periods for serious offences, which the sentencing judge can increase after taking into account aggravating factors, such as prior convictions, or reduce after considering mitigating factors, such as the offender's young age. In this system the lenient application of mitigating factors to reduce the standard non-parole period in some cases has been severely criticised by the public. Honourable members would be well aware of that. However, the standard non-parole period—I query whether it is in this bill; if not, it should be—could be the basis for involving juries in sentencing, thereby indirectly allowing the public to have a greater say. Under a new system of sentencing it would be left to the jury to decide whether the standard non-parole period should be the starting point for the sentencing judge.

If I take one of these examples in the current bill—I would be taking a little leap of faith to assume the standard minimum sentencing legislation applies—if a jury has found a person guilty of wounding or inflicting grievous bodily harm on a police officer, which carries a standard non-parole period of five years jail, the jurors could then be asked: On the facts of the case you have heard, do you consider that the person you have convicted of wounding or inflicting grievous bodily harm on a police officer should be sentenced to a minimum of five years gaol? If the answer is yes, the judge then considers all usual sentencing issues with the five-year minimum sentence as the starting point. If the answer is no, the judge is free to sentence in the ordinary way. In setting standard non-parole periods for serious offences the Parliament has tried to act on community concerns about lenient sentences. As with other bills introduced by the Government, I do not think it has gone far enough.

There has been great controversy about any proposal to convert these periods to compulsory minimum sentences because there is no flexibility having regard to the particular circumstances of the case. A jury that has heard all the evidence is in a perfect position on behalf of the general public to determine whether Parliament's standard non-parole period should apply in a particular case. The judge would still have substantial sentencing responsibilities to apply the aggravating and mitigating factors, subject only to the standard non-parole period being the starting point, should the jury so decide. The idea puts up a simple but very important question for the jury, followed by the more complex applications of sentencing law by the judge. In that way the jury could become involved in sentencing without actually taking over the judge's role. As a result of the way this bill is drafted, it may not be possible to do that because there may be no standard minimum sentence that applies to these new offences that have been created.

The Minister should clarify in his reply whether the standard minimum sentencing legislation applies and, if so, exactly how it applies. If it does not apply, an amendment should be moved to cover it. It would be absurd if there were a standard minimum sentence for an offence under section 60 (3) but not under section 60 (3A). It seems to me that that is just a great hole in the law. Either way, there has to be clarification on that point. If it is not addressed in this bill, steps must be taken to acknowledge that this is a problem. It should be fixed and included in the raft of other offences that have standard minimum sentences. Down the track, it could form the basis of a platform to launch a greater role for juries in sentencing people who are guilty of these sorts of offences.

**Mr BARRY COLLIER** (Miranda) [12.09 p.m.]: I speak to the Crimes Legislation Amendment (Gangs) Bill. Gang crime is perhaps the most insidious form of crime, whether it be organised crime or the violence of a mob that forms in the heat of the moment, seemingly without leadership. Such crime can take many forms: it can be based on some kind of conspiracy and be committed with a particular common purpose; it

can arise through agitation by those with agendas to promote violence; it can be mob violence of a kind that explodes following a build-up of tensions; or it can be the violence of a revenge attack. We all saw gang violence in the events at Cronulla on 11 December 2005 and the subsequent revenge attacks in the Sutherland shire and at Maroubra on succeeding nights. Gang crime means not only personal injuries and systematic property damage, but it also generates fear throughout the community.

I remember vividly receiving a letter from a nine-year-old boy just after the Cronulla disturbances. The boy belongs to the Cronulla Surf Life Saving Club and he was worried about going to his nippers club on Sunday mornings with his parents because of the violence that he saw on television. I went out to his home, sat with him and his mother, and talked him through those events. I assured him that the police were doing a marvellous job—as they were—and I persuaded him to go back to the club, with his parents. That just shows the fear that gang violence generates not only in seniors but right down to the youngest members of our community. It is pervasive. I received calls from seniors following those riots, with some people believing that this was the kind of violence they escaped from when they left Nazi Germany.

Gang crime is the kind of crime that underlies the drug trade and the gun trade. It is the kind of crime that is the most demanding of police resources and one that we need to give the police the widest possible powers to deal with. This bill recognises that crimes committed by gangs, however they form and whatever their purpose, are a far greater threat to the safety and wellbeing of the community than most crimes committed by individuals. The bill seeks to deal with two types of gangs: those formed by mobs and organised criminal groups. I propose to deal particularly with public disorder offences or violence of the mob. Schedule 1 of the bill amends the Crimes Act. The bill inserts a definition of "public disorder" to mean a riot or other civil disturbance that gives rise to a serious risk to public safety, whether at a single location or resulting from a series of incidents in the same or different locations. The bill creates new, aggravated offences in relation to various offences involving assault or damage to property, where the assault or damage occurs during a public disorder, with a two-year increase in the maximum penalties. The bill makes clear that offences involving assault against police includes throwing missiles at them.

The bill also targets persons involved in less organised gang activities, such as those who rioted at Cronulla and those who took part in the revenge attacks. The new section of the Law Enforcement Powers and Responsibilities Act 2002 gives police the power to order people to disperse from a nominated area. Failure to comply will incur a penalty of up to \$5,500. The provision is designed to defuse violent situations in the circumstances of public disorder. This power becomes available only if a lockdown has been declared. The power to declare a lockdown was given to the police by this House following the urgent recall of Parliament on 15 December last year. A dispersal order can apply only within the area where the lockdown is in place—for example, people congregating in a beachfront or in a town square may be directed to leave those areas.

I am sure all honourable members shared our disgust at the systematic destruction carried out by the revenge attacks at Caringbah, the knifing at Woollooware and the damage to cars, houses and shopfronts in the Sutherland shire in the wake of the Cronulla disturbances. The bill increases the maximum penalty for a variety of offences involving damage and destruction of property during a public disorder. These range from seven years for malicious damage to 16 years for firing at a dwelling house or other building. Setting fire to premises with the intention to injure will now incur a penalty of up to 16 years in gaol. A number of offences in the bill are aggravated offences; versions of existing offences. If they are committed during a public disorder, the maximum penalty is increased by two years.

For example, assaulting, throwing missiles at, stalking, harassing or intimidating a law enforcement officer in the execution of his or her duty carries a maximum penalty of seven years. Assaulting a law enforcement officer in the execution of his or her duty causing actual bodily harm carries a penalty of nine years. Malicious wounding or inflicting grievous bodily harm on a law enforcement officer in the execution of his or her duty carries a penalty of 14 years. There are other aggravated forms of offences under the bill. Firing at a dwelling house or other building with reckless disregard for persons' safety carries a penalty of 16 years. Maliciously destroying or damaging property is seven years, or if fire or explosives are used in the process it is 12 years. Maliciously destroying or damaging property with intent to injure a person carries a penalty of nine years, or if fire or explosives are used it is 16 years. Dishonestly destroying or damaging another's property with a view to making a gain carries a penalty of seven years, or if fire or explosives are used the penalty is increased to 14 years. Threatening to destroy or damage property carries a penalty of seven years. Possessing explosives or other articles with intent to destroy or damage property carries a penalty of nine years if the article is an explosive, five years if it is not an explosive.

I am sure the honourable member for Cronulla is well aware of the tensions during the time of the Cronulla disturbances and the weeks that followed. He would recall also the very good attempts made by all local members of Parliament to promote calm within the Sutherland shire. I am sure he will join me in praising the sterling efforts of police in the Miranda Local Area Command under Superintendent Robert Redfern and police in the Sutherland Local Area Command under Superintendent Rob Williams. The way they dealt with the matter and with the community on the beat was simply superb. I praise the work of North Cronulla surf club and the way its members got behind the police and the community promoting Back to the Beach days. There was even a sunrise morning service for peace on the beach, conducted by Reverend George Capsis.

While I do not often commend him, our mayor, Kevin Schreiber, took a very responsible approach and showed leadership in the wake of the Cronulla riots, as did the Minister for Police. The Hon. Bruce Baird was also involved. We met with leaders of the Islamic and Muslim community at Bankstown. I thank the honourable member for Bankstown for inviting us over there. We all went over to Wanda Surf Club for the launch of a new surf boat, trying to restore the respect and responsibility that all Australians want and all Australians deserve: all Australians united under the one Australian sun. I commend the community leaders and I commend the police. The police did a marvellous job. We have police accountability community team [PACT] meetings every three months. Superintendent Redfern informed us at the Miranda PACT meeting in March that the number of assaults over the year was down in that local area command, even taking into account the impact of the Cronulla riots.

The honourable member for Epping spoke about leaders and how the bill does not target them. The bill targets all participants in a gang, whether they are leaders or not. He spoke about the problem of leaders and the problem of the courts saying the rape and the offences committed by Bilal Skaf were not in the worst class of case. Such decisions are often a problem for the community to comprehend. I, along with many people in my community, believe that there cannot be a much worse case than the offences committed by Bilal Skaf and his associates. However, the concept of leadership is different again.

In cases such as this the legislation prescribes a maximum penalty and the courts can impose a range of penalties. In my experience, all other things being equal, the courts sentence the leader—the person most involved in the conspiracy or criminal activity—to a higher penalty than those who are less involved or are on the periphery of the criminal activity. Despite the bill not identifying a leader, in particular, which the honourable member for Epping wants, the courts always have the scope to impose a higher penalty on the leaders and a lesser penalty on those who have peripheral involvement. I commend the bill to the House.

**Mr MALCOLM KERR** (Cronulla) [12.20 p.m.]: The honourable member for Miranda spoke about what occurred at Cronulla on 11 December 2005. He rightly stated that what occurred was the result of built-up tension and anti-social behaviour. I have said on numerous occasions that this was a result of a lack of police resources. I have spoken about the necessity for Cronulla police station to be upgraded and for additional police numbers to be provided. This morning the Parliamentary Secretary spoke about the credibility of Geoff Schuberg and said that the Government had used his services. I invite the Parliamentary Secretary to read the speech that Geoff Schuberg gave, as reported in the *St George and Sutherland Shire Leader*, about police staffing levels and resources in 1995, prior to Labor coming to government, and what they are now.

There had been a build-up of tension, people had been assaulted and 5,000 had demonstrated about sharing the beaches at Cronulla. It is outrageous that Sutherland shire has been accused of being a racist society. No member of the community would support that view. Many people in the community are from overseas—indeed, it has a migrant hostel. I attended Cronulla Public School and Caringbah High School along with many people from a diverse range of nationalities. The main street of Cronulla has many Lebanese businesses and Sutherland shire has businesses comprising a myriad of nationalities that have co-existed without any racial tension. What occurred was inexcusable behaviour by a minority in the crowd, fuelled by alcohol.

**Mr Michael Daley:** Racism.

**Mr MALCOLM KERR:** By some drunken people—no-one would deny that—but it was a very small number. The number of people apprehended and arrested out of a crowd of 5,000 was very small. Once again, the number of people the honourable member accuses of racism came from outside the Sutherland shire; they did not reside in the area. They were arrested for racist remarks and racist behaviour. I agree with the honourable member for Miranda with respect to his remarks about policing. There was a lack of police presence, particularly uniformed police. However, on New Year's Eve and Australia Day the crowd was peaceful. Both

the honourable member for Miranda and I were involved in community activities on that day. Superintendent Redfern and his police should be commended.

The honourable member for Miranda referred to the North Cronulla Surf Life Saving Club, where a command centre was set up. Indeed, North Cronulla, Cronulla, Elouera and Wanda clubs were involved in community bridge building as a result of what occurred at Cronulla on 11 December 2005 and retaliatory raids. I commend also Assistant Commissioner Mark Goodwin, who was in charge of Operation Lock Down, and the police officers. The lawfulness that was displayed on New Year's Eve and Australia Day was the result of the large police presence; the additional police resources were finally provided. However, we have not been given a guarantee that additional police resources will be provided this summer and we do not know whether police will once again patrol North Cronulla Surf Life Saving Club. We need that certainty. I repudiate any suggestions that Sutherland shire is a racist community.

I turn now to the retaliation raids. People were picked on and stabbed merely because they were white and property was smashed. One wonders why police did not interfere when the convoys came down to Cronulla. A letter was written to the editor of the *St George and Sutherland Shire Leader* that raised pertinent questions in relation to this issue. That letter has never been answered. I asked the Minister for Police a question on notice No. 5588 as follows:

Will the report on the Cronulla riot be made public before the next State election?

Answer—

An internal review is being conducted by NSW Police. The report of the review must be provided to Cabinet by the end of August 2006. Cabinet will take the final decision as to its release.

Who is responsible for that report and has it been completed? Will it be released publicly? These are questions that the Parliamentary Secretary should answer in his reply. These questions are of concern not just to me, my electorate, Sutherland shire and Sydney, but to Australia. They have international ramifications. As the honourable member for Miranda well knows, what happened at Cronulla reverberated throughout the world and tarnished the reputation of the Sutherland shire. That report should be made public throughout Australia and internationally.

I turn now to the Crimes Legislation Amendment (Gangs) Bill. If the bill of the honourable member for Epping had been passed, this bill would not have been necessary. This bill has significant shortcomings in that it does not attack the core of the problem: the leadership of gangs. Gangs are organised activity. If one attacks the leadership of an organisation, that organisation will be defeated, which is why it should be an aggravating offence. This bill puts the innocent in harm's way. Once again I am indebted to the Legislation Review Committee. The honourable member for Miranda was a former chairman of that committee; he knows the valuable work of that bipartisan committee. The House owes much to the labours of that committee. The comments of the committee deserve to be recorded and considered by every member of this House. It stated:

The Committee notes that the Bill aims to undermine the foundations of criminal gangs by making it an offence to knowingly or recklessly participate in a criminal group, where such participation contributes to the occurrence of any criminal activity.

The Committee is concerned that the meaning of "participate" in proposed s 93IK is unclear and may result in criminal liability for participation in a group to arise in circumstances where a person did not intend to advance the criminal objectives of the group as set out in proposed s 93IJ.

The Committee is also concerned that the meaning of the phrase "contributes to the occurrence of any criminal activity" in proposed s 93IK is unclear and may apply to conduct not connected to the commission of a particular time [sic] on a particular occasion.

The Committee is concerned that this lack of clarity may allow a person to be convicted of the proposed offence under s 93IK, which carries a maximum penalty of five years' imprisonment, on the basis of conduct which is relatively peripheral to the commission of a minor summary offence by others, where the accused merely foresees that it is possible (ie, being reckless) that his or her conduct will contribute to the occurrence of such a crime in the future.

I am surprised that the honourable member for Miranda did not address that point in terms of his known concern about civil liberties. The rule of law must be respected.

[Interruption]

The honourable member for East Hills laughs. The rule of law is not a laughing matter. I believe that all citizens—

**Mr Michael Daley:** Why don't you talk to your leader?

**Mr MALCOLM KERR:** I must respond to that. According to members opposite I must justify why the rule of law should be applied. Once again I refer to the Legislation Review Committee report.

**Mr Alan Ashton:** Point of order: I laughed when the honourable member for Cronulla said that people must respect the law, because effectively members opposite do not. They call the police commissioner a clown; they have no respect for law and order. It is inappropriate for the honourable member for Cronulla to say that we do not respect law and order.

**Madam ACTING-SPEAKER (Ms Marianne Saliba):** Order! There is no point of order.

**Mr Alan Ashton:** I know it is not.

**Mr MALCOLM KERR:** It is on the record that the honourable member for East Hills confessed that it was not a point of order. I will justify my comment to the honourable member. The committee report stated:

Parliament has a fundamental duty to all citizens to ensure that the law is clear enough that they can know what the law requires of them. It is inevitable that some laws are very complex ...

In areas of law which regulate the lives of ordinary citizens, clarity is especially important, because people cannot be expected to consult lawyers about everything they do ... People should not be exposed to criminal prosecution if they fail to adhere to vague laws.

We all know that the honourable member for East Hills wants to see the rule of law observed. He has always maintained that, and there is no suggestion that he would ever depart from that principle. The honourable member should be concerned about this bill because we are not talking about an abstract principle. The committee makes clear what could happen to a perfectly innocent mechanic. [*Extension of time agreed to.*]

I am glad that the honourable member for Bligh realised her foolishness—

[*Interruption*]

The honourable member for Bligh cannot explain her behaviour on this occasion. I was talking about motor mechanics. She should listen to this. The committee further stated:

That Bill does not define participation in the criminal group. More particularly, it does not make it clear that a person must intend to pursue the objectives of the criminal group in order to be defined as a participant. All that the prosecution must prove is that the accused knew that he or she was participating in a criminal group.

**Mr Michael Daley:** And?

**Mr MALCOLM KERR:** I am quoting the Legislation Review Committee report, which stated:

It was suggested in the second reading speech that a mechanic who maintains and repairs the bikes of a criminal motorcycle gang would not fall within the ambit of s 93IK(1). However, the language of the Bill does not unequivocally support this position.

A mechanic—

it could be a mechanic doing business perhaps in Miranda, Coogee, Maroubra, East Hills, Cronulla, Darlinghurst or Dubbo—

specialising in motorcycle maintenance may have regular clients who are members of a "bikie gang" which satisfies the s 93IJ definition of a criminal group, in circumstances where he or she in fact knows that the bikie gang is a criminal group. It is also conceivable that the mechanic would know, or perceive a risk—i.e., be reckless—that the effective maintaining of the motorcycles used by the gang members in the course of their criminal activities *contributes* to the occurrence of such activities.

If a charge were laid in such circumstances, the only way that the mechanic could assert that he or she had not committed an offence pursuant to s 93IK(1) would be to assert that his or her maintenance and repair work did not amount to *participation* in a criminal group.

Although the second reading speech indicates that the concept of participation has been deliberately chosen as demanding more than simple membership, it also makes it clear that one can be a participant without being a member or part of the group. Thus, it

would appear that a person may participate in a criminal group without intending to advance the objectives of the group, provided that he or she:

- knows that it is a criminal group; and
- knows or is reckless as regards his or her participation contributing to the occurrence of any criminal activity.

The prosecution does not even have to prove an intention to contribute to the occurrence of criminal activity, but that the accused was simply reckless. Although "reckless" is not defined in the Bill, judicial interpretation of other Crimes Act offences suggest that it would include the person who merely foresaw the *possibility* that the criminal activity would eventuate.

The second reading speech indicates that the proposed offence:

targets those hiding in the background of a criminal enterprise and those who facilitate organised criminal activity. They may be accountants, bookkeepers, executives and lawyers who fudge records, launder money, construct sham corporate structures and hide assets.

However, the speech also refers—

this is important to each of our electorates—

to "licensed hoteliers, real estate agents, smash repairers, pharmacists—

all of whom are represented in the electorate of Liverpool—

or public officials, who, in various ways, aid and abet ongoing criminal activity." This suggests that a broader interpretation is to be given to the concept of participation, one that does not clearly exclude the hypothetical mechanic.

As I said, the incidents that the Government is using to justify this bill occurred on 11 December 2005. Government members will be surprised to learn that criminal and gang activities have been operating in this State for some time.

**Mr Alan Ashton:** There were the razor gangs years ago.

**Mr MALCOLM KERR:** Yes, and they were dealt with quite effectively. As the honourable member would recall, they were dealt with by the rule of law, by knowing what was involved in the criminal law. We did not need an elastic interpretation of "participation" in a razor gang to deal with the serious activities that occurred at that time. It is time that some of that commitment to the rule of law and to maintaining a safe society that existed back then was brought to bear; otherwise this ridiculous bill may result in businesspeople who are trying to make a living being put in harm's way and falling victim to the Government in relation to gangs. I am concerned about that. There has been a delay, and that delay will be perpetuated in the justice system. Justice delayed is justice denied. Now it is spelt out that justice can occur. We look forward to hearing the next Government speaker, who will no doubt deal with the risks imposed by this bill.

**Mr PAUL PEARCE** (Coogee) [12.38 p.m.]: I shall address aspects of the Crimes Legislation Amendment (Gangs) Bill, which seeks to expand police powers to prevent or control various forms of public disorder, remove various forms of fortifications of certain premises, and create a new range of criminal offences relating to participation in a criminal group. We are all familiar with the antisocial and criminal activities of gangs and mobs in Sydney. Honourable members have referred to the unacceptable events at Cronulla and subsequently, and I will not detail them.

Whilst I have reservations as to the necessity of some of the proposals within the bill, I do not intend to debate the rationale underpinning the bill. I take on good faith that the Government has reached the conclusion that such changes are necessary to achieve the objectives stated in the second reading speech. As such, I shall be supporting the bill. Therefore, I will concentrate my speech to the House on a range of technical aspects of the bill that I ask the Minister for Police to consider with a view to clarification. As I will briefly outline, there are aspects of this bill that could have unintended consequences and adversely impact on basic civic rights. In addition, there are issues of definition which I suggest need to be clarified to ensure that otherwise innocent persons are not caught inadvertently in the net of this bill.

I address the civic rights issues firstly. The primary clauses in the bill are contained in proposed section 87MA, which seeks to amend the existing provisions of the Law Enforcement Legislation Amendment (Public Safety) Act 2005, in particular existing section 87D. The Legislation Review Committee identified and expressed some reservations regarding the effect of the primary Act in its Legislation Review Digest No. 1 of 2006. In reporting to Parliament on the implications of that Act, the committee expressed concerns that the Act



proposed two threats to the customary rights to peaceful assembly—a right also recognised by article 21 of the International Covenant on Civil and Political Rights to which Australia—and hence New South Wales—is a signatory. It was identified that persons who are not directly involved in a protest, affray or assault but who are merely bystanders or residents of the targeted area may be subject to the powers of the bill.

The committee cited the application of the direction to disperse under proposed section 87MA. Further, if a senior police officer as designated believed that a political protest posed a threat to public order, a targeted area could be declared and an order to disperse issued under section 87MA with a criminal sanction should they not do so. Clearly, it is not the Government's intent to limit the right to peaceful protest, so I would argue that there is a need for checks and balances to ensure that this significant power is utilised only to ensure public safety. This particularly becomes the case when the definition of "public disorder" is taken into account, with the consequent range of aggravating factors and increased penalties accruing as a result of the protest or even falling within the definition of "public disorder".

I will now turn to the other aspects of the bill that I consider may need clarification and definition to ensure that possibly unintended consequences do not impact on innocent persons. I bring to the attention of the House proposed sections 93IJ and 93IK, which seek to amend provisions of the Crimes Act by adding part 3E. The essence of the proposed changes centres around the concept of participation in a criminal group. These proposed sections and the conduct elements of the proposed offence significantly extend the common law boundaries of criminal responsibility, as defined by the common law doctrines of conspiracy and complicity to being accessories to a criminal act. In analysing the impact of this section, the Legislation Review Committee identified that whilst the concept of a criminal group contained in the bill is similar to what could be described as a long-term conspiracy, the common law offence of conspiracy envisages two or more persons reaching a specific agreement to commit a particular crime or crimes.

Proposed section 93IK (1) seeks to extend that to general criminal objectives of the group to provide the basis of criminal liability and criminalises conduct that currently would not fall within the definitions of the common law. Specifically, the intent of the person becomes irrelevant but rather relies on knowledge or recklessness as to the consequences of the assistance rendered. The apparent requirement that the prosecution does not have to prove knowledge or recklessness on the part of the accused to the commission of a specific crime would seem to displace the common law threshold of a knowledge of essential matters as a basis of liability. As the bill does not define participation in a criminal group and further does not make clear that that person must intend to pursue the objectives of the criminal group, it leaves open the possibility that innocent parties may be caught up in the wide net of this bill. It is quite conceivable that tradespeople, such as mechanics, and professionals, such as accountants, could be caught in the net.

According to the second reading speech, that is not the intent of the Government. If my concerns are legitimate, it strikes me that the risk of the broad interpretation of the provisions of the bill needs to be addressed. Given the possible lack of clarity of some of the aspects of the bill, it could be argued that it offends against the principle of legal certainty—namely, that it should be possible to predict, with reasonable confidence and on the basis of reasonably accessible legal materials, the circumstances in which a power will be used. The European Court of Human Rights has stated:

A norm cannot be regarded as a "law" unless it is formulated with sufficient precision to enable the citizen to regulate his conduct: he must be able ... to foresee, to a degree that is reasonable in the circumstances, the consequence which a given action may entail.

The Legislation Review Committee, in its recommendations, has sought advice from the Minister on a number of these issues. Whilst it is appropriate for a government to respond to a perceived risk to the community, it is also, in my view, essential that the response is proportionate to the level of perceived risk. The key to proportionality lies in the circumstances of the use of the law being clearly defined, persons so impacted being clearly identifiable, and the nature of the activity which incurs criminal liability having a degree of precision that allows a reasonable level of certainty on the part of a member of the general public. I take this opportunity to thank the staff assisting the Legislation Review Committee for their assistance on the analysis of the bill.

**Mrs DAWN FARDELL** (Dubbo) [12.45 p.m.]: Today I speak on what differentiates a gang. We have heard from other honourable members about Cronulla, Cronulla, Cronulla. Gangs have been operating for quite some time in all areas and in all sorts of activities. We in this House should not single out any particular group. The Opposition today has placed a lot of emphasis on Middle Eastern and Asian gangs, and Vietnamese crime gangs in the past. The honourable member for Gosford referred to comments that bikies have legalised their activities, that they are not a big problem any more, and that Anglo-Saxon gangs are moderate in their activities.

I dispute that. We should not single out any group at all. Across New South Wales and Australia gangs come from all walks of life, so I find some of those comments racist.

We cannot put all the responsibility on the police. The reason we have riots in Cronulla or anywhere else is the lack of police and the lack of decent police stations. Much responsibility, again, has to go back to the guardians or parents of the people in gangs, no matter what their age. Someone is responsible. The police are not responsible for gang activity. They are at the end of the line. It is their job to bring law and order to the community. That is where they need support.

Gangs are involved in various offences. In my area and in other areas, there is organised car stealing, breaking into homes, burning of homes and missile throwing. We need to look at who the leaders of the gangs are. They deserve to be arrested. In many cases these leaders are over 18 and the members of the gangs are under 18. Many are under 12 years of age and are called the untouchables. I am concerned that this new law may not be able to deal with those under 12. How do we deal with that and how do we make those leaders responsible? One positive aspect is for the Minister for Community Services to introduce parental contracts. If we are tough with those, and on the basis of what the United Kingdom has proposed, we may get some order and move in the right direction with those under 12.

In my area we are not talking about Middle Eastern gangs, we are talking about youth gangs. We are also talking about Anglo-Saxon gangs. They are the ones who live in the mansions of Dubbo, raiding dad's bar and indulging in underage drinking. These gangs—a number of youths with no particular leader—with a lot of alcohol-induced bravado, are going around pulling out sprinklers and street signs and causing nuisance. Does that constitute a gang? I think it does. We also need to look at schoolies week. With no particular leaders, do they constitute gangs? We have to be very careful when charging people under this law that we are not using the law for the wrong purposes, but to stop that criminal activity.

The worst class of a case was mentioned. Certainly the Pakistani rapist case was in that class of case. If people are affected by a gang that has stolen their car or is causing a nuisance in their street and they feel intimidated, to them that is also the worst class of a case. This House has passed many laws for people in society to obey, but people tend to disobey laws and flout them regardless, so we need the judiciary to come down with some serious sentencing. The late Robert Stead, who recently passed away, was a magistrate in Dubbo Local Court for quite some time. He was a wonderful man. His advice for getting tough on gangs or any other criminal activity was to apply the maximum for one week to everyone who appeared before him. He used to do that about once a year, no matter whether it was a businessman on a driving under the influence charge or gang activity. Things would then quieten down. The bill will be tough on the leaders of gangs who are recruiting underage youth, but how do we deal with the children under 12 who are certainly in gangs but to whom the bill will not apply?

**Ms CLOVER MOORE** (Bligh) [12.50 p.m.]: The Crimes Legislation Amendment (Gangs) Bill makes certain activity a crime, increases penalties for assault or damage during public disorders, and increases police powers to deal with gangs and public disorders. It is important that we protect the community. In situations of unrest, such as in Cronulla last December, police need to be able to respond to protect the community. However, in making changes to police powers to protect the community against gang violence and public disorder we also need to protect the community from inappropriate use of police powers.

I am very concerned that the bill does not quite have the balance right. My main concern relates to the extent of police powers to disperse groups during public disorder. I support this notion and acknowledge that it was introduced in order to prevent the acquittal of people who participate in public disorders who claim they were bystanders. However, we need to ensure this power is only used on a clearly articulated and reasonable basis. The power to disperse a crowd should be used only if police have reasonable grounds to believe that people in the crowd are involved in the public disorder or that dispersing the crowd will prevent further risk to the broader community.

I also have reservations about the aggravation of some offences. While the offences are serious—assault or damage to property during a public disorder—the Government has not explained how these penalties will help to stop the phenomenon of destructive mob behaviour. When mobs form people do not behave in the normal way. Their actions are not based on any rational understanding of penalties. Social psychologists refer to this as a case of losing individual identity and adopting the identity of the mob. While this is no excuse for harmful behaviour, increased penalties will not prevent future incidents. This is where the Government needs to target its action if we are to protect the community.

**Ms KATRINA HODGKINSON** (Burrinjuck) [12.52 p.m.]: In speaking to the Crimes Legislation Amendment (Gangs) Bill I recognise the valuable comments that have already been made by many members in this place, particularly by the honourable member for Cronulla. I will not revisit the territory that has already been covered. The focus has been on wiping out the powers of gangs in Sydney but I remind the Government that gangs certainly operate in rural and regional New South Wales. We have had particular experience with bikie gangs in rural areas. Gangs operate with intimidation and one of the most horrific types of intimidation is gang rape. The psychological impact on a local community after a gang rape has taken place cannot be underestimated.

I want to briefly touch on more resourcing of police training. If we are going to introduce serious bills dealing with gangs we need to ensure that the police have appropriate training and resourcing. The Police College at Goulburn is in my electorate. An additional driver training track is needed. Additional lanes are needed for the pistol firing range. Classrooms need upgrading. The new commander, Tony Aldred, is doing a very good job but the college has not been upgraded for quite some time. Large classes are going through now. I know many of the lecturers personally. They are very good people and they are dedicated to what they do. At the moment the pistol range has only six lanes, and double that could be used. The general firing range at Goulburn will be used to provide the necessary pistol training. This is an unsatisfactory situation and additional resources are needed.

Goulburn is the best place for a police academy. This Government and future governments should remember that. Goulburn has beautiful fresh air, plenty of room and excellent access to Canberra and Sydney. It is the best place to have a police academy and its location should not be changed. As schools and police stations and other parts of government infrastructure around the State need upgrading, so does the police academy, and it is time it was provided. Police station upgrades are also needed throughout the electorate of Burrinjuck, at Gundagai, Yass, Tumut and Goulburn.

**Mr PAUL LYNCH** (Liverpool) [12.56 p.m.]: I will make a brief contribution to the Crimes Legislation Amendment (Gangs) Bill. Bearing in mind the exigencies of this place, my comments will not be as long as they might otherwise have been. There has been much public and media discussion of this bill in relation to gangs and how to deal with them. The debate in this place echoes that and has been full of rhetoric about gangs. In that context it is ironic and indeed curious that the only place in the bill that I can find the word "gang" is in the title. Despite my assiduous reading of the bill, I have not found "gang" appearing anywhere else in it except in titles. I made a similar point in relation to the Crimes Amendment (Gang and Vehicle Related Offences) Bill when I spoke on 24 October 2001. I made some other general points then which are still relevant today. One is what is called the "semiotic promiscuity" of the term "gangs". That is, many people like to hurl the term around but the meaning varies depending on who is using it and in what context. That is because the term is used for a bit of rhetoric or a five-second grab without any proper analysis.

Another comment I should make about terminology is the use of the phrase "ethnically-based crime", which has been used in this debate. That phrase, with the greatest of respect to the people who use it, is a nonsense. It is also dangerous, racist rubbish. To say that most or indeed all of the members of an organised criminal group all have the same ethnicity in common is one thing; to say that they are an ethnically based group is another thing, another very stupid thing, because that implies that ethnicity is the base or the cause of the criminality. That is simply not the case. Greater precision in language and at least a touch of intellectual rigour would be of very great benefit in this debate.

In particular, I note that the honourable member for Gosford, in a quite extraordinary contribution today—I was so astonished by it that I took a note of it at the time—said that ethnic criminal gangs do predominate within some ethnic communities. He seemed to be saying that the majority of people in some ethnic communities are parts of criminal gangs. That is wrong. It is racist. It is madness. It may well be that he got carried away with his own rhetoric and did not know precisely what he was saying. But he really ought to be a bit more careful in the way that he uses language in this place. While I am dealing with the honourable member for Gosford it is worth noting that most of his speech, apart from the comment I just referred to, seemed to be a rehashing of an article by Tim Priest, whom the honourable member for Gosford held up as the expert on so-called ethnic crime in New South Wales. It is a great pity that the honourable member for Gosford has not kept up with what has happened to Mr Priest. On 20 February this year an article in the *Sydney Morning Herald* stated:

It has become a celebrated story, told by the whistleblowing former policeman Tim Priest. The trouble is, it isn't true.

That is, in the original story Mr Priest actually got it wrong. Essentially, he invented it. It was published in the journal *Encounter*, which had ties with the Congress for Cultural Freedom, which was funded by the Central Intelligence Agency in the 1950s. It is worth noting what the current editor of *Encounter* says about Mr Priest. As reported in the *Sydney Morning Herald*, he said:

"It's taken for granted that Priest seemed to be in good faith. He spoke at a dinner, and I published the text of what he had to say. He should not have claimed that an incident which didn't occur, did.

"We don't take responsibility for the truth of everything they [contributors] write, we just are not very enthusiastic about them thereafter."

Asked if he would publish further articles by Mr Priest, Mr McGuinness said: "I will look at it very carefully and question it. People make mistakes. In his case it's stupid; it's worse than that if everything that has been reported is true. [If] he's silly enough to falsify situations, well, he's a fool."

That is an eloquent way to deal with Mr Priest. I am astonished that the honourable member for Gosford relied upon the things that Mr Priest wrote in that article. Although the position of the honourable member for Epping was more logical and rational than that of the honourable member for Gosford, I still have some problems. In particular, I note that the honourable member for Epping referred to the need for a provision dealing with leadership. He also said that it was hard to define "leadership" in a legislative sense. In fact, it is almost impossible to draft a rational definition, and that is obviously the reason that it cannot be included in legislation.

The other interesting aspect of the contribution of the honourable member for Epping was his semi-reliance upon the participation of juries in the sentencing process. I find that extraordinary coming from someone who for so long has proposed majority jury verdicts on the basis that we cannot trust everyone who serves on a jury. On the one hand, he is saying that we cannot trust them so we must not have unanimous verdicts. On the other hand, he is saying that he trusts them so much that he wants to extend their power and capacity. That is inconsistent. The comments of the honourable member for Coogee about definitional issues in this legislation are correct. The specific issues he pointed to are legitimate problems. The definition of "group" is extraordinarily broad, much broader than the relevant United Nations definitions, and the definition of "serious violence offence" in part 3E is circular, and that does not help this debate. I would like to say much more, but time does not permit.

**Mr MICHAEL DALEY** (Maroubra) [1.01 p.m.]: Like the honourable member for Liverpool, I have plenty to say about the Crimes Legislation Amendment (Gangs) Bill, particularly because my electorate suffered at the hands of gangs in December last year. However, given the time, I will assist the House by being as brief as I can. As I did when I spoke to the Law Enforcement Legislation Amendment (Public Safety) Bill in December last year, I will begin by thanking the officers of the Eastern Beaches Local Area Command and Commander Phil Rogers for the excellent work that they do. Happily, unlike the streets of United States cities, the streets of New South Wales cities are not plagued by violent gangs, but crime gangs do exist.

The crux of the Government's concerted efforts with regard to gangs as embodied in this bill is crimes committed by gangs, whether they are violent crimes, revenge attacks, property damage, organised motor vehicle theft, armed robberies or those associated with drug offences. They are much more insidious and threatening to the community than most crimes committed by people acting alone. Police advise that, unfortunately, crime gangs are in general becoming more violent, more territorial and more contemptuous of police authority. This legislation is designed to prevent Sydney from turning into Chicago or Los Angeles. As the second reading speech indicates, there are three types of gangs: those we recognise as being highly organised; those that are quickly formed, such as those involved in the riots at Cronulla and Maroubra last year; and those that form spontaneously. They all deserve the treatment meted out to them by this bill.

I disagree with previous speakers in respect of the thresholds set in the legislation for organised criminal groups. Membership itself does not constitute an offence. The new legislation will not catch someone who, for example, works for a company that, unbeknownst to him or her, has been involved in money laundering or other criminal activity. In that vein, I welcome new section 93IK, which makes it an offence for a person to participate in a criminal group knowing it is a criminal group and knowing, or being reckless as to whether, participation in that group contributes to a criminal activity occurring. The maximum penalty for the offence is five years in prison. The message, particularly to young people, is: When in doubt, stay away. It places a responsibility on individuals for their own actions. The young blokes who jumped into cars that were full of baseball bats in December last year and who came out to my electorate should think twice in future: they should jump out of the car. It will no longer be a defence to claim ignorance.

I will deal with new section 93IK and answer the criticisms levelled by the honourable member for Cronulla about the lack of clarity in relation to "participation". The honourable member offered a lazy contribution. Honourable members should not come into this place and simply rely on the report of the Legislation Review Committee. It might be an idea, particularly for a member who professes to know a little about the law, to read the bill. If he had read it properly, the honourable member would have seen that "criminal group" is defined with sufficient clarity and that the bill deals with the objectives:

*criminal group* means a group of 3 or more people who have as their objective or one of their objectives:

- (a) obtaining material benefits from conduct that constitutes a serious indictable offence, or
- (b) obtaining material benefits from conduct engaged in outside of New South Wales...
- (c) committing serious violent offences...

The legislation further provides:

A person who participates in a criminal group:

- (a) knowing that it is a criminal group, and
- (b) knowing, or being reckless as to whether, his or her participation in that group contributes to the occurrence of a criminal activity,

is guilty of an offence.

I do not share the honourable member's concerns about lack of clarity. I welcome this bill. It is good to have it as a fallback, but I hope we never have to use it. I would much rather live in a society in which education and understanding keeps violent people away from each other. Having said that, the police are the thin blue line, and we are all glad that they are there.

**Mr TONY STEWART** (Bankstown—Parliamentary Secretary) [1.06 p.m.], in reply: I thank honourable members for their contributions to the debate on the Crimes Legislation Amendment (Gangs) Bill. As has been pointed out, this bill reinforces the notion that mob-like behaviour and organised criminal activity will not be tolerated by this State. I have concerns about inflammatory comments that are sometimes made about the circumstances that led to the introduction of this legislation. Those comments may not be deliberately inflammatory, but we should never point the finger at one particular ethnic community. We should take a holistic approach to the community rather than focus on one ethnic group.

The honourable member for Gosford referred to articles written by Tim Priest, who appears to be a demi-god for the honourable member. Mr Priest believes that there are thousands of criminal groups in the Middle Eastern community. That is simply not true. Like every large community, the Middle Eastern community has its bad seeds. Those people are criminals and that is the way this legislation treats them. The honourable member should not point the finger at one segment of the community. That is unreasonable and unfair.

The bill provides police with wide-ranging and increased powers to act against unruly and criminal behaviour by preventing escalating mobs by dispersing crowds. It increases penalties for violent acts against people and property in public disorders. It also creates new offences for participating in criminal activity as part of a gang and for recruiting a gang member. Importantly, it gives police additional powers to enter and search crime premises. It also gives police the power to obtain a court order to remove fortified gang strongholds. NSW Police already has permanent squads to target Middle Eastern and Asian crime gangs. As I said, the Government has taken a holistic approach to this issue.

Honourable members raised concerns about the meaning of "participation" in the bill. It means that, to commit the new offence of participating in the criminal activity of a group, a person must know that it is a criminal group and also know or be reckless as to whether his or her actions will help the group to commit crimes. That is very carefully covered in the second reading speech. Honourable members, particularly the honourable member for Coogee, also raised concerns about legitimate demonstrations. I recognise those concerns, and they are carefully covered by this bill. During the Cronulla riot many participants probably convinced themselves that they were engaged in a just cause. The same was no doubt the case in the minds of the revenge attackers who rampaged over the following nights.

I strongly emphasise that the bill in no way curtails the right to lawful protest. Only attacks on police or damage or destruction to property will be affected. Honourable members referred to the dispersal powers in the bill. The new section in the Law Enforcement (Powers and Responsibilities) Act will give police the power to order people to disperse from a nominated area. Failure to comply will result in the imposition of the penalties outlined in the legislation. However, that power becomes available only if a lockdown has been declared. Honourable members' concerns are dealt with in the bill. I commend the bill to the House.

**Motion agreed to.**

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

*[Madam Acting-Speaker (Ms Marianne Saliba) left the chair at 1.12 p.m. The House resumed at 2.15 p.m.]*

## **PETITIONS**

### **Pensioner Travel Voucher Booking Fee**

Petitions requesting the removal of the \$10 booking fee on pensioner travel vouchers, received from **Mr Steve Cansdell** and **Mrs Shelley Hancock**.

### **South Coast Rail Services**

Petition opposing any reduction in rail services on the South Coast, received from **Mrs Shelley Hancock**.

### **Hornsby and Berowra Train Station Parking Facilities**

Petition requesting adequate commuter parking facilities at Hornsby and Berowra train stations, received from **Mrs Judy Hopwood**.

### **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**.

### **Shoalhaven River Water Extraction**

Petition opposing the extraction of water from the Shoalhaven River to support Sydney's water supply, received from **Mrs Shelley Hancock**.

### **Jervis Bay Marine Park Fishing Competitions**

Petition requesting amendment of the zoning policy to preclude fishing competitions, by both spear and line, in the Jervis Bay Marine Park, received from **Mrs Shelley Hancock**.

### **Uniting Church Congregation Rights**

Petition supporting amendments to the Uniting Church in Australia Act (1977) NSW to ensure that the moral and legal rights of a congregation, disaffiliated from the Uniting Church, are protected, received from **Mrs Shelley Hancock**.

### **Rural and Regional Police Resources**

Petition calling upon the Iemma Government to allocate more police resources to rural and regional communities throughout New South Wales, received from **Mr Steve Cansdell**.

### **National Art School**

Petition opposing proposed changes to the National Art School, received from **Ms Clover Moore**.

**Parkinson's Disease Funding**

Petition requesting funding for Parkinson's-specific support services for people living with Parkinson's disease, received from **Mr Steve Cansdell**.

**Shoalhaven Mental Health Services**

Petition requesting funding for the establishment of a dedicated mental health service in the Shoalhaven, received from **Mrs Shelley Hancock**.

**Sunflower House, Wagga Wagga**

Petition requesting funding to facilitate the operation of Sunflower House, Wagga Wagga, received from **Mr Daryl Maguire**.

**Breast Screening Funding**

Petition requesting funding for BreastScreen NSW, received from **Mrs Judy Hopwood**.

**Ulladulla DCP 56**

Petition opposing changes to the current height code restrictions and the Ulladulla DCP 56, received from **Mrs Shelley Hancock**.

**Jervis Bay Land Rezonings**

Petition requesting a moratorium on further land rezonings within the catchment of Jervis Bay, received from **Mrs Shelley Hancock**.

**Community-based Preschools**

Petition requesting adjustment of funding to ensure viability of community-based preschools, received from **Mrs Shelley Hancock**.

**HMAS *Canberra* Artificial Reef**

Petition requesting that HMAS *Canberra* be sunk in Jervis Bay for scuba diving purposes, received from **Mrs Shelley Hancock**.

**Private Native Forestry**

Petitions requesting a review of the draft code of practice for private native forestry, received from **Mr Steve Cansdell**, **Mr Adrian Piccoli** 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**.

**Shoalhaven City Council Rate Structure**

Petition opposing a 27 per cent rate increase proposed by Shoalhaven City Council, received from **Mrs Shelley Hancock**.

**CSR Quarry, Hornsby**

Petition requesting a public inquiry into Hornsby Shire Council's acquisition of CSR Quarry in Hornsby, received from **Mrs Judy Hopwood**.

**Grafton Bridge**

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

**Inner City Bicycle Lanes**

Petition requesting dedicated bicycle facilities for the entire length of William Street, and on Craigend Street and Kings Cross Road, received from **Ms Clover Moore**.

**Spit Road Clearway**

Petition requesting that there be no extension of the clearway on Spit Road, received from **Mrs Jillian Skinner**.

**Cross City Tunnel**

Petition requesting government decisions concerning the Cross City Tunnel to be based on the public interest, received from **Mr Andrew Stoner**.

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

**Mr ANDREW STONER** (Oxley—Leader of The Nationals) [2.25 p.m.]: I move:

That the General Business Notice of Motion (General Notice) given by me this day [Public Library Internet Filtering Technology] have precedence on Thursday 7 September 2006.

I seek precedence for this motion because it cuts to the very core of the rank hypocrisy of the Iemma Labor Government—hypocrisy that starts at the very top. This issue shows there is nothing new under the sun and that this is the same old Labor Party with the same old left-wing social agenda.

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

**Mr ANDREW STONER:** This issue shows that the Premier is more interested in protecting the civil rights of paedophiles and perverts than in protecting young children. This matter must be debated tomorrow because of the Premier's pathetic response thus far. Yesterday I asked the Premier—a man who shamelessly parades his so-called family values to the media—a fair and simple question.

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

**Mr ANDREW STONER:** It is a question that is at the forefront of the mind of every parent, and rightly so. The Internet can present a real threat to a child's wellbeing if used inappropriately. This is what the Premier had to say yesterday:

What the Opposition announced on Saturday imperils community safety and the safety of children.

His ignorance was exposed. He did not know the difference between two totally separate issues: the Opposition's policy on Nicole's law, which was released on Saturday, and Internet filtering technology in public libraries. But it was not just his ignorance that was exposed. He showed that he cannot answer a question in this place without a brief prepared by his legion of advisers.

**Mr SPEAKER:** Order! Government members will cease calling out.

**Mr ANDREW STONER:** It is time for this Premier to cut loose from being stage-managed by Sussex Street. This State needs a real leader at this time. The Premier should stand up and support debating this motion tomorrow. If the Government is genuinely concerned about what children might be reading on the Internet in public libraries, this matter should be given precedence for debate. But the hypocrisy does not stop there. The Minister for Education and Training boasted that Internet filters had been installed in schools. If it is good enough for schools, why is it not good enough for libraries? The same children can go from school around the



corner and into the public library—and so can paedophiles. We have paedophiles unsupervised on the streets of New South Wales who can wander down to the library without fear of being traced. Debate this motion tomorrow! [*Time expired.*]

**Mr CARL SCULLY** (Smithfield—Minister for Police) [2.28 p.m.]: Honourable members will recall that last week I referred to hypocrisy one and hypocrisy two. Now we have hypocrisy three. The Coalition comes into this House and says, "We have been doing some research, investing in our libraries. This is the policy of the Coalition." Yes, another one! Bang! It is fired at us, this policy bomb, and you think: They must want to have filters against this sort of stuff on the Internet at libraries.

[*Interruption*]

It is a slur on librarians, because if anyone were going to access that sort of material they would call the police. It is just disgraceful. The Leader of the Opposition spoke on radio this morning, and insulted every librarian and every library across this State. He has basically given the impression that paedophiles are roaming around with library cards, going into libraries and checking on the Internet. It is just disgraceful. Here is the Coalition's policy: "Investing in our public libraries". Yesterday and today Opposition members expressed concern about access to the Internet at our libraries. There is a section in this policy document about that very thing. One would think that if they have produced this policy they are very concerned about it.

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

**Mr CARL SCULLY:** Here is the policy of the Coalition on public libraries: Additional public libraries funding will be provided for improved access to the Internet and online information.

**Mr Andrew Stoner:** With filters!

**Mr CARL SCULLY:** No. Sometimes I have been accused of being stupid but not that stupid. If it said that, does the Leader of The Nationals really think I would come here and say that? I will read it out:

... improved access to the Internet and online information services through use of new applications such as satellite and wireless.

That is the Opposition's concern. It wants more access, not less.

**Mr Andrew Stoner:** Point of order: The Minister needs to explain what he has got against filters in tunnels and libraries.

**Mr SPEAKER:** Order! If the motion is debated the Minister will have an opportunity to explain it. However, at the moment the Leader of the House has the call.

[*Interruption*]

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

**Mr CARL SCULLY:** Unlike The Nationals, on this side of the House you have to learn to read and write. Does the Opposition really want to debate its latest act of hypocrisy? Had the Opposition put that in its documents, it may have been worthy of debate, but I think yet again it has engaged only in the pursuit of a headline. The answer to this policy bomb is no. [*Time expired.*]

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

**The House divided.**

**Ayes, 27**

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

**Noes, 59**

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

**Question resolved in the negative.**

**Motion negatived.**

**DISTINGUISHED VISITORS**

**Mr SPEAKER:** I welcome to the public gallery Dr Bouthaina Shaaban, Minister for Expatriates of the Syrian Arab Republic, His Excellency Mr Tammam Sulaiman, Ambassador of the Syrian Arab Republic to Australia, and their delegation.

**QUESTIONS WITHOUT NOTICE****STATE ECONOMY**

**Mr PETER DEBNAM:** I direct my question to the Premier. Since he took over as Premier, the quarterly State final demand trend has dropped from 0.7 per cent to 0.6 per cent to 0.4 per cent to 0.3 per cent and now just 0.2 per cent. So why does the Premier now not adopt the Opposition's economic rescue plan to cut business taxes, stimulate the housing sector, reduce regulation and cut waste? Or is he intent on driving New South Wales into recession?

**Mr MORRIS IEMMA:** The New South Wales economy grew a healthy 2.2 per cent in 2005-06. We will come to the monopoly-playing member for Southern Highlands in a second. According to the Australian Bureau of Statistics, the New South Wales economy continues to grow, up 0.2 per cent in the quarter to June, faster than Victoria and faster than South Australia.

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

**Mr MORRIS IEMMA:** Combined with record levels of employment, continued strong business investment and strong exports growth, the full story for New South Wales is sound. However, these growth figures are lower than we would like and there are very good reasons for this: interest rates and petrol prices, to name two. For the benefit of the Leader of The Nationals, who has been sleeping for the past four years, the Reserve Bank has lifted interest rates seven times since May 2002. In New South Wales, given the nature of our economy, that has had a disproportionate effect on the New South Wales economy, given its reliance on the property and construction sectors.

**Mr Peter Debnam:** Point of order: The Premier is stonewalling. They are erroneous figures.

**Mr SPEAKER:** Order! The Leader of the Opposition is toying with the House. I call the Leader of the Opposition to order and order him to resume his seat. The Premier has the call.

**Mr MORRIS IEMMA:** When the Commonwealth wants to slow the economy down, it puts up interest rates. The growth in New South Wales is sound. If John Howard would get out of the way it would be even better. The Federal Coalition stood up at the last Federal election and said, "A vote for us is a vote for low interest rates", yet there have been seven interest rates rises since May 2002.

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

**Mr MORRIS IEMMA:** I will now address the second part of the question about budget estimates and why it proves yet again that he would bankrupt this State. He fundamentally does not understand the figures that were released today. The figures released today are for growth to June 2006, that is, 2005 through to June 2006. For the benefit of the honourable member for Southern Highlands, the budget is based on the financial year 2006-07, which commenced on 1 July 2006. Even the failed company director from Vacluse would understand that the financial year begins on 1 July. The figures released today are from July 2005 through to June 2006, and the budget is based on estimates and predictions of growth from 2006-07, the new financial year. The release of today's figures has no impact on the budget estimates.

In relation to taxation, I am very happy to give the House a rundown on taxation activity over the last 12 months: five taxes have been abolished and there have been two workers compensation premium cuts for business. When it comes to workers compensation, every business pays workers compensation premiums so two reductions to the value of nearly \$500 million means a cut in the cost of doing business in New South Wales.

**Mr Andrew Constance:** You killed the housing market by bringing them in, you dummy.

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

**Mr MORRIS IEMMA:** You get up and take a stand for families in New South Wales and say something about interest rates, if you want to talk about housing affordability, because so far there has been nothing but silence. You will not stand up for families who are under pressure as a result of the interest rate policies of your friends in Canberra. That has the biggest impact on family budgets and housing affordability, so do not get up here and attempt to excuse Peter Costello and John Howard's interest rate policy.

**Mr Andrew Stoner:** It is the Reserve Bank. Graham Richardson did not teach you that. I have to tell you.

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

**Mr MORRIS IEMMA:** I did not see Ian Macfarlane in the commercials during the last Federal election. I only saw Peter Costello and John Howard. They elbowed Macfarlane out of the way. At the first sign

of pressure leading towards an interest rate rise, there was no elbowing of Macfarlane out of the way: they dragged him straight into the middle—right, front and centre. "Here, you come and explain it. We are just here to appoint the people who go to the Reserve Bank. It is not really us." Ian Macfarlane's parting shot, when he addressed the last meeting of the Senate estimates in Canberra about the last Federal election and the statements made by the Treasurer, was, "Yes, the Secretary of the Federal Treasury is on the Reserve Bank Board but who appoints him? Peter Costello."

**Mr Andrew Stoner:** Why don't you tell us about duty of 20 per cent?

**Mr MORRIS IEMMA:** It is like the fraud they preside over with the GST.

**Mr Andrew Stoner:** Keating was responsible for the GST.

**Mr MORRIS IEMMA:** "It is not us; it is the Commonwealth Grants Commission, it is the Federal Reserve"—it is anybody but them. Whenever there is tough economic news, they blame everyone—the Governor of the Reserve Bank, the trade union movement, China, the weather, the States. Whenever there is good economic news, they take the credit. Today's national accounts figures represent activity through to June 2006. In relation to the State budget, members opposite might want to explain to the people of New South Wales where the Coalition will get the money to fund \$20 billion of unfunded promises.

**Mr Peter Debnam:** I am happy to answer that question.

**Mr SPEAKER:** Order! I decide who will ask the question, and I give the call to the member who will provide the answer. The Leader of the Opposition will resume his seat.

**Mr MORRIS IEMMA:** He talks about the risk to the State budget—what about \$20 billion in promises and rising? The shadow Minister for Health is spending at the rate of \$2.5 million of promises every day, and the Coalition has not the foggiest idea of how it will pay for any of its commitments. The risk to the New South Wales economy, the State budget and our triple-A credit rating comes from the Leader of the Opposition. The last time the Coalition Government ran the State budget it had deficit after deficit throughout its whole term. And the State was put on credit watch! We have been paying down \$10 billion of their debt.

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

**Mr MORRIS IEMMA:** That is their record: a State on credit watch and budget deficit after budget deficit. That is the record of the last Coalition Government, and there was no \$20 billion spendometer. Imagine the consequences for the State—its triple-A credit rating and its financial position—if the Coalition ever gets another chance to run the Treasury benches, with \$20 billion of unfunded promises and recklessness when it comes to saying yes to everyone who knocks on the door. Every single interest group that knocks on the door for a reduction in taxes or an increase in spending, the Coalition simply folds and says yes—and the spendometer continues to go up. For confirmation of the budget strategy and the State's sound financial position, honourable members should read what Standard and Poor's said two weeks ago, which is the third confirmation in 12 months of New South Wales triple-A credit rating and its sound financial position and economic growth.

### DOUBLE JEOPARDY LAW REFORM

**Mr GEOFF CORRIGAN:** My question without notice is addressed to the Premier. What is the latest information on reform to the New South Wales legal system, including the 800-year-old convention of double jeopardy?

**Mr MORRIS IEMMA:** I thank the honourable member for his interest in legal reform.

**Mr Chris Hartcher:** Point of order: Yesterday, in response to a point of order raised by a colleague on this side of the House about anticipating debate, you ruled that there was no indication of legislation before the House. Yet this question follows notice given earlier today by the Minister for Police, on behalf of the Premier, about introducing legislation relating specifically to double jeopardy. This question relates to double jeopardy. Under the standing orders members cannot anticipate debate on a matter before the House. The matter of double jeopardy is now before the House as notice of a bill was given earlier today.

**Mr Carl Scully:** Mr Speaker, how can you possibly rule on that point of order when the Premier has barely uttered a word? You ruled on this matter yesterday. There is nothing wrong with a member asking the Premier to provide information about a policy area. It is irrelevant that notice of a bill has already been given. The answer is no.

**Mr SPEAKER:** Order! The point of order taken by the honourable member for Gosford relates to the anticipation rule, which is the subject of longstanding precedent. A number of former Speakers have ruled that the giving of notice of a bill does not preclude questions being asked seeking further information about the subject matter of the bill, provided the detail of the bill is not debated. Yesterday this issue was raised in relation to another matter and I ruled in that way. I rule accordingly today.

**Mr MORRIS IEMMA:** The legal system has changed markedly in the past eight centuries but there is one principle that until now no Australian jurisdiction has brought into the twenty-first century: the law of double jeopardy. Currently, if a person is acquitted of murder or other serious offences but new evidence is found, a new witness comes forward or DNA evidence comes to light, the accused person cannot be retried under the present system. They cannot be retried even if the original trial was tainted by jury tampering or witness intimidation. This is hardly commonsense. It is hardly in the best interests of the victims of the most serious and brutal crimes, and the Government believes that it is time for change.

The Government will reform the rule of double jeopardy. Similar measures have been introduced in the United Kingdom, but New South Wales will be the first Australian State to take this important step. Under our new laws, murder and other offences carrying life imprisonment will be subject to retrial if fresh and compelling evidence comes to light. Offences carrying a penalty of 15 years or more will be able to be retried if the original trial was tainted. The ability for criminals to hide behind an original acquittal, to think that that is the end, that they are free to scoff in the faces of the victims and their families, is gone, and gone forever.

[Interruption]

Members opposite may not support this, but most people do. Along with the double jeopardy reforms, we will be establishing a DNA review panel. This panel will be able to receive applications from those convicted of serious offences in the past who believe that their innocence could be proved using DNA evidence. This may include prisoners convicted on eyewitness or physical evidence and who can point to evidence that should be tested using DNA techniques not available at the time. The DNA review panel will only review cases involving offences carrying a maximum penalty of 20 years or more, such as murder, manslaughter, gang rape and some drug offences. The panel will only review cases that occurred before the introduction of the new legislation, as the use of DNA technology is now a routine part of criminal prosecutions. It will be discontinued seven years from the date of introduction, as this provides a reasonable period for any applicants to come forward and have their evidence tested.

These reforms follow considerable consultation and consideration. An exposure draft double jeopardy bill was released in 2003. The Government received reports from Acting Justice Mathews on double jeopardy and the Hon. Mervyn Finlay, QC, on the DNA review panel. The need for reform to the double jeopardy rule is shown by the case of *R v Carroll*. Carroll was originally tried on a charge of murdering a young girl in Queensland more than 30 years ago. He was convicted at trial but that conviction was overturned on appeal. Subsequently, new dental evidence was found. As it happened, Carroll had testified at his own trial, and he was charged and convicted over his perjury. In 2002 the High Court ruled against the conviction on the grounds of the double jeopardy rule. It found the prosecution for perjury amounted to Carroll being tried twice for the same offence. This bill will overcome any such situation in New South Wales.

I thank the victims groups for the time and effort they have put into exploring and working for these historic legal reforms, including Martha Jabour from the Homicide Victims Support Group, Howard Brown from the Victims of Crime Assistance League, and Ken Marslew from Enough Is Enough, who have been tireless in their efforts. We are supporting those groups and showing the way for other States. Our legislation will be a model for the rest of the country. We are delivering a well-planned, clear and important reform to the criminal justice sector—unlike those opposite, whose only contribution to this debate is a frantic and hysterical cry of "just fix it", without any idea of what they want to do. These historic reforms achieve a balance and give effect to the concerns victims groups have raised over a long time; these reforms will assist in the criminal justice system.

**BUDGET DEFICIT**

**Mr PETER DEBNAM:** I direct my question to the Premier. Given that his budget deficit of \$700 million was based on growth in State final demand of 2.5 per cent and the State final demand growth for last year was just 1.1 per cent and plummeting, how far above a billion dollars will this year's deficit be?

**Mr MORRIS IEMMA:** The State capital works budget of \$10 billion, an increase on the 2005-06 capital works budget of \$8 billion, is a record capital works budget. One of the levers State governments can pull to generate investment activity and jobs at the State level is their capital works budget. If the Leader of the Opposition cannot work out what injecting an additional \$2 billion into the State economy through capital works and infrastructure will do, that proves again how he is disqualified from running the Treasury benches. If he cannot work out the multiplier effect in jobs and investment that injecting \$2 billion into a State economy has, I cannot help him.

**Mr Peter Debnam:** Point of order: My point of order is relevance. The question is about the budget numbers. They are flawed. They are plummeting. What is the Premier going to do about it?

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

**Mr MORRIS IEMMA:** There is a bigger capital works spend this year. There is more expenditure on infrastructure. What does that mean? It means not only new and renewed infrastructure, it also means jobs—for plumbers, electricians, concreters, steel fixers, and plant and equipment hirers, all small businesses that rely on construction. What does the Leader of the Opposition think a State capital works budget does? What does he think tax cuts do? That is what this year's budget funds—\$434 million in tax cuts.

**Mr Peter Debnam:** Point of order: I am happy to explain what State final demand is. Does the Premier understand what it is?

**Mr SPEAKER:** Order! Again the Leader of the Opposition needs to have it explained to him this is not a debate, it is question time. The Leader of the Opposition will resume his seat. The Premier has the call.

**Mr MORRIS IEMMA:** Economic activity and investment gives us growth, let alone the injection into the economy from the tax cuts. What does cutting taxes do?

**Mr Andrew Stoner:** What about the deficit?

**Mr MORRIS IEMMA:** The Leader of The Nationals has had a difficult time getting a consistent line from his leader in recent months.

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

**Mr MORRIS IEMMA:** Tax cuts generate activity, as does the capital works budget, especially when you increase it to the tune of \$2 billion. That has a big flow-on effect. It might be a magic pudding that the Opposition is offering but there is no rocket science behind it.

**Mr Alan Ashton:** We are open for business.

**Mr MORRIS IEMMA:** That is correct. As the honourable member for East Hills says, get business going. Concord hospital was mentioned. The plant and equipment is on site and the diggers are digging away at Concord hospital. That activity has started. So, too, they are at Bathurst hospital. Construction is under way.

**Mr SPEAKER:** Order! The Leader of The Nationals will cease calling out.

**Mr MORRIS IEMMA:** John Holland Construction has its earth digging equipment on site at Bathurst hospital and the project is under way. Concord hospital project is under way. As the honourable member for Parramatta says, the new justice precinct at Parramatta, a \$130 million investment, is under way.

**Mr Peter Debnam:** Point of order: Is the public sector going to have to take over all of the economy? Is that what the Premier is saying?

**Mr SPEAKER:** Order! The Leader of the Opposition will resume his seat. On three occasions he has taken spurious points of order while the Premier has been responding to the Leader of the Opposition's question. The Leader of the Opposition is toying with the standing orders. Again I warn him that the standing orders are to be observed by all members, including him.

**Mr Barry O'Farrell:** Point of order: Mr Speaker, I welcome your final declaration in that statement. I draw your attention to Standing Order 139, which does not allow the Premier to debate an answer. It provides for an answer to be given but it does not allow him to debate it. You just said, Mr Speaker, that you will uphold the standing orders. The Premier is toying with them. I hope you will uphold them.

**Mr SPEAKER:** Order! The Premier was asked a question, and he is answering that question. This is not a debating session; it is a question and answer session. The Premier is specifically answering the question he was asked.

**Mr MORRIS IEMMA:** Our budget strategy was endorsed by Standard and Poor's two weeks ago. Our budget strategy has \$434 million worth of tax cuts. Why are we providing tax cuts? To generate activity. Through activity we get investment, and through investment we get growth. And when an economy grows, receipts come in to government. That is why State governments do that. That is why the Commonwealth gave tax cuts in its budget, to stimulate the economy. Another lever State governments have to generate activity and create growth is their infrastructure spending, their capital works budgets. That is why this year, up from \$8 billion in 2005-06, we have a \$10 billion capital works budget. It goes to not only renewing infrastructure and providing new infrastructure, but it has the flow-on benefit of creating activity, investment and jobs. I was listing some of the projects that are under way.

Before the point of order was taken I was talking about Parramatta, saying that 1,500 extra pay packets will be spent in Parramatta as a result of moving the police department to Parramatta, which the Opposition will shut down. What does not add up is the Opposition's policy prescription, that it will pay for all its \$20 billion unfunded commitments. The one major commitment it has made is that it will sack 29,000 workers. It cannot get anywhere near that without taking it out of nurses, teachers and police. Even if it got to 29,000, that will make the Opposition about \$1 billion, which still leaves it some \$19 billion short.

Each time someone knocks on the door or rings the Leader of the Opposition he says that the Coalition will spend more or will deny itself another source of revenue. It just does not add up. It is like the magic pudding. It would imperil the State's triple-A credit rating, its budget position and its financial position. The policy prescription just does not add up—denying every possible source of revenue, agreeing to every possible request to increase expenditure, and hoping that numbers can be reduced by 29,000. That figure cannot be achieved without taking it out of nurses, teachers and police. It just does not add up.

The Government's strategy has been endorsed by an independent analyst, Standard and Poor's. For the third time, independent rating agencies have looked over the State's finances and the State's budget position, and confirmed the triple-A credit rating, confirmed the soundness of the strategy regarding the budget. I repeat that today's figures give us activity to June 2006; the budget is based on the period from 1 July 2006. I conclude by referring to the Government's record infrastructure expenditure and tax cuts stimulating investment, jobs and growth.

## PETROL THEFT

**Ms ALISON MEGARRITY:** My question addressed is to the Minister for Police. What is the latest information on efforts to crack down on petrol theft?

**Mr CARL SCULLY:** We have petrol thieves and oxygen thieves. I am concerned about both. We have to root out all those oxygen thieves come the next election. I will talk about that in regard to related matters. Petrol theft is unfortunately on the rise. There is a direct correlation between the price of petrol and the theft of petrol and numberplates, and the Government intends to do something about it. Flogging 70 or 80 bucks worth of petrol may not sound like a lot but it hurts the small businesses running the service stations. I thank the commanders of Liverpool and Bankstown, who have commenced a pre-pay trial. There is a high degree of co-operation in those two local areas. It involves 35 in Bankstown and 15 in Liverpool. At nights and on weekends there will be a pre-pay system at different times depending on the particular risk assessment.

Petrol theft is not something that we can stand idly by and allow to continue. I have asked Deputy Commissioner Andrew Scipione to establish a task force of the industry, the Service Station Association, the major oil companies, and Coles and Woolworths. The trial will be conducted under the supervision of the Bureau of Crime Statistics and Research, which will assess the results of the trial. I also acknowledge the work of the Liverpool command, which has resulted in a number of outstanding arrests and charges. People have been forced to pay for the petrol stolen. The task force will also look at better securing numberplates against theft. It will also look at bowser placement, lighting, closed-circuit television and access control. I commend the work of the task force and those two commands. On related matters, Grahame Morris said that the Leader of the Opposition should drop a few big ideas on the table. He has been doing that. We recall his first big commitment: abolish the rule of law.

**Mr Grant McBride:** From day one.

**Mr CARL SCULLY:** From day one. The new policy will be guilty until proven innocent. The second commitment was that the commissioner would be sacked if he does not round up 200 thugs.

**Mr Grant McBride:** From day one.

**Mr CARL SCULLY:** From day one. The Leader of the Opposition called the commissioner a clown. Paedophiles will be driven into the community.

**Mr Grant McBride:** On day one.

**Mr CARL SCULLY:** On day one. Teenage sex offenders will be sent to bush camps. One of my favourites is the shadow Minister for Police announcing that the police service will be changed to the police force. We have already announced that. He went on the Alan Jones program and pretended to hundreds of thousands of listeners that this is a decisive action being taken by the Coalition. But he forgot to mention that when the Coalition was last in government Ted Pickering said that the name of the organisation should more accurately relate to the social functions it performs. What planet were Coalition members on when they were in government? I have to wonder sometimes.

**Mr Barry O'Farrell:** Point of order: I refer to Standing Order 138. I ask the Minister to table the advice given to Ted Pickering from John Avery, the then commissioner, who asked for the change of name.

**Mr SPEAKER:** Order! There is no point of order.

**Mr CARL SCULLY:** They changed it to a supermarket; we are changing it to a force, because that is what it is. It is a police force. But the piece de resistance—the Coalition's favourite, and this will make us all feel safe—is the Australian flag on police cars. You can imagine these big policy bombs! Grahame Morris, Carl Rove, all these greats in the conservative side of politics, get onto that carrier-based bomber and load up with those policy bombs. Pilot Pete and Bombardier Barry are over the target zone. Barry is saying, "Steady, steady, bombs away!" Is it a bird? Is it a plane? No, it's super policy! And here it is. It is going to devastate us. A flop!

### AIR AMBULANCE BABY DEATH

**Mr ANDREW STONER:** My question is directed to the Premier. Given the closure—

[Interruption]

**Mr ANDREW STONER:** Are you not interested in this?

**Mr SPEAKER:** Order! The Leader of The Nationals will ask his question.

**Mr ANDREW STONER:** You should be.

**Mr SPEAKER:** Order! The Leader of The Nationals will address the Chair and ask his question.

**Mr ANDREW STONER:** Given the closure of the Cobar maternity ward by the Government in 2001 and the recent *Four Corners* program in which local residents stated that they would hate to think that it would



take the death of a baby to see an improvement in services, what is the Premier's response now that a baby has died en route to Dubbo via air ambulance yesterday?

**Mr MORRIS IEMMA:** I will seek a report from the relevant health authority. I have some advice I can provide to the House.

**Mr SPEAKER:** Order! The honourable member for Coffs Harbour will cease interjecting. The Premier has the call.

**Mr MORRIS IEMMA:** First I extend the condolences of the Government and the House to the family on the death of the baby, which is a tragic event. The chief executive of the Greater Western Area Health Service advises that all possible care was given to the mother and the baby during the delivery. I am further advised by the chief executive of the area health service that the care was provided in a co-ordinated effort between the medical staff at Cobar hospital, Cobar Health Service, the Neonatal and Paediatric Emergency Transport Service [NETS], the Royal Flying Doctor Service and the New South Wales Ambulance Service.

The advice from the health service states that the mother had experienced significant health issues prior to and during the pregnancy and that the baby was very ill when born. The chief executive of Greater Western Area Health Service has advised that an internal investigation into this case has determined that the mother and child received appropriate care during this difficult pregnancy. Further, the mother has been admitted to Dubbo Base Hospital. That concludes the advice. Again, this is a tragic incident and the honourable member should not be exploiting it for political purposes, as he often does.

### PLAIN ENGLISH STUDENT REPORTS

**Mr KEVIN GREENE:** I direct my question to the Minister for Education and Training. What is the New South Wales Government doing to deliver plain English student reports for parents?

**Ms CARMEL TEBBUTT:** The New South Wales Government believes that the involvement of parents in their children's education is vital. Research shows that the more parents can be involved in their children's education, the better the children do. An important part of communicating with parents and involving them in their child's education is the report they receive from their child's teacher. The Government has been working hard for some time to improve the reports provided to parents. The report produced by Professor Ken Eltis, "Time to teach—Time to learn", states that we need greater consistency in reporting across schools, and provides clear guidelines on the mandatory elements of school reports.

The report states that parents are disappointed with the current reporting methods and that they find reports difficult to understand. It also states that teachers and parents think it is time for consistency in reporting methods across New South Wales and that parents want clear grades to help them understand their child's academic progress. In response to those concerns, the Government has set a new direction for student reports, and it is keen to get on with the job. It is determined to give parents the information they need to support their child to succeed at school. The Government is on track with the introduction of new reports this year. The Board of Studies has already conducted workshops on the new reporting system involving more than 1,000 school principals and other school leaders. Further meetings will be held by the end of this term to ensure that the new system is bedded down for the reports to be issued by term four.

Not only has the State Government taken a keen interest in student reporting; the Commonwealth Government is also interested in this issue. The State Government has had to comply with the Commonwealth Government's funding requirements, and Commonwealth Ministers have made it clear that compliance with the Commonwealth Government's reporting rules is a strict condition of funding. There is no doubt that this is a significant change in our schools. As with all change, it is challenging for both teachers and parents, and it is a challenge that the State Government is determined to meet. Given that we are working in a changing and challenging environment and that the Commonwealth Government is insisting that these changes occur this year, it would be useful if it were able to maintain a consistent position with regard to student reporting.

The State Government has always been concerned about the fact that the Commonwealth Government wants to be involved so closely in the day-to-day running of our schools because it does not have the experience to do that properly. It does not run schools; it does not educate students. Its lack of experience and awareness of how schools work is clear for all to see. For an issue that the Commonwealth Government believes is so important that it threatened to withhold all school funding—\$3.7 billion over four years—the Commonwealth

has shown a remarkably cavalier attitude to what it wants. Honourable members might ask what is the Commonwealth's position on A to E reporting. One would think that on an issue as straightforward as this it could stick to a consistent line. Dr Nelson, the education Minister at the time, was keeping it simple when he announced on 3 July last year:

The condition of funding is that the NSW Government must make sure that from next year school performance is clearly made available to all parents and that school reports are written in plain language—A, B, C, D and E.

That statement was on Brendan Nelson's web site when he was education Minister. Having seen the example set by New South Wales when we launched our student reports last year, Dr Nelson informed the Federal Parliament on 17 August that because parents would receive information in the form of grades A to E, he should inform the New South Wales Government that it was moving in the right direction. Even junior Commonwealth Ministers are getting in on the act, with Minister Hardgrave saying in Federal Parliament on 6 June this year:

We think that the best teachers are going to be welcoming the chance to have parents know that their students are achieving an A outcome, a B outcome, a C outcome or whatever. No one has anything to fear.

It is now clear. We thought that was an unequivocal position from the Commonwealth Government; that is, report students' achievements in grades A to E or lose the funding. However, that apparent consistency from the Commonwealth Government was too good to last. On 3 August this year the new Federal Minister for Education, Science and Training told the media that parents could opt out of the reporting system. The media understood the message. The *Daily Telegraph* reported it as follows:

The new school report card system is in disarray after the Federal Government admitted yesterday that parents could refuse to have their children graded A to E.

Federal Education Minister Julie Bishop told the *Daily Telegraph* parents could instead order a report prepared under the existing formats for students up to Year 10.

Not under her regulations! We are not sure exactly what the Minister was talking about. On 21 August this year the Federal Minister is reported in the *Sydney Morning Herald* as saying:

If the state Government is mandating literal A-E, that is up to them.

Which is it? It is no wonder that the Primary Principals Association is confused about the Commonwealth Government's position. Sue Ingram, the association's president, said this morning:

I think it's like most things. It's the fact that the Federal Government has changed the goal posts.

The Commonwealth Government's confusion is nothing compared with the confusion on the part of members opposite. Of course, they do not have any big policy ideas on this issue. Their position depends on who is asked, and when. It is as though they toss a coin on the day to see what position they will take on student reports. For example, when the Government announced the reports, the honourable member for Wakehurst told us that we had not gone far enough. He said:

...the new report still failed to contain enough meaningful information for parents.

"For years parents have pleaded for reports that are presented simply and which allow them to know how their child is progressing."

Then he appeared on ABC television on 3 June and said—

**Mr Brad Hazzard:** I get around, don't I! Thanks for noticing.

**Ms CARMEL TEBBUTT:** You do.

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

**Ms CARMEL TEBBUTT:** On 3 June the honourable member for Wakehurst said:

Labelling little children as failures is counter-productive.

I am surprised to hear that the honourable member, who is the shadow spokesperson on education, thinks that honest reporting to parents in some way constitutes labelling children. Parents have a right to know how their children are going at school; they want to know whether their children are doing well or poorly. It is not about labelling children; it is about honest and clear reporting. I suggest that the honourable member talk to some of his colleagues. If he did, he would find that when they talk to parents that is what they hear. On the same day on 2GB, the honourable member for Wakehurst took a different view when he said:

Procedures and grades are fine for high school and fine for senior primary school.

Then on 1 August, he said:

The whole system should simply be dumped.

**Mr SPEAKER:** Order! The Leader of The Nationals will cease calling out.

**Ms CARMEL TEBBUTT:** The honourable member for Wakehurst's education policies are a throw-back to the 1970s. They belong with sports days that have no scores and exams that have no results. They are simply not the real world. Parents deserve accurate, honest information. The honourable member does not appear to have consulted his leader or the other members of his party. The Leader of the Opposition stated on 2GB that there is merit in gradings. He said:

There's one thing we need to do for parents and that is provide more information about the schooling of their kids. That's the critical objective.

And what about the honourable member for Lachlan, a member of The Nationals? In a letter to the *Lachlander* on 25 August he said:

Without a system of comparative gradings amongst peers we will give students an unfair impression of what professional life is all about after school.

Coalition members are all over the shop in regard to student reports. They cannot agree. They have no idea. They have no policies. This is one of the most critical issues confronting parents today.

**Mr Brad Hazzard:** Point of order: We made it quite clear that we are concerned particularly about young children. If you can give an assurance—

**Mr SPEAKER:** What is your point of order? This is not a debate; it is question time.

**Mr Brad Hazzard:** You need to know how your children are progressing, but there is no point—

**Mr SPEAKER:** Order! The honourable member for Wakehurst will resume his seat unless he has a point of order to take.

[*Interruption*]

**Mr SPEAKER:** Order! I order the honourable member for Wakehurst to resume his seat. The Minister for Education and Training has the call.

[*Interruption*]

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

[*Interruption*]

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

[*Interruption*]

**Mr SPEAKER:** Order! I ask the Deputy Serjeant-at-Arms to remove the honourable member for Wakehurst.

*[The honourable member for Wakehurst left the Chamber, accompanied by the Deputy Serjeant-at-Arms.]*

**Ms CARMEL TEBBUTT:** The truth clearly hurts. The honourable member for Wakehurst has been found out. His educational policies belong back in the 1970s.

**Mr Barry O'Farrell:** Point of order: If the standing orders were clearer and upheld better, that would not have happened.

**Mr SPEAKER:** Order! I call the Deputy Leader of the Opposition to order for casting aspersions on the Chair.

**Ms CARMEL TEBBUTT:** The New South Wales Government is confident that its new student reports will deliver clear and honest information to parents about how their children are progressing at school.

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

**Ms CARMEL TEBBUTT:** This is what parents want. We will continue to consult with stakeholders but we would like some consistency from the Commonwealth Government. Parents deserve that.

#### **RACING NEW SOUTH WALES CHIEF STEWARD ILLEGAL RECORDING ALLEGATION**

**Mr GEORGE SOURIS:** My question is directed to the Minister for Gaming and Racing.

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

**Mr GEORGE SOURIS:** Is the Minister aware that ICAC has no jurisdiction over Racing New South Wales and that Racing New South Wales, under which authority racing stewards operate, cannot investigate itself? Given that the Minister's answer yesterday demonstrates that he clearly has no knowledge of his governing Act, will he now appoint an independent judicial inquiry to investigate allegations of illegality by the Chief Steward aired on Channel Nine's *Sunday* program?

**Mr GRANT McBRIDE:** I congratulate George on asking his question. He has asked two questions in 12 months. The average has gone through the roof! That makes possibly five questions during a four-year period. At that rate I think he most probably will win the bottom of the pool. Allegations raised on the *Sunday* program regarding the taping of a conversation between Racing New South Wales Chief Steward Mr Ray Murrihy and a racing journalist relate to a conversation from 10 years ago in Queensland. At that time Mr Murrihy was the Chief Steward in that State. The allegations do not relate to his current position. With respect to the procedures adopted by Racing New South Wales stewards, Racing New South Wales has today responded to my department, advising:

I am writing in response to your inquiries regarding the issues raised in a story on the racing industry on Channel 9 on Sunday, 3 September 2006.

The policies and procedures observed by Racing NSW Stewards with respect to the conduct of interviews and inquiries have recently been the subject of scrutiny and comment.

Consistent with long-standing practices, all official interviews and inquiries before the Stewards are recorded. This recording may be made by the use of an audio device or otherwise.

The objective in recording such interviews or inquiries is to ensure that all parties have access to a transcript of the proceedings. This provides a degree of protection to any person involved, particularly Licensed Persons, and ensures that any subsequent review of a decision by the Stewards by an appeals body can refer to the transcript where necessary.

Racing NSW has received preliminary advice to the effect that the policies and procedures adopted by its Stewards conform to all relevant legal requirements.

However, in recognition of its role as a responsible regulator and so as to ensure the integrity of the process, Racing NSW will now commission an independent review of its policies and procedures to ensure that all persons involved in an interview or inquiries before the Stewards can be confident that their legal rights are both respected and upheld.

**JOBS AND INVESTMENT IN SOUTH-WESTERN SYDNEY**

**Mr STEVEN CHAYTOR:** My question without notice is addressed to the Minister for Planning. What is the latest information on jobs and investment in south-western Sydney?

**Mr FRANK SARTOR:** I thank the honourable member for Macquarie Fields for the terrific level of interest he shows in all these planning and development matters. Last year the Parliament voted for some new planning laws in this State. Those planning laws involved introducing part 3A of the Environmental Planning and Assessment Act. It was an important part of this Government's strategy to cut red tape, improve certainty, and facilitate new investment and jobs for New South Wales. I might say that the legislation was passed with the support of the Opposition. Today I inform the House that I have given approval to a new metal manufacturing facility at Ingleburn, in Sydney, to provide for the manufacture of Advance Metal products.

**Mr Chris Hartcher:** Point of order: The standing orders allow a correction when a member misleads the House. The Minister has deliberately misled the House. The legislation did not receive the support of the Opposition.

**Mr SPEAKER:** Order! The standing orders permit a member to be heard briefly in explanation, but that is not appropriate in the present circumstances. The honourable member for Gosford is well aware of the proper method he should use.

**Mr FRANK SARTOR:** I think they were probably confused then, like they are now. The \$14 million investment will secure 160 jobs and create 40 construction jobs. Currently, we have two separate Advance Metal facilities in the Ingleburn industrial area, operating at capacity. This project will consolidate operations in a brand-new facility, which will produce a range of metal products. It was determined under the major projects State environmental planning policy. The benefits of the system are increasingly clear.

A straightforward planning process encourages investment; a transparent public process allows for community input; approval delivers economic benefits for the area and guarantees the jobs of 160 workers; and, of course, the new facility will allow this company to grow even further. The important point about this approval is the way it contrasts with the Opposition's policies on jobs and investment—or, should I say, the confusion surrounding the Opposition's policies in relation to jobs and investment. On Monday the Leader of the Opposition was spruiking on Ray Hadley's program on Radio 2GB, talking about major projects in this State. He said:

Across the State there are clearly a number of sites that are State significant and we should keep our eye on them as a State Government and actually work to make sure you get a good outcome on them

However, in almost the same breath he went on to say:

A planning system which requires ministerial sign-off on decisions is a system that's bound to fail.

What is he saying? Is he saying that the Minister for Planning should not be involved in development consents, that the Minister would not be accountable? Is that the Opposition's policy? It is very confusing because that was Monday, but by Wednesday the Leader of The Nationals was interviewed on the same radio station, when he told the listeners that Sydney's roads need to be declared critical infrastructure. He said:

We need to cut through this ... declare it critical infrastructure and simply get on with the job.

Then, referring to other projects I have dealt with, he said:

Frank Sartor can do exactly the same with the Pacific Highway.

On the one hand the Opposition is saying, "We cannot have the Minister for Planning involved", and on the other hand it is saying, "The Minister for Planning should declare the Pacific Highway critical infrastructure." But the confusion continues, and it has been continuing for some time. On 28 June in the *News Weekly* the constant member for Bega said:

I am joining with the Chambers in calling on the Minister for Planning to reel in the Merimbula and Tura Beach developments to address traffic issues that the development will generate.

If the Minister is to become the consent authority, then an opportunity exists to assess the traffic issues properly.

So the Leader of the Opposition thinks the Minister for Planning should not be involved, the honourable member for Bega thinks I should, and the Deputy Leader of the Opposition thinks I should, but they would not have a clue. How does that slogan go? Say anything; promise everything; do nothing. That is exactly what the Opposition does. Let me quote the majority leader of the Opposition—they have the other leader, a deputy leader, and a majority leader. He said in December 2005:

Complaints about local government planning processes are one of the biggest issues residents raise with me each year.

The complaints cover everything from time delays through to inconsistent treatment of applications.

He is saying that of course the Minister for Planning needs to be involved—and we know he thinks that privately. Only today another member of the Opposition congratulated me on dealing with the Becton development at Byron Bay. So, what does the Opposition stand for? There is only one clear policy, and that is to slash the public service; get rid of the public servants of this State. 29,000 public servants out of 33,000 means no Department of Planning. What we will have is no Minister for Planning to deal with applications, but no Department of Planning to deal with them either. Who is going to deal with the applications? Where will investment go?

The Opposition's policies would bring this State to rack and ruin, and bring it to a halt. The property construction sector in this State is worth 14 per cent of our economy, \$26.8 billion, and it employs 280,000 workers. All of them would be under threat from the Leader of the Opposition. Everything members of the Opposition say is confused; nothing stacks up. The Leader of the Opposition does not stand up for New South Wales, he will not stand up for jobs and investment, and he would send the State broke.

#### LIQUOR LEGISLATION AMENDMENT

**Mrs DAWN FARDELL:** My question without notice is directed to the Minister for Gaming and Racing.

**Mr SPEAKER:** Order! The Minister for Aboriginal Affairs will come to order.

**Mrs DAWN FARDELL:** During February this year wine producer groups from my electorate presented submissions regarding the New South Wales liquor laws amendment. Will the amended legislation be introduced to this Parliament before November?

**Mr GRANT McBRIDE:** The Liquor Act has had around 800 submissions in regard to the current draft and we are still working our way through that process. Whether it will be before the end of November this year will be a decision for Cabinet.

#### RURAL AND REGIONAL JOBS AND INVESTMENT

**Mr NEVILLE NEWELL:** My question without notice is directed to the Minister for Regional Development. What is the latest information on the Government's efforts to create jobs and investment in rural and regional New South Wales?

**Mr DAVID CAMPBELL:** I am pleased to advise the House that the Government has confirmed the first eligible company under the New South Wales Payroll Tax Incentive Scheme. This \$95 million scheme started on 1 July and is a key element—

*[Interruption]*

**Mr SPEAKER:** Order! The Leader of The Nationals will resume his seat.

*[Interruption]*

**Mr SPEAKER:** Order! The Minister for Regional Development has the call. All other members will resume their seats.

**Mr Donald Page:** Point of order: The question was directed to the Minister for Regional Development, not the Premier. I ask you to direct the Premier to sit down.

**Mr SPEAKER:** I am well aware of that. The honourable member for Ballina will resume his seat. The Minister for Regional Development has the call.

**Mr DAVID CAMPBELL:** This program is a key element of the Government's approach to assisting new and existing businesses to establish and grow in areas with higher than average State unemployment.

**Mr SPEAKER:** Order! The honourable member for Lismore will cease calling out.

**Mr DAVID CAMPBELL:** If the honourable member for Lismore listened for a minute he might learn something.

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

**Mr DAVID CAMPBELL:** The honourable member for Lismore should be careful of his blood pressure. In regional New South Wales in 2006-07, the scheme will apply to Richmond-Tweed—that might be an area the honourable member for Lismore has an interest in—the mid North Coast, Gosford-Wyong, and the Illawarra-Wollongong and Hunter-Newcastle regions. In Sydney the local government areas of Fairfield, Liverpool, Canterbury, Bankstown, Camden, Campbelltown and Wollondilly are also eligible areas for the scheme during the next financial year.

Each year the statistical areas that are eligible for the scheme will be reassessed based on Australian Bureau of Statistics unemployment data for the previous two years. Assistance is available to start up businesses in their first year of operation, businesses wanting to relocate from interstate or overseas, and expanding businesses eligible to pay payroll tax in New South Wales for the first time. I take the opportunity to congratulate Newcastle company NJ Contracting Services Pty Limited on becoming the first company eligible for payroll tax assistance under the Payroll Tax Incentive Scheme.

NJ Contracting Services, which is based at Cardiff, will be eligible to receive a \$195,000 payroll tax break over the next five years. This will support the earthmoving machinery repair business to invest in expansion plans and to employ more staff. The payroll tax relief will allow NJ Contracting Services to focus on a planned move to a more centralised base at Rutherford, near Maitland, and this payroll tax relief will help the company fast-track plans for a second workshop at Gunnedah.

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

**Mr DAVID CAMPBELL:** The honourable member for Tamworth is celebrating that. The last time I checked—but I will ask the honourable member for Tamworth just to nod—Gunnedah was west of the divide. I told him before that if he sat there and was quiet he would learn something.

**Mr SPEAKER:** Order! The Leader of The Nationals will resume his seat. The Minister will address the Chair.

**Mr DAVID CAMPBELL:** Look at members of the Opposition. They have all got their heads down. They are embarrassed by the performance of the Leader of The Nationals. He is a fool! He is a straight-up idiot!

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

**Mr DAVID CAMPBELL:** Not only will NJ Contracting Services be expanding in Maitland and relocating and setting up a second site in Gunnedah, but this business will also invest in employment growth and training positions. The company is going to employ apprentices to do something about the skills base. Of course, all of that stems from the fact that this Government has a carefully targeted program that supports investment and jobs growth. The Iemma Government continues to support small businesses with practical reforms and positive initiatives such as this one. It is a far cry from the action of members of the Opposition, who sit on their hands while the Leader of the Opposition spruiks himself around town as the business messiah.

It surprises me that the Leader of the Opposition left the Navy as an assistant recruiting clerk and not a submariner, given that the two companies he was involved with went under faster than a Collins Class with flyscreen windows. This Government continues to get on with the job of delivering results for the State's 440,000 small businesses, offering this payroll tax deal, slashing red tape, launching a business confidence campaign, announcing 11 tax cuts since August 2005 and two cuts to workers compensation premiums: standing up for New South Wales against the Howard Government's failure to constrain petrol prices and spiralling interest rates. Why would our small businesses in New South Wales look to the Coalition for leadership?

**Mr Thomas George:** Point of order: My point of order goes to relevance. The Minister asked me to listen for him to mention the Richmond-Tweed area. He has not said one thing about it yet.

**Mr SPEAKER:** Order! There is no point of order. The Minister is answering the question. The Minister has the call.

**Mr DAVID CAMPBELL:** That is right. The Opposition has no point of order, no policies and no ideas. It is in disarray.

**Mr SPEAKER:** Order! There is too much audible conversation on the Government benches.

**Mr DAVID CAMPBELL:** If they cannot run their party, they cannot run a small business, they cannot inspire industry, and they sure as hell cannot run the State.

**Questions without notice concluded.**

## **BUSINESS OF THE HOUSE**

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

#### **Special Adjournment**

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

That standing and sessional orders be suspended to allow for the following routine of business from 7.30 p.m. at this sitting:

- (1) the introduction up to and including the Minister's second reading speech of the following bills:
  - Children and Young Persons (Care and Protection) Amendment (Parent Responsibility Contracts) Bill
  - Crimes Amendment (Apprehended Violence) Bill
  - Business Names Amendment Bill
  - Fair Trading Amendment (Motor Vehicle Insurance and Repair Industries) Bill
  - Road Transport (General) Amendment (Intelligent Access Program) Bill
- (2) until the rising of the House, no divisions or quorums to be called;
- (3) at the conclusion of Government Business, the House shall adjourn without motion moved until Thursday 7 September 2006 at 10.00 a.m.

## **CONSIDERATION OF URGENT MOTIONS**

### **Biosecurity and Quarantine**

**Mr NEVILLE NEWELL** (Tweed—Parliamentary Secretary) [3.50 p.m.]: My motion is urgent because of the risk that biosecurity poses to the economic viability of New South Wales farmers. Biosecurity is our primary industries greatest asset and it is vitally important that it is protected. Tough biosecurity and quarantine helps to ensure freedom from exotic diseases and pests, and allows our farmers to enjoy lucrative international trade opportunities. This motion is urgent because of the risks that imports pose to bananas, apples and other agricultural products.

All honourable members should be aware that agricultural industries are extremely important for both the Australian and New South Wales economy, and they deserve our support. This motion is urgent because the Federal Government is changing its attitude with respect to biosecurity. In the wake of Cyclone Larry the Prime Minister made the grandiose statement that farmers in north Queensland would not be subject to imports of fresh bananas until that industry had recovered from the effects of the cyclone. This motion is urgent because there



are two stings in that tail: that is, the Prime Minister would allow imports that are not fresh and he would allow imports once the banana industry is back on its feet. This motion is urgent because New South Wales farmers and the Australian public deserve the protection of this House.

### State Economy

**Mr PETER DEBNAM** (Vaucluse—Leader of the Opposition) [3.52 p.m.]: There is nothing more urgent in New South Wales than the state of the economy. When I stood here a year ago in the first question time after I took over as Leader of the Liberal Party, I put to the Premier a question which called on him to come clean on Treasury projections for the state of the economy and the state of the State Budget, and he refused to do it. Even today he is still refusing to provide information to the people of New South Wales, both about the economy and about the deficit we are now confronted with.

Three months ago I actually called on the Premier to move beyond the denial we saw in the State Budget on 6 June. I gave my budget reply the following day, 7 June, and I called on him to move beyond his budget strategy, which is very clear—it was denial, deficit and debt. It is very clear today that we are still seeing the same thing. The Australian Bureau of Statistics has released figures today, yet the Premier has spent all his time talking about gross State product [GSP]. If he has not read his own Budget Paper No. 2 for 2005-06, I suggest he do so. On page 6-5 it refers to GSP and State final demand, and states:

Gross state product (GS) the value of the total State output. For consistency with generally accepted practice, the Budget uses nominal GSP as a benchmark for fiscal indicators—e.g. net debt/GSP ratios. But the usefulness of real GSP as a measure of economic performance is limited by its reliance on sympathetic data ...

State final demand (SFD) includes consumption and investment ... it is a measure for spending ... this information is reported quarterly ... it provides a more timely and accurate picture of the health of the NSW economy than GSP.

If one graphs the State final demand for New South Wales, the message is very clear: Labor is driving the New South Wales economy through the floor. They are the trend figures, the seasonally adjusted figures, and that is exactly why the Government does not want to talk about it. After 12 years of economic vandalism the Premier is leading New South Wales into a recession. If the Premier wants to talk about his favourite topic, GSP, that is the graph. It came up with the recession we had to have with Paul Keating, it peaked at the Olympics, and since then it has dropped in New South Wales. That is a less reliable measure than the State final demand; it is the one the Premier prefers, yet it is going through the floor.

When I ask the people I meet how they are going, they say it is pretty tough. It does not matter whether it is the man in the street or a small business in a shopping centre; they all have the same message, that is, we have to throw this Government out and turn New South Wales around. That is why on 7 June, in my reply to the Budget Speech, I stated that the honourable member for Southern Highlands and I have put out 67 statements calling on this Labor Government to move beyond denial and admit that it has a major economic problem in this State and that it needs to take corrective action. We have even provided suggested actions. We have talked about kick-starting the housing sector.

We held an industry roundtable in March, and have held several since then. We have talked about cutting payroll tax—not just in a few seats but throughout the State—to stimulate the economy. We have talked about bringing the clubs tax back, reforming WorkCover, cutting red tape, and having a one-on, one-off regulation system so there is no more growth in regulation. We have talked about getting the cost of regulation down by 5 per cent every year. As well, we have talked about industry engagement in the defence industry, the housing industry, the alternative fuels industry and tourism. We have talked about bringing benchmarking on board. But the most important thing the Premier must do for New South Wales is move beyond denial.

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

### The House divided.

[*In division*]

**Mr ACTING-SPEAKER (Mr John Mills):** Order! The Leader of the Opposition does not have the call. I remind him that the House is in division. His behaviour is disorderly.

**Ayes, 51**

Ms Allan	Mr Gaudry	Mr Pearce
Mr Amery	Mr Greene	Mrs Perry
Ms Andrews	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 Torbay
Mr Campbell	Mr McBride	Mr Tripodi
Mr Chaytor	Mr McLeay	Mr Watkins
Mr Collier	Ms Meagher	Mr West
Mr Corrigan	Ms Megarrity	Mr Whan
Mr Crittenden	Mr Mills	Mr Yeadon
Mr Daley	Mr Morris	
Ms D'Amore	Mr Newell	
Mr Debus	Ms Nori	<i>Tellers,</i>
Mr Draper	Mr Orkopoulos	Mr Ashton
Ms Gadiel	Mrs Paluzzano	Mr Martin

**Noes, 30**

Mr Aplin	Mr Humpherson	Ms Seaton
Mr Barr	Mr Kerr	Mrs Skinner
Ms Berejiklian	Mr McTaggart	Mr Souris
Mr Cansdell	Mr Merton	Mr Stoner
Mr Debnam	Ms Moore	Mr J. H. Turner
Mrs Fardell	Mr Oakeshott	Mr R. W. Turner
Mr Fraser	Mr O'Farrell	
Mrs Hancock	Mr Page	<i>Tellers,</i>
Mr Hartcher	Mr Pringle	Mr George
Ms Hodgkinson	Mr Richardson	Mr Maguire
Mrs Hopwood	Mr Roberts	

**Question resolved in the affirmative.**

**BIOSECURITY AND QUARANTINE****Urgent Motion**

**Mr NEVILLE NEWELL** (Tweed—Parliamentary Secretary) [4.06 p.m.]: I move:

That this House:

- (1) supports a rigorous, science-based quarantine system that protects our farmers and related industries from the threat of exotic disease; and
- (2) condemns the Federal Government for its appalling track record on import risk assessments, which could put the economic viability of our farmers at risk.

This motion is urgent because our biosecurity is being put at risk. Biosecurity is our primary industries' greatest asset. Tough biosecurity and quarantine helps to ensure freedom from exotic diseases and pests, and allows our farmers to enjoy lucrative international trade opportunities. Indeed, judging by the Federal Government's approach to reviewing import risk assessment across a range of agricultural products, it would be easy to think that that is not the case. We just saw The Nationals vote against debating this motion, let alone supporting it. They are not prepared to stand up for what the Federal Government is doing, and they are not prepared to support producers in their electorates. It is a real tragedy that The Nationals are not prepared to debate this issue.

The latest threat from potentially weakened quarantine restrictions applies to the State's banana industry. Like the Australian Banana Growers Council, I was alarmed to learn about the importation of 11 tonnes of frozen, peeled bananas from Vietnam. The New South Wales banana industry produces some

43,000 tonnes of bananas per year. It appears that the Federal Government has dropped the ball and put at risk Australia's \$400 million banana industry. In doing so it has also threatened the future of towns in rural and regional New South Wales that rely on the banana industry. Again, it appears that the greatest threat to our robust quarantine system is the Federal Government and BioSecurity Australia. It is no secret that if exotic diseases are introduced into Australia they have the ability to devastate our primary industries.

For example, fire blight alone is endemic in more than 40 countries, including New Zealand, where it caused an estimated \$10 million in losses in the Hawkes Bay region in 1998. It is estimated that if fire blight is introduced into Australia it has the potential to cut pear production by some 50 per cent and apple production by 20 per cent, costing New South Wales some \$141 million. It is clear that quarantine matters. The Australian Banana Growers Council was taken by surprise by the large volume of frozen bananas brought into Australia from Vietnam. The concerns of banana growers are justified. For a long time the New South Wales Government has supported the State's agricultural industries when it comes to the importation of agricultural produce, and the banana industry is the latest. Banana Growers Council Imports Committee Chairman Len Collins had this to say about the Vietnamese bananas:

Bananas are susceptible to a range of diseases which are managed by strict quarantine controls.

The Australian Banana Growers Council is disappointed it was not consulted or informed by Australian Quarantine Inspection Service officials about the Vietnamese import arrangement before this product arrived on our shores.

At this stage, ABGC understands that the bananas have been washed, peeled, steamed to 95 degrees C, then frozen to -20 degrees.

However, Mr Collins said:

We would like to see the science that has been relied upon in developing these protocols so we can be satisfied that they are sufficient to manage the risks and that the protocols are being adhered to.

It is clear that Mr Collins shares the concerns of the State Government on this matter, even though frozen bananas are a low-value item, and the treated product poses little pest risk compared with fresh bananas. I am prepared to concede that. What the banana industry needs is a Federal government it can trust and have confidence in. The Australian banana industry is still recovering from Cyclone Larry, during which plantings were destroyed and livelihoods wrecked, and the Federal Government is back to its bad import risk assessment habits while an industry struggles.

How can consumers have confidence when the banana industry itself is concerned about these imports and the Commonwealth's system? Consumers and industry alike deserve to be confident in the system that controls our imports, and the quarantine borders that protect our local farmers and the communities that depend on a healthy agriculture sector in New South Wales. The industry deserves answers from the Australian Quarantine and Inspection Service [AQIS] about what disease and pest assessment was undertaken on the Vietnamese bananas, where the bananas were treated and what the protocols were.

Banana products previously imported into New South Wales include baked or fried chips; cooked, boiled or dried banana; pulped and pureed banana; and sliced cooked, boiled or dried banana. The countries New South Wales is importing from include Indonesia, Philippines, Ecuador, Thailand, India, Vietnam, Peru, Brazil, Costa Rica, Colombia, Fiji, Malaysia, Singapore, Hong Kong, Taiwan, United Kingdom and the United States of America. The list is long, and import permits must provide the Australian Quarantine and Inspection Service with the specific details of the processing method to address the quarantine concerns.

Typically, these conditions require the product to be peeled, sterilised, frozen and imported for further processing. The permits must be accompanied by documentation attesting to the processing method and inspected on arrival for compliance with prescribed treatments. The industry is calling for details from AQIS about the type of pest and disease risk assessment that has been done and what steps were being taken to ensure the exporter complied with treatment protocols. The Federal Government has already been forced to withdraw and rework the banana import risk assessment [IRA] in the past because major flaws were revealed in the scientific modelling used. Our farmers deserve an assurance that the security of our industries will be protected against exotic diseases and that there will be no softening on biosecurity policy.

The State Government has been no slouch in revealing the flaws in the Commonwealth's import risk assessment process. It has been proactive in working with the industry to have problems addressed. In 2004 it convened an emergency summit with key agricultural producers to discuss the latest threat from weakened

quarantine restrictions. That group was made up of representatives from Apple and Pear Australia Ltd, Australian Pork Ltd, the Australian Chicken Meat Federation, Australian Egg Corporation Ltd, Riverina Citrus, Bananas New South Wales, and the New South Wales Department of Primary Industries. Overall, the group was appalled by Federal Coalition plans to boost imports of uncooked chicken meat, egg products, citrus, limes and table grapes. As a result, it backed calls for an overhaul of the existing import risk assessment process.

Back then, our agricultural industries expressed major concerns that their industries could be exposed to devastating disease if quarantine restrictions were watered down. We all have a common interest in wanting to protect Australia's relatively disease-free reputation, the livelihoods of producers, and the profitability of local agricultural industries. The apple, banana and pork industries have been lobbying the Federal Government for some time. The Federal Government and Biosecurity Australia's track record here is not enviable, to say the least. The New South Wales apple industry has expressed concern about major flaws in the import risk assessment process. It found 46 fundamental errors in its draft IRA proposal. That is how sloppily the Federal Government is working to protect our industries.

The Nationals opposite should be ashamed they are not attacking their Federal colleagues in Canberra or imploring their Federal colleagues to strengthen Biosecurity Australia to ensure our farmers are protected. Just as they voted against having this debate seven minutes ago, they are not prepared to stand up for their agricultural industries. The North Coast has pork and bananas, the whole lot, and members representing that area are interjecting and still pretending they are prepared to stand up for their industries when they obviously will not. These are extensive value-adding industries for the whole of New South Wales, taking a product and turning it into a higher-value product.

All those industries will be put at risk by the relaxation and further downgrading of Biosecurity Australia. It has all come about because The Nationals in Canberra and The Nationals opposite are prepared to allow those sorts of things to happen. One only has to go back to what John Howard told the farmers after Cyclone Larry, that there would not be any imports, that he would protect them until they are back on their feet and then we would have some imports.

**Mr Andrew Fraser:** You are a liar!

**Mr NEVILLE NEWELL:** I am quoting from the newspaper reports. The *Herald Sun*, an austere paper that is published weekly and is always reliable, reported:

Mr Howard told growers in north Queensland that he would not allow imports of fresh bananas until the industry got back on its feet.

Banana growers in the north are worried about that. Our growers in the Tweed, Richmond and Coffs Harbour are also concerned about that because of the threat that statement contains. In other words, Mr Howard is not prepared to back the industry. In Canberra Mr Vaile is certainly not prepared to back The Nationals—or, more to the point, buck the Liberal Party—and that is what we want to see The Nationals opposite do. They should get out there and fight for these industries. They were dragged in here at the last minute to vote, on behalf of the Liberal Party, against debating this motion, because the Leader of the Opposition would have looked a bit silly if they did not support him. They backed him but they are not prepared to back the farmers. [*Time expired.*]

**Mr ANDREW FRASER** (Coffs Harbour) [4.16 p.m.]: At the outset I move:

That the motion be amended by omitting all words after "disease".

We have an absolute interest in ensuring that bananas and all other produce that leave this country are in A1 condition. We have the same concern that any produce that comes into this country is in the same condition. The honourable member for Tweed has misled the House. The Australian Banana Growers Council said it believed that pulp importation was not a breach of the Prime Minister's commitment given to the growers in Innisfail. It put that in a media release, but Napping Neville from Tweed would have this House and people who read *Hansard* believe differently. Why does he not back the farmers? He should tell us what he has done with regard to private native forestry, native vegetation, and all the other problems that farmers on the North Coast and right across New South Wales have had to put up with because of his Government. The honourable member referred to newspaper articles. I will refer to an article in the *Tweed Weekly* which states:

When a Daily News journalist asked Labor Leader Kim Beazley last Friday why Richmond MP Justine Elliot sits behind him in Federal Parliament, the Bomber's unexpected response was: "she doesn't fall asleep."

Mr Beazley's swipe confirmed Mr Newell is a major discomfiture to the Labor Party locally and is seen by the Elliot camp as the principal stumbling block to her retaining her seat at the Federal poll due in late 2007.

That is Napping Neville Newell, the man who sleeps in question time. They have done some polling up there—

**Mr Gerard Martin:** Point of order: I ask that you to direct the honourable member for Coffs Harbour to comply with the standing orders. He should refer to members of this House by their electorate.

**Mr ACTING-SPEAKER (Mr John Mills):** Order! I am sure the honourable member for Coffs Harbour will do that, because he often takes the same point of order himself.

**Mr ANDREW FRASER:** The honourable member for Bathurst interjects. He was known as the banana when he came in here—he came in here straight and green, and he is going to go out at the next election bent and yellow. The Nationals support the general thrust of part one of this motion. The National Party and the Coalition support a scientifically based quarantine system to protect our farms and related industries from the threat of exotic disease. This motion is nothing more than a beat-up by the honourable member for Tweed to try to get himself a headline, acting on a Federal issue in a State Parliament. Yet when it came to cattle going through border quarantine in relation to ticks, where was Napping Neville? The honourable member for Lismore will put on the record where he was. How many people such as the farmers in the Bellingen area in my electorate had their farms quarantined because of the inaction of the honourable member in relation to the tick gates and the inspection service on the border? He is a hypocrite.

After the bananas in northern Queensland were tragically destroyed, the Prime Minister gave the farmers a guarantee that he would not allow the importation of fresh bananas—and he has not. I would guess that the honourable member for Tweed pops into the foyer to buy himself a bit of banana bread. People would not be able to afford banana bread if it was made from fresh bananas. There is a market-driven reason for the fruit to be brought into the country. As the honourable member for Tweed stated, the pulp is heated to 95 degrees and the fruit has no skin. Diseases that are carried on bananas are black sigatoka and moko. They are carried on the leaves or on the skin. The imported bananas have been skinned, heated to 95 degrees, and then snap frozen to minus 20 degrees.

I enjoy the support of my fellow North Coast members on this issue, because they do not act in the hypocritical manner in which Government members act on this issue. I would say there has been a bit of polling up in Tweed. The honourable member for Tweed knows that he is gone; Geoff Provest will be the member come 25 March next year. The honourable member lacks the support of the electorate. As I said, even his Federal colleague will not have anything to do with him. He cannot show us a photo of himself and Justine Elliot together. Such a photo does not exist. Why? Because she is embarrassed about his representation of his constituents, who are also her constituents, in the Tweed. He is an embarrassment to her, to his electorate and to the Labor Party.

**Mr Gerard Martin:** You are an embarrassment to the Parliament. You are on the record for the worst act ever in this Chamber.

**Mr ANDREW FRASER:** Sit down, green banana.

**Mr Gerard Martin:** You have not changed; you are still a bully. You should go back to your anger management courses.

**Mr ANDREW FRASER:** Have you been to the bar again? You stay away from the bar at lunchtime.

**Mr ACTING-SPEAKER (Mr John Mills):** Order! There is too much interjection and crosstalk. The honourable member for Coffs Harbour will direct his remarks through the Chair and the honourable member for Bathurst will cease interjecting. He can seek the call later if he wishes.

**Mr ANDREW FRASER:** The honourable member for Bathurst is known as Bundy bear because of his drinking habits around this place. It is quite disgusting. At both Federal and State level The Nationals support the strongest possible quarantine measures for bananas.

**Mr Neville Newell:** But the Liberal Party will bring them in.

**Mr ANDREW FRASER:** And members of the Liberal Party, our Coalition colleagues, also support those measures. I support the banana growers, such as Nicky Singh, in Coffs Harbour. He is a hardworking banana grower. The Labor Party intends to drive a highway through and ruin his farm. What is it going to do to the Indian banana growers north of Woolgoolga, and the blueberry growers? These hardworking Australians are trying to make some money. They work exceptionally well. Yet Napping Neville, Roozendaal, and their mates are going to drive an eight-lane highway through the most arable land on the coast. Did the Labor Party consult them? No, it did not. Napping Neville should explain to those people his support for them. He should explain to the cattle producers in his area his inaction in relation to the tick gates. He should explain to the people in Bellingen who were quarantined for more than 12 months because of ticks that he and his Government created the problem. He and his fellow members on the Government side are nothing but hypocrites.

The National Party, the State Liberal Party and the Federal Coalition support the strongest quarantining measures that can be had in regard to any produce. The honourable member for Tweed cast aspersions about some of the foodstuffs coming into this country, but we must remember that Australia is a net exporter, be it of grain or beef. The majority of our primary produce goes overseas. If we wish to continue exporting we must import some goods that we do not produce. I suggest to members opposite that the reason this pulp entered the country in the first place—it has probably been coming in for years—was the need for banana pulp in cooking. You cannot slip down to the banana barrow in Martin Place and buy a frozen pulp banana from Vietnam. This product goes straight into cooking. Any suggestions to the contrary are mischievous at best, and lies at worst.

It was a quiet media day on Sunday so this story was thrown up. The early-morning media did not know how to run with the story. But we will know how to run with Labor's record in this House and what it has done to farmers. We will tell the people in the seats of the so-called Country Labor members what they have done for agriculture and what they have done to support their farmers—absolutely nothing, from native vegetation through to the tick control measures that I mentioned, through to private property forestry. The Government would not support our right-to-farm bill. It also would not support our cross-border commission bill, which the honourable member for Tweed of all people should have supported. We will be reminding his voters of that. It will be good to see the back of him come 25 March next year.

**Mr STEVE WHAN (Monaro) [4.26 p.m.]:** It is a pleasure to support the motion moved by the honourable member for Tweed today. He is a strong representative of the area he represents in this place. It was great to hear him put such a cogent and well-argued case for better protection for banana growers. It was a pity to hear the honourable member who represents the Big Banana sell out the banana growers of northern New South Wales. We have heard quite a bit on banana growers. I turn to another industry that fits in with the motion, yet another industry that the Federal Government has failed to protect from the potential for disease. The honourable member for Coffs Harbour stated that we are a net exporter of agricultural products. That is right. One of the reasons for that, and one of the reasons we are able to make so much money from exports, is the world's confidence in the disease-free status of Australian exports.

That is why we must protect our disease-free status in so many areas through effective quarantine. Most Australians would agree 100 per cent with a strict regime of quarantine. The Federal Government has spent a lot on the advertising of quarantine laws. But, unfortunately, behind the scenes it makes deals with overseas importers to water down quarantine protections. This is happening with chicken meat. On average, Australians each consume about 33 kilograms of chicken meat per annum, which is roughly equivalent to the consumption of red meat. On 2 September I was shocked to see in the *Sydney Morning Herald* a story about imported chicken meat posing a significant risk. The article, titled "Alarm over bacteria in imported chicken", read:

Highly antibiotic-resistant bacteria rarely seen in Australia could be spread if a proposal to relax a ban on chicken meat takes effect.

That article was based on information that provided further reason for alarm. The Commonwealth Government is contemplating relaxing provisions relating to a number of industries. Import risk assessments [IRAs] have been undertaken in a number of areas. However, many people in the agricultural community do not have much confidence in the results. The Commonwealth Government accepted an IRA conducted in the pork industry, despite a CSIRO study that found there was a 95 per cent to 99 per cent risk of an exotic disease outbreak in Australia within 10 years if the scheme were adopted. The Commonwealth Government was willing to keep going with its plans because it believed it was more important to allow these imports rather than to protect our status as one of the few nations in the world that can export many high-quality primary products because of its strict quarantine laws.

This is not the first time a motion along these lines has been moved in this place. However, whenever such a motion is moved, The Nationals back the Commonwealth Government. That has happened again today. The Nationals have indicated that they are willing to accept one half of the motion, but not the half that calls on the Commonwealth Government to do the right thing by primary producers. This is another disgraceful example of The Nationals' fading ability to stand up for country New South Wales.

An article in the 3 September edition of the *Sunday Telegraph* by Glen Milne deals with the importation of bananas, to which the honourable member for Tweed referred. The honourable member for Coffs Harbour, the member representing the Big Banana, is quoted as saying that everything would be fine because the bananas were heated to 95 degrees. The article points out that the Australian Quarantine and Inspection Service was relying on the word of the company in Vietnam and not independently verifying what it said. That goes to the heart of the problem in this place: The fading Nationals will not back genuine motions designed to protect Australian farmers. It is no wonder that The Nationals' representation in this place has fallen from 20 seats to 12. It is no wonder that The Nationals candidate standing against me in the electorate of Monaro will not call himself a Nationals candidate; he calls himself a Coalition candidate. He is embarrassed to be a member of The Nationals, as all Nationals members opposite should be.

**Mr THOMAS GEORGE** (Lismore) [4.31 p.m.]: I support the honourable member for Coffs Harbour's amendment, which seeks to omit all words after "disease". I am proud to speak up for Australian industry and about the threats posed by imported bananas. Australia relies heavily on domestic banana supply, and my electorate relies heavily on the banana industry. Unlike many honourable members, I can say that I cut my teeth on bananas. I also worked in the fruit and vegetable industry for a long time, and I am proud to have done so.

I reassure the banana growers that there are no plans to allow the immediate importation of fresh bananas to Australia from any source. The Australian Banana Growers Council stated on 3 September that pulp importation is not in breach of the Prime Minister's commitment given to growers at Innisfail after cyclone Larry, which clearly related to the ongoing risk assessment being conducted on fresh green bananas imported from the Philippines. Such imports have been coming into Australia for more than a decade. I remind honourable members opposite that a large number of processed products were brought into Australia while their party was in power federally. That was a long time ago, and honourable members opposite cannot remember back that far.

[*Interruption*]

The honourable member for Tweed is interjecting. Where was he when we debated the right to farm bill, which was introduced by the honourable member for Ballina to protect our farmers in the Northern Rivers region?

[*Interruption*]

The honourable member for Bathurst can interject; he should stay out of it. He is slippery enough without getting into the banana debate. Where was the honourable member for Tweed when we debated the legislation dealing with the cross-border commission? He is clearly on the record as voting against both pieces of legislation. The only consistency on the part of the honourable members opposite who purport to represent the country regions of this State is that every day the House sits they want to debate Federal issues. Why? They want to turn their backs on the farmers of this State; they do not represent them.

I placed a question on notice about the tick quarantine situation, which involves the honourable member for Tweed's electorate. I asked whether any properties had been quarantined as a result of cattle going through the spray race at the border. What was the answer from the Minister for Primary Industries? It was "Yes." The honourable member for Tweed should tell all the farmers that he and I represent in the north of the State how he is protecting them. His answers demonstrate that he has been asleep—Napping Neville. The article in the *Tweed Weekly* reads:

Mr Beazley's swipe confirmed that Mr Newell is a major discomfiture to the Labor Party locally and is seen by the Elliot camp as the principal stumbling block to her retaining the seat at the Federal poll due in late 2007.

[*Time expired.*]

**Mr GERARD MARTIN** (Bathurst) [4.36 p.m.]: I am pleased to support my colleague the honourable member for Tweed in this debate, and I am delighted to follow the honourable member for Lismore, because he

makes everyone look good. I congratulate the Minister for Primary Industries on his efforts on this issue. He has consistently called on the Federal Coalition to protect vital quarantine restrictions, and he continues to throw his support behind our growers, who seem to face a never-ending battle on these issues. It is about time the Howard Government stopped ignoring the legitimate concerns of our horticultural producers. It is also about time this tired and inexperienced Opposition did something constructive on the issue and lobbied its Federal counterparts for a better deal. Honourable members should make no mistake: our horticultural producers will not allow their fears to be ignored or continually swept under the carpet.

The New South Wales apple industry continues to hold grave concerns about flaws that become evident in the import risk assessment [IRA] process. In fact, Apple and Pear Australia Ltd raised concerns about the scientific integrity of the IRA process in 2004. Apple and Pear Australia found a staggering 46 fundamental errors in the draft IRA on apples provided by Biosecurity Australia. That included underestimating the risk of fire blight being imported on New Zealand apples. I know the honourable member for Orange is concerned about that issue. It is inconceivable, yet unfortunately true, that the risk of fire blight entering Australia is three times higher than that estimated by Biosecurity Australia.

At the time, Apple and Pear Australia Ltd Chairman Darral Ashton told national radio that he was stunned when the same scientists who found serious flaws in the draft banana IRA pointed out a list of inconsistencies in the scientific modelling used for the draft apples IRA. That is why the honourable member for Tweed has so appropriately brought to the attention of the House the lack of probity in these issues, particularly given what is happening on the ground in Vietnam.

Our horticultural industries deserve to have confidence in the system and in the people who make these critical decisions. Quite frankly, they deserve a better deal. But, despite the overwhelming evidence, the Howard Government and the tired old New South Wales Opposition have never acknowledged these flaws in the data behind proposals for the importation of more pig meat, bananas and New Zealand apples. They are all in the mix and all very important. We have to make sure that we have the utmost integrity in biosecurity measures and quarantine processes in this country. There was some talk about the previous Federal Government. Well, it certainly had all the protocols on the table, but the protocols are certainly slipping under the current Federal regime.

The Federal Government has not stepped forward to address these flaws in the system. Everyone acknowledges the failure, but the Federal Government is ducking and weaving. A lot of the problem can be attributed to a lack of leadership in The Nationals at a Federal level, particularly that of Mark Vaile. I believe that even his Coalition colleagues are working to destabilise him. Quarantine controls provide critical protection from disease for our local agricultural industries, including the highly contagious fire blight in apples. I know that because apples are very much part of the economy in my electorate. If Opposition members wonder why I have a bias towards apples and not bananas, that is why. I acknowledge the impost on bananas. I paid \$2 each for bananas in Martin Place this morning on my way to Parliament House.

These are all critical decisions that have a major impact on regional and rural communities. That is what Government members are concerned about. For example, in Batlow in the State's south and Orange in the electorate of the honourable member opposite the local economies rely on strong and prosperous horticultural industries. They must be underpinned by a security system that is not fiddled with and that has the utmost integrity. We heard from the honourable member for Lismore. He is obviously having a bad hair day. He spent all afternoon asleep and had to be woken up to count the last division.

**Mr Thomas George:** Point of order: My point of order relates to relevance under Standing Order 138. The honourable member should come back to the substance of the debate.

**Madam ACTING-SPEAKER (Ms Marie Andrews):** Order! I am sure the honourable member will do so.

**Mr GERARD MARTIN:** It is all over. That was a timely interjection. [*Time expired.*]

**Mr NEVILLE NEWELL** (Tweed—Parliamentary Secretary) [4.41 p.m.], in reply: This has been an interesting debate. It was interesting to hear the views put forward by Coalition members in their attempt to justify their position. In some ways it was a little sad to hear what they had to say. I thank the honourable member for Coffs Harbour, the honourable member for Lismore, the honourable member for Monaro and the honourable member for Bathurst for their contributions to the debate. I appreciate that Opposition members had



to put forward a certain view, but it saddened me a little to hear the words they used. I acknowledge the contributions from the honourable member for Monaro and the honourable member for Bathurst, who understand the issues and the role of Biosecurity Australia in protecting the State's agricultural industries, both export industries and domestic. The notion of exotic diseases being introduced into this country and putting our industries at risk—

**Mr Andrew Fraser:** Which ones?

**Madam ACTING-SPEAKER (Ms Marie Andrews):** Order! The honourable member for Coffs Harbour has contributed to the debate. The honourable member for Tweed has the call.

**Mr NEVILLE NEWELL:** Many industries are under threat from these diseases. Whilst it is the export industries that are involved here, they maintain their markets overseas because of the status of Australian industries. It is important that we do not threaten them. As well as the impact of the disease, we are also under threat of losing export markets if our protocols are relaxed or, even worse, not enforced. Although the honourable member for Coffs Harbour got very personal in his contribution—if I could refer to it as such—I do not know that I have much to say in response. However, I should reply to one comment he made. He appeared to take umbrage at the fact that the banana growers or primary producers were able to get a little bit of a windfall out of Cyclone Larry because of the higher prices for their products. I do not back away from that.

**Mr Andrew Fraser:** Point of order: The standing orders provide for clarification when one member misquotes another. Under no circumstances did I comment in my contribution on the fact that I do not agree with the windfall—

**Madam ACTING-SPEAKER (Ms Marie Andrews):** Order! That is a point of clarification rather than a point of order. The honourable member for Tweed may continue.

**Mr NEVILLE NEWELL:** The Opposition is prepared to support a policy of imports but it is not prepared to follow the protocols put in place by the Australian Quarantine Inspection Service [AQIS] or the protocols required by other countries. They will not tell the poor banana growers exactly what they are doing in Vietnam. In other words, they are quite happy to see the prices depressed by the Liberals simply to look after city folk and because of John Howard's concern that higher food prices would jack up inflation and cause an interest rate rise. I think that is what it was all about, but I cannot understand why The Nationals continually go along with the Liberal Party on these issues.

I also point out that the honourable member for Lismore indicated that he was quite prepared to speak up for Australian industries. I am glad that he is prepared to do that. However, he went on almost immediately to quote from what I think was The Nationals policy, because of the correlation with what John Howard said in North Queensland—that he would not allow imports of fresh bananas until the industry got back on its feet. The honourable member for Lismore said he would not support "immediate" imports of fresh bananas. In other words, the Coalition has flagged its intention to go along with the Liberal Party policy of allowing imports to keep prices down, to gut the price that local producers receive. I find it sad that the party opposite—the former Country Party—is now prepared to roll along with the Liberal Party and do nothing for their farmers.

The producers of apples, pears, chicken, pork and bananas are all suffering because of their concern that Biosecurity Australia will not give them the protocols that the exporter in Vietnam with 11 tonnes of banana product was able to go through. They cannot even guarantee that any protocols have been put in place. The expression "third world" has been used lately by the Leader of The Nationals to describe my electorate. However, he is quite happy to support imports of bananas from Third World countries without protocols being followed. [*Time expired.*]

**Amendment negatived.**

**Motion agreed to.**

## DROUGHT

### Matter of Public Importance

**Mr RUSSELL TURNER** (Orange) [4.48 p.m.]: The drought is a matter of public importance. If the drought that has affected New South Wales continues it will threaten the whole of Australia. I note that August 2006 was Australia's driest August since records were first kept in 1900, based on average rainfall across Australia. As I said, although New South Wales has been drought affected for the past five years, it is now spreading throughout the country. At the moment 93 per cent of New South Wales is drought declared, with 5 per cent marginal and only 2 per cent listed as satisfactory. I think everyone would agree that New South Wales is faced with a dire situation. We are starting to hear reports about how the drought is spreading into Victoria and Western Australia. We have all heard how the Snowy Mountains has had about the worst snow season on record, with the number of tourists visiting the Snowy Mountains matching the low level of snow. That has had an immense impact on the economy.

The drought figures for New South Wales are frightening. Farmers are rightfully concerned about what lies ahead. They fear that they will not get the spring rains, which relieved the situation somewhat last year. Farmers, entire communities and businesses are affected by the drought. We must always remember that when farmers are suffering, businesses in regional and country areas are also suffering. We hear reports that schools are starting to suffer, especially in the western areas where parents are encouraging students to stay home and help them with the feeding of stock. That is affecting the students' schoolwork and their results.

One can imagine the trauma that those farmers and their children are going through. Children are having to stay home, they are seeing the suffering their parents are going through, and they are seeing the suffering of the animals on the farms. The animals are just receiving enough sustenance to keep them alive, not so they can grow quality wool or get fat to go to market, et cetera. As I have said, the burden is not just financial; it is also emotional. I believe this Government, especially our Premier, is out of touch and has lost the plot as far as how this drought is affecting the people of New South Wales. The entire State is suffering. Some of the worst-hit areas include Armidale, Dubbo, the Mudgee-Merriwa area, the Northern Tablelands, Walgett, Coonamble, and all the way down to Young.

**Mr Daryl Maguire:** Wagga Wagga.

**Mr RUSSELL TURNER:** As the honourable member for Wagga Wagga says, right through to Wagga Wagga. In fact, I would suspect right through to Albury—as Victoria is being affected. I note that the Federal Government has brought more than \$1 billion into drought relief programs over the past five years, including exceptional circumstances relief payments, and health care card and interest rate subsidies. It is currently spending more than \$8 million a week, whereas the Lemna Labor Government has put just \$200 million into drought support measures. It is another example of the State Government failing to provide ongoing support. It is just a stop-start relief. When the Government is under enough pressure it is dragged out kicking and just gives enough relief from time to time until the pressure is off and then it withdraws that support.

This could not be more evident than the farce surrounding drought transport subsidies. Blind Freddy would have been able to read the obvious signs that conditions have been steadily declining throughout this State since late February-early March. In January only 23 per cent of the State was drought declared, with 30 per cent marginal and 40 per cent considered satisfactory. By February 32 per cent was drought declared. By March 38 per cent had been drought declared. By April 46 per cent was drought declared, with only 20 per cent considered satisfactory. By March 62 per cent of the State was drought declared. By June 89 per cent was drought declared. By July 94 per cent was drought declared, with only 3 per cent satisfactory. By August 93 per cent was drought declared, with 5 per cent marginal and only 2 per cent considered satisfactory—and I think that 2 per cent would be up on the North Coast, given there was minor flooding in the Coffs Harbour area last week.

**Ms Katrina Hodgkinson:** Between Lismore and Grafton.

**Mr RUSSELL TURNER:** Around the North Coast area. We acknowledge that apart from that small area, the rest of the State, including a lot of the Sydney metropolitan area, is heading towards a very, very disastrous and a very, very dry summer. Minister Macdonald, in the other place, has again ripped these vital subsidies away from our farmers in their time of need and forced farmers to go without for three months. The Minister finally reinstated the subsidies after hurting farmers—he did so after pressure from the Opposition and

as a result of major objections through the media because of this heartless act. However, at the time the Minister reinstated the subsidies only until August. Now the Premier has been dragged out kicking and has said that he will maintain those subsidies through to November. Again, it is stop-go, stop-go—a typical approach to drought by this Labor Government.

Everyone would agree that farmers need confidence and continuity. They are going through enough, without having to beg from day to day for the Government to help them and knowing that that support will need to be long term. Labor has failed to announce any new policies; it has failed to support country people by giving them subsidies for rainwater tanks. However, it allows subsidies for rainwater tanks in Sydney. It has failed to support our local government areas that are trying to increase their water supplies. Typical of that lack of support is the Country Towns Water and Sewerage Scheme. More than six years ago the State Government announced a 50:50 subsidy to allow Orange's Suma Park to be upgraded and the dam wall lifted to add extra storage.

To date, that money still has not been made available. It is another example of this Government having run out of money, failing to support our farmers, failing to support local government areas and country towns, and expecting ratepayers to further meet the cost of something that is not their responsibility but the responsibility of the State. I will quote a few articles from the *Central Western Daily* and other publications in the State that highlight the fact that this drought is increasing. On 3 May the *Central Western Daily* stated:

Another dry April has seen the drought tighten its grip on local producers.

Across the State, April was the fifth consecutive month of below average rainfall.

In September the *Central Western Daily* stated:

Sunday's rain has given farmers some relief from the drought but the situation is still desperate.

Rainfall during winter was only 54 per cent of the average for the Orange district.

Official reports say 1.4mm fell on the city on the weekend ...

We have seen Wyangala Dam fall below 20 per cent after that small relief last year. We are getting further reports every day of farm dams and home water tanks getting down to desperate levels. In fact, the honourable member for Georges River told me yesterday that his sister, who lives just out of Orange, has two weeks of water left in her domestic water tanks. We hear of increasing pressure on counsellors who are trying to assist farmers through this desperate period. There are not enough counsellors and not enough time in the day for counsellors to help the farmers. There has been a massive drop in the number of visitations at Wyangala Waters State Park during the past five years as a result of the drought. The park normally has 300,000 visitors a year, but that figure is now down to 60,000 a year. That has had a huge impact on the park's income. [*Time expired.*]

**Mr PETER BLACK** (Murray-Darling) [4.58 p.m.]: It has been an interesting week. It is a delight to have two nice Nats in this debate.

**Ms Katrina Hodgkinson:** Goodness gracious me!

**Mr PETER BLACK:** It is not a case of "goodness gracious me". However, it is a fact that there are far more nasty Nats than nice Nats. But that is all right; we have two nice Nats in the Chamber during this debate. I have known the honourable member for Orange for a long time and I share his concern about the drought. However, I do not agree with some of the conclusions he draws. I draw solace from the New South Wales Farmers. There are some interesting people in New South Wales Farmers. For example, I refer to Graham Morphet from Booligal, the vice president. He telephoned my office today at 12.09 p.m. to send his congratulations in regard to my press release issued on Monday entitled, "Get off our back Campaign".

He used the words "Well done" to cement the wonderful relationship we have with the New South Wales Farmers Association. Jock Laurie, President of the New South Wales Farmers Association, gave that wonderful accolade in response to the extension that the Government had announced last Tuesday. He said that the announcement shows that the State Government understands that the drought is getting worse and that many of the farming communities are facing enormous financial and emotional pressures. He said that the extension

demonstrated that the Government and, particularly Country Labor, genuinely recognised the hardship facing farming communities. Mr Laurie further stated:

We are pleased the Government has acknowledged the need for these subsidies and it recognises the severity of the drought.

We encourage the State Government to continue to monitor the situation and to make the right decisions in November if conditions don't turn around.

It would be a blessing if drought transport subsidies weren't needed in November, but if conditions don't improve we would encourage continued commitment from the Government.

That goes without saying. The commitment is there and the subsidies will be extended when and if the occasion requires. Country Labor is more than happy to support that proposition. I will assist the honourable member for Orange in his quest to determine which areas are not in drought. I have referred to nice Nationals but I will also refer to nasty Nationals, in particular, John Cobb. He is the man who said there was nothing wrong with the exceptional circumstances [EC] methodology. Areas where EC assistance has not been extended are Casino, Grafton, Kempsey, Gundagai area east of the Hume Highway, the Hume area east of the Hume Highway, the South Coast, Moss Vale, northern New England and north-west—the central north—which is part of the west Moree declaration. They are areas where EC assistance will no longer be given. There is no worse nasty National than John Cobb. Last Monday in the *Barrier Daily Truth* I stated:

Out West we are suffering from drought, woody weed, John Cobb and high fuel prices.

although not necessarily in that order—

But now we are being bashed by the Greens.

Some time ago the New South Wales Farmers Association conducted a drought summit at Parkes. People from the grain belt, many of them my constituents, were taken by bus to attend that meeting so they could lodge heartfelt concerns about the failure of the Federal Government to supply exceptional circumstances assistance. The State Government has provided in the order of \$215 million in assistance, and the amount keeps increasing as each week new applications for transport subsidies are made. On the other hand, John Cobb has said there is nothing wrong with the EC process; the Federal Government has provided only \$1 million of the \$70 million pledged to help town business during this time of drought.

Following the summit at Parkes it is alleged that John Cobb was still shaking when he went later to Bourke. The crowd was extremely hostile following his statement that there was nothing wrong with the EC assistance package. My constituency includes Ivanhoe, part of Hillston pastoral protection board area, which was the first to be refused EC assistance because of the infamous asset test, but still John Cobb says there is nothing wrong with the process! I remind The Nationals that John Howard was the person who recognised that something was wrong with it. He visited Wentworth and made the statement, when I happened to be there, that he was fixing the problems with respect to exceptional circumstances assistance.

The Federal Government has come a long way in recognising the necessity for rollovers of EC when their most prominent member in western New South Wales said that there was no need. This Government has contributed in the order of \$215 million in drought aid, and that figure is increasing. It is a substantial contribution. I add for the benefit of The Nationals that it is not subject to an assets test. It includes aid in the form of writing off western land rentals, writing off dog fence fees, a whole series of measures, all of which are not asset tested and were not recognised in the methodology adopted by the Commonwealth Government.

In May this year we announced an additional \$5.5 million package. We have also made a promise to keep a watching brief on the unfolding drought situation across the State and to act accordingly, as the honourable member for Orange said. I am sure the honourable member for Burrinjuck will agree, as she is a nice National also. The Government will also keep its promises with respect to continuing to provide drought assistance because only last week the Government announced the extension of the transport subsidies. In November the Government will review the situation. As I said, the New South Wales Farmers Association has congratulated the Government on its initiatives. This drought is the worst in 100 years, but I think we should stop saying that. Instead, we should say that it is the worst drought in recorded history. That is a better way of putting it, because there has not been a drought of this severity since records were commenced in this country.

**Mr Russell Turner:** That is what I said. I said it is the worst since records have been kept since 1900.

**Mr PETER BLACK:** I thank the honourable member for Orange for that advice. I keep hearing the 100 years.

**Mr Russell Turner:** It is a minor matter.

**Mr PETER BLACK:** It is a minor matter. The drought is savage and is affecting many of my friends, friendships I have built up over many years. The honourable member for Orange has been to Broken Hill on many occasions. He would acknowledge the devastation that has led to the collapse in the population of the incorporated area alone, from 3,000 back in those halcyon days of 1980 to about 1,000 today. This is having a devastating effect on families out in the bush. However, it is also having a devastating effect on town businesses, which is something that the Commonwealth Government either does not want to or cannot address. I can quote references from people involved in irrigation, machinery and fertiliser shops in Bourke.

We have had rain. It started raining at half past three this morning. There has been heavy rain at Hay, which is great for the people down there. However, the five northern pastoral protection boards near the Queensland border are devastated. In some places we had gone from a water drought to a cash drought, with people being unable to purchase stock simply because banks will not lend them any more money. People in the north are in a critical cash situation.

I turn now to drought support workers. I refer to the failed Nationals candidate for pre-selection for the seat of Murray-Darling, who is the boss of the Wentworth-Balranald Rural Financial Counselling Service. He has reported that the constant uncertainty about whether people have a job is causing tremendous uncertainty to workers, let alone to the people they are trying to support. That is a matter of great regret. I am bitterly disappointed that the Commonwealth Government is avoiding its responsibilities. We want some security of employment for our workers. In the cropping regions, everything is on a knife-edge. Irrigators in the southern areas are facing the worst summer ever recorded with respect to the availability of water.

**Ms KATRINA HODGKINSON** (Burrinjuck) [5.08 p.m.]: I speak on this matter of grave and fundamental importance. The official drought area now stands at 92.8 per cent, almost four times the area that was in drought in January. In January it was listed at about 24 per cent. In February the figure rose to 32 per cent. In March it was 38 per cent. In May it had risen to 62.5 per cent. In June it was 89 per cent. Indeed, 98 per cent of New South Wales is still suffering the effects of drought, with only 2 per cent being classified by the Department of Primary Industries as satisfactory—that is, the rural land protection board areas of Tweed, Lismore and Grafton.

As we heard, this has been the driest August across Australia since records began to be kept in 1900, with a national average rainfall of just 6.2 millimetres. Although it is dry across all the electorate of Burrinjuck, matters look particularly grave in the longest and hardest hit areas of the Central Tablelands: the Goulburn, Yass, Young, Wagga Wagga and Forbes rural land protection boards. These include the rural towns of Cootamundra, Young, Cowra, Grenfell, Gundagai, Yass, Crookwell, Boorowa and Goulburn. Gundagai had only 17 millimetres of rain in August. Local grazier Laurie Smart from Nangus, who is 68 years old, said that he cannot remember ever going into spring with such dry conditions.

In August Cootamundra had just 5.8 millimetres of rain, against a 100-year average of 57 millimetres, Cowra had 23 millimetres against an average of 52 millimetres, Grenfell had 8.7 millimetres against a 57 millimetres average, Young had 21 millimetres against an average of 61 millimetres, and Yass had 21 millimetres against an average of 59 millimetres. Last weekend I attended the opening of the Grenfell show, and I was both amazed and disheartened by the farmers to whom I spoke. I was disheartened by the really tough times they are going through, but I was amazed by their resilience and their determination to see the drought through.

Recently I spoke with John Granger, a grazier who lives in the Gunning area, about the impact the continuing drought is having on his property. He has grave concerns about the future of family farms, particularly as a result of the continuing drought which he has been struggling with for six years. When I was speaking to him he was simply unable to understand the mindset of a government that would withdraw subsidies on the transport of fodder or stock in an area that was drought declared, as was done by the State Labor Government in February this year. These subsidies have now been restored, but between February and April this year the Yass Rural Lands Protection Board [RLPB] was in drought and farmers were denied drought assistance subsidies by the Iemma Labor Government.

One must wonder how on earth a farmer who has been struggling with six years of drought, lost income, and stress and emotional turmoil can be expected to recoup these losses within less than five months. It simply beggars belief that a Minister for Primary Industries could have so little empathy for farmers that he denied there was a need for continued drought assistance for all those months. Recently I spoke with Peter Crowe from the Mullion. He just wanted to talk about the drought and said that he had already started carting grain. He and all our local farmers have been hit hard by the rise in fuel costs, which, along with the drought, is having a massive impact on farms at the moment.

Stephen Clancy, a grazier at Bialla, has a monthly fuel bill of about \$2,400. He is concerned because he will have to start carting grain later in the season. In Yass locals are meeting every Saturday morning to pray for rain, with the support of the local churches. Yass RLPB manager Kim Turner said that the sheep flock around Yass has reduced by about 30 per cent in the past six years, and that if the spring rain fails, this year may see the smallest national wool clip since 1928. This drought is dragging and dragging. An article on the front of the *Boorowa News* of 20 April this year, with the headline "Where has the rain gone?", stated:

Local farmers are now desperate for rain as conditions worsen and levels of water in tanks drop.

Since the beginning of 2006 Boorowa has received only 70.6 mm of rain, clearly not enough to keep tanks and dams full.

The article quotes Young RLPB district veterinarian John Evers as saying that local broadacre farmers felt deserted by the State Labor Government when it came to drought assistance. Since then the Young RLPB has returned to drought conditions. John Evers said of the State Labor Government's actions in denying drought subsidy assistance between February and April:

I just cannot understand how they can justify this.

Recently, Tony Morrison, a grazier from Breadalbane, said:

During the '82 drought, I basically sold all my cattle and kept about 50 cows. It took about 5 years after the drought was over to get my cattle numbers back to the point where I was getting a healthy cash flow.

Peter Sweeney from Grenfell believes that some farmers will have grave difficulty recovering from this prolonged drought. Rural New South Wales cannot afford to have politics played with the drought or drought rural counsellors. We must have continued funding. [*Time expired.*]

**Mr RUSSELL TURNER** (Orange) [5.13 p.m.], in reply: I thank the honourable member for Burrinjuck and the honourable member for Murray-Darling for their contributions. The honourable member for Murray-Darling criticised the exceptional circumstances funding from the Federal Government. I remind him that the Federal Government, through all subsidies, hands out \$8 million daily—that is a total of \$1 billion to date—with only \$200 million coming from the State Government. I call on both sides of politics and both State and Federal governments to increase assistance to farmers and retail businesses, not just keep it to a minimum. We must do everything possible, including the provision of extra counselling services to farmers and small business people in rural New South Wales.

I take on board the comments of the honourable member for Murray-Darling regarding the difficulties of retail business in accessing assistance and their ability to continue employing valued workers. I note that most farmers should and can handle one or two years of drought, but once the drought starts to get above five years most farmers start to experience extreme difficulties in maintaining stock numbers. I acknowledge that some rain is falling in Western New South Wales at the moment. I do not know how widespread it, but I hope it is considerable. Substantial rain, rather than the few millimetres that fell in most areas last weekend, will make a difference. I hope it rains all weekend, even if it upsets everyone's social activities.

**Discussion concluded.**

## **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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**GORE HILL FREEWAY NOISE BARRIERS**

**Ms GLADYS BEREJIKLIAN** (Willoughby) [5.20 p.m.]: As I have mentioned in this House on previous occasions, the construction and post-construction phase of the Lane Cove Tunnel project is having an enormous impact on many residents in the Willoughby electorate. A particular area I would like to discuss today is the failure of the State Government and the Roads and Traffic Authority [RTA] to provide the necessary sound barriers for people who are experiencing increased noise and increased pollution because of the increasing traffic volume along the Gore Hill Freeway largely due to the Lane Cove Tunnel project.

In particular, I place on the record that in the past two months alone I have received so many representations from constituents in streets in Naremburn, Crows Nest, Artarmon, Cammeray and Willoughby who, for a long time, lobbied strenuously to the RTA to have these noise barriers installed to protect their residential amenity, because of the increased traffic volumes. To date, the RTA and the State Government, namely the Minister for Roads, have failed to acknowledge and address their concerns.

I say to Minister Roozendaal that it is not too late. This is one issue where it is not too late to assist residents, not too late to listen to their concerns and to put up the necessary sound barriers. I have been contacted by residents from Donnelly Street and Merrenburn Road in Naremburn, Francis Street in Naremburn, Hampton Road in Artarmon, Metcalf Street in Cammeray, Mawdon Street in Cammeray, Parkes Street in Naremburn, Parkes Street in Artarmon and Walter Street in Willoughby and also in Naremburn. From these addresses alone one can see the widespread impact this issue is having on many residents. I would like to read from some correspondence I have received on the issue. The first is from a resident in Naremburn, who said:

From the first week of March 2006 we noticed a marked increase in traffic noise from the Gore Hill Freeway. Prior to March there was little noise if any from the freeway. In early to mid March the main changes we could see with the removal of the noise walls and additional lane closures to the houses on the south side of the freeway. Upon replacement of those noise walls we were alarmed at the level of noise that remained. After contacting the Lane Cove Tunnel hotline we were told there was no more noise reduction work scheduled for our area except for resurfacing the road, et cetera. We are currently getting noise from the freeway from all sides of the house as noises from adjacent parks running along an adjacent road are coming in over our back wall as well. Frankly, I find it unbelievable that the Lane Cove Tunnel and the State Government can tell us that according to their model there is no additional noise from prior to construction but feel frustrated that there is nothing I can do about it.

Another resident said:

I am most concerned to learn that with the widening of the GHF no noise wall will be installed between Hampton Road Artarmon and the North Shore Railway overpass. This is despite a likely 50% increase in traffic and therefore noise impacts.

Another resident said:

My family has been resident owners at ... Naremburn for ... 14 years and over this period have had to endure the noise pollution of the Gore Hill Freeway which passes very close to our home. We have lobbied council and RTA over this period to have at least a sound barrier put in place so as to abate this pollution problem.

That resident went on to say:

However since the construction of the new Lane Cove tunnel it is now estimated that at least 25% more traffic movement will use the freeway passing our front door, two extra lanes are currently being constructed.

It is estimated some 95,000 vehicles will pass our property every day.

Another resident, also from Naremburn, wrote:

... the noise barriers that have recently been constructed on the south side of the freeway have had the effect of increasing the noise levels for the Merrenburn Avenue residents as the traffic noise bounces off these new barriers and reverberates back to our homes.

She went on to say she would like resolution about the noise in her street. Another resident has written:

I was distressed to hear that ...[there] ... will not be a noise wall on the North side of the Gore Hill Freeway between Hampton Road and the railway overpass.

This resident lives on Parkes Road, facing the freeway and opposite the Hampton Road worksite. He went on:

The clearing of trees to make way for the work site has already increased both visible and audible noise along Parkes Road, and the prospect of even more light and noise is extremely upsetting.

I could mention many other concerns raised by residents and give many other examples, but it has become apparent to me that during the past few months the level of distress residents are experiencing because of noise due to increasing traffic volume is impacting on their residential amenity. I urge the Minister for Roads to take note of these concerns and to apply the required noise barriers to these residences. *[Time expired.]*

### NIMMITABEL PAVILION

**Mr STEVE WHAN** (Monaro) [5.25 p.m.]: I want to raise this evening the plight of the Nimmitabel Pavilion. The Nimmitabel Show Society's pavilion collapsed on 10 July 2005 under the weight of a very unusual snowfall. The snowfall was very wet. The snow fell for a few hours and then froze into a big block of ice on the roof. It eventually resulted in the Nimmitabel Pavilion collapsing. On that same weekend about 80 electricity lines came down across the region, so it was a very unusual weather event.

Since 10 July 2005, when that occurred, we have not been able to get the Nimmitabel Pavilion fixed. It was insured for \$400,000. The work required to fix the pavilion is about \$220,000, but unfortunately the insurance company believes there was a fault in the construction of the Nimmitabel Pavilion and it declined to pay. The insurance company is Statewide Mutual, which is the insurance company for local government. The pavilion is in the area covered by Cooma-Monaro Shire Council and the council is in control of it. The pavilion itself was built by Ranbuild Pty Limited and Resevsky Engineers Pty Limited. There has been an ongoing argument between all parties as to who is responsible for rebuilding the pavilion, to the point where I understand that recently—but only just recently, in the past couple of weeks—a representative from the engineers has looked at it.

This situation is not acceptable. I am using this opportunity this evening to call on the groups involved to settle this as quickly as possible. The Nimmitabel Pavilion is not something that can just be rebuilt by the local council or the local community. The pavilion was built by the local community with largely voluntary labour—967 hours of voluntary labour by 60 individuals went into building it. They had contributions from a lot of local businesses. They had a grant from the then Federal Labor Government of \$40,000 and some assistance from the Cooma-Monaro Shire Council as well as donations and fundraising of their own. The total cost to build it at the time was about \$88,500.

The cost of rebuilding it has gone up significantly. Cooma-Monaro Shire Council—I think quite rightly—does not think it should have to bear the \$220,000 burden. In its concern about not being able to get payment and have work done on the pavilion, it has written to me asking if the State Government can do anything to assist with the rebuilding of the pavilion. I think it is unacceptable for either the shire council or the State Government to have to put in the funds. That should be covered by the engineers who approved the construction of the pavilion in the first place and approved it to be occupied, by Ranbuild, the company that built it, or by the insurance company who insured it, presumably on the receipt of an engineering certificate to go with the construction of the building.

The Nimmitabel pavilion is a very important asset for a small town in the Monaro electorate. Nimmitabel Show uses the pavilion and the 2006 show earlier this year was significantly hampered by the fact that the pavilion to this day is still in a crumpled heap on its slab. The pavilion was very important for all the exhibitors at the show. The Nimmitabel Show is one of the most successful small country shows in south-east New South Wales. It is extremely popular and has many really good quality activities and competitions. I know because I am there every year. It attracts people from the whole south-east region and even further afield. The pavilion was a key part of the show and provided facilities for community activities, including sporting activities and displays. I use this opportunity not to make any dramatic accusations or to accuse people of not caring but just to put on record that the companies involved, including Statewide Mutual Insurance, Ranbuild and Resevski Engineers, need to take action to rectify this situation and to make sure that the Nimmitabel pavilion is rebuilt as quickly as possible so that people can continue to enjoy it.

**Ms LINDA BURNEY** (Canterbury—Parliamentary Secretary) [5.30 p.m.]: I thank the honourable member for Monaro for bringing to the attention of the House the situation with the Nimmitabel pavilion. He made the point that such infrastructure is important to a small country town. I also urge the engineers, the



builders and the insurance company to sort out the matter so that respect can be paid to the community's ownership of the pavilion and to the 60 people who volunteered to construct this community facility.

### PEDALS FOR PRESCHOOLS CHARITY RIDE

**Mr STEVE CANSDELL** (Clarence) [5.31 p.m.]: I speak first about community-based preschools. Next Friday is the community-based preschools day of action. I urge people to get in contact with their local community-based preschool and become involved in protesting about the lack of sufficient funding. I have been involved for three years now in community-based preschools through the Pedals for Preschools charity ride each August. The ride this year started on 14 August with the launch at Grafton. On 15 August in Casino two busloads of kids and more than 100 mums and kids with balloons marched down the main street to raise awareness of their plight, raise some much-needed dollars and hopefully influence Government and Opposition policy. The first day of the ride was on Wednesday 16 August when we rode to Evans Head. Alyson Kelly, the director there, organised a pyjama party with all the kids and the mums. Fortunately, I did not have to dress in my pyjamas to go down the main street and hit up all the businesses, but I did have to do the tooti-tar when we got back.

**Ms Linda Burney:** In pyjamas?

**Mr STEVE CANSDELL:** No, I did not have to. If anyone wants to look ridiculous they can do the tooti-tar. It is a lot of fun. In the afternoon, at Wardell, Sharon Foran, the director, organised afternoon tea and games for the kids and mums. On day two at Coraki morning tea was organised by Virginia Brown. We then went on to Casino Christian Preschool with Alanna Bailey, and afternoon tea at Jumbunna with Robyn Townsend. We finished at St Mary's Community Preschool, where director Kathy Taylor organised a pirate dress up day with all the mums, dads and kids. It really was a great way to finish off the day. On Friday we rolled out to Tucabia-Coldstream preschool. Sally Tatarynowicz organised a wooden horse race and obstacle course. I had my own wooden horse. We have a lot of fun there. I should have stayed on the wooden horse because within three quarters of an hour of riding away from Tucabia on the way to Maclean I clipped the back wheel of my co-rider, landed on the Pacific Highway on my head and was in hospital with severe concussion for six hours.

The first big message to the kids from my crash was to wear a helmet: my helmet saved my life. The second lesson was to concentrate all the time while you are on the road. I had the weekend off but on Monday I was back on the road again. I went to Lawrence with Mandy Northham. I made a cameo appearance at Maclean with Kim Starkey. Then we went back to Grafton and Robyn Nixon at Jack and Jill Preschool, Amanda Lancaster at Jacaranda, and Fiona Funnell at Westlawn. All the mums, dads and kids turned out for the games.

Tuesday 22 August saw us go to Nana Glen and Glenreagh, where Lisa Ralston and Narelle Cheeseman organised a stuffed Stevie scarecrow with band-aids all over it to highlight the accident. To raise money they had cow poo lotto. I will not go into that: we come from the country and it is a country sort of game that we raise money with. The next day, Wednesday, we went to Yamba with Kerry Hulm. At Iluka Preschool there was a bikeathon. They have a great bike track there. Lee Hackfath is the director. At Coutts Crossing on Thursday there was a bikeathon and a bike dress-up. Jenny Ryder gave me a teddy bear with band-aids all over it to remind me of the accident. At Copmanhurst we had lunch and a bikeathon with Copmanhurst Public School. Marilyn Cutting is the director of the community-based preschool there.

We raised nearly \$11,000 for community-based preschools. None of that could have been done without the great support of businesses, clubs and the community in general. In the remaining time I will mention the supporters. I first thank my co-rider, Wayne McGann, an ex-policeman who came with us all the way. I blame him for the accident! Frank McGrath drove the support vehicle. He almost ran over me three times but overall he did a pretty good job. I also thank Ron Bell, the manager of radio 2GF/FM104.7 and the station, the *Northern Star and Daily Examiner*, Northern Co-op Meat Company, Country Energy, Dave and Carol Munroe from McDonald's at Grafton—I congratulate them on the birth of their baby girl—Grafton District Services Club, One Zero/Fleet Logistics, Cansdell Signs, which I have no connection with, Casino RSM Club, Bananacoast Community Credit Union, Clarence Valley Council, Yamba Bowling Club, Grafton Mitsubishi, Black Toyota, Woodburn Evans Head RSL Club, Maria and Michael Walsh, *Richmond River Sun*, Yamba Golf Club, Roches Hotel, Maclean Services Club, Westlawn Investment, Telstra Countrywide, Blue Goose Hotel, Ray White Real Estate, South Grafton RSL Club, Bendigo Bank, Red Rock Bowling Club and Grafton Travel, *Clarence Valley Review*, Yamba Disposals, and a late starter, Bunnings. Bob and Judy Little from the Maclean SPAR supermarket are great supporters of community-based preschools. [Time expired.]

### CARING FOR KIDS—BANKSTOWN GROUP

**Mr ALAN ASHTON** (East Hills) [5.36 p.m.]: One of the great traditions in private members' statements, as outlined by the honourable member for Clarence, is the opportunity to say nice things about what is happening in your electorate. That is what I want to do. I mention tonight the Caring for Kids—Bankstown Group. Some members may not recall—Hansard will—that about four years ago I advised the House of the great work that the Bankstown Caring for Kids group was doing on behalf of the oncology unit at Westmead Children's Hospital. After a function I attended a week and a half ago I can give the House an update on what it has achieved for kids being treated for cancer at Westmead Children's Hospital. I will also thank a few of the very important people involved in the organisation. At the time of my speech four years ago the organisation had raised about \$200,000. The situation has improved since then.

The group continues to power ahead because of the active committee. I will mention the members by name. Tom Benson is the president. Kerry Stephenson is the secretary-treasurer. Also involved are Councillor Allan Winterbottom, John and Janelle Janes, Rick Miszczyk and Noel (Bluey) Baker. Funds raised to date amount to nearly \$400,000. This group meets at the High Flyer Inn Hotel in Condell Park. About 14 years ago members of the group were thinking that rather than just having a quiet beer they should do something to contribute to the community. That is what they have done. I recently attended a fundraiser at the Bankstown District Sports Club along with more than 320 supporters. On that night alone more than \$23,000 was raised. I place on record my appreciation of the Bankstown District Sports Club. It provided great food and entertainment on the night. It is a tremendous club that does a great deal for the community, as does the Bankstown Trotting and Recreational Club, which also has sponsored many of the functions held by the Caring for Kids—Bankstown Group.

During the evening, Dr Luciano Dalla Pozza, head of the oncology unit, expressed his heartfelt congratulations to the group for its continued support and explained how its contribution had such a positive impact on the unit's doctors, nurses and, most importantly, the patients and their families. The evening involved between 350 and 400 people, who enjoyed some light entertainment, but it was interesting that when the doctor spoke one could have heard a pin drop. The audience was very moved when the doctor talked about how much it means to add some quality to the lives of these poor little kids who are suffering cancer. We all know that cancer will touch many of us and many of our friends and relatives. However, it is not fair when it touches young kids. My dad died of cancer, but he was 85 years old. There is a sense of proportion in that. I am sure all honourable members agree that it is terribly unfair when this disease affects young people.

The Bankstown group has recently provided a \$30,000 machine to measure kidney function for oncology patients and two \$5,000 highly sophisticated beds to allow dying patients to be cared for with some comfort and dignity in their homes. The group relies on the generosity of regular sponsors, including New South Wales tourist and caravan parks, Macarthur Mowers of Camden, Sealy Australia, Sebel Furniture, Victa Australia, the Australian Jockey Club, High Flyer Hotel, Vital Pharmacy of Rockdale, the Cambridge Tavern at Fairfield and Surefire Signs. As I said, members of the committee also run the barbecue for the Emergency Services Soccer Knockout, which is an annual event held at The Crest in my electorate.

This year the event was organised by Andrew Keshwan from the New South Wales Ambulance Service. The participants represented the Ambulance Service, NSW Police, New South Wales Fire Brigades, the National Parks and Wildlife Service and the Department of Corrective Services. The Department of Corrective Services won the men's competition and NSW Police won the women's competition, which is a bit of a worry. More than \$2,000 was raised for Caring for Kids because these people took a day off work to run the canteen. All that money was donated to the oncology unit at Westmead Children's Hospital. The Bankstown group has a corporate logo and various uniforms for different functions. It is a tremendous organisation that is doing great work. The group also runs a Christmas party and provides presents for all the kids and their relatives who turn up for the party at Westmead. They have been doing that for the past 12 years. I commend their work and hope that it continues. [*Time expired.*]

### PENNANT HILLS ROAD TRAFFIC

**Mr ANDREW TINK** (Epping) [5.41 p.m.]: On 29 August a woman was tragically killed while attempting to make a right-hand turn from Pennant Hills Road into Copeland Road at Beecroft. Her car was hit by a vehicle travelling south on Pennant Hills Road. This tragedy highlights the ongoing problems on that road, which I have raised twice previously in this House—first on 20 October 1998 and again on 30 May 2002. Pennant Hills Road between the M2 and the F3 operates as part of the national highway network. It carries far

too much heavy traffic, including B-doubles and other large vehicles, which makes it a nightmare for people who travel on the road and for local residents, most of whom are my constituents trying to get from one side of Pennant Hills Road to the other. I have been very supportive of a new link being built to relieve the pressure on the road.

Through a process of study and consultation, the State and Federal governments have come up with a proposal for an F3-M2 link. It is commonly described as the purple option and involves a tunnel underneath Pennant Hills Road. The Federal Government is involved because the road is part of the national highway network. I have raised a number of issues in the past with Jim Lloyd, the Federal Minister for Local Government, Territories and Roads. On 10 December 2004, in response to representations from me, he indicated that the Federal Government had a strong preference for a tunnel link to ensure that there would be no opening in the brickyard at Thornleigh or at any other recreational area. He also pointed out that the Federal Government would ensure that world's best practice filtration suitable for Australian conditions was installed in any ventilation stacks. The Federal Government also rejected the concept of intermediate access points for the link.

In the lead-up to the purple option being chosen, the western option, including a link with the M7 and a new crossing of the Hawkesbury River to Karing, and the eastern option, in particular, a route through Brown's Waterhole and up through the back of Turramurra, were rejected based on traffic counts undertaken during the study. If the far-western option were adopted, 4,000 to 10,000 cars would be taken off Pennant Hills Road; in the B corridor, 2,000 to 12,000 cars would be taken off the road; and in the A corridor, 20,000 to 40,000 cars would be taken off the road.

As the local member, my main focus has been to get traffic off Pennant Hills Road so that accidents like the one that happened on 29 August do not happen again. For that reason, I have supported the purple option, which moves the greatest number of cars off Pennant Hills Road. Other people have been pushing for the western option to be built. I note that at a public meeting on 12 March Ken Dobinson, formerly of the Roads and Traffic Authority and the Department of Main Roads and now the Warren Centre, conceded that the western option alone would not be sufficient. If it were built, the far-eastern option through Brown's Waterhole would also have to be built. I still believe that the purple option is the preferred option. However, given the State Government's disastrous record in managing the contracts for the Cross City Tunnel and Lane Cove Tunnel, I want the figures provided by the State Government to support the purple option tested in a short, sharp inquiry.

I suggest that the Federal Government establish a commission of inquiry and that the guts of the terms of reference should be, first, whether the traffic figures and calculations, both actual and as projected in the Sinclair Knight Merz orbital link study main report of April 2004, were valid at the time the report was published; second, whether, without limiting the foregoing, the traffic figures and traffic calculations, both actual and projected, in table 1 on page 13 and in table 5 on page 20 of the part A summary of the report were valid at the time the report was published; third, whether the opening of the M7 Motorway subsequent to the report being published has altered the validity of any of the said figures and calculations; and, fourth, whether any of the traffic figures and traffic calculations referred to the first two terms of reference are predicated on any changes to the current unrestricted lane usage for all types of traffic on Pennant Hills Road. Although the purple option is the preferred option because takes the most traffic off Pennant Hills Road, the calculations provided by the RTA are not to be trusted, given its record, and this inquiry should proceed. [*Time expired.*]

### CANTERBURY DRUG ACTION TEAM

**Ms LINDA BURNEY** (Canterbury—Parliamentary Secretary) [5.46 p.m.]: I bring to the attention of the House an important piece of research undertaken by the Canterbury Drug Action Team. A research paper entitled "Experiences of Methadone or Buprenorphine Clients in the Canterbury Local Government Area" was launched at my office on 4 September. This important research was undertaken at the initiative of the Canterbury Drug Action Team. Members of the team made contact with people in the area who receive methadone or buprenorphine from a public hospital, a private clinic or a pharmacy.

Research team members spoke to people on methadone and buprenorphine programs and their testimony formed the solid basis of the report. The aims of the project were to explore the attitudes and opinions of those using the methadone-buprenorphine treatment in the Canterbury local government area, to reduce the stigma of methadone in the community through positive stories, to decrease the drop-out rates of clients being transferred to the private system through positive stories about clients who have been transferred, to increase local agency awareness of the issues and the need for sensitivity with clients, to increase accessibility to

methadone services by increasing the participation of pharmacies, and to gain information about the impact of the cost-of-dispensing fee from private clinics and pharmacies on client's lives.

They were the aims of the project and, in essence, the face-to-face interviews were amazingly helpful in coming to terms with the issues. The findings highlighted a consensus across all participants interviewed that the major restriction on their road to recovery was the cost of the dispensing fee from private clinics and pharmacies. Other key concerns included the lack of control participants have in deciding if they should attend a pharmacy or a private clinic, the opening hours of pharmacies and private clinics, and the travelling distances to pharmacies and private clinics, which affected family relations and employment prospects. The other key recommendation was that New South Wales Health initiate a co-payment system to assist pharmacotherapy patients dispensing fees and/or that the New South Wales government lobby the Federal Government to work out a fee-paying system.

It was also found that the New South Wales Government needed to continue to research the strategies for planning into the future, which, of course, we undertake on an ongoing basis. The people consulted were Canterbury Drug Health Services, the Pharmacy Guild, Methadone Advice and Complaints Service, NSW Users and AIDS Association, Family Drug Support, individual pharmacies and a number of others. I pay tribute to the 18 clients who were generous with their time and their stories with regard to interviews for this project. We see it as a pilot project that can lead to further research in relation to the issues.

I am acknowledge the following people, who were absolutely essential to the research: Andrew Putt from the New South Wales Premier's Department; Cheryl Field, the chair of the Canterbury Community Drug Action Team; Rod Issacs from Campsie Uniting Church; Pauline Gallagher from Riverwood Community Centre; Tomas Lopata and Carly Lewis from Canterbury City Council; Michael Lodge from New South Wales Users and AIDS Association, Camilla Kanaan from NSW Health; and Hanan Dover from the Mission of Hope. This was a joint exercise between Canterbury City Council, the Premier's Department and the Canterbury Community Drug Action Team [CCDAT]. Everyone worked very hard and produced a report that that contains much direction for those of us who are interested and those who work in this particular area. Finally, I mention once again Cheryl Field, the chair of CCDAT, who is an inspirational person in the Canterbury electorate.

### **KOSCIUSZKO NATIONAL PARK HORSE-RIDING ACCESS**

**Ms KATRINA HODGKINSON** (Burrinjuck) [5.51 p.m.]: The Kosciuszko National Park encompasses a significant portion of the southern part of my electorate of Burrinjuck. Stretching south from Tumut, bordering the idyllic town of Talbingo and then moving into the electorates of Wagga Wagga and Monaro, it is a beautiful piece of Australia's pioneering heritage. The Kosciuszko National Park includes the great Australian icon the Snowy Mountains Scheme, and it is also home to one of the enduring legends of our early pioneering history, the Man from Snowy River. Unfortunately, the Sydney Labor Government has little regard for our history, preferring to compromise its credentials by pandering to city-based extreme green movements, such as the Colong Foundation, in an attempt to shore up its voting preferences.

Recently I attended a protest rally by horse-riding groups in Queanbeyan. These riders are predominantly from my electorate and are dedicated to preserving the tradition of the Man from Snowy River, but the Iemma Labor Government seems more intent on forcing them into the mould of Ben Hall or Captain Starlight. The Kosciuszko National Park covers almost 675,000 hectares and contains the highest mountains in Australia, the famous Snowy River and all New South Wales ski fields. Its many and varied attractions include alpine herb fields, spectacular caves and limestone gorges, scenic drives and historic huts and homesteads. By the way, all the huts and homesteads were built by people who rode horses. The State Labor Government has restricted horse-riding access to less than one-sixth of the park.

Someone who knows the Kosciuszko National Park well, David Madew, recently brought to my attention the fact that a group of six horse riders have been fined for daring to ride in the Kosciuszko National Park. These harmless riders were fined \$200 each for riding a horse in a prohibited area and \$600 each for damage to vegetation, and were slugged \$600 each towards the costs of the Department of Environment and Conservation [DEC]. The saga of their pursuit and eventual apprehension is like a remake of the Tommy Lee Jones and Harrison Ford movie *The Fugitive*, with helicopter chases, ground searches and the involvement of the police and rangers. Since the 1980s the area of land prohibited to horse riding has grown from 18,000 hectares to around 550,000 hectares. This group of six horse riders was spotted by a DEC surveillance helicopter in the area known as Granite Peaks.

The DEC surveillance helicopter was landed in what is described as an area of sensitive bog and fen vegetation and rehabilitation works. If the area was so prone to damage by a few horses walking by, one wonders what damage was done to this sensitive alpine wilderness area by the DEC plonking a whopping great big helicopter down in the middle of it. If a horse causes \$600 worth of damage to vegetation, how much damage would a helicopter cause? The Minister for the Environment might care to explain the gung-ho rationale of his department in pursuing these so-called criminals. However, it gets even more exciting. The horse riders rode off, to use the words of the department, "evading staff by splitting into two groups". The pursuit turned into high-speed chase, horse pitted against helicopter, an incredible saga of nineteenth-century transport pitted against twenty-first century technology! The DEC surveillance helicopter then called in a ranger and a police officer and continued the pursuit, eventually intercepting one group of three riders. A DEC spokesperson was quoted at the subsequent court appearance in Cooma as saying:

The penalties handed to these people today should serve as a clear message that the community will not tolerate horse riding in the Kosciuszko National park where it is not permitted.

They are stirring words, but they are fatally flawed. I ask the Minister for the Environment to show the people of New South Wales the surveys and opinion polls that indicate that the community is opposed to horse riding in the Kosciuszko National Park. The Minister should also explain the total cost of this military-style pursuit operation. Helicopters do not come cheap and they guzzle a lot of fuel. How much was expended in wages, court and administrative costs to produce a fine totalling only \$8,000? At the behest of the extreme green movement the Government is spending our taxpayer dollars operating surveillance flights to catch a few hapless horse riders doing little more than peacefully appreciating the beauty of a great part of New South Wales. I contrast that with the same Labor Government's failure to keep convicted child murderer John Lewthwaite off the streets. The Government does not care about the safety of our children but, by golly, it is going to spend tens of thousands of taxpayer dollars persecuting harmless horse riders.

In the development of the Kosciuszko National Park plan of management, the National Parks and Wildlife Service [NPWS] completely failed to provide any notification, justification or evidence of an environmental problem attributable solely to horse riders. Yet the very management techniques advocated by this green-hostage State Labor Government were directly responsible for the greatest damage this magnificent area has suffered in living memory, the December 2003 bushfires. The saga of the Kosciuszko National Park Plan of Management is one right out of *Yes Minister*: Never, ever hold an inquiry unless you know what the outcome is going to be. State Labor has ignored our heritage and the wishes of the community in a desire to buy the votes of a small minority of city-centred green extremists. The Minister must explain how much this surveillance and pursuit policing operation against peaceful horse riders is costing the New South Wales taxpayer.

#### AMATEUR FISHERMEN'S ASSOCIATION OF NEW SOUTH WALES

**Ms ANGELA D'AMORE** (Drummoyne) [5.56 p.m.]: This evening I acknowledge one of the oldest fishing clubs in New South Wales, the Amateur Fishermen's Association of New South Wales, which was established in 1895. The recreational fishing association sought my assistance recently to secure a site along the 40-kilometre foreshore in the electorate of Drummoyne to permanently locate this historic club. The club currently has 100 members and is located temporarily at Concord Community Centre on Gipps Street at Concord. In June this year I met with management committee representatives Phoebe Forrester and Jim Clarke to progress the issue. The Amateur Fisherman's Association of New South Wales is Australia's oldest operating fishing club and has accumulated an impressive amount of memorabilia over the last 111 years. Whilst most of its members come from the inner west, the club attracts members from the Illawarra, Southern Highlands, Blue Mountains and Central coast.

Fishing is an important recreational sport and as Australians we are noted for our love of the sport. The Amateur Fishermen's Association of New South Wales has been involved with a number of community-based activities, such as fishing lessons for Homebush High School, fishing outings for the Royal Far West Children's Association, fishing outings for the Salvation army, Active Fun Day with Leichhardt council and Clean Up Australia Day. Following my representations to the Minister for Lands, the Hon Tony Kelly, a number of site inspections were undertaken along the Drummoyne foreshore on Friday 1 September to assess suitable sites to locate a clubhouse for the Amateur Fishermen's Association of New South Wales.

I acknowledge Phoebe and George Forrester, Ros Zapalla, Paul Ryan, Richard Spata and James La Manna, representatives from the Amateur Fishermen's Association of New South Wales, who attended site inspections and meetings in my office to progress this issue. I also extend my thanks to John Filocamo, program

manager, and Shane Connolly, acting team leader, from the Department of Lands for their assistance thus far and for their expertise. I look forward to working with all parties to achieve a positive outcome and secure a permanent site for this wonderful club.

I would like to place on record a history of the Amateur Fishermen's Association of New South Wales. Back in 1895 a group of dedicated anglers got together and formed the fishing club. The man responsible for the formation was a Sydney journalist, Mr Charles Thackeray, who was the first secretary and a driving force in the club for many years. The first minutes of the club meetings were written on 3 February 1896 at the first annual general meeting held in Rainfords Club Hotel in Oxford Street, Sydney. Mr Shipway was elected as president and Mr Thackeray and Mr Willis were elected as joint secretaries.

The securing of premises has always been an issue for the association and records show that even in 1897 association members shared these concerns by increasing annual subscriptions and moving premises to the Idlers Club. One of the first fishing trips recorded by the club was a trip organised to Watsons Bay. The transport was by horse and cart, kindly supplied for free by a member, Mr Woods. In 1898 a trip was planned to Narrabeen Lakes, and fishermen were warned to take their own food and water as no facilities were available in the area at that time. In September 1898 the first edition of the Amateur Fishermen's Association news was published under the title of the Cat Fish Budget.

It was reported at a meeting in May 1899 that club member Mr Cole had landed a 22-pound snapper from the rocks. The fish was three feet three inches in length and a certificate was presented to the angler. In 1905 Mr Eastway, one of the presidents, spoke of a fishing trip to Bobbin Head by motorcar. The importance of this event at the time was the fish caught but the means of transport to the fishing location. Notably, that year a letter was received from a Mr Prince, who was secretary of the Sheep Breeding Association, complaining of the influx of women into the clubroom on occasions and the playing of the piano. Whilst the complaint was dismissed, it clearly shows changing attitudes as recreational fishing became a family pastime and the presence of women played a significant role.

In 1910 the club registered with the companies office and became a limited company. It adopted a badge that is in existence today. The club was active in lobbying for fishing supplies and a letter was written to the fisheries board requesting the stocking of fish in Toongabbie Creek. This request led to the department stocking perch in the Parramatta River. The club also proudly possessed a southern blue fin tuna which was the first game fish caught on rod and reel in Australia. In 1915, at the beginning of the First World War, club members began to enlist. It was resolved that any member joining the forces would remain financial until their return.

The association and fishing clubs have done a great deal of work in our history. In 1999 the club became incorporated with the Department of Fair Trading and became known by its current name, the Amateur Fishermen's Association of New South Wales. The club has been in existence for 111 years and whilst it has had its ups and downs it is in a sound financial position with a growing membership. I extend my thanks to the management committee for its dedication to the advancement of the club and the sport. I truly hope that in the next 100 years its history will continue to be reported in the fishing community and in this Parliament.

## ORGAN DONATION

**Mr BARRY O'FARRELL** (Ku-ring-gai—Deputy Leader of the Opposition) [6.01 p.m.]: I raise the ongoing crisis facing Australians in relation to organ donation, and I do so following contact from Max Press, a local Turramurra resident, who, like 7,000 other Australians, is on dialysis due to kidney disease. Max has been dialysing for 6½ years: five times a week, three hours each time. He is also an ambassador for Kidney Health Australia [KHA], a non-profit national body working to promote kidney health and the interests of people like Max who would benefit from an organ transplant.

Kidney disease is Australia's seventh-biggest cause of death and the number of people on lifelong dialysis is increasing by 6.5 per cent each year. Max Press is living with the crisis of Australia's pitifully low organ donation rate. A visit to the Australians Donate web site of the Commonwealth and State governments provides an insight into the crisis. At the start of 2006 there were 1,716 Australians awaiting organ transplants—organs of all types, not just kidneys. By the end of July this year 381 had received transplants due to the donation of organs from 101 people. At this rate people will continue to die awaiting organ transplants. Every year one in six people who could have been saved by an organ donation dies because a matching organ does not become available. It is a deplorable situation and one that must not be ignored.

I commend the Federal Health Minister, Tony Abbott, for his personal commitment and renewed focus on this area and for the establishment in January 2005 of the Australian Organ Donor Register. While I had previously indicated on my New South Wales driver's licence a willingness to donate organs, I have now joined many thousands of Australians in signing up to the national register. Currently the rate of organ donors in Australia is just 11 for every million people. As a nation we have the unenviable record of having the lowest organ donation rate in the world. The national figure is even worse if broken down on a State-by-State basis.

The 2005 Australia and New Zealand Organ Donor Registry reveals the rate per million population varied across Australia from 20 in the Northern Territory to four in Tasmania. The figure for New South Wales was just eight donors per million population, the lowest of any mainland State. By any measure our national rate, which is less than half that of western Europe and the United States, is pathetic. Recent research published in the *Medical Journal of Australia* confirms that more can be done to ensure a higher rate of organ donation and transplants. The two-year study of 12 major Victorian hospitals discovered that of 280 potential donors, only 106 donated organs to other people. It drew a number of conclusions, including the need to increase the request for organ donations—in 60 of the 280 cases no request was ever made—and the need for donors to let families know their wishes to avoid being overruled.

While I intend to speak about an element of Spain's organ donation system in a minute, I note one of the factors in that country's increased rate of organ donation has been the introduction into hospitals of specialist teams responsible for encouraging organ donation. It is an approach that health authorities in this State would do well to replicate. But the major issue I want to raise, on behalf of Max Press and others in his position, is the issue of whether we can afford to continue with the current opt-in approach to organ donation, or whether we move to an opt-out system. In January 2004 I argued that that issue should at least be debated. Almost three years on, I personally believe the system needs to be adopted.

Currently, to be an organ donor in Australia an individual has to sign on to the register, that is, you must opt in. In Spain and in a number of other countries the onus is reversed: a person is required to opt out if they do not want to donate their organs. It is important to note that under the Spanish system relatives' views are still sought before any organs are removed. Interestingly, about 20 per cent to 24 per cent of relatives refuse to give consent, but this is still below the 40 per cent refusal rate in Great Britain, which has a similar opt-in system to Australia. The move to such an opt-out system is, in my view, workable and worth adopting in this country. At the very least, it should be the subject of debate that would, hopefully, move to the adoption of what is termed a "soft opt-in system".

Where debate has occurred, public opinion has shifted. In the United Kingdom, a poll conducted for the BBC in May 2005 found 61 per cent of respondents supported a shift to an opt-out system. If this system applied in Australia it would mean the onus would be upon those who, for religious, cultural and other reasons, are unable or unwilling to donate to indicate that fact. I respect that there are people within our community who have valid reasons not to participate in an organ donation program, but there are few reasons for the overwhelming majority of us not to participate in an organ donation program, and yet that is what is currently happening. Regrettably, individuals in our community are missing out on life-saving or life-prolonging organ donations because others lack the awareness or motivation to sign on to the Australian Organ Donor Register.

Given the general benefit to be derived by society, I do not believe that such a shift is too radical or onerous to propose. At the very least it is an issue on which the community views should be sought. Obviously, behind any system—the current opt-in system, which operates in Australia, or a "soft opt-out system" like that applying in Spain—there must be ongoing publicity and education programs to inform people about how the system operates and what their rights and responsibilities are. I should note, as UKTransplant has, that the adoption of such a system, in isolation, does not automatically lead to an increase in the organ donation rate. An opt-out system is in place in Sweden, yet the donation rate per million population remains lower than Great Britain where an opt-in system, similar to Australia's, exists.

Australia needs a concerted effort to overcome the existing shortage of organ donors and the inordinate delays that people like Max Press have to endure. The benefits of organ donation are obvious. Organ donation can also help ease the pain of loss: up to ten people can be helped or their lives saved through the generosity of one person. I represent Max Press and others: people who fear governments, Federal and State, lack interest in the daily circumstances they confront—long dialysis sessions, the adverse impact of such treatment on their overall health and all the associated costs, financial and family. Finally, I remind the House there is also economic sense in promoting greater organ donation. KHA estimates it costs between \$55,000 and \$60,000 a year to dialyse one patient, while a kidney transplant costs about half that sum. Whichever way one looks at this

issue, Max Press and others in New South Wales and across the State deserve better. Reform of the donor system is one place to start.

**Ms LINDA BURNEY** (Canterbury—Parliamentary Secretary) [6.06 p.m.]: I share the sentiments expressed by the Deputy Leader of the Opposition. Kidney disease is a dreadful illness and I have experienced its impact on a close, personal basis; I farewelled a dear friend who died from end-stage renal failure. The issue the Deputy Leader of the Opposition has raised in relation to the lack of donors in Australia is very real. We should explore some of the suggestions he has made. Much more work certainly needs to be done by many people to encourage people to become donors. That could touch and save the lives of thousands.

### CONCESSION TRAVEL INFRINGEMENT NOTICES

**Mr MATTHEW MORRIS** (Charlestown) [6.07 p.m.]: This evening I put on the record an issue of concern to a couple of my constituents regarding penalties in relation to bus travel. I have recently obtained documentation from a Mrs Caroline Campbell in relation to her son Chris, who was served infringement number 7633823304 on 29 January at 3.33 p.m. on the basis of his failure to produce evidence of entitlement to concession. In a letter addressed to the Director of the Infringement Processing Bureau, Mrs Campbell stated:

I enclose herewith a penalty notice received in our post. My son came back home from this particular bus journey anxious and worried. He had got onto the bus and the bus driver asked him if he was a concessions fare. My son replied that he was. He expected the bus driver to then ask for his ID card but he didn't and so my son proceeded to sit down.

When asked to produce his ID card by the Inspector he looked in his wallet where it normally is and was perturbed that it wasn't there. He since found it at home on his bedside table. I have enclosed it with this letter.

My husband and I are on a low income and to pay \$100 would be quite stressful for us in our financial position. My son does not have a job either. We feel this penalty is very severe and not fair because my son had not been asked to show his card on getting into the bus. If the bus driver had asked him to show it he would have realised there and then that it wasn't to hand and would have complied happily with paying a full fare.

This is not an isolated case; there have been a number of instances in my electorate recently where young people have been given infringement notices for failing to provide appropriate evidence that they are entitled to a concession. I acknowledge that procedures must be in place to ensure that the public transport system is not abused, but insufficient consideration, fairness, compassion and understanding are given to young people in circumstances similar to the case I have just outlined. Upon receiving documentation from Mrs Campbell I made representations to the Treasurer, the Hon. Michael Costa, who replied a few weeks later stating that the review was rejected, that the fine would stand and that the Campbell family could elect to take the matter to court, if they wished.

Another constituent, Rebecca Kelly of Warners Bay, is a school student who received a fine for travelling to TAFE on a school bus pass. She was unaware that she could not use the same pass and had been doing so since early 2005. Her mother wrote to the Infringement Processing Bureau because she felt her daughter should have received a warning rather than a fine. Her representations met with a negative response from the bureau. I take these matters on face value and trust my constituents do not habitually use the line that they are not aware of the rules or cannot produce their concession cards. I accept their arguments and support their call for the issue of a warning rather than the imposition of a fine.

I am particularly concerned that the bus driver did not ask Chris Campbell to produce his card when he boarded the bus and sought to purchase his ticket. However, when the inspector asked for the concession card and Chris found that it was not in his wallet, the inspector was not interested in the reason why it was not in his wallet. What is of even more concern is that when Chris offered to pay the full fare, the inspector rejected that offer. I believe that to be totally unreasonable and I understand the concern of the family. These two matters will be resubmitted to the Infringement Processing Bureau and to the Treasurer. I will ask the Treasurer, in particular, to take an interest in the matters and to seek an appropriate resolution in the interest of fairness and equity.

### FERRY FARES AND FUEL COSTS

**Mr DAVID BARR** (Manly) [6.12 p.m.]: Sydney Ferries Corporation has lodged a request to the Independent Pricing and Regulatory Tribunal [IPART] for yet another ferry fare increase. The basis for this request is that fuel costs for buses have increased by 9 per cent and fuel costs for ferries have increased by 37 per cent. Sydney Ferries Corporation is seeking a 6.3 per cent increase in JetCat fares and a 4.7 per cent



increase in ferry fares. I have written to IPART to oppose the fare increase, on behalf of commuters, in particular, who account for almost half of the passenger market.

I have proposed to IPART that commuter fares should be quarantined from price increases. This can be done by increasing the price concessions for bulk purchases of tickets by way of a Ferry Ten and a TravelPass relative to the cost of single fares that are purchased primarily by tourists and visitors. In its submission last year Sydney Ferries Corporation acknowledged that leisure travel is less sensitive to price changes than commuter travel. This gives scope to quarantine commuter fares from price increases. The price relativities as between single fares and bulk fares should, at the very least, be maintained. This amounts to a cross-subsidisation, with visitors paying relatively more and commuters relatively less. Given the relative price elasticity this would be a viable way of keeping commuter fares down while still giving visitors and tourists what would amount to an inexpensive way to enjoy the harbour sights.

Commuter fares are expensive in comparison to the bus equivalent, but the ferry ride as a one-off visitor experience is relatively inexpensive compared to private ferry cruises. The point is that the market can be sectionalised and ferry fares priced to meet the requirements of those sectors. IPART should examine fare structures with regard to the different segments that comprise the ferry market. There is a strong case to be put for internal cross-subsidisation, with commuter fares held constant and single fares adjusted within reason to satisfy Sydney Ferries Corporation revenue requirements. Public transport is not self-funding; it requires some subsidisation. Segments in the market with corresponding price differentiations is one way of doing this. The aim should be to keep commuter fares stable and competitive with bus prices.

I believe that there will be an inexorable and significant increase in the price of fuel. How we cope with this in respect to public transport will be a big challenge for government, both State and Federal. Indeed, 80 per cent of world production of oil comes from oilfields discovered before 1973. There will be nowhere near enough oil coming on stream to meet the combined forces of depletion and demand in the years to come. According to Colin Campbell, Founder of the Association for the Study of Peak Oil:

Supply will get very tight from 2008-09. Prices will soar. There is very little time and lots of heads in the sand.

We are in a state of collective denial about this. When we realise it, we will end up with a market in panic. However, what do we do about it now? Early toppers believe that the market has topped or is about to top now—that there are up to one trillion barrels of oil in reserve and that we are consuming 80 million barrels a day. That gives us a supply of up to 30 years of oil. Late toppers believe that there is up to two trillion barrels of oil in reserve, but the issue becomes complicated and murky. We are facing an oil shortage and inevitable price increases, which will be much more significant than past increases. This will have severe consequences for the economy. We must work out how to make our city sustainable and how we quarantine public transport, which will become critical, from every-rising costs.

I have said in this House before that the Federal and State governments must work together on a national strategy to deal with the sustainability of our cities, including water and fuel. We need to consider how our cities are shaped, how to move people between their homes and jobs, and how to keep prices down so that people living in cities can have a sustainable lifestyle. I believe we are reaching crisis point in the fuel cycle, yet this is not being acknowledged. State and Federal governments should get together to work through this problem.

### **GWYDIR LEARNING REGION**

**Mr RICHARD TORBAY** (Northern Tablelands) [6.17 p.m.]: Much has been written and said about the skills shortage in this State. It particularly affects regional communities; and the more remote they are the more difficult it becomes. A recent survey I undertook in the Northern Tablelands electorate to find out where the shortages are revealed that almost every community was having trouble finding tradespeople, doctors, dentists, nurses and other health professionals. Recently I held talks with the owner of a steel manufacturing business in Armidale who complained that apprentices in some key trades could not access TAFE courses locally and that the cost of travelling to Tamworth or Parramatta was a deterrent to recruitment. This was echoed in my survey in most centres in the tablelands.

The New England Institute of TAFE, to its credit, has given a commitment to offer these courses locally if industry can supply sustainable numbers to justify it. Distance, small populations and remoteness are often seen as major barriers in providing the services and facilities people need. Recently when I visited Wialda High School it was refreshing to find all sections of that community working together to resolve their

skills shortages and doing it most successfully. Businesses, council, schools and community organisations have joined forces to establish the Gwydir Learning Region, which I have spoken of before in this House. It is time for an update on that entrepreneurial community, which is unstoppable.

The story that typifies their can-do approach is the way a gym was established in Wialda. It started when a group of year 10 students returned to the school after completing work experience in gyms in Toowoomba and Tamworth. They were keen to take further physical fitness training at school, get some experience and go on to study at university. Wialda had no gym and no course they could take that would give them the accreditation they needed. School staff discussed the problem with TAFE and found a way to adapt the Board of Studies Higher School Certificate Sport Life and Recreation Course and include modules from the TAFE certificate level three course which has accreditation. Physical education teachers at the school agreed to take on extra study to TAFE certificate four standard to qualify to teach the certificate three course to the students. TAFE helped with funding to provide equipment, but the school did not have the space for it.

Gwydir Council, as a partner in the learning region, stepped in to meet concerns about the level of physical fitness of the community and agreed to pay the rent for premises in the town for a gym. The gym now operates daily and has 110 members. Doctors refer patients, teachers provide the tuition and the students are gaining the qualifications they need. In addition, adult members of the community have also put up their hands to undertake the TAFE training. When this is complete they will take on more hours, relieving teachers and enabling the gym to open longer. This is a project in which everyone wins.

Gwydir Learning Region encompasses the towns of Wialda, Bingara, Gravesend, North Star, Croppa Creek, Collata, Cobbadah and Upper Horton. The partnership between Wialda High School, Bingara Central School, the New England TAFE, Barraba ACE, the local business communities and Gwydir Council has been operating for five years. Its aim is to meet the learning needs of the entire community in innovative ways and to use all the educational and community resources available. The venture has been remarkably successful. Next year mature-age students will study locally through TAFE and the schools for a certificate three course in child care, specifically to assist with preschool education in the local area. Teachers have identified the need as many children entering kindergarten are disadvantaged, having virtually no pre-school experience.

Since the venture began five years ago 100 adults in the region have re-entered the education system through schools and TAFE to train for jobs, particularly to meet local needs in child care, aged care, information technology, welding, office administration, veterinary nursing and the arts. The scheme is entrepreneurial, using the resources available locally, accessing further services in the region, workshopping ideas and finding local solutions. They have not waited around for governments to come to the rescue. They are doing it themselves. I urge the Government to recognise their efforts by giving its support to extend the vision and achievements of the Gwydir Learning Region.

**Private members' statements noted.**

## **PHARMACY PRACTICE BILL**

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

*[Mr Acting-Speaker (Mr John Mills) left the chair at 6.24 p.m. The House resumed at 7.30 p.m.]*

## **CHILDREN AND YOUNG PERSONS (CARE AND PROTECTION) AMENDMENT (PARENT RESPONSIBILITY CONTRACTS) BILL**

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

### **Second Reading**

**Ms REBA MEAGHER** (Cabramatta—Minister for Community Services, and Minister for Youth) [7.30 p.m.]: I move:

That this bill be now read a second time.

The Children and Young Persons (Care and Protection) Amendment (Parent Responsibility Contracts) Bill 2006 is part of the New South Wales Government respect and responsibility plan. This plan aims to keep people safe, tackle antisocial behaviour and build harmonious communities. It also adds a new focus on reinforcing the

efforts of parents to teach respect and responsibility, and supporting a more inclusive society. Stable nurturing families are of critical importance for children and young people and their development into valuable members of the community. It is within these families that children and young people learn respect for the core values of our society and assume responsibility for their social behaviour. While the majority of parents naturally take their parenting responsibilities seriously, there are increasing numbers of reports of risk of harm made to the Department of Community Services each year.

Those children and young people who are at risk of harm, because of the behaviour or poor parenting skills of parents or primary caregivers, are also at risk of becoming adolescents and adults who have not been effectively taught social skills. This includes a sense of personal responsibility; commitment to the community and respect for others. In turn they are not capable of teaching social values to their children. To break this cycle of neglect and abuse, and to support parents and primary caregivers who need help raising their children, I am pleased to introduce this bill to the House.

The bill amends the Children and Young Persons (Care and Protection) Act 1998 and creates a legislative base for parent responsibility contracts. The aim of the contracts scheme is to encourage parents to improve their parenting skills and accept greater responsibility for their children. This in turn will minimise children and young people in need of care and protection. This scheme will also complement the early intervention program the Department of Community Services is implementing across the State, as a further preventative strategy to support families before they enter the child protection system. Once a child or young person has been assessed by the Department of Community Services as being in need of care and protection, the bill offers the department a form of action as an alternative to bringing the matter before the Children's Court. However, the bill does not exclude Children's Court action or removal of the child if it is deemed that the child is at immediate risk.

The bill will enable the Department of Community Services to develop, in collaboration with the primary caregiver for the child or young person, a parent responsibility contract. This will occur in those instances where the department is of the view that the lack of parenting skills or poor behaviour of one or more of the primary caregivers for the child or young person can be modified within a period of six months so as to adequately reduce the risk of harm to the child or young person. A parent responsibility contract is an agreement between primary caregivers and the Department of Community Services aimed at targeting specific problems where there is a specific and tangible response. Once agreed to and signed, the contract will be registered in the Children's Court. Primary caregivers will be able to obtain independent legal advice before entering a parent responsibility contract.

The bill proposes that a parent responsibility contract may require a primary caregiver to attend and participate in programs to address such issues as mental health, parenting skills, addiction, anger management, violence prevention and behavioural issues. A parent responsibility contract may also contain the primary caregiver's commitment to undertake activities such as alcohol or drug testing, or to take their child to child care or speech pathology. The steps to be taken might be small and incremental but this does not minimise their importance.

A parent responsibility contract will contain realistic goals and achievable targets and it will not set up the primary caregiver to fail. There is nothing to be gained and everything to be lost if the contract is misused. The possibility of the parent being held liable in civil courts for damages arising from breach of contract has been expressly excluded, so that this arrangement cannot be used as a back door to punitively punish parents instead of helping them to help themselves. Rather, a parent responsibility contract will give the primary caregiver the opportunity to accept support and to improve their ability to adequately parent their children. The desired outcome is to turn around the likelihood of the child or young person being in need of care and protection.

The targets the primary caregiver are to meet, their implementation, who will be involved, and how progress will be monitored and time frames met will all be set out clearly in the parent responsibility contract. A parent responsibility contract will not make provision for a re-allocation of parental responsibility or the placement of the child or young person in out-of-home care. The aim of the parent responsibility contract scheme is to set agreed targets and achievable outcomes to support parents meet their obligations to their children to keep children safe and keep families together. The parent responsibility contract scheme will draw from existing resources and services. The bill strengthens the interagency approach to working with families, as primary caregivers will be linked with appropriate support services who will work together collaboratively.

From the outset, primary caregivers will be aware that a breach of one of the terms of the parent responsibility contract they are party to is a serious matter. The bill will authorise the director general to file a contract breach notice in the Children's Court, which initiates an application for care orders in respect of the child or young person concerned. Once a contract breach notice is duly filed in the Children's Court, the presumption will be that the child or young person is in need of care and protection. It will be a matter for the parents to rebut the presumption that the child is in need of care and protection. However, given that the primary caregiver voluntarily recognises that assistance is needed and the Department of Community Services [DOCS] has assessed the child as being in need of care and protection, litigation is a redundant step. When a fundamental term of the contract has been breached the filing of a contract breach notice simply operates as a form of bringing a care application. It is not intended that the director general will file any further affidavits or evidence.

However, the bill requires that a copy of the parent responsibility contract be filed with the contract breach notice. Nothing in the bill would prevent a primary caregiver from challenging the validity of proceedings on the basis that the director general did not duly file the contract breach notice that purportedly commenced proceedings. However, this is unlikely to occur given that the bill makes clear that a parent responsibility contract must specify the circumstances in which a breach of a term of the contract will authorise the director general to file a contract breach notice, and that the contract breach notice will outline each provision of the parent responsibility contract breached and the manner in which it has been breached. When there is no, or insufficient, contrary evidence the Children's Court can proceed to make any order that is currently available to the court that it considers necessary to benefit the child. Once outside the co-operative situation of the contract the court plays a critical role in judicially assessing what, if any, future steps need to be taken.

Even though the bill provides avenues for alternative ways in which DOCS can work with parents, it does nothing to diminish the role of the court. To support the parent responsibility scheme, the bill strengthens the care orders available to the Children's Court. The bill expands section 73 of the Act to enable the court to accept undertakings not only from persons who currently have parental responsibility, as is presently the case, but also from any person responsible for the child or young person. This may include a birth parent who may no longer have parental responsibility, or primary care givers who are primarily responsible for the care and control of the child or young person. The bill gives the Children's Court power under section 75 of the Act to order a primary care giver to attend therapeutic or treatment programs.

It is hoped that through the treatment of his or her own problems, the primary care giver will be better able to meet his or her parenting responsibilities. The bill also makes a minor miscellaneous amendment to section 38 of the Act to clarify the circumstances in which the Children's Court may make consent orders for the purposes of giving effect to a care plan without the need for a care application under part 2 of chapter 5 of the Act. This amendment addresses uncertainty arising from the current wording of section 38 (3) by making clear that the power of the Children's Court to make consent orders is subject to its judicial powers to make orders under part 2 of chapter 5 of the Act. Evidence and research from other jurisdictions, particularly the United Kingdom, show that parent responsibility laws similar to this proposed scheme can have successful outcomes for children and families.

The Government is committed to supporting and helping parents in their role. We are of the view that the primary responsibility for educating children in the values of respect and responsibility remains with parents and families. The bill seeks to reinforce that responsibility by providing both a support and deterrent mechanism to parents and care givers. I believe that in the drafting of this legislation the Government is reflecting community standards and is leading the way on this most important issue. I thank all those who have been involved in the development and construction of the bill. I also acknowledge the input of government departments and agencies that were consulted on its drafting. I commend the bill to the House.

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

## **BUSINESS NAMES AMENDMENT BILL**

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

## Second Reading

**Ms DIANE BEAMER** (Mulgoa—Minister for Western Sydney, Minister for Fair Trading, and Minister Assisting the Minister for Commerce) [7.45 p.m.]: I move:

That this bill be now read a second time.

This bill will make a number of minor but important amendments to the Business Names Act 2002 to ensure the Act continues to be effective and well administered. The main purpose of the Business Names Act is to provide a means to identify the person or corporation who is currently, or has previously been, carrying on business in New South Wales under a particular business name. Access to this information enables consumers and business owners to identify the legal entity behind a business name and to assist them to protect their rights.

The registration of business names also allows the Government to ensure that businesses do not use names that are offensive or misleading. Another purpose of the registration scheme is to avoid confusion in the marketplace by preventing businesses from operating under names that are the same as, or closely resemble, the names of existing businesses. The bill amends the Act to streamline the registration process and deliver greater fairness and certainty in registering a business name.

To conduct a business in New South Wales under a name other than one's own name, a person must apply to the Office of Fair Trading to register the business name. The registration of a name lasts for three years. To continue using the name beyond that date, registration must be renewed for a further three-year term. A renewal application can be lodged with the Department Fair Trading up to eight weeks before the registration expires. When a business name registration expires without being renewed, the Act currently provides for a new application to be made to re-register the name. The Government recognises that it is not always possible to renew registration of a name before it expires. This can happen, for example, if the business owner is away at the relevant time, or it can simply be the result of an oversight.

Over the past year, around 29 per cent of renewal applications were received late. So as not to disadvantage business owners, the Office of Fair Trading has accepted and processed these renewals. However, businesses that renew their registration late run the risk that someone else may apply to use the name during the period in which the registration is lapsed. The Department of Fair Trading cannot hold an expired name in reserve indefinitely, just in case the business owner may one day decide to renew it. A refusal by the Department of Fair Trading to allow another person to use the name probably would not be upheld in the Administrative Decisions Tribunal. To address these issues, the bill amends the Act to give business owners a clear three-month window in which they can apply to restore an expired business name registration. The business name will also be unavailable to other applicants during the three-month restoration period.

When a renewal application is not received on time, the registration of the business name expires. However, following these amendments the Department of Fair Trading will be able to refuse other applications to register the same or a similar name until the three-month restoration period has ended. After the end of the restoration period, if registration has not been restored the business owner would need to re-apply to register the name. The name will also be available for potential registration by other applicants. These amendments support the fair operation of the business name registration system by providing a clear timeframe after which an expired name will be available for use by other businesses.

A second set of amendments in the bill clarify the commissioner's ability to refuse or cancel the registration of a business name that includes the word "sheriff". The Act already prohibits the registration of a name containing the word "police" unless the use of the name has been approved by the Commissioner of Police under the Police Act 1990. Where Fair Trading is notified that approval to use the name has been revoked, the Business Names Act allows steps to be taken to cancel registration of the name.

The Sheriff Act 2005 contains similar provisions to those in the Police Act in that the use of a name containing the word "sheriff" is prohibited without approval of the Sheriff, and approval may be revoked in certain circumstances. It is appropriate that the Business Names Act deal consistently with these kinds of matters. Accordingly, the bill inserts a provision to enable registration to be refused if a proposed name containing the word "sheriff" has not been approved under the Sheriff Act. A further amendment will enable Fair Trading to cancel registration if the Sheriff's approval is revoked.

I think everyone would agree that it would be inappropriate for business owners to be able to register a name which could mislead the public into believing the business is associated with the police force or the Sheriff's office. I should mention that no currently registered names will be adversely affected by the amendments. Because the Sheriff Act prohibits use of the name "sheriff" without consent, Fair Trading already refuses to register such names. The amendments will simply ensure parity of treatment with names containing the word "police" and will give Fair Trading firmer legal ground for refusing and cancelling registration of these names where their use is not approved.

The third main set of amendments to the Act relates to the age at which a person may apply for the transfer of registration of a business name. The Act currently allows a person aged 16 or more to register a business name. Registration can also be transferred to another person or entity, for example where the business is sold. A joint application for transfer is required to be made by the transferor and the transferee. However, an anomaly in the legislation means that only a person aged 18 or above may sign the application as a transferee. The amendment will ensure that persons aged 16 or more are able to apply to have registration of a business name transferred to them. This will make it easier for young people setting up a business to be named as the proprietor of the relevant business name.

Finally, the bill makes several minor amendments of a statute law revision nature to clarify or update aspects of the Act. The definitions of "department" and "director general" are brought up to date and made consistent with the definitions contained in other Fair Trading legislation. The general regulation-making powers are being amended to make it clear that the Governor is able to make regulations with respect to the waiver or refund of fees payable under the Act. Currently, section 40 of the Act broadly allows regulations to be made with respect to any matter required or permitted to be prescribed, or that is necessary or convenient to be prescribed, for carrying out or giving effect to the Act.

A regulation is in place permitting the Commissioner for Fair Trading to waive or refund a fee in certain limited circumstances, for example where it would be unfair in the circumstances of a particular case to require payment. Should this regulation need to be amended or remade in the future, doubts could arise as to whether the general regulation-making power is sufficient. The bill rectifies this by including a specific regulation-making power.

Although a full review of the Act will be undertaken in 2008 to ensure it is continuing to meet its objectives, these amendments are necessary in the interim to ensure the ongoing smooth operation of the business name registration scheme. The changes being made by this amendment bill will establish clear rights for business owners to have an expired business name reinstated within three months of expiry, and will ensure that the name continues to be protected during that period. The amendments will also increase certainty as to when an expired name becomes available for other potential businesses. The Government, through the Office of Fair Trading, is participating in a national Business Name Registrations Project that will streamline the multiple registration processes required to set up a business in this country.

The project, which has been endorsed by the Council of Australian Governments and the Small Business Ministerial Council, will enable business operators to apply for a range of different business registrations, including their business name and Australian Business Number, on one web site. In closing, I would like to emphasise my ongoing commitment to reducing the administrative burden on business through the business name registration requirements, and I will continue to explore ways in which this may be achieved.

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

**FAIR TRADING AMENDMENT (MOTOR VEHICLE INSURANCE AND REPAIR INDUSTRIES)  
BILL**

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

**Second Reading**

**Ms DIANE BEAMER** (Mulgoa—Minister for Western Sydney, Minister for Fair Trading, and Minister Assisting the Minister for Commerce) [7.57 p.m.]: I move:

That this bill be now read a second time.

Honourable members would be aware that there has been longstanding tension between smash repairers and insurers. This is inherent in the relationship between the two industries—insurers want to minimise repair expenses and maximise profitability, and repairers want to maximise their work and revenue. What both industries have in common is an interest in providing a good service to the consumer. Industry trends have put added pressure on the relationship. The ratio of repair shops to the number of vehicles in Australia is high compared with similar economies around the world. There has also been a reduction in the number of accidents, possibly due to improvements in technology and drier weather.

In the last 15 years there has also been an increasing use of network repairer schemes by insurers. Repairers within those schemes are often promoted to carry out repairs on damaged vehicles insured by the insurer. In July 2003 the Insurance Australia Group, the insurer with the largest share of the vehicle market in Australia, further developed its network repairer scheme by introducing an Internet tendering system for repair work. From the point of view of the insurer, Internet tendering means that pictures of a vehicle, plus an assessment of the work needed to be done, can be posted on a secure web site. NRMA Insurance introduced such a system in New South Wales last July. Web-based repair management, or WRM, provides a forum where repairers compete for repairs by providing on-line quotes.

There have been general concerns about the outcomes of the changing insurer-repairer relationship, including the transparency of network repairer arrangements, the transfer of network repair status when the repair business is sold, repair methods, responsibility for repair warranties, payment terms, and the fairness of on-line tendering systems. The concerns raised in the disputes have been national in scope, given the national operation of the insurers involved, and have also related to market power issues, particularly as the insurance market is dominated by four major insurers—the Insurance Australia Group, which includes NRMA Insurance, Promina, which includes AAMI, Suncorp-GIO, and Allianz. Accordingly, the concerns were examined by the Australian Competition and Consumer Commission in 2003 and, more recently, by the Productivity Commission in 2005.

Disputes between repairers and insurers are in nobody's interest. They waste time and resources and prevent the formation of efficient business relationships that are built on trust and co-operation. Tensions between the industries spill over and, most tellingly, can have an impact on consumers and the wider community. In New South Wales, there was particular concern about NRMA Insurance's introduction of its web-based repair management system, which involved Internet tendering for work by smash repairers. Through negotiations which I mediated and the work of an independent expert I commissioned, we were able to bring important changes to the web-based repair management system—work which resulted in an undertaking that web-based quoting systems will be used only for non-structural damage.

Repairers were also concerned that insurers could use their network repairer arrangements to prevent consumers from exercising their choice of a repairer. I have been actively facilitating negotiations between IAG-NRMA Insurance and the Motor Traders Association [MTA]. These negotiations have resulted in the following achievements: IAG agreeing to suspend penalties imposed on repairers for the practice of lowballing, or underquoting to obtain a competitive advantage at the tendering stage in the Internet quoting system; the insurer working with the MTA in the development of a new process to prevent lowballing that both parties agree is fair and transparent; and, from 1 May 2006, NRMA Insurance agreeing to offer its customers, at no additional cost, the freedom to choose a repairer.

Other undertakings were also given by NRMA Insurance. The insurer agreed that terms such as "non-accredited" will no longer be used when describing licensed repairers outside of the insurance network of repairers; web-based repair management will be used only for superficial or non-structural damage; NRMA Insurance performance measurement systems will be based on quality, not just price; repairers who have opted out of the NRMA Insurance Preferred Repairer Network will be given a fair and without prejudice opportunity to rejoin the network; the process and qualification guidelines for a preferred repairer will be fair, transparent and widely available. Furthermore, the Motor Vehicle Repair Industry Authority within the Office of Fair Trading, which is responsible for the licensing of repairers, has been monitoring the quality of repairs by investigating any complaints it has received about the quality of insurance repair work.

Under the Motor Vehicle Repairs Act 1980, disciplinary action may be taken against repairers if work is "below the usual trade standard". All parties concerned have come a long way in the last 12 months. It has taken a lot of hard work from repairers, insurers and members of this House to achieve this solution. As the Chief Executive Officer of the Motor Traders Association said on ABC Radio yesterday morning, this solution

is, "a victory for both of us [repairers and insurers] and it is a victory for the consumer—I think everybody has won out of this situation".

I will now refer to the aims of the Government's legislative strategy. The dispute between insurers and smash repairers in recent years has now highlighted the need to put rules into place that ensure a fair deal for consumers and a sustainable industry for both repairers and insurers. The best way this can be done is by making the voluntary national Motor Vehicle Insurance and Repair Industry Code, released on 1 June 2006, enforceable under New South Wales legislation. The code is a result of the Productivity Commission's report on smash repairers and insurers and covers the key issues identified in that report.

The code includes a transparent and independent external dispute resolution mechanism, the requirement for full disclosure in preferred smash repairer arrangements, retention of preferred smash repair status upon the sale of a business, the requirement for full disclosure in quoting for work and payment, standards for the allocation of responsibility for repair warranties, standards for payment terms, and requirements for up-front disclosure on whether insurance policies provide choice of repairer.

The New South Wales Government has always stressed the importance of a negotiated outcome to the dispute between repairers and insurers. In this regard it must be stressed that the national voluntary code was developed by national insurer and repairer representatives and has been publicly supported by them. The administration and monitoring of the code at a national level will be by the Code Administration Committee, which consists of three appointees of the Insurance Council of Australia and three appointees of the Motor Trades Association of Australia. Any problems with the provisions of the code should be picked up through the review mechanisms that are built into the code.

There is to be an internal review of the code 12 months after its commencement on 1 September 2006. There is also provision for an external review of the operation of the code every three years from the commencement of the code. Furthermore, adoption of the national code ensures national consistency in the standards adopted and avoids the confusion that could arise from having different rules applied in New South Wales, particularly if the code is mandated at national level some time in the future. The New South Wales Government believes that the code needs to be mandated to ensure that the standards it puts into place can be enforced.

I will now briefly outline how the Government's legislation will work. It is intended to provide for fair, timely and transparent conduct between insurers and repairers so that consumers are not unduly inconvenienced or unfairly treated due to the business practices in, or disputes between, the insurance and repair industries. The Fair Trading Amendment (Motor Vehicle Insurance and Repair Industry) Bill 2006 will amend the Fair Trading Act 1987 so that the regulations may declare a mandatory code to regulate the relationship between insurers and motor vehicle repairers.

So that stakeholders can better understand the Government's intentions, I have also circulated a draft Fair Trading Amendment (Motor Vehicle Insurance and Repair Industry) Regulation 2006, which will make an industry code between repairers and insurers published in the New South Wales *Government Gazette* a declared code for the purpose of the Fair Trading Act. It is proposed to publish the national Motor Vehicle Insurance and Repair Industry Code in the *Gazette*, which, in tandem with the proposed legislation, will make it mandatory. The draft regulation essentially applies "interpretation provisions" to the national code so that all references in that code to voluntary application, signatories, and other incidental matters, do not apply.

However, I will now turn back to the provisions of the bill. It provides that the enforcement and remedies provisions of the Fair Trading Act will be triggered if a dispute has not been resolved by dispute resolution procedures specified under the code or if the insurer or repairer refuses to take part in those procedures. So that there is an understanding of the detailed dispute resolution mechanisms already in the Motor Vehicle Insurance and Repair Industry Code, I will briefly outline these procedures now. There are essentially three tiers of disputes identified in the national Motor Vehicle Insurance and Repair Industry Code. The first tier of disputes are those relating to the amount to be paid for repairs, and differences of opinion about the repair method which do not lead to a belief that the safety, structural integrity, presentation or utility of the vehicle will be compromised. These disputes need to be settled through individual negotiation between the parties.

The second tier of disputes relate to disputes about the repair and paint method in circumstances in which there is a belief that the safety, structural integrity, presentation or utility of the vehicle will be compromised and cannot be resolved through the standards established in clauses 1 to 7 of the code, and to disputes which arise prior to the completion of repairs, other than those already mentioned. These disputes are



handled through direct dispute resolution between the parties to facilitate a speedy resolution. The aim is to minimise inconvenience to consumers whose vehicles are being repaired. Under this mechanism the repairer may lodge a complaint with the insurer's complaint contact.

The insurer needs to make a determination in two business days. If the repairer disagrees with the determination, the code provides that the dispute is settled at this stage by the repairer retaining the right to refuse to carry out the repair and the insurer may transfer the vehicle to another repairer. The insurer reports annually to the Code Administration Committee about the number, nature and outcome of these disputes. In order to ensure that consumers are not inconvenienced, it is not intended that a second tier code dispute will trigger access to enforcement mechanisms under the Fair Trading Act. Furthermore, the code provides for the elevation of certain second-tier disputes to the other dispute resolution mechanisms available under the code. It is these dispute resolution processes that need to be attempted prior to action under the Fair Trading Act being possible.

The third tier of disputes relates to disputes about alleged non-compliance with clauses 4 to 9 of the code and disputes about contractual arrangements. Clauses 4 to 9 of the code deal with matters such as insurers and repairers relations; network smash repair schemes; the estimate, repair and authorisation process; repair warranties; payment terms; and disclosure obligations. Also, some of the disputes identified in the second tier, which arise prior to the completion of repairs, may be dealt with under this tier once the vehicle has been repaired. These third-tier disputes must first go through an internal dispute resolution mechanism established by insurers. There must be acknowledgement of the complaint within five business days and conclusion of internal dispute resolution within a further 10 days—15 days in total—unless both parties agree. If the repairer disagrees with the outcome of the internal dispute resolution, they can elevate the complaint to external dispute resolution.

Under external dispute resolution, the applicant lodges a notice of dispute with the Code Administration Committee or its nominee and with the respondent. The parties then have the opportunity to agree on a mediator within two business days. If not, the Code Administration Committee is requested to appoint a mediator within two business days. The parties should then try and resolve the dispute within 15 business days unless agreed to by both parties. If resolution is not reached, the mediator provides a written statement setting out the parties to the dispute, an outline of the dispute and a list of unresolved issues. The mediator has to advise the Code Administration Committee in writing of whether mediation was successful or not. The parties share equally in costs of mediation and pay their own costs for attending mediation. They must mediate in good faith.

In order to prevent the dispute resolution processes in the code from being needlessly bypassed, insurers or repairers will be able to use the enforcement mechanisms in the Fair Trading Act only if they are not the party refusing to take part in the dispute resolution procedure under the code. The dispute about the breach of the code will also have to satisfy a public interest test applied by the Minister and the Director General of Commerce. The existence of a public interest test is a standard consideration when deciding whether to commit government resources to enforcement action and will be a means of ensuring that vexatious complaints, for example, are not needlessly acted upon.

It is proposed that enforcement of the code will be through a range of existing civil, rather than criminal, measures in the Fair Trading Act. These include court orders to restrain the carrying on of a business, orders to disclose information or publish corrective advertising, orders to compensate for damage, show cause action by the Commissioner for Fair Trading to cease trading, and civil action for damages. The Office of Fair Trading may apply for certain types of court orders on behalf of wronged parties. Significant matters, such as the misleading and deceptive conduct and unconscionable conduct provisions of the Fair Trading Act, are also enforced using civil, rather than criminal, measures.

The Office of Fair Trading has, for example, taken action in the Supreme Court to obtain injunctions and other orders under section 65 of the Fair Trading Act to deal with breaches of the Fair Trading Act. The orders that can be sought under section 65 can be very broad as well as quite specific in terms of the conduct being restrained or the actions the respondent is required to undertake. If there is a subsequent breach of the orders, action can be taken in the Supreme Court for contempt. Fair Trading has taken contempt proceedings in many cases, and several respondents have been given custodial sentences. Bona fide traders are usually very careful to comply with Supreme Court orders, but the contempt action is available if necessary.

The Office of Fair Trading has also frequently used section 73A of the Fair Trading Act, which permits the Commissioner for Fair Trading to accept written undertakings from a trader that has engaged in conduct in breach of the Fair Trading Act. This provision is very broad and has been used when the trader has shown a willingness to take action to ensure a cessation of the conduct of concern and future compliance. Usually the

terms of the undertakings are negotiated. The provision and acceptance of the undertakings is intended to avoid the need for court proceedings. This is a benefit to the trader and the regulator. However, the undertakings can be enforced through the Supreme Court if the trader does not fully comply.

In bringing forward legislation to mandate the code, which has been nationally agreed to by repairers and insurers, the Government has demonstrated that it is serious about ensuring that there are enforceable rules to produce a fair result for repairers, insurers and, ultimately, consumers. While the provisions of the code and the bill before the House mainly mention ways of promoting transparent, informed, effective and co-operative relationships between smash repairers and insurance companies, there are also some provisions in the code which directly mention policy holders. These include clause 4.2 (f) of the code, which requires that insurers not knowingly ask claimants to drive unsafe motor vehicles for the purposes of obtaining alternative estimates. Also, clause 9 of the code includes specific disclosure obligations by an insurer to a policy holder. These relate to matters such as choice of repairer. It is important that a consumer whose insurer provides choice of repairer will, accordingly, be allowed to exercise that choice without being treated unfairly or inconvenienced. Not delivering what is advertised could be interpreted as being misleading or misrepresenting the truth. This can be dealt with under the Fair Trading Act.

Relationships between insurers and repairers can ultimately have an impact on consumers. Proposed section 60W provides a context for considering the mandatory code provisions. They are there to provide for fair, timely and transparent conduct between insurers and repairers so that consumers with damaged motor vehicles are not unduly inconvenienced or unfairly treated as a result of the business practices in or dispute between the insurance and repair industries. This might include unreasonable delays in awaiting assessment and authorisation of repairs, the ability to select a repairer where a policy provides for this, without being subject to pressure selling from insurers or repairers preventing insurers from processing a customer claim.

It is acknowledged that a small portion of the smash repair industry needs cleaning up. This code will contribute to ensuring that the few bad apples do not spoil the reputation of the entire industry. Proposed section 60W, in establishing an interpretative context, provides protection in addition to existing mechanisms that consumers with complaints about insurance matters can access. These include remedies under the Fair Trading Act in relation to misleading conduct, and remedies under the national General Insurance Code of Practice. The code also provides important protections for repairers in relation to what they can expect from insurers. From the outset of this dispute, one of the key concerns raised has been the use of quoting systems that do not allow repairers to adequately identify damage to a vehicle through digital images posted on a secure Internet site.

Clause 6.1 of the code covers fair and transparent process for competitive quoting and requires that sufficient information be provided by insurers to allow repairers to quote. If a breach of clause 6.1 should occur, the Act can be examined in the context of the consumer objective and the issues outlined in the principles of the code. Importantly, this includes the mutual responsibility of repairers and insurers to ensure that the safety, structural integrity, presentation and utility of the vehicle are restored. Effectively, licensed repairers have a legal obligation under the Motor Vehicle Repairs Act 1980 to carry out repairs to usual trade standards. Additionally, section 20 of the Insurance Act 1902 provides that in disputes about materials or method of repair, the onus is on the insurer to prove proper use of materials and that repairs are properly carried out. While not seeking to stifle business development on the part of repairers or insurers, quoting systems must ensure that adequate information is provided on which to provide a quote. The quoting system must be fair and transparent.

One final matter which was raised with me during consultation on this bill has been the jurisdiction of the Fair Trading Act. Legislation to clarify the jurisdiction of the Fair Trading Act is currently in the other place. The Fair Trading Amendment Bill 2006 will clarify that the Fair Trading Act extends to conduct by a person of the State, conduct outside the State that affects a consumer in the State, conduct in connection with goods or services supplied in the State, representations made in the State, and conduct that results in loss or damage in the State.

This dispute has been in nobody's interests. Many repairers have fought a long and hard battle with insurers. Sadly, some have not survived. The bill supports the small business owners and operators who, to a large extent, rely on the co-operation of insurers for survival. It provides the basis for a fair resolution for all parties concerned. On 4 September 2006 the NRMA Motoring Services wrote me a letter that said that the bill will have a "positive impact on motorists, as a result of its focus on the overall improvement in repair quality and the reduced likelihood of motorists becoming embroiled in disputes between insurers and repairers". The bill marks a new era of co-operation between insurers and repairers.

The Motor Traders Association has said that it will "work with them [IAG] and other insurers to make sure the systems work to everyone's benefit". Yesterday the Insurance Council of Australia issued a release stating that its members "are entering this new era with an open mind and with a view to ensuring the best outcome for consumers". The release further states, "Importantly, the code ensures consumers have access to quality vehicle repairs at a reasonable price in a reasonable timeframe". The bill provides for a fairer marketplace for repairers and insurers. It sets a pathway to resolve disputes. There are penalties for those who breach the code, and the bill will ultimately provide a good outcome for consumers. I thank the honourable member for Bankstown for leading the charge to protect the interests of repairers in this debate. I thank also the honourable member for Blacktown and the Staysafe Committee, and the honourable member for Northern Tablelands for their important contributions. I commend the bill to the House.

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

## **ROAD TRANSPORT (GENERAL) AMENDMENT (INTELLIGENT ACCESS PROGRAM) BILL**

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

### **Second Reading**

**Mr NEVILLE NEWELL** (Tweed—Parliamentary Secretary) [8.24 p.m.], on behalf of Mr David Campbell: I move:

That this bill be now read a second time.

The purpose of the Road Transport (General) Amendment (Intelligent Access Program) Bill is to improve access to the road network for the road transport industry while maintaining the road safety and asset management requirements of the community and government. The bill gives effect to the national Intelligent Access Program in New South Wales to complement the national compliance and enforcement model legislation, adopted in New South Wales via the Road Transport (General) Act 2005.

The bill incorporates the provisions of the National Transport Commission's national bill for the Road Transport (Intelligent Access Program) Act 2005, approved by the Australian Transport Council in December 2005. The Intelligent Access Program is voluntary and provides the technical, legal, administrative and commercial framework to allow road authorities to use technology, such as global positioning systems, to monitor heavy vehicles for compliance and enforcement purposes, while offering productivity benefits to the trucking industry.

The introduction of the Intelligent Access Program will provide substantial benefits to the trucking industry as well as the community. In particular, it will improve the New South Wales economy by enabling significant access to major freight routes by higher mass limit vehicles and more efficient access to key freight facilities such as mines, ports and intermodal terminals, as well as distribution and warehousing centres. The program will deliver improved public amenity with fewer truck trips, reduced exhaust emissions, diminished exposure to noise and fewer trucks on the road. The Intelligent Access Program will deliver improved asset management by restricting higher mass limit vehicles to approved routes, where the infrastructure can sustain the heavier axle loads.

In terms of consultation, I acknowledge the effort and support of the New South Wales Road Transport Association. The national bill for the Road Transport (Intelligent Access Program) Act 2005 was developed by the National Transport Commission with the assistance of the national legislative advisory panel. The panel included representatives from the Commonwealth Department of Transport and Regional Services, NSW Police, Victoria Police, the Australian Trucking Association, the New South Wales Road Transport Association and the Victorian Transport Association.

The bill contains several key elements. It provides the legal authority to the Roads and Traffic Authority [RTA] to issue access conditions for heavy vehicles in New South Wales. The New South Wales Government will be able to determine productivity benefits that can be offered to the trucking industry in return for increased standards of compliance assurance made possible by the use of vehicle monitoring technology.

The bill establishes the process for the certification of Intelligent Access Program service providers that will provide vehicle monitoring services to trucking companies and non-compliance reports to the RTA for follow-up action of any breaches of the law. Intelligent Access Program service providers will be private-sector

companies that provide vehicle monitoring services to trucking companies on a fee-for-service basis. In order to certify service providers, State and Territory governments have co-operated to establish Transport Certification Australia Limited [TCA].

The bill recognises TCA's role as the sole certifier and auditor of service providers, and the manager of the certification and auditing regime for the Intelligent Access Program. Transport Certification Australia Limited will also be able to cancel the certification of a service provider that does not meet its service provision obligations, and it is obliged to advise the RTA if service providers are not meeting their obligations.

The bill provides significant safeguards to protect the privacy and personal information of road transport operators. The bill complements the privacy protections provided by the New South Wales Privacy and Personal Information Protection Act 1998 to cover parties, in addition to the New South Wales Government, that is service providers, Transport Certification Australia Limited, Intelligent Access Program auditors, and transport companies. These parties may be either handling personal information or be responsible for advising employees that personal information is being collected. The new regulations place obligations on these parties and contain significant penalties for failing to meet those obligations.

To provide consistency with New South Wales privacy principles and practices, the national model legislation has been amended to place a clearer obligation on transport operators to advise drivers that their trucks are being monitored. Provision has also been made for a review mechanism for individuals who may have lodged a complaint with the holder of their personal information. These amendments include penalties for parties that fail to comply with a direction from the RTA or TCA to take the required corrective action.

The national model legislation has also been amended to ensure consistency with the New South Wales Workplace Surveillance Act as far as possible. The New South Wales legislation provides that information gathered under the Intelligent Access Program, when a heavy vehicle is used while the driver is not at work, cannot be used by the vehicle operator for any purpose. To protect the integrity of the underlying objective of the Intelligent Access Program regime, the bill includes penalties for those tampering with Intelligent Access Program equipment. The technical specifications allow for the automatic reporting of attempts to tamper with monitoring equipment and systems. These anti-tampering provisions are supported by TCA's sophisticated auditing regime and the RTA's inspectorate, which will also work to identify trucking companies who may try to cheat the system.

The bill ensures that data collected and non-compliance reports are of an evidentiary standard and will be admissible in court if necessary. Prosecutions under road transport legislation, for non-compliance with conditions applicable to heavy vehicle access in New South Wales, will continue to be undertaken where Intelligent Access Program conditions apply. The prosecution will have to prove the elements of these offences. However, the new provisions will enable prosecutions to rely on evidentiary certificates as set out in the new division 5 of part 6A of the Road Transport (Mass, Loading and Access) Regulation 2005, rather than on oral evidence from witnesses. The new provisions also provide, in proposed section 72ZE, that certain evidentiary presumptions apply. Proposed section 72ZF provides that reports are presumed to be correct, unless evidence sufficient to raise doubt about these presumptions is adduced by the defendant.

The Intelligent Access Program will optimise the economic utilisation of the road network by facilitating higher productivity, while ensuring that the safety and asset management requirements of the community and Government are met. Truck operators wanting access to increased productivity under road transport law will be able to use systems that demonstrate compliance with that law. A gain for the trucking industry will be accompanied by a benefit to the community. Approximately 80 per cent of Australia's long haul road freight passes through New South Wales, creating unique asset management challenges. It is therefore fitting that New South Wales is the first State to implement this legislation.

The bill will facilitate the Iemma Government's plan for the expansion of the higher mass limits network in New South Wales. Higher mass limits access provides a 13 per cent increase in B-double payloads and a 10 per cent increase in standard semi-trailer productivity. The extra payloads reduce the truck journeys needed to complete a freight task. This results in fuel savings, reduced exhaust emissions, diminished exposure to noise, and fewer trucks on the road. This benefits the New South Wales economy and the environment, and provides for improvements in community amenity.

The New South Wales Government was successful in having vehicle monitoring included as a condition for higher mass limits access, under the AusLink Agreement with the Commonwealth. The Intelligent

Access Program will provide the productivity benefits of higher mass limits, while managing the use of the State's bridges and roads. It also provides the compliance assurances needed to expand the current higher mass limits network. The Intelligent Access Program will allow the Government to expand the New South Wales higher mass limits network, in addition to the 3,800 kilometres of the AusLink higher mass limits network. This does not include roads within Sydney, Newcastle and Wollongong that can now be opened up to more productive trucks, thereby providing more efficient access to ports, rail heads, major industrial parks and oil refineries.

The Intelligent Access Program will make possible a significant network of major freight routes for more efficient road transport, to the benefit of the New South Wales economy. The New South Wales Government is working with local government and other relevant stakeholders to finalise a framework for the ongoing assessment and approval of access to other RTA-managed roads, as well as to council and State Forest roads. Higher mass limits are only one example of a productivity initiative made possible by the availability of the Intelligent Access Program.

Another proposed scheme is the operation of higher productivity road train variants: B-triples and AB-doubles. It is anticipated that these vehicle combinations will be used substantially for grain, livestock, and fuel haulage in rural areas. These vehicles have an equal or better safety performance than existing road trains and carry up to 26 per cent more payload. However, as these vehicles are up to 20 tonnes heavier than a standard road train they have to be restricted to suitable sections of the road network so we can manage vulnerable rural bridges.

Also, for safety reasons, it is important that these combinations remain on approved sections of road. The Intelligent Access Program will provide the economic benefit delivered by these vehicles, while ensuring that road safety and asset management safeguards are in place. The Intelligent Access Program will also ensure that appropriate safety and asset management measures are in place for future developments in trucking.

For example, the Intelligent Access Program will support the take-up of innovative, higher-productivity vehicles operating under the proposed performance-based standards regulatory framework, which the National Transport Commission is currently developing. With respect to the performance-based standards and innovative vehicles being used on long-haul routes between metropolitan and regional centres, the National Transport Commission estimates an annual net present value benefit to the transport industry of \$18.8 million per year. There is already evidence of what the use of vehicle monitoring technology can deliver.

Under the New South Wales Mobile Crane Concessional Benefit Scheme, mobile cranes up to 2.9 metres wide are fitted with global positioning systems so the RTA can remotely monitor compliance with time, route and access restrictions across greater Sydney and other parts of the State. The scheme provides the RTA with assurances that potential adverse impact on other road users arising from the nature and size of these vehicles is minimised, while allowing additional operational flexibility for crane operators. A cost-benefit analysis of the first year of the scheme's operation indicated a benefit to each crane operator of between \$490,000 and \$970,000 per year as a result of a 25 per cent increase in crane utilisation efficiency. The scheme will operate within the Intelligent Access Program framework.

The use of global positioning system technology to achieve strong compliance assurance would provide clear benefits to the public and increased productivity to the road freight sector. In addition, the Intelligent Access Program scheme provides an open market for service provision, allowing efficiency and innovation. This means job creation in the information technology industry. The Intelligent Access Program takes ideas from the newest industries and applies them to solving the problems of one of the world's oldest trade and freight carriage. All governments have agreed that we should not be in the game of installing black boxes in trucks. Instead, New South Wales is represented on the Board of Management of TCA so it can certify, audit, and cancel if necessary the certification of Intelligent Access Program service providers, and maintain a certification and auditing regime of the highest standard.

Transport Certification Australia's certification and auditing framework will deliver certainty in quality systems; operations, including systems, hardware and software; and also testing, training and disaster recovery processes, in addition to monitoring and non-compliance detection and reporting. Australia's freight task has been forecast to double over the next 10 to 15 years. The traditional on-road enforcement resources of the RTA have led Australia in the use of compliance technology. It is time for the next step. We need smart regulatory and compliance models to match the development of smart trucks with their higher productivity, improved fuel efficiency, and lower emissions and noise. The Intelligent Access Program builds on what innovative transport

companies are already doing. The introduction of the program will provide substantial benefits to the trucking industry, as well as to the community. The Iemma Government is leading the way with innovative solutions, supported by tough regulation. I commend the bill to the House.

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

### **CRIMES AMENDMENT (APPREHENDED VIOLENCE) BILL**

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

#### **Second Reading**

**Mr NEVILLE NEWELL** (Tweed—Parliamentary Secretary) [8.40 p.m.], on behalf of Mr Bob Debus:  
I move:

That this bill be now read a second time.

I am pleased to introduce the Crimes Amendment (Apprehended Violence) Bill. The Government is committed to its responsibility to respect, protect, fulfil and promote the rights of its citizens, particularly women and children, to live free from violence. Initiatives include:

- Funding for the domestic violence helpline and Department of Community Services [DOCS] Helpline, community service centres and family support services;
- The Supported Accommodation Assistance Program, which provides support and supported accommodation for women, especially women escaping domestic violence and their children;
- The domestic violence intervention court model pilot, which focuses on increasing accountability for perpetrators of domestic violence whilst providing greater support and safety for victims;
- Intensive domestic violence training for all new DOCS caseworkers as well as ongoing training for experienced DOCS regional caseworkers. Thorough training is also being provided for non-government organisations in order to facilitate a better understanding of domestic violence issues and the best ways to overcome and prevent domestic violence.
- Priority public housing for victims of domestic violence, especially women and their children, and emergency crisis accommodation;
- The provision of legal advice and representation to women who apply for apprehended domestic violence orders [AVOs];
- The Women's Domestic Violence Court Assistance Program and Domestic Violence Advocacy Service, which provide women and their children with support, advocacy, referral and information;
- 115 NSW Police domestic violence liaison officers around the State, who are specially trained to assist victims of domestic violence.
- The NSW Health Education Centre Against Violence, which provides specialised training, consultancy and resource development to NSW Health and interagency workers dealing with children and adults who have experienced sexual assault, domestic violence and/or physical and emotional abuse and neglect; and
- The Violence Against Women Specialist Unit, which aims to develop and promote effective prevention of domestic violence strategies, and improve access to services for all victims.

It is a sad and terrible fact that each year across Australia somewhere between 6 per cent and 9 per cent of Australian women aged 18 and over are physically assaulted. In the majority of cases the assailant is a man they know. Domestic assaults currently account for approximately one-third of the assaults recorded by police each

year. In many cases children are also victims of the violence, or are witnesses to it. For many years government and non-government agencies and individuals have worked tirelessly to educate their communities about domestic violence. They have worked to prevent and reduce the violence that is occurring by providing practical assistance to women and children. I applaud their efforts and trust that the bill will provide them with renewed commitment and focus in achieving their goals of reducing and preventing violence.

The bill maintains and strengthens the Government's position that violence in all its manifestations is completely unacceptable. Under this enhanced legislative framework, the safety of victims is paramount. Our response to victims must be respectful of their courage and of their right to be involved in, and informed about, proceedings for their protection. The Government's focus will continue to be on how to ensure the long-term safety of victims through the provision of information and integrated assistance for their needs.

The bill goes a long way towards ensuring that a clear message is sent to those who are perpetrators of violent actions that such behaviour will not be tolerated. It aims to provide women and children with the confidence that they have the full support of the legal system behind them when they courageously take steps to break the cycle of abuse. The safety and protection of persons affected by violence is paramount, and the bill is aimed at guaranteeing that New South Wales has the most advanced and effective laws possible.

The reforms proposed in the bill arise primarily out of the report of the New South Wales Law Reform Commission into part 15A of the Crimes Act 1900. The Law Reform Commission conducted a comprehensive and thorough inquiry into this area and consulted extensively, including consultation with advocacy and representative organisations, women's refuges, community legal centres, community justice centres, government departments, the police service, the Apprehended Violence Legal Issues Co-ordinating Committee, and interested individuals. The recommendations made in the report also drew on the expertise of the commissioners of the Law Reform Commission, who include eminent judges and practitioners.

The Law Reform Commission found there was general consensus that AVOs are adequate and effective as a means of preventing violence, intimidation and harassment. This reinforces earlier research conducted by the Bureau of Crime Statistics and Research that found, for the vast majority of protected people, that an AVO led to a reduction in or cessation of the abusive behaviour. The Law Reform Commission report contains 56 recommendations for finetuning the operation of AVOs and further enhancing the protection they provide. The report was the culmination of over 12 months research and extensive consultation. Many of these recommendations have been adopted by the Government in the bill.

In essence, the bill is designed to offer greater protection to victims of domestic and personal violence; recognise the gravity of domestic violence and how it may differ from other violent crimes; minimise as much as possible the stress and trauma that is associated with apprehended violence orders; streamline the process of making an application and having that application heard; minimise the impact of AVO proceedings on the most vulnerable members of society, our children; and ensure that New South Wales has the most progressive and up-to-date laws possible with respect to this very important and highly poignant area of concern.

I do not propose to address each measure in the bill separately. However, I will address areas where there has been substantive reform, particularly new, expanded definitions; a revised test for granting an apprehended domestic violence order and additional considerations; new provisions for referral to mediation for apprehended personal violence orders; new provisions concerning the granting of telephone interim orders; new, limited police powers to detain and arrest for the purpose of serving an order; the protection of children and victims of sexual assault in AVO proceedings; revised restrictions and prohibitions that may be imposed upon a defendant for both interim orders and final orders; new provisions for property recovery orders; the abolition of the outdated complaints and summons process; revised police discretion not to make an application; extended duration for final orders; and revised variation and revocation provisions.

I turn now to the detail of the bill. In relation to new, expanded definitions, including the definition of expanded personal violence offences, proposed section 562A defines certain terms used in the part. Importantly, the definition of "stalking" has been amended to make it inclusive rather than exclusive. This means that stalking includes, rather than means, the following of a person about, or the watching or frequenting of the vicinity of or an approach to a person's place of residence, business, or work. The reference to any place that a person frequents for the purposes of any social or leisure activity is to remain. The definition of what constitutes a personal violence offence has also been expanded to encompass an additional number of violence offences.

Proposed section 562B defines the term "domestic relationship". The definition has been amended to include, in the case of an Aboriginal person or Torres Strait Islander, a relationship arising because the person is or has been part of the extended family or kin of the other person according to the indigenous kinship system of the person's culture. This is extremely important, as statistics have shown that the prevalence of domestic violence is higher in areas that have a higher percentage of indigenous residents.

Proposed section 562D defines "intimidation". The definition is amended specifically to include a reference to an approach made to the person by telephone, telephone text messaging, emailing, or other technologically assisted means. This amendment is vital because modern technology has given people the tools to menace and harass from afar. Mobile phones and the Internet have provided a raft of new methods of tormenting victims and it is time to update the laws to recognise this frightening trend.

Proposed section 562E sets out the objects of the division, which have been considerably expanded, and sets out and expands upon the matters that Parliament recognises in enacting this legislation. Proposed section 562G enables a court to make an apprehended domestic violence order for the protection of a person in fear of another person with whom he or she has or has had a domestic relationship. The amendment to the test for the issuing of an order is extremely important and provides a solution to a problem that has long been recognised by those who have contact with victims of domestic violence; namely, that as the current test stands, it is necessary for the court to be satisfied that the victim is, in fact, in fear. This creates a dilemma if a victim is reluctant to proceed with an application and tells the court she or he is not in fear.

Examples of why a victim might say this include being intimidated and worrying about retribution if they proceed, worrying that the defendant will get a criminal record, wanting to try to "fix" the relationship, or perhaps simply being scared of going to court. This amendment allows a court to still make the order if the victim has been subjected at any time to conduct by the defendant amounting to a personal violence offence and there is a reasonable likelihood that the defendant may commit a personal violence offence against the person, and the making of the order is necessary in the circumstances to protect the person from further violence. When the court is considering the making of the order it will have recourse to the history between the victim and the defendant, and be able to take into account previous AVOs, previous convictions for violence or breaches of an AVO, and where complaints have been made by the victim but subsequently withdrawn.

Proposed section 562H sets out the matters that are to be considered by a court when making an apprehended domestic violence order. The court is firstly to consider the safety and protection of the person seeking the order and any child directly or indirectly affected by domestic violence. Proposed section 562I sets out the objects of the division regarding apprehended personal violence orders, which have also been expanded. Proposed section 562L sets out the matters that are to be considered by a court when making an apprehended personal violence order. As in the case of an apprehended domestic violence order, the court is firstly to consider the safety and protection of the person seeking the order and any child directly or indirectly affected by domestic violence.

Proposed section 562M gives an authorised officer a discretion to refuse to issue process where an application for an apprehended personal violence order has been made, unless the application for the order was made by a police officer. The proposed section sets out expanded grounds upon which the discretion is to be exercised—for example where matters should be referred to mediation.

Proposed section 562N is a new provision that enables a court at any time, when considering whether to make an apprehended personal violence order or after making such an order, to refer the parties for mediation under the Community Justice Centres Act 1983. The proposed section sets out the circumstances in which a matter is not to be referred to mediation, such as where there has been a history of physical violence. This amendment is important so that appropriate matters can be diverted away from the court process and dealt with more expediently and economically for the parties involved.

In regard to new provisions regarding telephone interim orders, proposed section 562P provides that a telephone interim order may be made if an incident occurs and a police officer has good reason to believe that an order needs to be made to ensure the safety of one of the persons or to prevent substantial damage to any property of one of the persons. The proposed section makes it clear that an application may be made at any time and regardless of whether a court is sitting. This is extremely important.

According to the findings of the Law Reform Commission, some courts have interpreted the existing section to mean that a telephone interim order should only be available outside of court sitting times or where



distance precludes visiting a court; otherwise, an ordinary interim order must be sought. However, applying for an interim order may involve waiting at a local court for hours, which may not be feasible or desirable in situations requiring immediate action. Amending the section in this manner will ensure greater access to telephone interim orders and provide emergency protection for victims.

Proposed section 562Q sets out circumstances in which a police officer investigating an incident must make an application for a telephone apprehended violence order. Proposed section 562S sets out the effect of a telephone interim apprehended violence order. The proposed section has been amended so that it is no longer necessary for a police officer making an application for a telephone interim apprehended violence order to request additional restrictions to be imposed on the defendant. Provided that the test is met for the order to be made, an authorised officer may now, of his or her own volition, impose restrictions or prohibitions on the behaviour of the defendant.

Proposed section 562T provides that a telephone interim apprehended violence order is taken to be an application for an apprehended violence order by a court and is to include a direction for the appearance of the defendant at a hearing of the application on a date specified in the order, being not later than 28 days after the order is made. This is an important amendment as it allows the victim to be assured that the matter will be given priority and listed within 28 days.

Proposed section 562W provides that a telephone interim apprehended violence order remains in force for 28 days after it is made, unless it ceases to have effect or is revoked. A telephone interim apprehended violence order ceases to have effect when a court makes a final order or, if the defendant is not present when the final order is made, when a copy of the final order is served on the defendant. Currently, a telephone interim apprehended violence order remains in force for 14 days, or 28 days if the order is made in certain circumstances. By extending the duration of the order, applicants can be satisfied that in the rare instance where a matter is not listed within 14 days, the order is still in effect and offering protection.

Proposed section 562X enables a telephone interim apprehended violence order to be varied or revoked by an authorised officer or a court dealing with an application for an apprehended violence order. This section has been extended to include the power to vary the telephone interim order. This amendment is designed to cover scenarios where the police have made an application for and been granted a telephone interim order but it becomes apparent after the order has been made that a variation, such as a change of address or a need for an additional condition, is required. This section will now allow the police officer to request an urgent variation, which in turn will provide greater and enhanced protection to the victim.

In regard to new limited police powers of detain and arrest for the purposes of service, proposed section 562Y enables a police officer in certain circumstances to detain or arrest a person against whom a telephone apprehended violence order is sought, but only for the purpose of serving a copy of the order on the person. This amendment allows police to do their job more effectively and ensure that immediate protection is granted to a victim.

In relation to revised restrictions and prohibitions that may be imposed upon a defendant for both interim orders and final orders, proposed sections 562S and 562ZD set out the prohibitions and restrictions that may be imposed on a defendant by an apprehended violence order. A court may impose such prohibitions or restrictions on the behaviour of the defendant as appear necessary or desirable to the court and, in particular, to protect the person in need of protection and any children from domestic or personal violence. Proposed section 562ZE provides that, unless the court orders otherwise, every apprehended violence order prohibits certain conduct of the defendant, including assaults, harassment, stalking and other intimidating conduct directed towards the person or persons who are protected by the order.

Proposed section 562ZF is a new provision that enables ancillary property recovery orders to be made that enable the retrieval of property of a person protected by an apprehended violence order or the defendant under such an order. This is a significant amendment that recognises that in domestic violence situations people are often forced to leave the house at short notice, thereby leaving behind important personal possessions. Proposed section 562ZG makes it an offence to contravene an apprehended violence order. The proposed section contains a new provision that provides that a protected person under an apprehended violence order is not guilty of an offence of aiding or abetting a contravention of the order.

The protection of children and victims of sexual assault is of particular concern to the Government. Proposed section 562ZH provides that a child who is either a witness or in need of protection is not required to

give evidence in proceedings unless it is in the interests of justice to do so. If a child is required to give evidence, the proposed section provides that proceedings relating to apprehended violence orders are to be closed to the public, unless the court directs otherwise, if they are for the protection of a child under the age of 16 years. An additional provision is included to require any part of proceedings relating to an apprehended violence order in which a child under the age of 16 years appears as a witness to be closed to the public, unless the court directs otherwise.

Proposed section 562ZI is a new provision that enables a person who is the alleged victim of a prescribed sexual offence and is required to give evidence in proceedings relating to an apprehended violence order where the defendant has been charged with the offence to be given the option of giving evidence in a manner allowed by that section for criminal proceedings in which such offences are involved. For instance, a victim could give evidence by way of closed-circuit television facilities or screens. Proposed section 562ZN enables a party to proceedings relating to an apprehended violence order to choose to have a person present—such as a relative, friend or support person—when giving evidence.

As to the abolition of the outdated complaints and summons process, part 15A currently provides that an application for an apprehended violence order may be made by laying a complaint before an authorised justice of the peace, who may then issue a summons or warrant to arrange for the attendance of the defendant at court. This procedure is no longer consistent with the procedures that apply to other matters that come before the court. The complaints and summons process is to be replaced by an application process. This will streamline the process and make more efficient use of police time.

Proposed section 562ZQ sets out the manner in which applications for apprehended violence orders are to be made. The current procedure for seeking an apprehended violence order is by complaint made orally or in writing to a justice of the peace. The new procedure provides for an application to be made under the Local Courts Act 1982.

As to revised police discretion when making applications, proposed section 562ZR sets out certain circumstances in which a police officer is to make an application for an apprehended violence order. The police officer has the discretion not to make an application if the person for whom the order would be sought is at least 16 years of age and the police officer believes the person intends to make an application themselves or there is another good reason not to make the application. A new provision makes it clear that it is not a good reason for the police officer not to make an application in cases where the person for whom the order would be sought is reluctant to make the application but is the victim of violence or threatened violence, or has an intellectual disability and no guardian.

With regard to extending the duration of final orders, proposed section 562ZY provides for the period for which an apprehended violence order remains in force. The court may specify the relevant period but if no period is specified it ceases to have effect after 12 months. This has been extended from six months to provide greater prolonged protection to victims.

Turning to revised variations and revocation provisions, proposed section 562ZZC deals with applications for the variation or revocation of apprehended violence orders. The proposed section now provides that an application for variation or revocation may be made by a police officer only when any of the persons protected by the order are under 16 years of age. This is to ensure that children are not subject to untoward influences regarding an application to vary or revoke an order.

Upon all of us rests a weighty obligation to ensure the safety and protection of all persons, including children, who experience or witness domestic violence, and to reduce and prevent violence between persons who are in a relationship with each other. To achieve these aims, the Government is committed to providing the most up-to-date and effective legislative regime to victims of domestic and personal violence and to those, such as children, who might suffer directly or indirectly.

In summary, I stress that it is vital that there be legal mechanisms to protect victims of domestic and personal violence. The bill is another demonstration of the Government's dedication to ensuring the safety of victims from people who have committed, or who are likely to commit, crimes of violence. The bill is aimed at preventing that conduct and ensuring that a clear message is sent to the community that this kind of behaviour will not be tolerated. I commend the bill to the House.

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

**The House adjourned at 9.05 p.m. until Thursday 7 September 2006 at 10.00 a.m.**

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