LEGISLATIVE ASSEMBLY

Wednesday 24 October 2007

The Speaker (The Hon. George Richard Torbay) took the chair at 10.00 a.m.

The Speaker read the Prayer and acknowledgement of country.

STANDARD TIME AMENDMENT (DAYLIGHT SAVING) BILL 2007

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

SUMMARY OFFENCES AMENDMENT (SPRAY PAINT CANS) BILL 2007

Agreement in Principle

Debate resumed from 17 October 2007.

Mr GREG SMITH (Epping) [10.01 a.m.]: The Opposition does not oppose the Summary Offences Amendment (Spray Paint Cans) Bill 2007 but wishes to address a few aspects of it. Everyone agrees—except graffiti sprayers—that graffiti vandalism is one of the great curses on our society. Various organisations in the community, apart from government organisations and councils, are doing a lot to at least clean up areas. In my electorate of Epping, the Egging Rotary Club has put enormous effort into cleaning up graffiti that appears on private buildings, houses, walls, railway stations, supermarkets—indeed, everywhere.

Probably the only solution to graffiti vandalism would be to totally ban spray paint cans, because young people, who appear to be the main perpetrators of this activity, seem to have ingenious ways of getting access to them. For any young kid who lives in a home with a family, there is probably a shed somewhere on the property in which cans of paint are stored, and probably spray paint cans as well. Of course, the parents of that young person will not keep 24-hour, seven-day-a-week guard over the shed, so the young person has easy access to it. That is the real problem.

Of course, graffiti sprayers buy spray paint cans. There are competitions in graffiti style. Indeed, there are some quite artistic types of graffiti, as I have seen on some of the walls in Darlinghurst, where graffiti sprayers seem to compete with each other to make something look nice. Nevertheless, graffiti vandalism is a curse, and any attempt to toughen the law in this respect is a measure that I, and the Opposition, support.

The legislation will allow a police officer to confiscate a spray can from a person in a public place who is under 18 years of age, unless the officer is satisfied that the person has possession of the spray paint can for a purpose that is not unlawful. Of course, an apprentice painter having possession of a spray paint can would be one of the few situations in which the purpose would not be unlawful—although the apprentice might be just taking a spray paint can from one house to another, but that would be pretty unusual. The bill amends the regulations to provide for police procedures in connection with the seizure of spray paint cans.

In circumstances in which a police officer has seized a spray paint can and a reasonable excuse has not been given, I do not see why the police officer does not have the power to destroy the can immediately. Indeed, I think that is probably the best solution. Of course, parents may complain about their spray paint cans having been destroyed, but in the interests of justice I believe this is necessary. Once a spray paint can is given back, potentially the perpetrator of graffiti could use it again.

Graffiti vandals cause probably millions of dollars worth of damage to public and private property. A large group of townhouses on Epping Road that were built a few years ago have had walls put around them—probably to keep the noise out, among other things. Constantly those walls have to be repainted because of graffiti. I have noticed an enormous amount of graffiti in Dundas, a suburb in the area where I live that is not in my electorate. In some areas of Dundas the graffiti is just unbelievable. Dundas is a beautiful valley but parts of it have been ruined by graffiti. Most of the vandals seem to be under the age of 18, although I would say many of them are probably older than that. I do not know why the legislation is limited to persons under the age of

18 years, but perhaps that is an argument for another day. The Opposition supports the provision of extra powers for police with regard to graffiti vandalism.

Ms CHERIE BURTON (Kogarah) [10.06 a.m.]: I speak in support of the Summary Offences Amendment (Spray Paint Cans) Bill 2007. The bill gives effect to the Iemma Government's election commitment to give police the power to confiscate spray paint cans from juveniles unless they have a lawful excuse for having them. It demonstrates that this Government is keeping its commitment to continue the fight against the scourge of graffiti vandalism.

Graffiti-tagged public transport, walls and public facilities are not just ugly; they can lead to further crime, discomfort for users, and serious safety concerns. Cleaning up the mess left by graffiti vandals is a costly exercise for governments, public utilities, businesses, and private individuals alike. It is, of course, difficult to quantify the total cost of graffiti vandalism in dollar terms. However, the Government's Anti-Graffiti Action Team recently undertook a survey of various government agencies, public utilities and councils to find out how much they spend cleaning up graffiti. The team found that in 2005 government agencies like RailCorp and utilities like Telstra spent between $300,000 and $15 million on removing graffiti and repairing damage caused by vandals, and that councils spent, on average, $65,000 on graffiti removal.

This tremendous cost, in both dollar terms and in terms of how graffiti can detract from the pleasantness of communities, is why the Government has put in place a number of different initiatives to fight and prevent graffiti. Last year we established the Anti-Graffiti Action Team, which brings together representatives from major government agencies, public utilities and industry representatives to lead the development and implementation of anti-graffiti policies. We also passed tough new legislation to require retailers of spray paint cans to keep their stocks in locked display cabinets. The Government has also restricted the sale of spray cans to persons under the age of 18 years, and imposed tough penalties for people who sell cans to minors.

These initiatives came on top of a range of laws that are already in place to punish graffiti offenders. Under the current provisions, vandals can face serious penalties, including fines, community service work, and up to five years imprisonment. For example, since 1999 young offenders have performed more than 60,000 hours of graffiti removal work. This has made these offenders face up to the consequences of their destructive behaviour and the harm it causes the community. Our police are also working to catch more and more graffiti vandals. Under Operation Chalk, which involves covert operations on railway corridors and railway stations like Kogarah railway station in my electorate, police have arrested 281 people for more than 700 offences.

This tough approach to fighting the scourge of graffiti vandalism is yielding results in my electorate of Kogarah. According to figures produced by the Bureau of Crime Statistics and Research, this year the number of recorded instances of graffiti vandalism in the Kogarah local government area appears to be going down. In 2006 there were 140 reported incidents of graffiti in the Kogarah local government area and in the first half of this year there have been 62. If this rate continues throughout the rest of 2007, the result will be an 11 per cent reduction in the incidence of graffiti. Of course there is more to be done, and I am committed to continuing the fight against graffiti vandalism in Kogarah. Of the 2,684 persons of interest who were known to police by age and gender in 2006 and recorded as being involved in graffiti incidents across the State, 71.9 per cent were under the age of 18.

That is why I strongly support the bill's proposal to give police a new power to confiscate spray cans from people under the age of 18 unless they have a lawful excuse for possessing them. By allowing police to confiscate spray cans from young vandals before an offence has been committed the bill has the potential to prevent graffiti from occurring in the first place. I also strongly support the proposal in the bill that allows police on the beat to make the call as to whether a young person has a lawful excuse for having a spray can in their possession. The Government supports police officers and believes they are best placed to make these kinds of determinations.

Graffiti vandalism is an expensive and unsightly pest. It literally costs the community millions of dollars every year and can encourage further criminal activity. What is more, it detracts from the pleasantness of local communities such as Kogarah. In Kogarah not just public utilities but private residences are covered with graffiti. People take great pride in their homes and in making their community look nice and then young people decide that those homes are a great place to paint their tags. It is disgraceful and the residents who have contacted my office are most distressed. I know that those victims of vandalism and others who are forced to look at ugly graffiti will be pleased by this Government initiative to reduce further the scourge of graffiti.

I take this opportunity to congratulate Kogarah Council. The Government gave the council a grant for a graffiti removal machine that has proved to be quite successful and has contributed to a reduction in graffiti in the Kogarah electorate. The council and the State Government have enjoyed a cooperative relationship in tackling this problem. By giving police a new power that allows them to take away young vandals' tools of trade the bill will further the Government's ongoing commitment to fighting and preventing graffiti vandalism. I commend the bill to the House.

Mr MALCOLM KERR (Cronulla) [10.12 a.m.]: The member for Kogarah outlined quite relevant reasons for supporting the Summary Offences Amendment (Spray Paint Cans) Bill. I fully support her comments about the effect of graffiti on local communities such as Kogarah and the damage it does to personal and public property. This Government's inaction on graffiti has caused tens of millions of dollars worth of damage to personal and private property. The facts outlined by the member for Kogarah are not of some recent vintage but have applied throughout this Government's period in office. The then member for The Hills, the current member for Castle Hill, introduced a private members' bill that would have resolved the problem of spray paint graffiti. But the Government, for reasons best known to itself, fought tooth and nail to ensure that the bill did not pass the House. It was a most shameful period in the Government's history—it may not have been the most shameful as the competition for that title is stiff.

Communities such as Kogarah and those in the Sutherland shire have suffered the damage occasioned by graffiti simply because the Government would not allow the member for Castle Hill to take any credit for removing this blight on the built environment. Finally, in 2007, the Government has introduced a bill that allows the police to confiscate spray paint cans from persons in a public place who have no lawful reason for possessing them. The people of the Sutherland shire and of Kogarah would have been well served if this bill, which addresses the serious problem of graffiti, had been passed 10 years ago. I think I am correct in saying that the Government still has not done all that the member for Castle Hill wanted.

Mr Michael Richardson: Pretty much. But it is 10 years late and tens of millions of dollars could have been saved.

The SPEAKER: Order! I ask members to direct their comments through the Chair.

Mr MALCOLM KERR: I am grateful for that interjection in any event because it is important that the House understands the content of the original legislation. The bill before the House is 10 years too late. Everything that Government members will say in support of the bill is also an indictment on the Government for its inaction.

Ms VIRGINIA JUDGE (Strathfield—Parliamentary Secretary) [10.16 a.m.]: I support the Summary Offences Amendment (Spray Paint Cans) Bill. I congratulate the Minister for Juvenile Justice, Minister for Western Sydney, and Minister Assisting the Premier on Citizenship, and her ministerial and departmental staff on their hard work in preparing the bill for debate in the Chamber today. The bill gives effect to the Iemma Government's ongoing commitment to get tough on people, such as graffiti vandals, who commit crimes and who behave irresponsibly. It implements a specific election promise made by the Premier to give police the power to confiscate a spray paint can from a person under the age of 18 unless he or she has a legitimate, lawful excuse for possessing it.

I am sure that members on both sides of the House will agree that graffiti is a scourge on the local communities that they are elected to represent. It is certainly a scourge on the electorate of Strathfield. I notice that Milton Morris, the former member for Maitland and Minister, is in the gallery. He worked diligently for his local community and I am sure that as an elected representative he made sure that his electorate was protected from graffiti vandalism. Graffiti is disgusting and disgraceful. It looks ugly and it often contains horrible, unparliamentary words that I would never utter in this place. Graffiti makes people feel unsafe, destroys property values and costs government, statutory bodies, small businesses—which employ 80 per cent of Australians—and individuals countless, often thousands, of dollars. They must clean up the mess made by irresponsible individuals.

For this reason the issue is often raised when I stroll through my electorate, visit my local shopping centres and attend police accountability community team meetings—which I am sure that all members attend regularly. There are three police accountability community teams in my electorate. The Ashfield police accountability community team meets regularly, the Burwood police accountability community team meets at the police station on Belmore Street and I also have the great privilege of attending meetings of the Strathfield

police accountability community team at Auburn together with my esteemed colleague the Minister. She is a great Minister who is working hard to resolve these issues. We have discussed the problem of graffiti in our communities at those police accountability community team meetings. It is appropriate that we discuss in the Chamber today the personal issues that affect our electorates. I will make sure that this bill is distributed to our police accountability community team meetings, to the local commanders present at those meetings and to the local councils in the areas that we cover.

Local businesses often complain that graffiti is denigrating the appearance of the streets and shops in places like Liverpool Road, Ashfield; Burwood Road, Burwood; The Boulevard, Strathfield; The Crescent, Homebush and Homebush West; and Liverpool Road, which cuts through the south Strathfield area of my electorate. Not only does it look disgraceful and disgusting but also it can give the appearance that the area is unkempt or not cared about and that can sometimes encourage other sorts of undesirable behaviour, such as people dumping rubbish. Poor lighting, etcetera, can give the general ambience that the area is not being looked after. We do not want graffiti in our area. We have beautiful buildings, esplanades and trees, and graffiti is a terrible blight on the community. Local police have expressed frustration that they have to catch a graffiti vandal in the act before they can do anything about it.

In preparing for this bill by the hardworking Iemma Government, we have listened to our local police, we have listened to our crime prevention officers, and today we are doing something about it tangibly in this Chamber. We are all part of it and we will vote on it to make sure that it receives endorsement. That is why, to prevent graffiti offences, this Government has undertaken a number of important initiatives to keep spray paint cans out of the hands of vandals. In doing so the Government has targeted juvenile offenders because, sadly, the evidence shows that people under the age of 18 years commit most graffiti offences.

In 2006, of the 2,684 persons of interests recorded in reported graffiti incidence that were known to police by age and gender, surprisingly almost 72 percent—in fact 71.9 per cent—were under the age of 18 years. That is why we have passed tough legislation to restrict the sale of spray cans to young persons under the age of 18 years. That is why the Government is imposing strict penalties for graffiti offences, with fines up to $2,200 and a six-month jail term, and including community service work to have the offenders put something back into the community. To stop people from stealing spray paint cans, last year we passed new laws that require retailers to keep their stocks in locked display cabinets. I remember reading that bill. That came about because of broad community consultation.

Mr Michael Richardson: Whose idea was it?

Ms VIRGINIA JUDGE: Everyone had his or her part to play in saying that this was an issue that needed to be addressed.

Mr Michael Richardson: Rubbish.

Ms VIRGINIA JUDGE: We did not sit on our hands. We did not forget about that and stick our heads in the sand. We did something about it.

Mr Michael Richardson: Sat on your thumbs.

Ms VIRGINIA JUDGE: Some people on the other side of the House think this is a joke. The people sitting on this side of the House do not think it is funny. We do not think it is a joke. We care about our communities and we care about the appearance of our local communities. We are immersed in our communities. We are part of our communities.

The SPEAKER: Order! The member for Castle Hill will have an opportunity to speak when he is given the call.

Ms VIRGINIA JUDGE: These initiatives are having a positive effect on reducing graffiti vandalism in my electorate of Strathfield. I have evidence to lay on the table in this Chamber today. According to figures from the Bureau of Crime Statistics and Research, the reported incidents of graffiti vandalism have reduced in the local government areas of Strathfield and Burwood. In 2005, there were 41 reported incidents of graffiti in the local government area of Strathfield. In 2006, it dropped—I hope the people on the other side of the House will listen to this—by more than half to just 19 incidents. That is a fantastic result. Similarly in 2005 in the Burwood local government area, there were 53 reported incidents of graffiti and in 2006 this fell by around a

third to 36 reported incidents. We want it to go to zero. I am sure everyone in this Chamber would concur with me when I say that. We do not want any graffiti in our area.

Even though these figures are encouraging, we still have a lot more to do in working together with our local police, our community, our chambers of commerce and our local councils. The Premier went to the election earlier this year promising to introduce new powers for police to confiscate a spray paint can from a juvenile if he or she does not have a lawful excuse for having it. This bill gives effect to that promise. It demonstrates that the Government is keeping its commitment to stop the scourge of graffiti vandalism. Police can currently only confiscate a spray paint can if it has been used in relation to a specific offence. This bill will go a step further and help prevent graffiti vandalism from occurring in the first place by giving police the power to take away a young vandal's tool of trade before an offence has been committed. This power will be subject to whether the young person can establish that they have the spray paint can for a lawful purpose. Lawful excuse might include situations such as the young person having the spray paint can to do a school project, and that is common sense, or if they are an apprentice tradesperson—we certainly need more tradespeople as we have a massive skills shortage at the moment in certain areas.

I am pleased that this bill will leave it up to police to determine whether the young person has a legitimate and lawful excuse to hold a spray paint can. The Government has great faith in the hardworking police officers working daily on the ground and who have the experience at the coalface to determine whether the young person has lawful possession. I note also that the bill enables a person who has had a spray paint can confiscated from them to apply for its return if, at some point, they can produce evidence that they were over the age of 18 years or they had it for a legitimate purpose that only later can be proved.

Graffiti vandalism is a major issue for most of us. It threatens the pleasantness of communities like Burwood, Strathfield, Croydon, Croydon Park, Enfield, Summer Hill, Ashfield, Flemington, Homebush, and Homebush West—all suburbs in my electorate. It costs our hardworking local business owners many wasted dollars in cleaning it up and it costs councils millions of dollars. The member for Kogarah mentioned it costs local governments on average around $65,000 per year to do that work. That is money local governments could put into fixing up potholes, cleaning gutters, fixing footpaths, trimming street vegetation, putting more books into libraries and providing all those valuable services. We do not want their money wasted on having to clean up graffiti. When I was mayor we used to have a quick response. Our aim was within 24 hours to remove it and try to find the perpetrators. We also did a lot in terms of following the safer by design principle when building a new structure, that is, to ensure the structure did not have a huge blank open wall that would encourage graffiti.

I mention that Ashfield Council, one of my local councils, has done a lot of work in this area, although there is more work to do. They have done fantastic work in using blank walls with a design, which I notice have not been touched. They have some beautiful buildings. There is an old building on a corner that now has a beautiful design, and the building opposite as well. Often when I drive along there I look at the beautiful artistic endeavours. That is not graffiti, of course; that is art by design. When local governments are looking at building approvals, they should ensure they do not approve buildings that have huge blank open walls. They can encourage the use of some creativity, for example, for open wall areas to be surrounded with deep root planting or plant shrubs that are set back a bit. People are not going to climb through bushes when they want to get up to mischief, which hopefully they will not do in my electorate, as they will be deterred from it.

That is an example of how we can all work together in collaboration to ensure that the areas we represent look beautiful, as well as being beautiful because of the great people that live there. By giving police who are working on the ground the power to confiscate spray paint cans from young vandals, it will help prevent graffiti from occurring and therefore make our electorates an even greater place to live and work. I commend the bill to the House.

Mr MICHAEL RICHARDSON (Castle Hill) [10.30 a.m.]: I have been listening with some interest to the member for Strathfield. I sometimes think that she inhabits a parallel universe where nobody else exists apart from her and her Labor colleagues. She said, for example, "We did not sit on our hands." As the member for Davidson says, they sat on their backsides for more than 10 years doing absolutely nothing. Let me tell you what not sitting on their hands meant. When this Government was first elected in 1995, one of the first things it did was abolish the graffiti task force. It said that graffiti was not really a problem and then it wondered why there was such an enormous proliferation of graffiti, totalling tens of millions of dollars a year throughout our community, and why there was so much community anger about graffiti.

As I said, they were not sitting on their hands, they were sitting on their backsides and, while they were doing that, they must have put paper bags over their heads because they were not looking at the problem. I note

that Minister Perry, the Minister at the table, said that the Iemma Government has a long record of implementing strong and effective anti-graffiti measures. In 2006 she cited this as being a step in the right direction: One of the great achievements of this Government was the establishment of the Anti-graffiti Action Team. It re-established what it abolished in 1995, 11 years later and hundreds of millions of dollars worth of damage later.

I have had an interest in graffiti since 1993 when I visited the infants department of Castle Hill Public School and saw filthy language spray-painted on walls for the edification of five-year-old children. I decided at that stage that I would do something about it. I went to the then Premier John Fahey and he agreed that we would set up an interdepartmental committee, which acted very promptly. A graffiti bill was introduced in late 1994, which, amongst other things, introduced the initiative of allowing magistrates to order graffitists to clean off their mess. Once again Minister Perry has claimed this as being part of the Government's success story in dealing with graffiti. It is something that we introduced in 1994. Since then, or certainly between 1994 and 1999, again this Government has sat on its backside and done nothing to order young offenders to clean off their mess or to clean off someone else's mess. It must be understood that one of the reasons graffitists do what they do is to gain kudos in the eyes of their peers. There is no kudos whatsoever in getting out there with a scrubbing brush or other tools and removing graffiti with your peers looking on, but it took this Government a significant length of time to come to that realisation.

The Government's piecemeal approach to graffiti is indicative of its lack of commitment to dealing with the issue. Little bits of legislation have been introduced spasmodically over the 12 long years of this Labor Government when a comprehensive approach could have dealt with the problem up-front. The Summary Offences Amendment (Display of Spray Paint Cans) Act introduced in 2006 with support from the Liberal Party was almost identical to a bill that I introduced into this Parliament in 1996. So 10 years later the Government decided: this is a great idea. How many hundreds of millions of dollars worth of damage was done during that time? How many people were driven to distraction by the sight of graffiti on the walls of their businesses, homes and fences?

I remember one chap from the Central Coast who, when I was speaking on a radio show about this issue 10 or more years ago, said he had just put up a new Colorbond fence and within 24 hours it had been spray-painted all over. He was absolutely beside himself with anger at the nonsense that was being spouted by the then Minister for Fair Trading Faye Lo Po'. He described himself as being a Labor voter, but one would hope that he did not vote Labor next time around. The Government has now proposed that police should be allowed to confiscate spray paint cans from minors if those minors cannot prove that they have a reasonable excuse for having spray paint cans in their possession. One has to ask why this was not included in previous legislation, why the approach to dealing with the problem is piecemeal? New part 2A section 10C in schedule 2 to the bill provides:

> (1) If a seized spray paint can is not to be disposed of immediately, the police officer concerned must inform the person from whom the spray paint can is seized:
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> (a) that the spray paint can will be taken to a specified police station and kept there for at least 7 days, and
> (b) that a claim for return of the spray paint can may be made at that police station.

The member for Epping asked why those spray paint cans, if they were taken from people who could not give a reasonable excuse for having those cans, would not be destroyed in any case. The legislation seems to have more provisions for giving the cans back than for confiscating them. In fact something like five-sixths of the bill relates to handing the cans back and only one-sixth deals with seizing the spray paint cans. It is reasonable for the police to assume that a 15-year-old who has a backpack with 15 or 20 spray paint cans in it in an area where there is a significant amount of graffiti is not there because he is an apprentice spray painter or because he is doing a school project. Most of the spray paint cans are stolen, that is why I wanted to introduce the lock-up legislation in 1996 and why the Government was finally dragged, kicking and screaming, to agree to the proposition last year.

I can remember the industry introducing what it described as a voluntary code. It was said that everything I wanted to achieve through the lock-up legislation could be achieved through the voluntary code. When the Government agreed to this proposition I took it upon myself to go out to Western Sydney to look at hardware stores, Big W and other places that sold spray paint cans to see what was going on. It was an absolute disgrace. I think only one establishment I visited kept the cans behind an attended counter, which was the alternative proposition to lock-up adopted by the Government. However, everywhere else it was just open slather.

I remember one store had video cameras pointing down every aisle apart from the one in which the spray paint cans were located. I remember in particular that I went to the Big W store at Blacktown, which had a very good policy of not selling spray paint cans to anyone under 18 years of age. I went to the spray paint section where I saw a group of kids aged about 15 years, which meant they were not able to buy the cans and take them out of the store. They were holding up cans and I remember one saying, "This is a big colour—you want a big colour if you want to thrash." I interpreted "thrashing" to mean to make the greatest possible mess in the shortest possible time.

They could only have been graffitists because they were too young to buy the cans. Yet the Government has been in a state of denial about the problem. It has denied that most of the cans used by graffitists—about 90 per cent, according to the anti-graffiti task force before it was abolished—were stolen. The Government denied that fact. As a consequence, tens of millions of dollars worth of damage has been done throughout the State, causing people to become incensed and enraged. Once again, the Government has seen a flaw and believes it can fix that flaw by bringing in a comparatively minor piece of legislation. Twelve years ago it could have taken a holistic approach and introduced all the legislation that was needed to deal with the problem, with the full support of the Liberal Party and The Nationals. We do not regard graffiti as a minor problem. We regard it as a significant problem in our communities.

I was delighted to hear the member for Strathfield say that the incidence of graffiti in her electorate had reduced since the introduction of the lock-up legislation. I am not surprised about that. I brought that proposition before the House back in 1996. I am pleased that her community is more graffiti proof as a result of those changes. On the front page of this morning's *Daily Telegraph* we read that the Government wants to let people off who break into and steal from cars with a slap on the wrist. It wants to impose a fine of $250 for such an offence. When I try to compare the Government's position to the attitude of the member for Strathfield on graffiti I cannot get it right in my head. I challenge the member to stand up in the Labor Caucus and point out the extraordinary anomaly that exists in the level of fines imposed for a range of offences under this Government. For example, I recently had cause to make representations to Parramatta City Council on behalf of a constituent who received a $179 parking fine for overhanging a no stopping zone. There were problems with the signage in that area.

It seems to me that a fine of $179 for that offence is out of proportion when compared with a fine of only $250 for smashing a window, breaking into and stealing from a vehicle. In relation to graffiti, I have always held that it is not the level of the fines that is important: If the courts do not uphold the law, then the penalty will not deter graffitists anyway. I have always held that removing the tools of trade is the way to go. The Government finally adopted that proposal 10 years after I first suggested it. Now it is removing the tools of trade from potential graffitists. It would be valuable for the Government to reconsider the provision that relates to the return of spray cans. I ask the Minister for Juvenile Justice to address that issue, particularly as to how police would interpret that provision of the law. The bill provides:

> A seized spray paint can may be disposed of immediately if:
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> (a) part of the contents of the can have been used, or
>
> (b) it is otherwise of negligible value.

Sometimes it may be difficult to determine whether the contents of the can have been used. The Government should address that issue, otherwise this legislation may be far less effective than the Government considers it will be.

Mr FRANK TERENZINI (Maitland) [10.44 a.m.]: I support the Summary Offences Amendment (Spray Paint Cans) Bill 2007. I note the contributions to debate on this bill by members of this House. While it is difficult to quantify the total cost of graffiti vandalism, the Government's Anti-graffiti Action Team recently undertook a survey of various government agencies, public utilities and local councils to find out how much they spent cleaning up graffiti. The survey found that in 2005 government agencies such as RailCorp and utilities such as Telstra spent between $300,000 and $15 million on removing graffiti and repairing damage caused by vandals. That is one of the costs. Local government also expends enormous amounts of money cleaning up the effects of this crime. It is a crime that is easy to commit and very difficult to detect. As we all know, the effects of graffiti are graphic, literally. We have all driven past unsightly graffiti on billboards, trains and buildings. We have all seen pictures of graffiti at locations all around the world. We often see ugly scenes of graffiti depicted in American movies. As I said, the crime is easy to commit but difficult to control.

The Government already has a comprehensive strategy for fighting and preventing graffiti vandalism incorporating a range of different approaches. Last year we established the Anti-graffiti Action Team, which

brought together representatives of major government agencies, public utilities and industry representatives to lead the development and implementation of anti-graffiti policies. Also last year the Government passed tough new legislation to require retailers of spray paint cans to keep their stocks in locked display cabinets. We have also restricted the sale of spray cans to persons over 18 and imposed tough penalties for people who sell cans to minors. Also in place is a range of laws to punish graffiti offenders. Under these provisions, vandals can face serious penalties, including fines, community service work and up to five years imprisonment.

The Department of Juvenile Justice runs the graffiti removal program, which helps young offenders face up to the consequences of their actions as well as the harm they cause to the community. Under this innovative program young offenders are made to clean up graffiti in their local area. Since 1999 the use of these orders has resulted in 60,000 hours of graffiti removal work completed by young offenders. The Government has also recently launched an anti-graffiti website, which offers practical help to individuals, businesses and the community to remove graffiti and prevent recurrence through surveillance and building design. In my electorate of Maitland these initiatives have yielded results.

I note that Milton Morris, a former member for Maitland, was present in the parliamentary gallery just moments ago. Whilst he is not from my side of politics, I recognise that he continues to perform valuable community work in Maitland. I know he will be interested in this bill. I do not know about the incidence of graffiti when he was a member of Parliament, but it has increased markedly over the decades. The Government's initiatives have proved a success of sorts in my electorate. According to figures from the Bureau of Crime Statistics and Research, in recent years the number of recorded instances of graffiti vandalism in the local government area of Maitland has stabilised. In 2004 we had 46 reported incidents of graffiti, and in 2005 we had 53. Although it is a rise, it has stabilised in comparison with recent years.

It is highly unlikely that a person under 18 years of age will be in possession of a spray can for legitimate purposes. For example, a person under the age of 18 is less likely than an older person to be a professional painter or panel beater. As to the confiscation of spray paint cans, I note the bill amends the summary offences regulation so that a person can apply to have a confiscated spray can returned in certain circumstances. For example, at the time of confiscation the person may not have had proof that he or she was 18 years of age. If the person goes to the police station with proof of age, he or she may then apply to have the confiscated spray paint can returned. Similarly, the person may have further evidence that possession of the spray paint can was for a legitimate purpose. For example, the person may be able to establish employment as an apprentice painter or apprentice panel beater. In relation to the seizure of spray paint cans, new part 2A section 10D (3) of schedule 2 to the bill states:

> A seized spray paint can kept at a police station may be disposed of if a claim for its return under clause 10E is not made within 7 days after the spray paint can was seized.

The procedure is simple. Among all the other initiatives the Government has put in place to prevent this scourge in society, this graphic crime, a crime that is easy to commit and difficult to detect, this bill enacts legislation that provides that spray paint cans may be confiscated by police from persons under the age of 18 or persons who appear to the police to be under the age of 18. Examples of a lawful excuse may be using a spray can for a job, for a school project, or at a legal graffiti site.

These measures will put in place a procedure whereby, if the police assess the matter correctly, the person who has possession of the spray paint can can go on their way to do what they intended to do. If the police officer is not satisfied that those circumstances exist then the spray can will be confiscated. The person can then apply directly to the police station within seven days or to a local court to retrieve the spray can. It is unlikely that someone will apply to a local court to recover one spray can. But when a person is caught with a number of spray cans for a legitimate purpose that provision will be available: that mechanism is in place. Surely all members would agree that the proper way to proceed is for a police officer to err on the side of caution and confiscate the spray can.

If the person aged under 18 has an improper motive the effects will be horrendous. It may mean that the person would have committed an offence of illegal graffiti vandalism. Once that happens, the cost of organising the local council to have the graffiti removed is enormous. Graffiti crime is rife in all local government areas, but it is much worse is some areas than others. I am happy to say that graffiti is not a huge problem in Maitland, compared with other local government areas. Maitland is a growing area: it is growing at a rate of 2.3 per cent. We are introducing 1,500 people a year to the local government area, and with that is the commensurate increase in probability or potential for crimes of this nature. But it is not a huge problem, and I attribute that mostly to the ongoing efforts of this general scheme to reduce this kind of crime.

The bill allows for a distinction to be made between legal and illegal graffiti. The new police powers are drafted in such a way as to give the ultimate discretion to police officers on the beat. That is the proper way to go. Will this prevent all graffiti? Not all graffiti involves the use of spray paint cans. It can also include tagging and drawing by textas or markers, or etching on glass windows. While it is difficult to assess the exact amount of graffiti that involves the use of spray paint cans, research suggests that spray paint makes up a significant share of the vandalism. In 2006 the crime prevention division of the Attorney General's Department undertook a survey in partnership with the New South Wales Anti-Graffiti Action Team. Seven State government agencies and 116 local councils participated. One survey question related to materials used in graffiti vandalism, and spray paint and markers were reported as the materials most commonly used in this type of crime.

The bill provides for a two-stage review process. Firstly, the person has the option of making an application at the police station for the return of the confiscated item. As I said, the person must prove that they are over the age of 18 or that they had the spray paint can for a lawful purpose. So the procedure is in place. This measure should be taken into account in addition to a whole range of measures. There is no one silver bullet to solve this problem. It is a problem faced by all of us in our electorates and in all local government areas. This legislation should be seen as another logical step forward to make it even harder for people under the age of 18 to possess spray cans, with the procedure inbuilt so that people under the age of 18 who have a spray paint can for a legitimate purpose or people over the age of 18 can retrieve the items. It is another step in the process. It sends a clear message to people under the age of 18 years that it is illegal to buy or possess spray cans, and that the police will be onto them if they have the cans for an illegal purpose. Given all that, I commend the bill to the House.

Mr ROB STOKES (Pittwater) [10.55 a.m.]: I think we would all agree that graffiti is a scourge across all of New South Wales, and I can report that it is particularly so for my community of Pittwater. It is literally true to say that people in my community are reluctant to leave their homes at night, particularly during school holiday periods. Halloween, which is coming up, is another time when people are alarmed because of malicious damage and of the danger that people carrying out graffiti constitute to people in my community. I point out that that does not apply only to kids. I note that the bill applies only to minors. Police have told me that many people who they suspect of being involved in graffiti in my community are not kids but are people in their 20s and even older, many of whom are intoxicated.

To put some dollar figures on the problem, I can report that Pittwater Council spends more than $60,000 a year on graffiti removal from public property. Pittwater Council has a budget of just over $50 million a year, so graffiti removal is a significant cost for such a small council. That is not to mention the spending by private citizens, including many hardworking shopkeepers who find it hard enough to make a buck from their businesses, let alone the additional expenses they face in terms of graffiti removal. I can report that 83 incidents of graffiti were recorded in Pittwater in 2005. This statistic is sad because it clearly understates the problem. It clearly demonstrates that people are not bothering to report graffiti because they do not see the point. They simply get on with the job of removing the graffiti rather than report it. I can safely say that more than 83 separate instances of graffiti have occurred in my electorate.

I was delighted to hear the member for Maitland report that the Bureau of Crime Statistics and Research figures for Maitland show that malicious damage had stabilised in his electorate. Sadly, I cannot say the same for my electorate of Pittwater. For the reporting period of January 2005 to December 2006 malicious damage in Pittwater increased by more than 80 per cent, which was the highest recorded increase in New South Wales. So this is a real problem. The people I represent are angry and frustrated, and they feel powerless in the face of this problem. Graffiti does more damage than merely physical damage. Graffiti undermines the sense of character and it is corrosive of the sense of place are so important in achieving a living community. Graffiti can gut the concept, the ideal, of community ownership of public spaces. Why should people contribute or care when so much hard work over so long can be undone so quickly, even literally overnight?

The object of the bill is to amend the Summary Offences Act to authorise police officers to confiscate spray cans from minors in a public place unless the officer is satisfied that the minor has possession of the spray paint can for a legitimate purpose. That might include use on a wall authorised for the use of aerosol cans, and there are a few examples in Pittwater of places where people can legally engage in spray paint art. The young person may be using the spray paint for that purpose, which would be a legitimate purpose. It empowers the police to act to take away a spray paint can from a young person in a public place who does not have a reasonable excuse as to why they have it. Empowering police to take instantaneous action is obviously an important and long overdue response to the problem of spray paint cans, but let us get real.

While the bill is a good start it does very little to solve or even address the underlying problem. The bill does absolutely nothing to address other forms of graffiti and mindless vandalism other than graffiti from spray paint. In my community of Pittwater the real problems have moved on to paint not dispensed from a spray can, such as textas. Also people use coins to scratch windows, which can cause huge amounts of damage and is much more difficult and expensive to fix than spray paint. Some people throw eggs. Many young people do not realise the damage eggs can do to the exterior paint of a building or to the duco of a car. Some people smash bus shelters, destroy trees or light fires. Recently in the suburb of Newport, which is in my electorate of Pittwater, several fires have been started in the streets. This is an extremely dangerous activity. The bill does nothing to address that sort of mindless vandalism.

Mrs Barbara Perry: Have you heard of the Crimes Act?

Mr ROB STOKES: I note the Minister mentions the Crimes Act. Absolutely. We urgently need more police in Pittwater to ensure that the provisions of the Crimes Act can be used by more police officers. I strongly encourage the Government to send more police to my community. The other problem is that this bill shows the Government's attitude to be purely reactive. We need to look at ways to identify people at risk of being involved in vandalism and we need to find ways to understand what makes them vulnerable to engaging in such mindless, immature and destructive action. What generates the anger, resentment and sociopathy that lead to vandalism? If we do not deal with the underlying attitudes we can pass all the reactive laws we want to, but it will not make a skerrick of difference.

We need to make a greater investment in things such as sporting facilities. There is an urgent need for an upgraded skate park in my community of Pittwater. However, as the local council spends $60,000 a year on removing graffiti it just does not have the money to invest in that sort of community infrastructure. We need more mentoring programs and more programs to engage and listen to vulnerable groups. The reality is that everyone suffers from vandalism, including the vandals. In one sense vandalism is an act of self-harm because vandals are destroying the very community that sustains them. So, whilst this bill is a small part of a solution to the problem, much more is required. I commend the bill to the House.

Mr JOHN AQUILINA (Riverstone—Leader of the House) [11.02 a.m.]: I strongly support the Summary Offences Amendment (Spray Paint Cans) Bill 2007, which was introduced by the Minister for Juvenile Justice. I compliment the Government on introducing yet another measure on top of the many measures already in place to help control the nuisance of graffiti. Despite the vigilance of the police and community organisations and despite the concern expressed by many communities throughout the State, as elected representatives in this place we would no doubt have pockets in parts of our electorates where the nuisance of graffiti is quite prominent.

On Sunday 20 October I attended the annual general meeting of the Dean Park Neighbourhood Centre. Graffiti and juvenile vandalism in particular were strong points of discussion. Dean Park is an important part of my electorate. It is a somewhat isolated area. It is an area in which many adolescents feel somewhat constrained because of the relative isolation of the place. They turn to graffiti as an outlet. The locals have tried to address this issue by challenging these young people and providing assistance and leadership for them. Nonetheless, it takes up valuable police time and causes many, many tens of thousands of dollars of damage.

Late last year and early this year South Windsor and parts of Bligh Park held community safety meetings and voiced concern about graffiti in the area. Again, these are pockets within my electorate where graffiti has been quite predominant and where action needs to be taken to ensure that it is controlled and contained. I know many people say that young people turn to graffiti because they have no other ways of venting their enthusiasm and energy, but that is not always universally the case. For example, in Bligh Park there are many good sporting fields and organisations that provide many opportunities for young people to get involved in interesting activities, particularly sporting activities. Young people can also join in a number of cultural activities. Nonetheless, there are always individuals who consider that organised activities and sporting groups do not fit the bill. Many such young people tend to be the ones who cause the problems with graffiti down the track.

This bill is a good addition to the many strategies the Government has in place to counter graffiti. The Minister reminded us of those strategies when she introduced this bill. For example, she referred to the establishment in 2006 of the Anti-graffiti Action Team, which drove new measures to reduce graffiti throughout the State; to the increasing the use of community service orders to make offenders repair the damage caused by graffiti vandalism; to identifying graffiti hotspots and stepping up enforcement and surveillance, especially

through closed-circuit television; to assisting councils and government utilities with the development of graffiti management plans targeting high graffiti environments; and to allowing local councils to accredit community groups and volunteers to remove graffiti.

I compliment Blacktown City Council, which has an active agency to combat graffiti. It works hard with the local community. Hawkesbury City Council is undertaking strong activity to counter graffiti and is very keen to cooperate with local community organisations to ensure this happens. In recent years the Government has substantially increased the penalties for graffiti offences under the Summary Offences Act, and these are having a substantial impact on the reduction of graffiti. It is fair to say that although graffiti is still a substantial problem in various isolated communities throughout the State it is nowhere near as prevalent as it was 10 years ago. If we were to compare the level of graffiti 10 years ago with the situation today we would see that there has been a sizable downturn in the amount of graffiti. However, because graffiti is quite prevalent still in some areas it is important for the Government, local councils, community groups and police to be ever vigilant in countering problems with graffiti.

Whilst they support the bill, some members opposite have described it as being of relatively minor value in that it aims to give powers to the police to confiscate spray paint cans from people under the age of 18 if they can show no real reason as to why they should have those spray paint cans in their possession. This is an important power to give to the police. It adds to the arsenal of powers which they already have and which were identified by the Minister in introducing this bill, some of which I have recounted today. I support the Minister and the Government in the introduction of this bill. Perhaps on its own it is not monumental, but in addition to the many measures already in place to counter graffiti I have no doubt that it will lead to a dramatic reduction in graffiti generally throughout the community.

At the end of the day it must come down not so much to issues of law enforcement or penalties but understanding why young people feel the urge to destroy public and private property in this manner. We must engage with those young people to direct their energies and enthusiasm in positive directions. If that does not involve joining in team sports and the like it might involve providing them with other artistic and cultural outlets. In almost all cases young people who engage in this kind of vandalism—and it is vandalism—do so because of frustration or some degree of alienation. It is important to look for ways to bring those people into the fold. I support the bill. It is very good, complementing as it does many other instruments that this Government has put in place to counter vandalism generally and graffiti specifically.

Mr JONATHAN O'DEA (Davidson) [11.10 a.m.]: The Summary Offences Amendment (Spray Paint Cans) Bill 2007 increases police powers to help prevent graffiti vandalism. The Iemma Government promised during the election campaign to fight the problem of graffiti across the community. I note that this bill addresses a small but important issue in the ongoing war on graffiti. I know that police officers servicing my electorate of Davidson have been keenly interested in this issue. In my electorate and across the North Shore there is a need for a tougher stance in the fight against graffiti. Increased New South Wales Government assistance to councils, including the Ku-ring-gai and Warringah councils, to remove graffiti within the recommended timeframe of 24 to 48 hours would be a major step forward.

Graffiti is a worldwide menace that annoys us in an ordered society, although we do not always understand why graffiti causes us to feel so uncomfortable. I will outline some thoughts on why graffiti gets under our skin, examine the types of graffiti vandals, and offer some further insights on how to tackle this plague. I acknowledge the ongoing efforts of this House to combat graffiti. The increase in fines and other penalties, including community service orders to clean up graffiti, have accompanied a recent requirement for retailers to keep stocks of spray paint cans under lock and key. As we have heard, this initiative was implemented last year after the Opposition had pushed for it for years.

Why does graffiti annoy us? Why does it cause emotional reactions in us when it does not directly threaten our physical safety or disrupt our daily routine? Graffiti demonstrates a lack of respect for private and public property. It disfigures the homes and fences that we have worked hard to purchase and in which we take pride. Some graffiti carries messages or depictions of a political, sexual or racist nature, and that can be a direct affront to our established, ordered society. In our democratic way of life freedom of expression is important, but it should not involve the destruction of property or unnecessary affront.

Research has identified three main types of persons involved in graffiti. First, 80 per cent of graffitists fall into the category of taggers or vandals. Such graffiti is generally carried out by people aged between 14 and 24. They often work in crews of three to five people and they are usually male. They also like to sign their work

to gain recognition. Most of this age group cease their activities after the age of 18, when they are liable to incur a criminal record when apprehended and brought before the courts. Political graffitists comprise about 5 per cent of graffiti artists. They comment on society, but in an unacceptable manner with tags such as "Rudd is a dud." They generally do not grow out of their habit. Mural graffitists are more numerous, comprising 15 per cent of graffitists. They are generally older, sign their graffiti and usually work on large, complex murals.

Graffitists come from all socioeconomic groups and from both public and private school backgrounds. They are often highly mobile in cars and can operate at any hour of the day, with night the preferred time of attack. Normally graffiti occurs in areas of high visibility. It does not respect private property or public property, which belongs to all citizens. Graffitists have little sense of its upsetting effect on society or the huge cost of removal. Graffiti is a worldwide problem and although we can learn from some overseas experiences we need to continue to develop our own solutions that take into account the characteristics and culture of Australian society. Making it easier to report graffiti has worked well in London. A New South Wales Government graffiti reporting website, when properly operational, would help to reduce graffiti through prompt reporting. This has been talked about, but although it is important I am not aware of the Government's delivering anything in this area.

Experience has shown that graffiti needs to be removed very quickly, preferably within 24 hours, to deprive the graffitists of the pleasure of knowing that the public has seen their work. A further problem exists when graffiti is visible on private property and access to the property must be obtained. That causes delays and there is also the question of who pays for the removal. I acknowledge the efforts of the Ku-ring-gai Council, and I know other councils on the North Shore are funding initiatives. There is no single solution to the graffiti problem. Those involved often have little money or assets to pay fines and jail terms may take them out of school or TAFE colleges that are training them to be more responsible in the long term. Parents often have no knowledge that their children are spreading graffiti. One tactic that has proved a major deterrent is confronting parents with their children's actions and making them get quotes and pay for graffiti removal. Under these circumstances the immediate and ongoing problem of the offender is often solved within the home.

An initiative that has been tried in some cities is to provide legal graffiti walls. However, that can attract new graffitists to an area. Those who miss out on the legal wall space might then start painting on surrounding buildings. I suggest that the New South Wales Government consider the following initiatives in addition to those already mentioned. In areas that are the subject of a great deal of graffiti, art competitions could be held in suburban centres. Freestanding boards could be provided and artists could paint their mural in front of the public in a limited time. A prize could be awarded and the murals displayed for a number of weeks. As graffitists often lack parental control, their family could be encouraged to attend the competition to help the artist to feel a sense of belonging, self-worth and recognition.

The Government also needs to provide more finance for the lighting of walls and closed-circuit television to deter graffiti and to encourage greater relevant education in schools to encourage cultural change. Schoolchildren in Singapore see those who engage in graffiti as lepers within the community. We need to encourage that sort of culture. Planting of dense shrubbery is another long-term solution for denying access to graffiti-prone structures. In recent months I have asked numerous written questions of this Government regarding graffiti, demonstrating my strong interest in this area. I support this bill as one small measure in the war on graffiti, but I recommend more initiatives and funding from the State Government to help to remove graffiti in its own stated timeframe of 24 to 48 hours to break the graffiti cycle.

Ms GLADYS BEREJIKLIAN (Willoughby) [11.19 a.m.]: I wish to make a contribution to debate on the Summary Offences Amendment (Spray Paint Cans) Bill 2007 because malicious damage and the incidence of graffiti are increasing in the Willoughby electorate. It is an enormous and ongoing problem, as evidenced by the number of recent police accountability community team [PACT] meetings on the issue. I commend the Chatswood local area command for the work it is doing to try to prevent graffiti. Regrettably, due to the number of construction sites throughout the electorate and a number of other factors, the incidence of graffiti is increasing. I also commend the work of the community safety committee of the Willoughby electorate. Committee members have again raised this issue on behalf of their specific local areas, and police are working with the community to reduce the incidence of malicious damage.

When I conduct my street stalls in various locations throughout the electorate an increasing number of citizens highlight the increased incidence of graffiti along their fences and along various walls and structures related to their houses. Graffiti is an increasing problem on both private and public properties. Similarly, a small

business not far from my electorate office on Willoughby Road asked me to inspect the graffiti it was experiencing. Those people were quick to remove the graffiti, but it kept coming back. I met with them and raised their issue at various levels. Regrettably, they were forced to sell their business. Again, this is an example of the increasing incidence of graffiti and the impact it is having on people's livelihoods and quality of life.

This bill seeks to amend the Summary Offences Act to authorise a police officer to confiscate a spray can from a person in a public place who is under 18 years of age unless the officer is satisfied that the person has possession of the spray paint can for a purpose that is not unlawful. The bill also amends the regulations under the Act to provide for police procedures in connection with the seizure of spray paint cans and the procedures for the making of applications for the return of seized spray paint cans. It also states that confiscated spray paint cans are forfeited to the Crown. As indicated by previous speakers on this side of the House, the Opposition will not oppose this bill. We support the principle contained in this bill. However, I am concerned about the piecemeal approach the Government has taken to graffiti. Graffiti deserves a whole-of-government approach. While we support that this provision, which will deal with one small aspect of the large problem of graffiti, it is regrettable again that the Government's approach in the past decade in relation to the scourge of graffiti has been piecemeal rather than wholistic.

My colleague the member for Castle Hill presented his views on lock-up legislation in 1996. It took the Government more than a decade to enshrine those principles in legislation. I also commend the work of the member for Hornsby who, I understand, will also make a contribution on this bill. In 2003 she introduced a private member's bill, the Local Government Amendment (Graffiti) Bill, in this Chamber. It was sensible legislation. Had that bill passed it would have enabled councils to enter into agreements with public authorities for graffiti removal work on lands that are not private lands within the meaning of the Local Government Act. It would have allowed councils to recover from a public authority, the owner-occupier of the property from which the graffiti is removed, the cost of removing graffiti from a public place without the consent of the public authority. That would have been a critical thing. We all know that graffiti vandals love to view their work. The bill the member for Hornsby introduced would have ensured councils have the right to act quickly to remove that graffiti from public land—whether it be State, Federal or local government land—and recoup the costs at a later date. Removing graffiti as soon as possible is an important measure in the fight against graffiti. It still defies logic as to why the State Government could not have supported that bill.

Coalition members have shown a bipartisan approach to this issue. We support this bill, although it is piecemeal, because we believe in removing the incidence of graffiti on every occasion. We believe in being tough against people who commit these crimes. However, when the Opposition comes up with similar suggestions that prove to be worthwhile the Government refuses to respond to them. For example, the member for Castle Hill made an initial suggestion in this regard more than 10 years ago and the member for Hornsby introduced a bill on this issue almost four years ago. I commend all members on this side who have for a long time, notwithstanding the Government's reticence to implement necessary measures, remained vigilant in trying to remove graffiti. All our communities are impacted by it. It impacts on business, it impacts on quality of life and it impacts on crime. All crime statisticians and people who look at social activities can tell you that graffiti is often, sadly, the first step people take before assuming more serious crimes. So the graffiti vandal—if not stopped, if not deterred—will often move on to more serious aspects of crime. I am sure the Minister for Juvenile Justice, who is at the table, can attest to that.

In my capacity of shadow Minister for Transport, I refer to the scourge graffiti causes on public transport. Many people are deterred from catching trains because of the incidence of graffiti. Tens of thousands of major hits on trains occur every year. While the Government has done a lot of talking about this issue, the high incidence of graffiti on trains is still serious and quite disgusting. A staff member of an Opposition member came to work with graffiti stains all over her clothing because she caught a train and was unaware that the seat had not been cleaned properly. Many people report such stories on a daily basis. It is a deterrent to catching public transport. The Government needs to do more to reduce the incidence of graffiti on public transport.

I refer also to an issue that has been raised with various State government authorities by one of my constituents, Mr Peter Nordone, who lives in Northbridge. He brought to my attention the fact that many graffiti vandals are using aerosol cans, whether hairspray or other cans, to commit graffiti vandalism. He has invented a nozzle that would prevent people from transferring paint into these aerosol cans, which would thereby prevent their use in graffiti. He has raised his concerns with various State Government authorities but, regrettably, has not had a response. I urge all the departments—whether they be Fair Trading or other authorities—who have received representations from me and Mr Nordone to look at this matter seriously. There is an increasing incidence of paint being transferred into aerosols, which can be purchased from any pharmacy or any

supermarket. That is an issue we need to address. I reiterate to my constituents who have raised their concerns regarding graffiti that I will remain vigilant in this place. I will take every opportunity to express their concerns. I will support any measures brought to Parliament to reduce the incidence of graffiti. My preference would be that those measures be brought forward in a whole-of-government approach, not a piecemeal approach, which this Government seems to adopt. I commend the bill to the House.

Mrs JUDY HOPWOOD (Hornsby) [11.27 a.m.]: My contribution to the Summary Offences Amendment (Spray Paint Cans) Bill 2007 will be brief. The bill is for an Act to amend the Summary Offences Act 1988 and the Summary Offences Regulation 2005 to provide for the confiscation of spray paint cans from minors in public places. The object of the bill is to amend the Summary Offences Act 1988 to authorise a police officer to confiscate a spray paint can from a person in a public place who is under 18 years of age unless the officer is satisfied that the person has possession of the spray paint can for a purpose that is not unlawful. The bill also amends the regulations under that Act to provide police procedures in connection with the seizure of spray paint cans and procedures for the making of application for return of seized spray paint cans.

The Opposition will not be opposing this bill because obviously graffiti is a scourge on many of our communities. Anything that can be done to discourage and reduce the amount of graffiti going onto walls and many other places in our environment will be welcome. Textas now appear to be used more often than spray cans. This bill is limited in relation to what can be confiscated. I have had reports in my community that textas are wreaking more damage on walls than spray paint cans. I draw the attention of the Minister for Juvenile Justice to that fact.

I thank the member for Willoughby for referring to my private member's bill, which, frustratingly, was not adopted by the Government. That bill called on local councils to order statutory bodies such as the State Transit Authority and EnergyAustralia to remove graffiti tags and other defacing artworks from their property as soon as possible. The core business of those bodies is not to remove graffiti and, therefore, graffiti remains for a long time on the little green substations that are dotted through the electorate. Calls to the authorities have not elicited an immediate response. Most people would know that graffiti is best removed within 24 to 48 hours, and I urge the Minister to revisit the legislation in the near future.

I congratulate several organisations in my area whose focus is the removal of graffiti and deterrent measures. Generally it is young people who are responsible for graffiti on walls and other fixtures. I congratulate the local police who, under the leadership of Superintendent Craig Rae, are doing a fantastic job. I also acknowledge the role of Hornsby Shire Council in the eradication of graffiti vandalism. At this point I refer to Hornsby mall and encourage the expedition of the installation of closed-circuit television in that mall. I know that Craig Rae and his officers would be greatly assisted if the remaining hurdles to the installation of closed-circuit television in Hornsby mall were overcome.

I would also like to congratulate Mount Colah Neighbourhood Watch which, over the years I have represented the Hornsby electorate, has been extremely concerned about graffiti in the Mount Colah area and has undertaken proactive measures, in partnership local hardware stores, to immediately identify graffiti, particularly on fences along the Pacific Highway through Mount Colah. With the permission of the owners of properties they have painted over that graffiti, some of which has been very derogatory about other members of the community. Their efforts with respect to the detection and removal of graffiti have been outstanding, and those efforts are ongoing.

Further, I congratulate Greg Bepper, President of the Hornsby District Chamber of Commerce, the executive and member businesses. Last week Greg and his team announced a project called Tag-a-Tagger to encourage businesses and community members to take photographs of the graffiti and to email them to the chamber, which will then notify the police and other relevant authorities so that the tag can be identified, information gathered about the tag and the tagger and the graffiti can be removed expeditiously. Indeed, I have notified Greg of a tag on the side of a business. Last night members of the Hornsby Chamber of Commerce and the Berowra subchamber were my guests in Parliament. I invited them here to thank them for the wonderful work they do for business and the wider community in Hornsby and the surrounding suburbs. Greg informed me that he is not only receiving photographs and some information about tags and taggers, but he is also receiving considerable information about who is doing the tagging, where the perpetrators live and other details of unsavoury actions, which he has been passing on to the police.

I congratulated Greg Bepper on this fantastic initiative. He stated that a further level of the project is to be announced next week. The chamber's office is at Willow Park, which has been the subject of ongoing graffiti vandalism by groups of young people. There has been evidence of alcohol consumption, purportedly by

underage young people, and other types of vandalism and break and enters because of Willow Park's isolated location. The park contains a children's playground and an old heritage dwelling which houses community groups and businesses. A nearby guide hall has been a particular target for vandalism and other unsavoury acts.

I congratulate Greg Bepper on this initiative. Graffiti is a major problem. It is ugly, costly and requires vigilance. It makes an area look unkempt and unsafe and if it is not removed within 24 hours, it can create opportunities for people with criminal intentions to perhaps set up illegal brothels. Areas with graffiti can be subject to break and enters or further defacing of the property. Although the Opposition welcomes any Government activity to reduce graffiti, the bill does not go far enough. I ask the Minister to further consider my private member's bill.

Mr WAYNE MERTON (Baulkham Hills) [11.37 a.m.]: I speak to the amendment of the Summary Offences Act 1988 dealing with the confiscation of spray paint cans from minors. The Summary Offences Amendment (Spray Paint Cans) Bill 2007 is another example of the Iemma Government's piecemeal attempt to address important law and order issues. The Government's failure to meet these community concerns is consistent with its drip-feed approach to running New South Wales. The origins of legislation relating to spray cans goes back to 1996, when the member for Castle Hill—then the member for The Hills—introduced legislation which was rejected by the Carr Government. Nine years later, in 2005, he reintroduced the legislation, which was again rejected.

Between 2005 and 2006 this Government, as is often the case, had a road to Damascus experience and decided to introduce legislation that was effectively the same as that introduced by the member for Castle Hill, which had been rejected twice previously by the Government. Graffiti has been treated in a tardy manner by the Carr and Iemma governments. Graffiti vandalism is a major social problem in many communities. Indeed, there is nothing more heartbreaking than to find that one's property has been destroyed by graffiti vandals. It happens day and night throughout New South Wales. No doubt it is happening at this very moment: somewhere in New South Wales a person's hard-earned property is being destroyed by people who have little regard for other people's possessions.

As I said, the bill is simply an example of the Government's drip-feed approach. The Government is not prepared to look at the important issues, such as the use of spray paint cans and the penalties imposed for using spray paint cans in the malicious damage of property. The bill is simply another step along a very slow, painful and long way of addressing this important issue in our community. Unfortunately, the Iemma Government is always trailing behind, with promises about what might happen tomorrow, next month and in the future. It does not take action until it is too late, but in the meantime people have paid the price.

On 3 March 2005, among other dates, I raised the concerns of Mrs Jeannie Muller in relation to the business she and her husband then operated, Anglers World at North Rocks. Early on a Wednesday morning during that month the premises were damaged by graffiti. Mrs Muller explained that the shop had just been repainted at the landlady's expense and that she and her husband were shocked to discover such an attack. She advised that the paint had to cure for a month before an anti-graffiti product could be used. Repainting of the premises was required following the graffiti attack, adding an unnecessary cost for the landlady.

Mrs Muller was not critical of the police action in the matter, but she believed there were not enough police to deal with the crime in the area. That is the story everywhere in the State: there are not enough police to deal with crime. Police are working very hard; they are committed and dedicated. As a great leader once said, "Give me the tools and I'll finish the job." That is what police are crying out for: more police and more police cars. The Government must do something about that, because it is running out of time.

Mr Gerard Martin: We've heard this before, Wayne.

Mr WAYNE MERTON: You have heard it before, but the people will speak and it will be all over. At least they will get a fresh start when a Coalition government is elected. I return to Mrs Muller and her concerns about the business she and her husband then operated at North Rocks. Mrs Muller said that in the North Rocks area in which Anglers World was located, the video shop had been held up two or three times and the chemist, which was two doors along, had been held up twice, the last occasion only two weeks prior to 3 March 2005, when the culprit menaced the chemist with a syringe. So law and order is a big issue in the area.

Mr Paul Gibson: It's not in your electorate.

Mr WAYNE MERTON: Yes, it is. I would have thought that as a local resident the member for Blacktown would know where North Rocks is. Graffiti vandalism is just one of many issues concerning law and order that we believe the Iemma Government is failing to address. The legislation provides, in essence, that if a young person under the age of 18 years is apprehended with a spray paint can the person must satisfy the officer that he or she has possession of the spray paint can for a purpose that is not unlawful. So the onus is placed upon the young person to convince the police officer that he or she has the spray paint can for a lawful purpose. We do not oppose that. Our only complaint is that the bill does not go far enough and it is long overdue. That is the criticism we have of the Government day in and day out.

Mr Gerard Martin: Tell us how far we need to go, and we might support you.

Mr WAYNE MERTON: The Government needs to address the issue. It needs to introduce substantial penalties for people who commit graffiti vandalism offences, which potentially affect every resident in our community. Unless substantial penalties are imposed, and unless these people realise that causing problems for people by damaging their property by graffiti is no longer regarded an exercise in enjoyment, they will continue to do it. The message must be brought home to people that they cannot damage people's property by graffiti. We believe the Government has not gone far enough in that respect and that what it has done has simply taken too long. As I said, in 1996 the member for Castle Hill introduced by way of legislation an offence relating to spray paint cans, but the Government rejected it. In 2005, nine years later, the legislation was reintroduced, but again the Government knocked it back. It was not until 2006 that the Government accepted that spray paint cans were a problem. We support the legislation but it is long overdue. The community wants positive and substantial action to address this law and order problem. While the Government is doing that it should also seriously address some of the other social problems in our community.

Ms PRU GOWARD (Goulburn) [11.46 a.m.]: Together with many of my colleagues I support the Summary Offences Amendment (Spray Paint Cans) Bill 2007. I think we would all agree that graffiti vandalism is recognised as an entry-level crime. It is about a lack of respect for the community in which we live, a desire on the part of the perpetrators for something to look as good as it can look, and their lack of respect for other people's property and, indeed, communal property. It reflects, I suspect, a sense that they do not consider themselves to be part of the community.

Over the years sociologists have often argued that entry-level crimes such as graffiti vandalism are signs of communities that do not work sufficiently well, communities that are disenfranchised and that do not feel that the country in which they live has any commitment to them. However, in a prosperous country like Australia we perhaps need not think in revolutionary terms such as this. Vandalism, and particularly graffiti vandalism, is regarded as a teenage crime. For that reason we need to regard it more as an issue of young people without an appropriate understanding and appreciation of the importance of social respect for public and private property, and without a desire to see their own communities at least looking and appearing to be well ordered and safe places.

Graffiti vandalism is an entry-level crime because, as I said, it is entirely connected to respect. For that reason, in the Southern Highlands we have a vandalism committee, which comprises members of the Police Force, members of the local business community and local community organisations, local councillors, and representatives of the local newspapers and radio stations. It is recognised that graffiti vandalism will not be solved merely by amendments such as these—welcome as they are—and a greater police effort. It is recognised that it is important to, for example, paint over the graffiti as quickly as possible. Research shows that the more rapidly the graffiti is removed, the less thrill the young person gets out of taking his or her mates along to demonstrate his or her achievements, and the more likely it is that the young person will desist. It is recognised that graffiti is a complex problem. It is not just a matter of police powers; it is also a matter of community vigilance and engaging young people in worthwhile activities, and engendering in them a sense of respect for their communities, as the communities reflect their respect for themselves. That connection is very important but often it is not made.

The Southern Highlands vandalism committee has worked very hard to address the issue. Recently we invited the Minister for Police, David Campbell, to attend one of our committee meetings. It was a most unedifying experience: the Minister insulted and berated the committee. He basically made light of the issue and suggested that far more important crimes needed to be managed, without any acknowledgement of graffiti as an entry-level crime that inevitably is connected with more serious crimes and a culture of disrespect. However, that has not discouraged the committee. Councillor Penny George has collected over 200 photographs of examples of graffiti in the local area, and that is sound evidence that the problem will not go away quickly despite the 2006 amendments.

The amendment in the bill is welcome. I note the observations of the member for Baulkham Hills about police numbers. It is important to realise that if legislation is introduced that police are to enforce and police are not provided with sufficient numbers to enforce that legislation, the law then falls into disrepute. Young people will know the law exists because it will be talked about on radio. I can guarantee absolutely that our youth radio will be out there talking about it and it will be talked about widely in the community. When young people are not caught or stopped in the street with the fiddly-bits can in their pocket but are allowed to continue to commit acts of graffiti, their respect for the law will decline. They will say to themselves, "Nobody cares about these laws, that is something that happens in that weird place down in Sydney where they invent laws they have no intention of upholding. The Parliament does not respect its laws, neither does the community If they did they would not introduce laws that they fail to uphold."

If the Government introduces bills such as this, which the Opposition welcomes and I certainly welcome on behalf of the people of Goulburn, where graffiti is a very active issue, my plea is to let us have the resources to ensure that the law can be enforced. That will lead to respect for the law and for the lawmakers in this Parliament. The number of police patrols in Goulburn and Bowral is pathetic. That is one of the many points of discussion by the vandalism committee; it was the main thrust of the discussion with the Minister for Police. We need more police because we realise that the vandalism and graffiti are only the beginning for a young person who is disenfranchised, lost and disturbed, and who can get away with committing these offences.

I am pleased the bill has been introduced and I am sure it will be passed through both Houses without any difficulty. However, if there are not additional police to uphold the provisions of the bill the law will fall into disrepute and respect for the law more generally will also fall into disrepute. Not only young people will thumb their noses at the law. People like the members of my vandalism committee will ask, "What is the point of asking the Minister for support? He sneers at you and tells you that there will be no increase in police numbers. Then the Government introduces another law which on paper looks as though it might address the issue, but we know in practice it can go nowhere near doing so because it will not be policed and supported." It is a bit like what is happening to local government. The more regulations and laws are imposed on the police or, as I suggest, on local government, the more incumbent it is on the State Government to properly resource those institutions.

I have no difficulty in supporting the bill. I do, however, have a great fear as to where it will lead without an increase in police numbers. There has been no indication in my area, for example, where graffiti is the number one policing issue, that there will be additional police numbers. My great fear is that an already dissociated generation, a generation that we are all more concerned about than ever before because of its lack of connection with the rest of us, will be further dissociated from us, and there will be confirmation in the minds of members of that generation that parliaments and old forms of democracy are not legitimate and do not operate effectively. They are naive in their belief—a little like the people of the Republic of China—that one only has to pass a law and everybody immediately obeys it. That is clearly not the case. The law needs to be upheld, and I call on the Government to provide additional police numbers to ensure that is done.

Mr DARYL MAGUIRE (Wagga Wagga) [11.54 a.m.]: The Summary Offences Amendment (Spray Paint Cans) Bill 2007 is yet another attempt by the State Labor Government to come to grips with a crisis, and it has failed. It has failed for the 11 years it has been in power and again it has failed to go far enough to address the community concerns. This morning a number of speakers have spoken about the effects of graffiti in their communities and how appalled they are with these acts of vandalism. I have visited a number of those electorates in my role as Opposition Whip. Within the last 18 months—and I note the electorate of the member for Pittwater as just one example—the explosion of graffiti has been astronomical. Wagga Wagga is no different. When I spoke to my colleague the member for Pittwater, who is working very hard for his community, I commented on that fact. One can drive through any electorate in this State and see the difference in the graffiti in the past 18 months. The member for Macquarie Fields is present in the Chamber. I was a frequent visitor to Macquarie Fields during the election campaign and at the time of the by-election. I have noticed there has been an enormous increase in graffiti there.

A number of months ago I photographed graffiti in the central business district of Wagga Wagga. In less than two hours on foot I took over 200 photographs of graffiti that had materialised in the past 18 months or less. The graffiti has occurred since the introduction of the last piece of legislation to reduce the sale of spray cans. At that time I said to the then Minister that it would not solve the problem and that there were other techniques which could be adopted to stop spray cans being utilised. There is now technology to charge a can at the point of purchase, and if a can of paint is stolen it cannot be used unless it has been charged. Instead of following up on that sort of technology the Government decided to stop the problem by locking up spray paint

cans. Clearly the Government has failed, because spray paint cans do not cause all graffiti. The new weapon of terror on the suburban streets, in schools and on public buildings is the texta colour or marker.

The copious photographs that I took clearly indicate that coloured markers are as prevalent as spray cans, if not more prevalent. I raised that in my presentation. I am more than happy to lay upon the table of the House copies of those photographs for the edification of the Minister. When the Minister views just a small sample of what I propose to lay upon the table she will then, hopefully, understand that this problem involves more than spray cans; other implements are being used. The material I have laid upon the table shows that markers are just as bad as spray cans. In fact, their residue is more difficult to clean off because when the graffiti is removed a stain is left. Markers are more readily accessible than spray paint cans and can be hidden on a person's body. They are light and easily transported, and have a greater range of colours. All sorts of graffiti work can be undertaken with markers.

I have received correspondence in which the Government suggests that magistrates have available to them all the tools in the world to ensure that culprits are fined or made to clean off the graffiti. In fact, when culprits are caught, magistrates do not impose such penalties. I will give an example. A recent newspaper article detailed my concerns about the escalating incidence of graffiti in our community, the local council not cleaning off graffiti quickly enough and individuals whose property had been defaced allowing graffiti to remain. My concerns also relate to service providers and public utilities such as Country Energy, StateRail and the Roads and Traffic Authority. All of Country Energy's transmission boxes across the city are being graffitied by coloured markers. All the public utilities have buildings and structures that have been defaced and the graffiti is not being cleaned off. It is just not happening. Graffiti is building up on street posts, lighting and signal boxes. You name it, they have been graffitied by either spray paint or coloured markers.

The front page of the *Daily Advertiser* on 28 May 2007 says, "Vandalism epidemic". I will lay that document on the table for the Minister's edification. In relation to magistrates, I refer to detailed correspondence sent to me by a resident, Ray O'Rourke, who took it upon himself to take up this issue. Mr O'Rourke, who lives in the central business district of the city, noticed a number of tags. I will also lay his correspondence on the table for the Minister to read. He basically said that graffiti vandals were attacking the city. One night he confronted the vandals and confiscated their spray cans when they absconded. He got a good look at the culprits. A couple of days later he identified where they lived and reported the matter to the police. That was the last he heard of it. The police, to their credit, took the individuals to court where the magistrate promptly gave them a good behaviour bond. The graffiti tags are still on display on the walls—they have not been cleaned off—and the two individuals who painted our town were given a good behaviour bond. I wrote to a number of Ministers about this matter, in particular, the Attorney General and the Minister for Police, and I received this response:

> I understand that the offenders were sentenced to 12 months good behaviour bonds when they appeared before the Wagga Wagga local court on 31 January 2007.

It continues:

> The responsibility for cleaning up graffiti and litter are largely matters for local Government councils to coordinate clean-ups, issue infringements notices to persons found littering and provide graffiti clean-up equipment and supplies.

It goes on:

> The Government is taking steps to tackle the blight of graffiti by restricting the sale of spray cans to under 18s, imposing strict penalties, including removal of graffiti, $2,200 fines and six months jail terms, requiring spray paint to be kept in locked cabinets to restrict access and establishing the Anti-graffiti Action Team to help police, local councils and agencies tackle graffiti crime.

The letter goes on to say that the Government has pledged to further strengthen the anti-graffiti laws. This bill is designed to permit the confiscation of spray paint cans from minors, but not only minors create graffiti. It is important to note that the Government says it will force all public sector bodies to adopt a 48-hour graffiti vandalism removal standard, with immediate removal if graffiti is racist or obscene. I suggest that any responsible council would do so immediately if racist or obscene graffiti tags were around their city or town. I am concerned that the Minister says in the correspondence that the Government will force all public sector bodies to adopt a 48-hour graffiti vandalism removal standard. Does that mean the Government will introduce further legislation to provide an unfunded mandate to ensure that councils clean up graffiti, but with no money attached, as we have seen in other bills introduced into this place? Another serious question that has to be asked of the Government is what it intends to do to assist local councils in this regard.

A suggestion has been made in our city that the council acquire a trailer with graffiti removal equipment to allow volunteers to clean off graffiti. As I have just demonstrated, what should happen—and the

legislation is in place, as the Minister recently said in a long speech about graffiti action—is that magistrates ensure that vandals are made to clean off the graffiti. That is what we want. A good behaviour bond does not help anyone. It does not relieve the cost on council or individuals. Our council pays hundreds of thousands of dollars to remove graffiti and the Government does not provide any incentive. The Government is not serious about tackling the problem. The bill does not go far enough and the Government is not doing anything about putting in place further tools that could be used. When people are caught, magistrates give them a good behaviour bond and let them go. I talked to my local area commander, a terrific bloke who works very hard on behalf of our community. [*Extension of time agreed to.*]

I wrote to the local area commander saying how appalled I was with the increase in graffiti in the area. I wrote to every public organisation with infrastructure in our city, including the city council, Country Energy and StateRail telling them to look at what is happening to their structures and asking them what they are doing about it. I received a couple of responses. The first one was from Police Commander Frank Goodyer. Straightaway he put together a team to help identify the graffiti vandals in an attempt to curb the problem. The local council responded after much prodding. It suggested buying a trailer with equipment to be used by volunteers to remove the graffiti. That is about the only way we will get on top of this problem. Unless magistrates penalise pursuant to the legislation nothing will change because graffiti vandals have no respect for people's property. "Respect" and "penalise" are the key words. Unless those two areas are acted upon, unless we have enough police to do their job, unless communities are encouraged to report graffiti vandalism, nothing will happen.

When I have raised this issue, it has been suggested to me that reporting graffiti crime is a waste of time. I have been told there is no good reason to report it because nothing happens. I listened carefully to the Minister's speech. She suggested that in some places the initiatives have been successful. She should get on a train in Sydney, go out to her electorate and have a look at the deterioration of the buildings along the rail lines. She should go to North Sydney and other suburbs and on the brand new highways to check for spray paint and coloured marker graffiti. Coloured markers are the new weapon of terror and the Minister needs to move on that now. I do not know if there are other new technologies out there that these vandals can access and utilise, but something has to be done. These things are secreted in their pockets, they can be easily transported and they are causing an enormous amount of damage.

I ask the Minister in her response to inform the House of what the Government will do to assist councils with funds and how it will tackle the problem in an educational process. Young vandals and older vandals have no respect. I told a bureaucrat how appalled I was with the way in which our buildings have been defaced. The response to me was, "The kids need somewhere to paint their art." That is why we have art galleries, that is why there is paper and canvas to paint on—not public buildings. A beautiful skate park was built at a cost of tens of thousands of dollars and the first thing kids did was to vandalise it. And on the roads that lead to that skate park they have vandalised every light post, every mailbox, every wall, every single thing they can get to.

The fundamental issue that the Minister has missed is that she has gone only part of the way to try to shut the media up—to shut all of us up—and pretend that she is doing something. That is not good enough. The Minister is not going far enough; she is not looking at innovative ways to fix the problem. I will leave on the table correspondence and photographs for the Minister. I will send the Minister the other 200 photographs and correspondence from the Minister for Police and the Attorney General with a long summary of what the Government has proposed under its new strategies, which are not working.

Mr O'Rourke certainly has not been given confidence by the State Government in the responses he has received or by the fact he has to keep looking at this graffiti, even though he identified the vandals, they were reported to the police and they were taken to court. These vandals can walk past their graffiti every day and admire what they believe to be their great handicraft. The courts have done nothing to make them clean it off. That type of thing occurs right across this State: buses, trains, you name it, it is graffitied. There is graffiti 10 feet out from the door of Parliament House. Even important signs with messages of safety such as "No swimming", "No diving"—important messages that help protect people's safety—are being vandalised, as are road signs and speed signs installed to protect the public. There is no respect for the signs and, therefore, important messages are not being conveyed to the public.

This Government really needs to get its act together. I know that this Minister, although new in her role, is very genuine. I want to see genuine legislation come to this place and genuine efforts to attack the issues I have raised so there is a reduction in graffiti. Whilst this legislation is aimed at minors I think statistics show

that much of the graffiti can be attributed to older people who vandalise buildings, create their so-called artwork and basically make it a profession. There are many examples of public buildings and fences being defaced not only by spray paint but also by marker pens.

I hope within a very short time serious legislation will be introduced in this place designed to bring this graffiti problem under control by providing funds for councils to enable them to clean it up and designed also to order authorities such as the Roads and Traffic Authority, Country Energy and others to make a concentrated effort to clean off graffiti. Evidence shows that those authorities basically ignore graffiti, probably because the Government squeezes them for funds and robs them of dividends rather than allow them to reinvest in their infrastructure. The Minister should issue an edict to all those authorities to make a concentrated effort to clean up the State. Another example of graffiti vandalism is on the airport freeway, which was cleaned up for the APEC Heads of State visit but already the graffiti is back. And what is the Government doing about it? It brings this bill into this place and is doing nothing more. I want to see more action.

Mrs BARBARA PERRY (Auburn—Minister for Juvenile Justice, Minister for Western Sydney, and Minister Assisting the Premier on Citizenship) [12.14 p.m.], in reply: Firstly, I thank all members for their contributions to this debate: on the Government side the members for Kogarah, Strathfield, Maitland and Riverstone and on the Opposition side the shadow Attorney General and member for Epping, and the members for Cronulla, Castle Hill, Pittwater, Davidson, Willoughby, Hornsby, Baulkham Hills, Goulburn and Wagga Wagga.

The Government has a proven track record of implementing practical and effective measures to combat graffiti. I reiterate that this bill will give police the powers to confiscate spray cans from young people if they do not have a reasonable excuse for having them. This is about taking away young vandals' tools of trade and putting an end to this scourge on our community. Young people will certainly lose their spray cans even if graffiti-related charges are not laid. This Government is delivering on its commitment to fight the scourge of graffiti vandalism. These laws will send a clear message that the police are waiting to catch youths who are thinking about vandalising property with graffiti.

The number of members who spoke in this debate only confirmed to me that this bill is appropriate. A number of members spoke about the ugly blight of graffiti on our community, the aesthetics of ugly graffiti on buildings, transport and infrastructure, and the cost to our community, individuals, community organisations, businesses, and government and non-government organisations. Contributions by members confirm for me that this bill is absolutely appropriate. I thank the Opposition for its support for this bill.

Before moving on and finally closing this debate I will address some particular matters that have been raised in debate by members. Firstly, I will address some issues raised by the members for Goulburn and Wagga Wagga. I compliment the member for Goulburn for identifying the fact that this is fundamentally deeper than just legislation; it is fundamentally about respect and the need to engender respect within our whole community and, in particular, within young people who might be involved in this sort of vandalism. However, I cannot agree with the concerns of the member for Goulburn about police numbers in her local area command.

In 2006 the Government announced that an additional 750 police were to be ready and trained for duty by 30 January 2007. That has occurred and the authorised strength of the New South Wales Police Force has increased to a record 15,206 officers—to my understanding, the largest police force in any State in Australia. If putting more police out on the beat is not investment then I do not know what is. The authorised strength of the member for Goulburn's local area command has increased by 12.4 per cent. The member for Wagga Wagga also made a similar comment about police numbers. The authorised strength of his local area command has increased by 43.2 percent—a significant investment in authorised strength in both local area commands. Some points were raised by the shadow Attorney General in relation to why the bill applies only to minors. I believe that was addressed in some part by the members for Strathfield and Maitland. The member for Pittwater and the member for Wagga Wagga also raised it to some extent. The Government's confiscation of powers has targeted people under the age of 18 years because the available data suggests that this is the age group most likely to commit graffiti offences.

The member for Strathfield alluded to some statistics, but it is worth reminding members that in 2006, of the 2,684 persons of interest reported as committing graffiti offences that were known to police by age and gender, 71.9 per cent or 1,930 were under the age of 18. It is also considerably less likely that a person under the age of 18 will be in possession of a spray paint can for a legitimate purpose. For example, a person under the age of 18 is less likely to be a professional painter or panelbeater.

The member for Pittwater and the member for Wagga Wagga referred to other provisions that may or may not exist to combat vandalism more widely. Several existing provisions deal with vandalism. Most notably, under the Crimes Act vandals can be imprisoned for up to five years for the offence of malicious damage. It is important to note that this bill builds on existing powers in the Crimes Act and other legislation that the Government has introduced over a long period.

The shadow Minister for Juvenile Justice and the member for Castle Hill asked why cans could not be destroyed straightaway. The shadow Minister said that confiscated spray cans should be destroyed. This bill provides that spray paint cans will be destroyed after seven days or immediately if they are already open or of negligible value. As a lawyer the shadow Minister will appreciate that natural justice ensures that the review provisions are available only if someone can prove that he or she is over the age of 18 or had a spray paint can for a lawful purpose. It is important that we maintain those provisions, and they are clear in that regard.

The member for Pittwater established evidence of the need for those provisions. He referred to a legal graffiti wall in his area. Young people or older people may use that wall and therefore may have spray paint cans for a legitimate purpose. That is a good demonstration of why these provisions are necessary. The member for Castle Hill had some concern about whether the police would be able to interpret them. They are very clear; they clearly set out what powers the police have and when they can exercise them. The New South Wales Police Force is very experienced and I have no doubt that police officers are able to use the legislation in a most appropriate manner.

In response to the shadow Minister and the member for Castle Hill I will outline examples of when it is appropriate to return a spray paint can after it has been seized. It might be appropriate to return a spray paint can when the person originally had no identification and so could not prove at the time that they were 18, or they could not prove at the time that they were a panelbeater or an apprentice. They can later go to the police station and present their identification or a letter from their employer as proof of employment as a panelbeater or an apprentice panelbeater. That demonstrates the need to maintain those provisions in the interests of natural justice. It is very important to maintain that aspect of the regulations and the bill.

Members have suggested that the Government has sat on its hands in relation to graffiti. It is absurd to suggest that this Government has not been proactive, has not imposed severe penalties, has not given police greater powers or that it has adopted a piecemeal approach. As I indicated in the agreement in principle speech and in a subsequent speech, this Government has a comprehensive strategy to drive down the incidence of graffiti. That includes not only the establishment of the graffiti action team but also an increase in the use of community service orders to make offenders repair the damage they have caused by graffiti vandalism, the identification of graffiti hot spots and the stepping up of enforcement and surveillance, especially with the use of closed-circuit television.

The Government has assisted councils and government utilities with the development of graffiti management plans that target high-incidence graffiti environments. It has also allowed local councils to accredit community groups and volunteers to remove graffiti. As members, including the member for Riverstone, have said, in June 2006 this Parliament passed the Summary Offences Amendment (Display of Spray Paint Cans) Bill. The Opposition wholeheartedly supported that legislation, which came into force on 1 November 2006. It requires retailers of spray paint cans to keep their stocks in locked display cabinets.

Those initiatives were in addition to the tough penalties that already existed for graffiti-related offences. Those laws continue to apply to both adults and young people. They include the offences of damaging and defacing property with paint and possessing spray paint with intent to use it to damage or defacing premises or other property. Damaging and defacing property with paint carries a maximum penalty of six months imprisonment. Possessing spray paint with intent to use it to damage or deface premises or other property carries a penalty of three months imprisonment. The sale of a spray paint can to a juvenile carries 10 penalty units under the Summary Offences Act. Malicious damage to property under section 195 of the Crimes Act carries a maximum penalty of five years imprisonment. That is in addition to a number of sentencing options that magistrates and judges can use to deter graffiti vandalism. The member for Wagga Wagga raised that issue. I am pleased to say that our laws and the deterrents they provide are being utilised by magistrates.

Since 1999 young offenders have completed 60,000 hours of graffiti removal work under community service orders. I am pleased to note that the member for Wagga Wagga listened to my speech last week. In that speech I repeated the hours of graffiti removal work being undertaken in different areas, from Campbelltown to Fairfield, in the city and in Newcastle. I clearly outlined the many hours of reparation work being done by

young offenders in removing graffiti, which clearly demonstrates that courts are handing down orders to ensure that young people are undoing the damage they have done. Courts can issue reparation orders that include requiring the offender to pay compensation toward the repair of damage. They can also impose restrictions and non-association orders on anyone who might be involved in this type of vandalism. That demonstrates that the Government has taken graffiti very seriously, not only with the introduction of this bill but also over a number of years given the number of tough existing measures on the statute book. I commend the bill to the House.

Question—That this bill be now agreed to in principle—put and resolved in the affirmative.

Motion agreed to.

Bill agreed to in principle.

Passing of the Bill

Bill declared passed and transmitted to the Legislative Council with a message seeking its concurrence in the bill.

JOINT SELECT COMMITTEE ON THE ROYAL NORTH SHORE HOSPITAL

Membership

ACTING-SPEAKER (Mr Thomas George): I report the receipt of the following message from the Legislative Council:

Mr SPEAKER,

The Legislative Council desires to inform the Legislative Assembly that the following members of the Legislative Council have been appointed to serve as members of the Joint Select Committee on the Royal North Shore Hospital:

Government: Ms Fazio

Opposition: Miss Gardiner.

Legislative Council
24 October 2007

PETER PRIMROSE
President

ROAD TRANSPORT (GENERAL) AMENDMENT (WRITTEN-OFF VEHICLES) BILL 2007

Agreement in Principle

Debate resumed from 23 October 2007.

Mr PAUL GIBSON (Blacktown) [12.30 p.m.]: I support the Road Transport (General) Amendment (Written-off Vehicles) Bill 2007. It is a move in the right direction. I can assure people of the State that road safety is definitely improving. The recorded number of people killed on New South Wales roads last year was the lowest since the 1940s. Taking into account there are millions more cars on the roads today than there were in the 1940s, that is a good effort. We cannot rest on that and say the job is under control, because it never is. We must always aim for zero. We may never get there, but that should be our aim. This bill forms part of the road safety family of bills for the protection of the people of our State. Hopefully, this bill will ensure there are fewer accidents and fewer people killed on our roads.

The Road Transport (General) Act 2005 requires the Roads and Traffic Authority to keep a register of written-off and wrecked motor vehicles. The object of the bill is to amend the Act so as to accord, generally, with a national system of notifying, registering and managing written-off vehicles. In particular, the bill makes the terms and categories used in the New South Wales Act, such as "late model vehicle", "total loss", "written-off vehicle", "statutory write-off" and "repairable write-off", consistent with those used in the laws of the other States and Territories and enables the body maintaining the national database to have access to the details on the New South Wales written-off vehicles register. This is an important issue. The more knowledge people have when buying a vehicle the better chance they have of making a proper choice and the better chance they have of staying alive. Many of these vehicles are death traps. They are sold in various car yards every day of the week. The people buying these vehicles have no idea that they may have been written-off or rebirthed until it is too late.

I was chairman of Staysafe for more than 10 years and we conducted a detailed inquiry on this very issue. We called it "Repairing to a Price, Not a Standard". The findings of that inquiry were made in December 2005. Staysafe looked at more than 100 submissions. We spoke to more than 30 witnesses and many hours of verbal evidence were given at hearings. As a result, we came up with 44 recommendations. Those 44 recommendations went to Parliament and they are still sitting there. We discovered at the time that the average age of a vehicle registered in Australia was 10 years and, according to Australian Bureau of Statistics research, 17 per cent of passenger vehicles manufactured in Australia were built before 1985. Our recommendation No. 11 stated:

> The Motor Vehicle Repair Industry Authority and the Roads and Traffic Authority, in conjunction with the Insurance Council of Australia and the motor vehicle insurance sector, develop a register of motor vehicles that have undergone major repairs, including listing of major or structural components [that] have been replaced, repaired, and not repaired on the vehicle, which can be attached to the Register of Encumbered Vehicles—REVS, or the Roads and Traffic Authority's motor vehicle registration database.

This bill is the first step towards that. This bill talks about a database for vehicles that are written-off under various categories. The Staysafe committee is a bipartisan committee of this Parliament, made up of members from both sides of this Chamber as well as from the other House. In all the years I chaired the Staysafe committee not one decision was ever made on political grounds. No decision was ever made with concern that it may offend the Government or the Opposition. The Staysafe committee made decisions that would make it safer for everybody on the roads of New South Wales. If there is a better committee in this Parliament, I am yet to see it. Some of the things the Staysafe committee has initiated since its inception include random breath testing, seatbelt legislation, 50-kilometre-an-hour speed limits and the graduated licensing system. Not everything in road safety today was an initiative of the Staysafe committee.

The committee made recommendation No. 11 because we thought a person buying a car that has been involved in an accident in which structural damage has been done should know about it. Not only that, the person should pay less for that car at the point of sale. We looked at many accidents over the years. We have all seen photos of cars that have been involved in accidents and cut in half. People will say that tremendous speed must have been involved to do that. In many cases high speed was involved, but in many other cases the car was cut in half because of the nature of the repairs to that car. Often it was cut in half because it was a rebirthed vehicle, and nobody had any idea that it was. This bill intends to deal with that, and hopefully will be the forerunner of a database on cars that have been in serious accidents. Another of our recommendations was recommendation No. 19, which stated:

> Motor vehicle insurers be required to supply policy holders with a certificate of road worthiness for a motor vehicle after crash damage involving major repair or structural repairs, if requested, and to ensure that policy holders are advised that they can request the certificate of road worthiness from the insurer under this circumstance before taking delivery of their motor vehicle.

If that recommendation were adopted it would mean that once a person receives his car from the panelbeater he would get a certificate of roadworthiness. If he found out some time down the track that faulty work had been done or faulty parts had been put in, or the car was not repaired the way it should have been, he has a claim. This not only helps the car owner but also ensures that the quality of work in workshops is up to scratch. We also found that safety is compromised by the use of non-original equipment manufacturer—non-OEM—parts in the repair of motor vehicles, including classes of parts termed new non-genuine, parallel, grey, recycled and second hand. Many parts that repairers use today are not genuine parts from Ford, Holden or wherever—they are parts built overseas and shipped here in containers. These parts have not been checked as to quality, strength or roadworthiness.

People having their cars repaired have no idea how their cars have been repaired, although this bill will give some credibility to those repairs because people who buy a motor vehicle will now know whether a vehicle has been written off. However, the bill needs to go further with the establishment of a database to register any vehicle involved in a major accident or where structural damage has been occasioned so that buyers know that the car has been involved in a serious accident. That database is necessary because people selling motor vehicles today should not have the right to sell somebody a car and withhold the knowledge that it has been involved in a serious accident.

One of my secretaries bought a motor vehicle and paid a top price for it. It was not until 12 months down the track, when work was needed on the car and it was put up on a hoist, that they found the entire front end of the car had been rebuilt. She was not told about that when she bought the car. I am certain that type of thing happens on a daily basis. This bill is welcome and I congratulate the Minister on its introduction. I hope it is a forerunner to what I believe and what the Staysafe committee believes is the necessity for a database not

only for written off vehicles but also for every vehicle that has been involved in a serious accident where structural damage has been occasioned. I congratulate the Minister on this initiative.

Mr RAY WILLIAMS (Hawkesbury) [12.41 p.m.]: The purpose of the Road Transport (General) Amendment (Written-off) Vehicles Bill and what it actually encompasses is to minimise the number of stolen vehicles in this country that are rebirthed by vehicles deemed to be unroadworthy. Statutory write-offs have gone a long way towards achieving that in the past but there still exists an opportunity to rebirth vehicles because we do not have a national register. Police have been crying out for this particular legislation for many years. A register alone will not go far enough. If we are serious in this country about stopping vehicle theft and rebirthing vehicles, we must utilise the latest technology that is available to us today that will stop vehicle theft in its tracks. Global positioning satellite systems are well known but expensive. However, this has been implemented in new vehicles today and could be implemented into vehicles to stop the rebirthing of vehicles and identify vehicles for their lifetime.

However, we have much more simple technology available today such as swipe cards and bar codes that can be implemented into secret panels within every component of a car that will limit and identify the movement of those parts throughout the life of the vehicle. When a vehicle is suspected of being stolen or when it is presented for re-registration, a simple swipe of the particular vehicle or part of the vehicle would identify where that part originated from and identify that part for life. This would allow police and Roads and Traffic Authority inspection stations to understand the implications of the parts being resold, placed back on the market or placed back on a car. The question is why the technology has not been embraced, which would most certainly stop vehicle theft in its tracks.

In this country we still see thefts of over 100,000 vehicles each year, and the majority of those are in New South Wales. It should be stated that some are for joy riders, but many of these vehicles are recovered. The major problem is the expensive, popular vehicles, which are stolen, only to be fraudulently rebirthed. The theft of these vehicles, usually the family car, impacts seriously on people's lives and their budgets. People who have had their vehicles stolen can testify to the trauma and impact that it has on families. Vehicles that are stolen and driven across State—with the help of backyard panel beaters—subsequently lose their identification. These people then reinvent, reregister and resell the vehicles to unsuspecting buyers, as the member for Blacktown quite rightly pointed out. The buyers are unaware whether qualified mechanics or panel beaters have rebuilt the vehicle.

Recently horse trailers were targeted. Hundreds of horse floats were stolen from New South Wales and transported to Victoria. These floats were rebirthed in a matter of days, put back on the market and resold, some over the space of a weekend. It is far too easy to re-identify a vehicle. We must ensure that all road transport vehicles retain their original identity throughout their entire life—one vehicle with one identity and one identity to all the parts and components that make up a vehicle. Simple, hidden electronic identification is nothing new; we use it every day without even recognising it by purchasing groceries, petrol or accessing information from our computers. We all use simple electronic identification that can be inserted into vehicles and which would largely remove the massive theft of vehicle experienced today.

To ensure consumer confidence and safety, it is paramount that this process commence immediately and the implementation of a national publicly accessible register of vehicles would be a step in the right direction. In the past attempts have been made to install hidden and undetectable identification in vehicles. This should be undertaken immediately if we are serious about stopping theft and the problems associated with rebirthing of vehicles. The implementation of statutory write-offs has gone a long way to limiting rebirthing but these vehicles can still be taken across States, which is why the police need this national accessible register to be set up in the shortest possible time frame.

Prior to statutory write-offs the rebirthing market was a free for all. A vehicle written off would go to auction and sometimes the damage was such that the type of vehicle was almost indistinguishable. I have seen these vehicles and one would wonder why they were ever presented for auction because it would appear that there was not one usable part on the vehicle. Yet the vehicle would bring thousands and thousands of dollars. Its identification tags would be removed and placed on a stolen vehicle, and then some poor unsuspecting buyer down the track would purchase that vehicle. This practice has gone on for many years; it is nothing new. As I said, the implementation of statutory write-offs went a long way to preventing that but, unfortunately, we still have a case of repairable write-offs, which need to be tracked across every State of Australia.

New laws restricting the sale of spare parts from vehicle wreckers also aid in stopping the sale of stolen goods. However, this does not prevent the sale from backyard dealers and only restricts the honest people in the

trade, such as vehicle wreckers, who have operated within the industry for years. These dealers welcome any advancement in stopping the theft of motor vehicles. It would be of benefit to those honest people who operate within the law, not the criminals who flout the law. Western Sydney has a proliferation of wrecking yards, with reputable spare parts dealers, who undertake to provide a great service not only to qualified mechanics and panel beaters but also to people who seek cheaper parts to keep their family cars on the road because they cannot afford to buy brand new parts.

Long time spare parts dealers such as John Hood of Western Wreckers in Riverstone are the most reputable people in this business that I have met, but these new laws are forcing that business to close. Only the honest operators are suffering while the thieves are still getting away with blue murder. These changes cannot come soon enough for the entire vehicle industry. A national register and the immediate legislation of simple electronic identification being installed in every road transport vehicle and their components sold in this country should be undertaken immediately.

Mr JOHN WILLIAMS (Murray-Darling) [12.49 p.m.]: I shall speak briefly on the Road Transport (General) Amendment (Written-off) Vehicles Bill. As a motor dealer of 30 years and with 25 years running a smash repair shop I have first-hand knowledge and good insight into what happens to vehicles when they are damaged. It would be in every member's interest to at some stage have a look at an auction in which repairable write-offs or written-off vehicles are sold, so they can get a look at the type of people who will possibly repair a vehicle on their behalf—if they are unfortunate enough to buy such a vehicle. Most of them are backyarders, rogue motor traders, or unqualified repairers—people who should not even have the opportunity to rebirth one of these vehicles.

Rogue motor traders should not be allowed to be in business. Anyone who decides that they will engage in this practice illegally should be removed from the industry, as should the people who trade these vehicles through their backyard, because that is the process. The unwitting buyer purchases the vehicle from a backyard repairer, and all of a sudden a repairable write-off is in the marketplace and is driven around by some unfortunate individual. These are the people that we, as members of Parliament, should protect, to ensure that they are not exposed to the sorts of losses they will experience by buying such vehicles.

I do not think there is such a thing as a repairable write-off. I ran a smash repair shop, as I said. We were very keen for business, and we were reluctant to see a vehicle written off. If there was any opportunity for us to repair a vehicle legitimately, we wanted to repair it. The only way in which a repairer can repair a repairable write-off is by cutting corners. That means the repairer either does not complete the repair in the best possible manner, or he uses dodgy parts or a dodgy method of repair. Regardless of what the motor transport department does with regard to its inspection of the vehicle, there are issues with the alignment of the vehicle that will never be right again. Anyone who has been in the motor industry will say it is not uncommon to drive along the road and see a vehicle crab walking up the road. But it should not happen. People should not have to buy these cars.

I believe that if an insurance company determines that a vehicle is a write-off it should remove the compliance plates, destroy any identification on the vehicle, and put the vehicle back into the wrecking yard where it belongs. We should not be dealing with any of this in New South Wales. We should be protecting the people of New South Wales from being exposed to these criminals, as I believe them to be. It is a criminal act. They are dealing with a vehicle that I believe is unsafe and has the potential to cause an accident, and the sooner they are out of the business the better.

A couple of issues need to be addressed, for example, in relation to hail-damaged vehicles. Insurance companies will decide that such vehicles are repairable write-offs. It is an aesthetic issue where a vehicle has been severely hail damaged. The backyarder gets the vehicle and uses whatever method he can use to improve the appearance of the vehicle. Within about four or five months the owner then sees the paint come off the vehicle, and all of a sudden the very expensive vehicle they bought turns into a nightmare for them. This practice should not be allowed. The bill is a step in the right direction. I believe New South Wales should take the lead: we should say we will not accept a repairable write-off and we want to stop this practice. If a vehicle is determined by an insurance company to be a write-off, it should remain in the wrecking yard. Importantly, it should be kept out of the hands of unsuspecting members of the public who think they have bought a bargain.

Mr STEVE WHAN (Monaro—Parliamentary Secretary) [12.54 p.m.], in reply: I thank the members who have contributed to this debate, representing the electorates of Lismore, Strathfield, Castle Hill, Wakehurst, Blacktown, Wagga Wagga, Murray-Darling and Hawkesbury. I particularly thank the members for

Murray-Darling and Hawkesbury for their cooperation in ensuring that the Road Transport (General) Amendment (Written-off) Vehicles Bill will be passed this afternoon. Some important points have been made in the debate, and I wish to briefly respond to them. It is unfair to suggest that the National Motor Vehicle Theft Reduction Council has failed to deliver outcomes in reducing the problems of rebirthing, as suggested by the member for Castle Hill. As a collaboration between all Australian governments and the insurance industry, the council has provided the leadership that has led to a sustained reduction in car theft.

The council's current work plan prioritises the examination of the very points raised by the member for Castle Hill, including assessing the case for limiting access to damaged vehicle auctions, to limit exploitation of the auction process. The New South Wales Government will continue to support the council's initiatives. The bill is based on the work of the council, and is an indication of how seriously the New South Wales Government takes the council's recommendations. It must also be emphasised that the national register of written-off vehicles provides the framework for registration authorities like the Roads and Traffic Authority to track vehicles that have had such significant damage that they need to be removed from the road, or at least inspected before being returned to the road. The police, the Roads and Traffic Authority, authorised inspection stations, auction houses and motor dealers all have their part to play in reducing theft and vehicle rebirthing. The register established by the bill is the critical tool, but it is not a substitute for action by all the parties involved in the industry.

Through the work of the council and the New South Wales Government, the Roads and Traffic Authority now has information on vehicles written-off in any jurisdiction, and there are automatic checks against this information before a vehicle can be registered. As the member for Wakehurst said, the scheme also allows a potential purchaser to check whether a vehicle is or has been on the written-off register. The ease of access to this information will be addressed between the Roads and Traffic Authority and the Office of Fair Trading. The legislation enables regulations to be made to provide such access. The recommendation of the Staysafe committee on a register of major repairs is implemented through the legislation. The member for Blacktown dealt to some extent with the Staysafe committee's work. Insurers and self-insurers are required to report damage that needs major repair, to the extent that the vehicle is a total loss, according to a formula contained in the bill. The bill also enables regulations to be made to extend the range and type of incidents to be notified to the Roads and Traffic Authority and placed on the register.

The New South Wales Government is committed to further progress in the reduction of vehicle crime. The measures within the bill will facilitate the further reduction of stolen and rebirthed vehicles being re-registered and onsold to unsuspecting members of the public. This bill is a result of extensive consultation between all States, Territories and relevant industry groups. The amendments will ensure that New South Wales achieves national consistency in notifying, registering and managing written-off vehicles to further reduce vehicle theft in New South Wales and across Australia. The bill complements other New South Wales Government initiatives to combat vehicle theft, and supports the agreement of all Premiers to harmonise registration processes across Australia. The New South Wales Government is actively involved in national vehicle theft reduction forums and will continue to play a leading role. As I said, I thank members for their contributions to the debate, particularly those who spoke today. The member for Murray-Darling brought to the debate his previous industry experience, which is appreciated. I thank the Opposition for supporting the bill. I commend the bill to the House.

Question—That this bill be now agreed to in principle—put and resolved in the affirmative.

Motion agreed to.

Bill agreed to in principle.

Passing of the Bill

Bill declared passed and transmitted to the Legislative Council with a message seeking its concurrence in the bill.

[*Acting-Speaker (Mr Thomas George) left the chair at 12.59 p.m. The House resumed at 2.15 p.m.*]

NEW SOUTH WALES LEGISLATIVE ASSEMBLY PRACTICE, PROCEDURE AND PRIVILEGE

The SPEAKER: I table the publication *New South Wales Legislative Assembly Practice, Procedure and Privilege*. Last night I had the pleasure of hosting the launch of the publication, which is edited by the

Clerk, Russell Grove. I would like to thank those members who were able to attend the launch. The book provides comprehensive information on the practice and procedure of the House, including significant precedents and rulings of the Chair. It also discusses laws impinging on the Parliament and sets out the privileges of the New South Wales Parliament, which has not legislated to define its privileges. The book will provide a useful resource for all members in their role as parliamentarians. Those members who did not collect a copy of the book at last night's launch have been sent a copy. It will also be available online. Members will also notice that a copy is available on the table for use in the Chamber. On behalf of the House I congratulate authors—Russell Grove, Mark Swinson and Stephanie Hesford and others—for their efforts in producing the publication.

Ordered to be printed.

BUSINESS OF THE HOUSE

Notice of Motion

General Business Notice of Motion (General Notice), to be the subject of a motion to reorder, given.

QUESTION TIME

ROYAL NORTH SHORE HOSPITAL BUDGET

Mr BARRY O'FARRELL: My question is directed to the Minister for Health. How many more Royal North Shore Hospital staff and patients, like Jana Horska and Sara Claridge, will suffer the consequences of her decision to slash the hospital's budget by $13 million this year and—as revealed in this document—the hospital's $10 million budget blow-out as at the end of September?

Ms REBA MEAGHER: The claims by the Opposition are simply wrong. The budget for Royal North Shore Hospital has increased by $9.5 million over last year. It has increased by over $34 million in the last two years. That is not the full extent. The Government is also committed to the complete redevelopment of Royal North Shore Hospital. The $700 million redevelopment is the biggest redevelopment of a hospital ever undertaken in New South Wales. We are committed to ensuring that the investment is on time. We have already commenced and completed stage one. Stage one was the $55 million redevelopment of the Douglas Building, which doubled the size of the emergency department at Royal North Shore Hospital. The Government is committed to supporting our nurses and doctors at Royal North Shore Hospital so that they can work with the new management to put the hospital back on the front foot. We are committed to ensuring that Royal North Shore Hospital remains a world-class teaching hospital.

POLICE SURVEILLANCE OPERATIONS

Mr DAVID HARRIS: My question is to the Premier. Can the Premier update the House on initiatives to help police conduct sensitive surveillance operations?

Mr MORRIS IEMMA: Serious crimes like murder, terrorism and drug trafficking make it essential that our law enforcement agencies have every possible tool at their disposal to make their investigations and prosecutions as successful as possible, to smash criminal networks and to protect the community from the most horrendous of threats. Surveillance has always been a critical factor in targeting major crime. In the modern world our laws must keep pace with emerging technologies we can use to track down and monitor suspects so that we can catch them in the planning of the act before they ever get the chance to unleashed their abhorrent criminal or terrorist ambitions.

Technology, listening devices, video surveillance and tracking devices are all used in increasingly sophisticated ways. That is why we will give our police powerful new warrants to permit the use of surveillance devices in a wide range of circumstances. Recently the Government announced an extension of search warrants involving terrorism suspects to 90 days. Now we will extend the use of surveillance warrants from 21 days to 90 days as well, which will reduce the red tape burden on police and ensure that if the circumstances of an investigation change the warrant can be quickly modified.

The SPEAKER: Order! I call the member for Epping to order.

Mr MORRIS IEMMA: The member for Epping should support this legislation. If police believe there is an urgent need to protect personal property from serious violence or damage, we will give them emergency warrants to put their surveillance resources into immediate action. Officers will then be given five days to get retrospective approval from the Supreme Court. As in the case of other warrants, police can make application by phone or fax so that they can stay on the case. The Government will also allow police and law enforcement agencies such as the Police Integrity Commission, the Independent Commission against Corruption and the New South Wales Crime Commission to use surveillance warrants during cross-border operations. They will soon be able to fight and track crime across the country without having to apply to have warrants recognised in other States. That also means that warrants from other States and Territories will hold firm in New South Wales, meaning greater cooperation between Australia's law enforcement agencies. That sort of cross-agency cooperation is paramount in the fight against organised crime, but particularly as we work together to fight the very real threat of a terror attack on Australians or on Australian soil.

Surveillance plays a vital role in keeping the community safe, but it is not an area we can always openly discuss due to its complex, covert and critical nature. Police have advised me of recent major cases, now complete, where their surveillance resources delivered what the community demands, that is, crooks behind bars, criminal networks shattered and drugs, guns and stolen property seized. In 2003 Strike Force Footstools, a joint operation between New South Wales Police, the New South Wales Crime Commission and the Australian Crime Commission, used listening devices as a central tool in a four-month sting targeting a gun-trafficking syndicate. Strike Force Footstools resulted in the seizure of 815 guns and firearm parts that could have been used to make 2,500 other pistols. This was one of the largest single illegal firearm operations in Australia.

In 2003 Strike Force Grapple investigated a series of shootings in Sydney's south-west, where surveillance operations led to the arrest of several Middle Eastern men for murder and other shooting offences. This strike force was the predecessor of Task Force Gain, which is now permanently established as the Middle Eastern Organised Crime Squad. Strike Force Sibret was a seven-month investigation into the supply of amphetamines between the Central Coast and Queensland. Through listening devices, police located a storage facility at Tweed Heads containing more than 11 kilograms of ecstasy tablets and six litres of liquid amphetamine. Strike Force Sulphide was set up to investigate a series of arson attacks on hair and beauty warehouses across Sydney. In December 2004 three men were arrested and charged with the attacks after police gathered intelligence using bugs and other surveillance techniques.

The Government will continue to back the police and provide them with the technology, the equipment and the resources to continue operations like those to keep our community safe from the threat of terrorism, guns and drugs. We will also deliver new measures to reduce red tape for police and increase the time they spend on the beat. Throughout all this we will ignore the uninformed comments of the Opposition, particularly as they relate to the latest series of initiatives, which is all about giving police an extra weapon in their fight to keep the streets safe.

ROYAL NORTH SHORE HOSPITAL BUDGET

Mrs JILLIAN SKINNER: My question is directed to the Minister for Health. Is Sara Claridge's delayed surgery typical of the consequences of service cuts that are needed to claw back the surgery and anaesthetics blow-out at Royal North Shore Hospital, given the budget is already $4 million in the red after just three months, as revealed in this leaked budget document?

Ms REBA MEAGHER: This morning I sought urgent advice from the chief executive of Northern Sydney Central Coast Area Health Service about the circumstances of this case. I also asked for an explanation about how the incorrect information regarding the reason for this patient's surgery delays was provided by the hospital. I am advised that this patient's surgery was initially booked for 27 September. Due to a shortage of nursing staff in the operating theatres, the surgeon's operating list for that day was postponed. I am advised the patient was told of the delay one week prior to her planned surgery and that she was given a new date of 25 October for her surgery to take place.

I am advised that the surgery was again postponed as it was determined there were more urgent patients on the surgeon's waiting list. I have been advised this morning that this patient's surgery has now been rescheduled for 8 November and that an appointment has been made for her to attend the hospital's outpatient clinic tomorrow so that her condition can be assessed. The chief executive of the area health service has personally contacted the surgeon in question and apologised for the confusion.

The SPEAKER: Order! Members of the Opposition will cease interjecting.

Ms REBA MEAGHER: While the delay in this particular case is regrettable, it is the case that nursing workforce shortages have an impact on surgery lists in our hospitals.

Mrs Jillian Skinner: Point of order: The point of order is Standing Order 129, which is about relevance. My question specifically related to the budget cuts.

The SPEAKER: Order! The Minister is clearly in order.

Ms REBA MEAGHER: We have recruited 50 nurses to Royal North Shore Hospital in the past two years and the hospital is currently recruiting to fill 100 permanent nursing positions. The four-week recruitment campaign is currently underway, and in a bid to attract nurses to the hospital it is running a specialised advertising campaign inviting nurses to tell the hospital what shifts, what days and what wards they want to work on. The recruitment of these permanent positions is a priority for the chief executive. Royal North Shore Hospital has continued to make improvements to accessing surgery, despite workforce shortages. The hospital's overall ready-for-care waiting list has decreased by 18.4 per cent since August 2006, which is a reduction of 280 patients. Surgical long waits have decreased by 83 per cent in the past 12 months, with only 12 patients waiting above the benchmark for non-elective surgery.

The SPEAKER: Order! The member for Coffs Harbour will remain silent.

Ms REBA MEAGHER: There has also been a 71 per cent decrease in the number of overdue medical and surgical patients waiting longer than 30 days for their surgery.

The SPEAKER: Order! I call the member for Coffs Harbour to order.

Ms REBA MEAGHER: As at August there were only 22 surgical patients waiting above the benchmark.

Mrs Jillian Skinner: This is about the budget.

Ms REBA MEAGHER: The member for North Shore interjects that this is about the budget. There are significant pressures across the New South Wales health system because the Commonwealth contribution has slipped to below 40 per cent. The Australian Institute of Health and Welfare has estimated that the Commonwealth is underfunding public hospitals—

[*Interruption*]

The SPEAKER: Order! The House will come to order. It is early in question time and the Minister is answering an important question on an important subject. I would hope the House would at least want to hear the Minister's answer.

Ms REBA MEAGHER: The Australian Institute of Health and Welfare estimates that the Federal Government is underfunding public hospitals in this country by $2.2 billion. That equates to $750 million for New South Wales alone. Let us break it down even further. That is 9,000 year 8 registered nurses in one year or the operating budget for Royal North Shore Hospital for two years. If you are genuinely concerned about the state of public health in New South Wales then I suggest you call Canberra and tell them to make good their commitment.

The SPEAKER: Order! The Minister will make her contribution through the Chair.

Ms REBA MEAGHER: The Opposition should call Canberra and make good its commitment to a genuine partnership in the running and maintaining of public hospitals in this country.

PUBLIC TRANSPORT INFORMATION AND PRIORITY SYSTEM

Mr PAUL GIBSON: My question is directed to the Minister of Transport. What is the latest information on the Government's investment in bus priority measures and environmental initiatives?

Mr JOHN WATKINS: The Iemma Government is committed under the State Plan to increase the targeted number of people using public transport across Sydney. As bus patronage continues to rise, the Government recognises the importance of maintaining investment in the latest technology to continue to attract customers to public transport.

The SPEAKER: Order! I call the member for Hawkesbury to order.

Mr JOHN WATKINS: Accordingly, I am pleased to inform the House that we are delivering on a $50 million commitment to upgrade the State's bus fleet with on-board computer devices that will lead to improved reliability and better passenger information. From next year those buses will operate along strategic corridors in Sydney, Wollongong, the Central Coast and Newcastle areas using the public transport information and priority system [PTIPS]. The preferred tenderer, Tyco Traffic and Transport, has been named to install and maintain the 4,200 on-board devices. The new computer system will allow the Roads and Traffic Authority to access information as to where a bus is at any given point in time. If the bus is not keeping its schedule the bus sends that information via satellite to the traffic management system at the Roads and Traffic Authority.

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

Mr JOHN WATKINS: He should control himself; he is very excitable.

Mr Adrian Piccoli: Point of order: I refer to Standing Order 59. The Minister is talking about satellite technology on buses and the use of the global positioning system. It is tedious repetition because this was announced in May 2006, September 2006 and November 2006. This is the fourth time the Minister makes the same announcement.

The SPEAKER: Order! The member for Murrumbidgee is well aware that is not a point of order.

[*Interruption*]

The SPEAKER: Order! Members of the Opposition will cease interjecting.

Mr JOHN WATKINS: They do not like good news. Why is it Opposition members become so excitable when I step up to the despatch box?

The SPEAKER: Order! The member for Willoughby will cease interjecting. The member for Murrumbidgee will resume his seat.

Mr JOHN WATKINS: Thank you, Mr Speaker, for that defence. Today we have named the tenderer for this $50 million project. In my book good news bears repetition.

The SPEAKER: Order! I call the member for Willoughby to order. I call the member for Coffs Harbour to order for the second time. I call the member for Murrumbidgee to order.

Mr JOHN WATKINS: It is amazing that the member for Willoughby seems so unhappy whenever I stand up to announce good news on behalf of the commuters of this State.

The SPEAKER: Order! I call the member for Terrigal to order.

Mr JOHN WATKINS: I inform the member for Willoughby that her constituents will also benefit from these measures.

The SPEAKER: Order! I call the member for Willoughby to order for the second time.

Mr JOHN WATKINS: This technology will be available on the Chatswood to Hornsby corridor and the Burwood to Chatswood corridor, both of which run through the seat of the member for Willoughby, as well as 41 other strategic corridors that crisscross Sydney. Importantly, it will provide a corridor between the member for Willoughby's seat and the member for Manly's seat. That is significant. The member for Manly looks interested in the announcement. His father was a Minister for Transport at one stage and he understands the importance of good policy development. That is why the member for Manly is so disappointed in the Leader of the Opposition, who has no transport policies. When the time comes for the member for Manly to launch the

inevitable challenge to the Leader of the Opposition, the member for Willoughby will be doing the numbers. That will be made easier by these strategic bus corridors. She will be able to jump on a bus and whisk all the way to Manly. Her co-conspirator, the member for Wakehurst, will also be able to use a strategic bus corridor that operates on the Public Transport Information and Priority System. That will get him to his office quickly and smoothly.

The SPEAKER: Order! The member for Coffs Harbour will resume his seat.

Mr Brad Hazzard: Point of order: I refer to Standing Order 59. The Minister knows that most of the buses down my way do not run. They are broken down on the side of the road because they are all more than 16 years old.

The SPEAKER: Order! A point of order was probably available, but that was not it.

Mr JOHN WATKINS: The State Transit Authority fleet will be the first to be fitted with the Public Transport Information and Priority System, commencing in early 2008—a couple of months away. Approximately 1,800 State Transit Authority buses will be Public Transport Information and Priority System ready by July 2009. It is planned that the private bus fleet will be progressively Public Transport Information and Priority System enabled between July 2009 and June 2011. Commercial negotiations are underway and contract finalisation is due in November. Optus has been selected by the Roads and Traffic Authority as the preferred company to supply the wireless communication network. This rollout is the largest and most progressive rollout of this technology in the world and it will herald a new era of passenger information. We will now have the capability to provide passengers with real-time information on the location of their bus.

The SPEAKER: Order! I call the member for Hawkesbury to order for the second time.

Mr JOHN WATKINS: The Minister for Transport will decide where and how such displays will operate.

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

Mr JOHN WATKINS: The benefits to the environment from new public transport initiatives are clear, as is the Government's pioneering approach to alternative fuels. This week the Premier issued a memorandum to all public servants directing them to use ethanol-blended fuels in State fleet vehicles.

Mr Andrew Stoner: That is The Nationals' policy.

Mr JOHN WATKINS: But we are in government! That is the difference: We make policy and it works. All major oil companies now offer ethanol-blended unleaded fuel and the number of service stations stocking alternative fuels has increased rapidly. Of course, the Government is running its buses on natural gas and Euro 5 diesel and trialling biofuels in ferries. On 1 October the Iemma Government introduced the volumetric mandate, which forces all petrol wholesalers to ensure that 2 per cent of total sales is ethanol. Ethanol is good for the environment and for the New South Wales regional economy. The Government is encouraging everyone in New South Wales to get on board, and the public sector will lead by example.

The SPEAKER: Order! The member for Wakehurst will stop interjecting.

Mr JOHN WATKINS: With major fleet owners like the State Government and, recently, Thrifty Car Rental embracing alternative fuels, it will become more cost-effective to provide those fuels and to keep prices low. Ethanol-blended unleaded fuel is suitable for use in all new Australian-made vehicles, most new imported vehicles and many older vehicles without affecting the manufacturer's warranty. This is another example of New South Wales continuing to provide national leadership by pursuing the country's first ethanol mandate and the use of ethanol by the entire State fleet. In contrast, the Federal Government has failed to provide any direction in this area. It is paying lip-service to climate change in the very late hours of its term in government.

The SPEAKER: Order! The member for Barwon will come to order.

Mr JOHN WATKINS: I wonder whether the member for Goulburn has switched to ethanol-blended fuel given her recent comments to the *Goulburn Post*. She said:

> …it is pretty easy for me to always be somewhere else, mostly on the Hume Highway keeping up the share prices of our major oil companies and inevitably adding significantly to Australia's greenhouse gases.

Perhaps the member for Goulburn is not the best person to be the shadow Minister for Climate Change.

TWEED HEADS HEALTH SERVICES

Mr ANDREW STONER: My question is directed to the Minister for Health. What is the Minister's response to the Coroner's finding on a Tweed Heads woman who had previously attempted suicide on multiple occasions and, after repeated requests for treatment, eventually committed suicide by setting herself alight, that her death was preventable and "highlighted a litany of systems failures within the New South Wales health service", which is the same criticism made by the Sentinel Events Review Committee last week?

Ms REBA MEAGHER: I am advised that this 67-year-old resident of South Tweed Heads died on 4 February 2006 following discharge from the Tweed Heads District Hospital. I offer this lady's family my sincere condolences on their sad loss.

The SPEAKER: Order! Members will cease interjecting.

Ms REBA MEAGHER: It is my understanding that following this incident the North Coast Area Health Service took immediate steps to ensure that an independent root-cause analysis was undertaken by senior clinicians to identify whether any system faults contributed to the death of this patient. The North Coast Area Health Service and the Department of Health will undertake a thorough review of the Coroner's report and its recommendations and will provide me with a response. The Richmond Clinic is currently being rebuilt at the Lismore Base Hospital at a cost of $38.5 million. The clinic currently has 25 adult beds, and that will be increased to 40 beds. There will also be an additional eight child and adolescent beds, giving a total of 23 extra beds. The new unit is nearing completion and will be handed over and commissioned this financial year. In addition, a new 20-bed non-acute unit is under construction at Coffs Harbour at a cost of $7.7 million and the estimated completion date is 2008. A new 25-bed acute unit was opened at Tweed Heads approximately two years ago.

CRIMINAL INFRINGEMENT NOTICES

Ms DIANE BEAMER: My question is directed to the Minister for Police. Can Minister inform the House of the benefits to the community and police of the statewide rollout of the Criminal Infringement Notices Scheme?

The SPEAKER: Order! I call the member for Terrigal to order for the second time.

Mr DAVID CAMPBELL: I thank the member for Mulgoa for her ongoing advocacy and support of the police in the area she represents.

The SPEAKER: Order! The member for Clarence will come to order.

Mr DAVID CAMPBELL: It is important that we clear up some of the confusion surrounding this scheme that has been created by an Opposition that could not lie straight in bed. From next week New South Wales police officers will be able issue on-the-spot fines for some minor offences such as shoplifting and offensive language. The scheme gives New South Wales police officers the power to punish people who have committed minor offences, putting the focus on locking up dangerous and violent criminals. It will mean less police time wasted behind desks doing paperwork. It is about providing more of the high-visibility policing that the community wants. This is not about going soft on crime; it is about taking immediate action on crime. The fact is that 80 per cent of matters dealt with by the Local Court result in fines and not custodial sentences.

The SPEAKER: Order! The Leader of the Opposition will stop interjecting.

Mr DAVID CAMPBELL: That includes bonds and community service orders. So the suggestion that this is decriminalising offences is absolute nonsense. The new penalties were determined by averaging what penalties courts were handing out for these types of crimes.

The SPEAKER: Order! I remind the member for Terrigal that he is on two calls to order.

Mr DAVID CAMPBELL: Criminal infringement notices are recorded and kept on a database. Police can access the database when considering whether to issue a criminal infringement notice. Police will be able to make representation to the courts—

Mr Barry O'Farrell: Tell us whether they can be used in court.

The SPEAKER: Order! The Leader of the Opposition will cease interjecting.

Mr DAVID CAMPBELL: If the Leader of the Opposition calmed down and listened, he would learn something, instead of opening his big mouth without the facts. Police will be able to make representations to the courts if people have received more than one notice, that is, they can be considered if the person is a repeat offender. This is a discretionary tool for police. They can still go through the old process of taking someone to court if they deem it appropriate. This simply gives police another option, another tool, to use. We need to give police the discretionary power to do these things. It is giving them more power, not less.

As the Premier said yesterday, this scheme has been trialled in 12 local area commands during the past five years. There has been some suggestion that these changes have been made by stealth. Nothing could be further from the truth. Aside from numerous debates in this place, there has been extensive media coverage of the issue. On 26 December 2002 the *Daily Telegraph* reported on the success of the trial. The editorial noted:

> The State Government is to be applauded for having heeded the calls of senior police and introduced a tough new on-the-spot fine system for this and other categories of crime.

In February 2003 the *Sydney Morning Herald* reported on the ongoing results of the trial. Let me turn to the Opposition's views. The Opposition is now—surprise, surprise—violently opposed to this. Yet again members opposite have proven they do not trust our police, they do not value the great work our police do, and they do not support giving our police more powers and more discretion to deal with minor offenders.

The SPEAKER: Order! Members of the Opposition will stop calling out.

Mr DAVID CAMPBELL: This is typical of the Opposition—run down the cops to try to get political mileage. The Opposition tries to whip up hysteria about a scheme it supported the introduction of a year ago.

The SPEAKER: Order! The Leader of the Opposition will cease calling out.

[*Interruption*]

The SPEAKER: Order! I ask the Leader of the Opposition to stop calling out. I place the member for Murray-Darling on two calls to order.

Mr DAVID CAMPBELL: The Leader of the Opposition admits his members did not read the bill—lazy incompetent Opposition, no ideas, no plans and no work ethic. When pressed on 2GB this morning as to why the Opposition had voted for such a scheme if it was so dreadful, the shadow Minister the Police said:

> My recollection was that we were never told that people's fingerprints would be destroyed.

This is despite the fact that on 16 November last year the Hon. Michael Gallacher told the other place:

> Fingerprints taken as part of the issuing of CIN must be destroyed once the fine has been paid or if a court finds a person not guilty or dismisses a charge. It must be clarified that fingerprints may be taken at any time during the issuing of a CIN and that a CIN can be served personally or by post.

The SPEAKER: Order! The member for Murrumbidgee will stop calling out.

Mr DAVID CAMPBELL: This is rank hypocrisy from an Opposition that is so lazy it cannot come up with an original thought. An estimated 56,000 hours of police time will be saved by this innovative scheme. It will keep front-line police on the streets driving down crime. As I said earlier, 80 per cent of matters dealt with by the Local Court result in fines and non-custodial sentences.

Let me give the House a real-life example of when a criminal infringement notice might be used. About 1.30 p.m. yesterday a 65-year-old woman was observed by Woolworths Parramatta store security removing a pack of fish from her shopping bag, removing the bar code sticker and putting the item in her handbag. She paid for other items at the cash register, but failed to pay for the fish. Police were called and spoke to the woman, who admitted to the offence. The property, worth $7, was returned to the shop. The 65-year-old woman has no criminal record. Given the circumstances, the age of the offender and her prior good record, the woman was issued with a $300 criminal infringement notice.

It is highly unlikely, as everybody in this place knows, that the court would have issued any greater penalty, but taking the matter to court would have wasted hours of police time. This is exactly the type of case where police should be able to use their discretion and issue a criminal infringement notice. If the Opposition thought taking offenders like the 65-year-old woman to court is a better use of police time—

The SPEAKER: Order! I call the member for Murrumbidgee to order for the third time.

Mr DAVID CAMPBELL: If the Opposition thought taking offenders like the 65-year-old woman to court is a better use of police time than having them on the street looking for violent offenders, it should have voted against the laws last year. The Ombudsman's report reviewing criminal infringement notices showed most notices—more than 50 per cent—were issued for shoplifting. About 15 per cent were for offensive conduct, mainly urinating in a public place, and 14 per cent were for offensive language. None of these crimes would see people go to jail. They are at the lower end of the scale and the offenders would receive a fine if they went to court, exactly as they will under criminal infringement notices. I do not seek to trivialise these crimes in any way, shape or form. I want police issuing offenders with criminal infringement notices, but I want police out on the beat in the face of crooks and, by their high visibility, deterring criminals. I know that front-line police agree.

HEALTH SYSTEM RESOURCES

Mr MICHAEL RICHARDSON: My question is directed to the Minister for Health. Why does the Minister claim "that our doctors, nurses and allied health professionals have the resources they need to respond to the increasing pressures on the health system", when Dr Valeria Malka, the head of trauma at Westmead hospital, wrote in this letter that the Labor Government has cut the number of doctors and nurses, increased the number of bureaucrats and compromised patient care by cutting funds?

Ms REBA MEAGHER: That is simply not true.

The SPEAKER: Order! The member for Castle Hill has asked a question. The Minister is now responding.

Ms REBA MEAGHER: When we changed the area health services and reduced the number from 17 to 8, we were able to cut bureaucracy and invest that money in front-line services—$70 million has been quarantined for clinical front-line responses. Over that same period we have recruited more than 4,600 extra doctors and nurses to our health system. During the same period, over the past three years, we have also added an additional 1,800 beds to the New South Wales health system. So there has been a significant investment in expanding our front-line response to meet the increase in demand on our public health services. We have also been able to change the proportion of people employed by New South Wales Health so that there is an increased proportion of people employed by New South Wales Health who deal directly with patients.

The SPEAKER: Order! I call the member for Coffs Harbour to order for the third time.

Ms REBA MEAGHER: We have been able to increase the number of people employed by New South Wales Health so that four out of six people are dealing directly with patients. We are building a front-line response to meet the increasing demand on our public health care system, which is growing every year.

Mr Michael Richardson: Point of order: This is a letter from Dr Valerie Malka from Westmead Hospital. The Minister is talking about every other hospital in the State. She is not specifically addressing Westmead Hospital. That is my primary concern. Westmead Hospital is one of two hospitals that service my electorate.

The SPEAKER: Order! There is no point of order. In many ways the question was general and the Minister is responding with a relevant answer.

Ms REBA MEAGHER: Additional information I would like to share with the House is that over the last three years we have been able to recruit an additional 856 medical staff, 2,578 nurses, 539 allied health professionals and an additional 288 ambulance staff. We have made a significant investment in building our front-line response and we are building our budget to resource that front-line response as well. This year the Iemma Government has a record budget of $12.5 billion for health, which is nearly one-third of the State budget. I say again, and I will continue to say it, that the Howard Government is not a genuine or committed

partner in the provision of public health in this country. New South Wales has suffered as a result of that lack of commitment—$750 million a year or the equivalent of 8,000 year 8 registered nurses.

The SPEAKER: Order! The Premier will cease interjecting.

Ms REBA MEAGHER: The New South Wales Government is stepping up to the plate, making the contribution, increasing our investment all the time, but we do it in the face of a Federal Government that is continually winding back its contribution to public health, and there is pressure on the system as a result.

RAINWATER TANK REBATE

Ms VIRGINIA JUDGE: My question is addressed to the Minister for Climate Change, Environment and Water. Can the Minister update the House on the success of the Iemma Government's water tanks rebate scheme?

Mr PHILIP KOPERBERG: I acknowledge the honourable member's abiding interest in this matter. She does more than pay lip service to it; she is working tirelessly to organise a concert in her electorate of Strathfield on 17 November to raise awareness of climate change matters. We are still in the grip of one of the worst droughts on record, with more than 78 per cent of New South Wales remaining drought declared. The Iemma Government is standing side-by-side with struggling farmers.

The SPEAKER: Order! There is far too much audible conversation in the Chamber. I would have thought the subject of drought would be of interest to many members. The Minister has the call.

Mr PHILIP KOPERBERG: As it should, given the fact that farmers along the Murray-Darling Basin and elsewhere are really struggling, farmers with whom we are meeting on a regular basis to try to provide assistance, with the expenditure of millions of dollars on drought and other related relief. The drought is a searing reminder of our changing climate and the impact that global warming is having on weather patterns. That is why the Iemma Government has committed $340 million towards our Climate Change Fund. We know that the community is deeply concerned about conserving water and wants to play its part in protecting the environment. Almost every week new science emerges. From the loss of species to rapidly melting polar ice caps, these impacts are already being felt. In California, as we sit in this House, more than half a million people have been evacuated from their homes as a consequence of facing the worst series of bushfires that part of the United States has ever experienced.

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

Mr PHILIP KOPERBERG: The reason we are not there is because New South Wales resources are still recovering from having to attend a fire on the property of the member for Coffs Harbour. In the meantime many parts of Africa are experiencing record floods. This is not something out of a Steven Spielberg film. It is real and it is happening now; it is happening in our lifetime.

The SPEAKER: Order! The member for Coffs Harbour will remain silent.

Mr PHILIP KOPERBERG: It is no longer a case of what if? Rather, it is a case of what next? The last five years have been amongst the hottest since Australia records began to be taken. A recent Bureau of Meteorology report for New South Wales showed that Sydney experienced its hottest autumn ever and the month of May was the hottest May on record. We have already seen a hot start to spring, with very little rain occurring at a time when there ought to be fairly significant rainfall events.

The average temperature in Sydney for October is 22 degrees but so far this month 17 days of October have exceeded the maximum temperature and, of course, we are nowhere near the end of October yet. That is 74 per cent of days above the maximum temperature and there is still a week of October left to run. Even more concerning is that for half of those 17 days the average temperature was exceeded—a total of 10 were warmer than 25 degrees— a clear indication that climate change is occurring, and it is occurring now.

Sadly, the news on rainfall is not much better. The average rainfall for the month of October is 77.3 millimetres but so far this October it has only rained twice. On Friday 12 October we had 8.8 millimetres of rain and the following day we had a further 1.6 millimetres of rain, a total of some 10.4 millimetres, which equates to about 13 per cent of the average rainfall for the month of October. As is clearly evidenced, it is

getting hotter and it is getting drier, so when rain does fall, we need to take full advantage of whatever rain may occur to harvest water for the future. That is why we established the Climate Change Fund and its program of rebates for New South Wales householders and businesses.

The rainwater tank rebate now provides a refund of up to $1,500 for installing an approved rainwater tank. Offering householders a financial incentive to install one is a practical and sensible solution to one element of the climate change problem. I am pleased to report to the House that the rainwater tank rebates available through the Climate Change Fund have been well received by the community. The fund commenced on 1 July this year and since then we have received over 4,000 applications for rebates; in fact, a total of 4,038 rebate applications have been received. That is a saving equivalent to more than 180 million litres of water.

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

Mr PHILIP KOPERBERG: I am pleased also to report that rebates for energy efficient installation and hot water systems began on 1 October and interest shown in those rebates is very encouraging, clearly indicating that the people of New South Wales take climate change seriously and will take advantage of the significant incentives that the Iemma Government is offering to help them combat the effects of climate change. On Sunday evening, along with millions of other Australians, I watched for a period with interest the so-called great debate. As members might imagine, my interest piqued when the Prime Minister announced he would introduce—

Mr Malcolm Kerr: Point of order: My point of order relates to relevance—

The SPEAKER: Order! The member for Cronulla has raised a point of order. I am sure the Minister is concluding his answer.

Mr PHILIP KOPERBERG: That is right, in the fullness of time.

The SPEAKER: Order! I remind the member for Murrumbidgee that he is on three calls to order.

Mr PHILIP KOPERBERG: As members might imagine, my interest peaked when the Prime Minister made reference to a climate change fund. Momentarily I was heartened. Then the Prime Minister mentioned 2011, not within the term he will be elected to—which is an increasingly unlikely event, I might add—and not within the next three years. It would require the re-election of the Howard Government—

Mr Andrew Stoner: Point of order: My point of order relates to Standing Order 129, which concerns relevance. The only relevance of the debate between the Federal leaders to climate change is the hot air that came from Kevin Rudd's mouth and the hot air that is now coming from the Minister's mouth.

The SPEAKER: Order! I ask the Minister to conclude his contribution.

Mr PHILIP KOPERBERG: In other words, the Federal Coalition Government does not treat climate change sufficiently seriously to warrant it making any announcements about doing anything about it in the short term. In the meantime—

The SPEAKER: Order! The member for Coffs Harbour is on three calls. I remind him for the last time.

Mr PHILIP KOPERBERG: The Iemma Government, which came to the last election with a plan to combat climate change, was elected, and the Iemma Government is getting on with the job.

LOCAL GOVERNMENT FINANCIAL SUSTAINABILITY

Mr GREG PIPER: My question is addressed to the Minister for Local Government. Given that both the 2006 inquiry into the financial sustainability of New South Wales local government and the recent Review Today report question the sustainability of many councils in New South Wales, will the Minister advise the House how the Government intends to address this serious issue. In particular, will the Minister detail any plans to increase the local government share of total government revenue, and any plans to reduce State government impediments to councils' sustainability?

The SPEAKER: Order! I will allow the question, but I ask the member for Lake Macquarie to consider the length of future questions.

Mr PAUL LYNCH: I thank the member for Lake Macquarie for his question and note his longstanding interest and involvement in local government. I also congratulate him, as a crossbench member, on asking a question about local government—something the Opposition has not managed to do as yet. The Local Government and Shires Associations commissioned Percy Allen to conduct an independent inquiry into local government finances. That report was released in May 2006. It identified a shortfall in local government's capacity to bring assets to a satisfactory standard. Professor Allen called for a 20 per cent increase in the Federal Government's financial assistance grants to local government to help address the serious issue of sustainability. I repeat: a 20 per cent increase—not the 35 per cent decrease that the Federal Government has inflicted upon local government.

Local government finance is a national issue. In the last 11 years councils in Australia have lost more than $2 billion in financial assistance grants from the Commonwealth. New South Wales share of that loss is $558 million. Mr Speaker, as you noted in your speech at the Local Government Association conference, over the last three decades the Commonwealth has reduced its funding to councils from 2 per cent of Federal revenue to 0.6 per cent. For many New South Wales councils the Federal financial assistance grants are one of their main revenue sources. In an era of record surpluses, the Howard Government has been decreasing the amount of money it grants to local government. That is a $558 million reduction in funding to councils, a $558 million reduction in money available for council services to their local communities. The Federal Government must reverse this steady decrease in funding.

New South Wales councils are merely asking for their fair share from the Federal Government—a fair and equitable share of the Howard Government's record surpluses. Indeed, the Howard Government has chosen to provide assistance in the form of direct grants that are carefully designed to maximise its political benefit in targeted areas. If someone in Como, for example, asks why the play equipment in their local park has not been replaced for the past decade, or why it has been removed and not replaced, the Coalition can tell them it has been replaced—not in Como but in Moorooka, in the marginal Queensland electorate of Moreton. Or if someone in Anna Bay wants to know why their local council cannot keep pace with the beach restoration works, the Coalition can tell them it has been—not at Anna Bay but at Bargara Beach, in the marginal Queensland electorate of Hinkler.

That is a consistent theme of the Federal Government. It has consistently reduced the amount of funding it provides to local government. Australian local government has the fourth-lowest share of taxation of OECD nations—and that is according to Peter Costello's own international tax study. The Federal Government is sitting on record surpluses and at the same time is reducing the amount it gives to local government. At the State level, on the other hand, the Iemma Government has been working with councils to deliver a number of important reforms to improve the financial sustainability of local government.

The SPEAKER: Order! I call the member for Hawkesbury to order for the third time.

Mr PAUL LYNCH: The New South Wales Government continues to actively pursue initiatives to encourage councils to consider entering into strategic alliances or other forms of collaborative arrangements, where they can achieve better service outcomes and more efficient service delivery for their communities. There are now 21 alliances complementing the work of regional organisations of councils and other forms of collaboration around the State. As well as helping councils achieve a range of financial savings, councils involved in alliances have advised that they are able to improve their service standards and complete projects that would not otherwise have been achievable.

They are issues that I have been actively pursuing during my time as Minister. Earlier this year I launched a paper entitled "Collaboration and Partnerships between Councils: A Guidance Paper". The paper is the result of collaborative work between the Department of Local Government, the Local Government and Shires Associations and Local Government Managers Australia. It is a very practical way of dealing with these problems.

In addition, the Government's Promoting Better Practice Program has thus far reviewed 53 councils. The reviews act as a health check on councils' performance, and identify more efficient and more effective ways of councils pursuing their work. The Government has recently launched "Asset Management Planning for NSW", a position paper that is a critical element in determining how councils can manage their assets and how

they can better present an argument to the Federal Government to overturn the Financial Assistance Grants Program I spoke about earlier. That is a critical way of dealing with the matter.

The SPEAKER: Order! I call the member for Davidson to order.

Mr PAUL LYNCH: On this side of the House we have sensible policies and plans to deal with these problems, and that is in stark contrast to what happens on the other side of the House. Indeed, members opposite have no policy or plan, and an extraordinarily lazy approach to these matters. Earlier this year the Opposition spokesman on these matters, the member for Terrigal, tried to deal with these problems. His solution was very simple: he told councils to stop complaining. He said, "This isn't a problem; don't worry about it. It is simply a matter where you should stop complaining." He said to councils, "Stop crying poor." That is not a rational or sensible approach to what is a very serious problem.

UNSAFE PRODUCTS CONSUMER PROTECTION

Mr KERRY HICKEY: My question is addressed to the Minister for Fair Trading. What is the Office of Fair Trading doing to protect consumers from unsafe products in the marketplace during the busy Christmas period?

The SPEAKER: Order! I remind the House that a large number of members are on three calls to order. Members will listen to the Minister in silence.

Ms LINDA BURNEY: I can advise the House that it is that time of year again. The 2007 Christmas product safety blitz is underway. For the Office of Fair Trading this means an intense effort on the part of investigators and compliance officers to stop dangerous toys from finding their way into New South Wales stores and markets.

[*Interruption*]

If members opposite do not keep quiet, I will declare them dangerous toys and have them inspected.

Mr Malcolm Kerr: Point of order: That is an abuse of power on the part of the Minister.

The SPEAKER: Order! I was in discussion with the Clerk and did not hear the remarks that were made. I ask the Minister to deliver her contribution through the Chair.

Ms LINDA BURNEY: This morning I called into Hobbyco, which has recently moved to a fantastic new location in the Queen Victoria Building. It is fully stocked for Christmas. I am pleased to advise that no products of concern were identified at Hobbyco this morning. Like the majority of responsible retailers Hobbyco takes its responsibilities for product safety seriously. Under the Fair Trading Act, traders are responsible for ensuring products meet minimum safety standards. In the past few months five traders have been fined a total of more than $27,000 for contravening product safety laws in relation to children's toys. The names of some of these toys have given me plenty of ideas for new nicknames for some members of the House but after I was reprimanded last week I would not dare do that.

The SPEAKER: Good decision.

Ms LINDA BURNEY: I will be on my best behaviour. Last year's blitz detected toys such as the Pull Along Turtle, Electromotion Choo Choo Clatter—and I have to say the member for Epping jumped into my mind—the Feng Sheng Caterpillar and many others. Seriously, all these toys contain small parts that present a danger to children if swallowed or inhaled. Protecting children from potentially dangerous toys requires cooperation from manufacturers, retailers and all levels of Government. At the request of the Council of Australian Governments, Australia is working towards a harmonised product safety system. I have a letter from the Prime Minister to the Chair of the Ministerial Council on Consumer Affairs dated 9 May 2007, in which the Prime Minister writes:

> State and Territory Leaders agreed at the COAG meeting to develop a uniform approach to consumer product safety … I ask that the work on developing and endorsing a harmonised model for uniform consumer product safety legislation continue.

Despite the Prime Minister's instruction—here in black and white—the Federal Government is putting up roadblocks and insisting on exploring additional options for regulating product safety despite the fact that all

States and Territories and the Commonwealth already settled on a preferred option at the COAG meeting in April. The Prime Minister regularly warns Australians about the risk of wall-to-wall Labor Governments: If Labor were in power federally, and we will be soon, we may not have had the ridiculous situation in which the Commonwealth enacted a ban on products containing lead paint but did not include small traders such as discount stores and $2 shops. If the Commonwealth had spoken to State governments that loophole would not exist. Within a day of the Commonwealth ban, New South Wales introduced a complementary ban. These regulations should have, and could have, been implemented simultaneously. All it would have taken was some Commonwealth-State co-operation.

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

Ms LINDA BURNEY: The Commonwealth Government talks about its commitment to product safety, but it does not have a Minister for Consumer Affairs. I do not agree that we should hand over responsibility for product safety to Canberra. Local investigators are best placed to deal with these issues. I have a list of numbers, but I will not go through them. This year the Christmas product safety blitz will particularly target discount variety stores and markets, the loophole left by the Commonwealth Government. Fair Trading officers have already inspected 22 stores and purchased 13 products for further assessment. Inspectors are now in the metropolitan region and will move across the State over the next three weeks, visiting around 250 outlets statewide. And retailers beware: Fair Trading will not hesitate to take action against any offending traders should non-compliant, unsafe products be identified.

No matter how effective we are in our inspections and testing during this pre-Christmas blitz, no matter how much we crank up or how much we crack down on rogue traders, some products that could present a danger to children inevitably find their way onto the market. There are simple rules including checking the age recommendations, making sure there are no sharp edges and, importantly, looking at the labels. Protecting children from potentially dangerous products is a shared responsibility: Government, business and parents all have a role to play. The Iemma Government is committed to its work. We shall come down hard on retailers who put children at risk by continuing to flout any particular orders: fines will be in place.

Mr Adrian Piccoli: Point of order: My point of order relates to Standing Order 131 paragraph (5). Last week I asked a question of the Minister for Health about the Federal Labor candidate for Riverina. The Minister said that she would seek information and give a further answer to the House. We are still waiting for that answer. I ask the Minister for Health to provide that answer.

The SPEAKER: Order! That is not a point of order. The Chair is not able to direct Ministers to supply answers. However, the member for Murrumbidgee has made his position clear. It is a matter for the Minister.

Question time concluded.

OFFICE OF THE INSPECTOR OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION

Report

The Speaker tabled, pursuant to section 78 of the Independent Commission Against Corruption Act 1988, the report entitled "Annual Report 2006–2007".

Ordered to be printed.

PETITIONS

CountryLink Pensioner Booking Fee

Petition requesting the removal of booking fees charged to pensioners on CountryLink services, received from **Mr Greg Aplin.**

Bus Service 534

Petition requesting improved services for the 534 bus route and reinstatement of the cancelled services in the Willoughby electorate, received from **Ms Gladys Berejiklian**.

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 **Mrs Judy Hopwood**.

Hornsby and Berowra Railway Stations Parking Facilities

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

Hawkesbury River Railway Station Access

Petition requesting improved access to Hawkesbury River railway station, received from **Mrs Judy Hopwood**.

Bus Service 389

Petition requesting improved services for the 389 bus route, received from **Ms Clover Moore**.

Pets on Public Transport

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

Hornsby Palliative Care Beds

Petition requesting funding for Hornsby's palliative care beds, received from **Mrs Judy Hopwood**.

Breast Screening Funding

Petition requesting funding for breast screening to allow access for women aged 40 to 79 years, received from **Mrs Judy Hopwood**.

Tumut Renal Dialysis Service

Petition praying that the House support the establishment of a satellite renal dialysis service in Tumut, received from **Mr Daryl Maguire**.

Licence Laws for Older Drivers

Petitions asking for an inquiry into licence laws for older drivers and the implementation of a suitable licensing system for senior citizens, received from **Mr Greg Aplin** and **Mr John Turner**.

School Crossing Safety

Petition requesting that all school crossings be upgraded to improve safety, received from **Mr Greg Aplin.**

Pet Shops

Petition opposing the sale of animals in pet shops, received from **Ms Clover Moore**.

Kurnell Desalination Plant

Petition opposing the construction of a desalination plant at Kurnell and requesting the promotion of wastewater recycling and stormwater harvesting to supplement Sydney's water supply, received from **Mr Malcolm Kerr**.

Liquor Licensing Process

Petition asking that the liquor licensing process be amended to encourage and promote the development of small, local venues and a diversity of venues, received from **Ms Clover Moore**.

BUSINESS OF THE HOUSE

Reordering of General Business

Mr ANDREW STONER (Oxley—Leader of The Nationals) [3.27 p.m.]: I move:

That the General Business Notice of Motion (General Notice) of which I gave notice today [Port Macquarie Arts, Conference and Entertainment Centre] have precedence on Thursday 25 October 2007.

Imagine there was a huge public outcry about a poorly managed public project, such as the Cross City Tunnel or the desalination plant at Kurnell. Imagine further that the Federal Government then intervened and moved to somehow sack the inept administration responsible for those projects. Whilst that might be a popular move with many of the long-suffering citizens of New South Wales who would like to see the Minister sacked, that is not democracy in action—

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

Mr ANDREW STONER: —and I for one would find that quite objectionable. Yet, as we speak, there is an outcry in the Port Macquarie-Hastings shire about the Port Macquarie Arts, Conference and Entertainment Centre, otherwise known as the Glasshouse. What is this Government going to do? Precisely what I said: move to sack the council and deny the people of Port Macquarie the opportunity to have local democracy for a period of up to five years. That is why I am seeking debate on this matter tomorrow as a matter of precedence.

The SPEAKER: Order! I call the member for Monaro to order.

Mr ANDREW STONER: Already this sham inquiry has proceeded too far. It is important that this issue is debated now because the inquiry is based on false premises. One of the reasons put forward by the Department of Local Government was the so-called lack of community consultation by the council. That is demonstrably false because the outcry has come from a small number of people who have written many letters and submissions to the editors of newspapers and the inquiry itself. Now that submissions have closed, they show that the majority of people are in favour of this development. The reason given by the Department of Local Government and accepted by the Minister is false. The department also claimed a cost blow-out.

The SPEAKER: Order! I call the member for Bathurst to order for the second time.

Mr ANDREW STONER: The Government, together with the objectors, has used an inflated figure, which includes forecast interest payments of $20 million. That is totally in breach of accepted accounting standards in Australia. Both grounds used by the Minister and the department are spurious. The former Minister for Local Government Kerry Hickey—otherwise known as Lights in his own electorate and whom we saw jump to his feet earlier—wrote in May 2006 that no inquiry was justified in his opinion and that the council could afford the project.

The SPEAKER: Order! I call the member for Cessnock to order.

Mr ANDREW STONER: This is another attack by the Government on local government. It is a politically motivated attack on the council, just as occurred with Broken Hill City Council and Tweed Shire Council. The Government seeks to silence its political opponents by simply sacking the council. When the former member for Tweed was in trouble, the Government took out a couple of possible candidates by the holding of an inquiry and the sacking of the council. The same thing happened in Broken Hill. But it was not enough to rescue either of the members. If the Government tries to do it in Port Macquarie, it will not work. Already this has been a costly and divisive inquiry. The department conducted a better practice review, which made some suggestions but found nothing substantially wrong with the council. The only recommendation from an investigation was to proceed to an inquiry.

In this case we are seeing a breach of the principles of natural justice and procedural fairness. The commissioner who has been appointed to chair this inquiry is a former administrator of the Tweed and Glen Innes councils. That is hardly an independent appointment, notwithstanding my respect for the individual. The assistant commissioner has been appointed as a senior operative of the Department of Local Government. Again, that is hardly an independent appointment. The Department of Local Government put in a submission, despite the earlier inquiries and better practice reviews. In relation to the sacking of the Tweed council, the

Supreme Court found that the Government breached the principles of natural justice and procedural fairness and awarded costs against the Government. This motion must be debated tomorrow. [*Time expired.*]

Mr JOHN AQUILINA (Riverstone—Leader of the House) [3.32 p.m.]: The Government totally rejects the spurious claims that have been made by the Leader of The Nationals, who in one breath condemns the person undertaking the inquiry and in the next says what a great guy he is and passes no personal comment on him. Clearly, this is a political stunt by The Nationals to impose its will upon the proper processes being undertaken in this regard. The Minister has determined that a public inquiry be undertaken under section 740 of the Local Government Act 1993. The Government sees no reason why that inquiry should be open to political interference by the Opposition.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 39

Mr Aplin	Mrs Hopwood	Mrs Skinner
Mr Baird	Mr Humphries	Mr Smith
Mr Baumann	Mr Kerr	Mr Souris
Ms Berejiklian	Mr Merton	Mr Stokes
Mr Cansdell	Ms Moore	Mr Stoner
Mr Constance	Mr Oakeshott	Mr J. H. Turner
Mr Debnam	Mr O'Dea	Mr R.W. Turner
Mr Draper	Mr O'Farrell	Mr J. D. Williams
Mrs Fardell	Mr Page	Mr R. C. Williams
Mr Fraser	Mr Piccoli	
Ms Goward	Mr Piper	
Mr Hartcher	Mr Provest	*Tellers,*
Mr Hazzard	Mr Richardson	Mr George
Ms Hodgkinson	Mr Roberts	Mr Maguire

Noes, 51

Mr Amery	Mr Greene	Mrs Paluzzano
Ms Andrews	Mr Harris	Mr Pearce
Mr Aquilina	Ms Hay	Mrs Perry
Ms Beamer	Mr Hickey	Mr Rees
Mr Borger	Ms Hornery	Mr Sartor
Mr Brown	Ms Judge	Mr Shearan
Ms Burney	Ms Keneally	Mr Stewart
Ms Burton	Mr Khoshaba	Ms Tebbutt
Mr Campbell	Mr Koperberg	Mr Terenzini
Mr Collier	Mr Lynch	Mr Tripodi
Mr Coombs	Mr McBride	Mr Watkins
Mr Corrigan	Dr McDonald	Mr West
Mr Costa	Ms McKay	Mr Whan
Mr Daley	Mr McLeay	
Ms D'Amore	Ms McMahon	
Ms Firth	Ms Meagher	*Tellers,*
Ms Gadiel	Ms Megarrity	Mr Ashton
Mr Gibson	Mr Morris	Mr Martin

Pair

Mrs Hancock	Mr Iemma

Question resolved in the negative.

Motion negatived.

JOINT SELECT COMMITTEE ON THE ROYAL NORTH SHORE HOSPITAL

Membership

The SPEAKER: I inform the House that the Clerk has received correspondence relating to the appointment of the following members to the Joint Select Committee on the Royal North Shore Hospital:

Government members:	Mr Daley Dr McDonald Ms Tebbutt
Opposition:	Mrs Skinner
Independent:	Mr Draper

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

CONSIDERATION OF MOTIONS TO BE ACCORDED PRIORITY

Climate Change

Mr FRANK TERENZINI (Maitland) [3.42 p.m.]: Climate change, greenhouse gas emissions and nuclear reactors are part of a topic that concerns us all at this time. It would have to be by far one of the most important and serious issues to confront any parliament in this day and age. At the moment the people of Australia are watching two major political parties fight it out in a Federal election: the tired, old John Howard Government and the new, refreshed, ready-to-take-government Kevin Rudd. The people of New South Wales, indeed Australia, want to know John Howard's position on nuclear reactors. They need to know urgently; they need to know now. This debate needs to take place as a matter of urgency and it should have priority.

Health System

Mrs JILLIAN SKINNER (North Shore—Deputy Leader of the Opposition) [3.43 p.m.]: I am astonished that anyone would think anything is more urgent and should have greater priority to be debated than the continued mismanagement of the New South Wales health system. We have heard again and again the effect of the Government's mismanagement of our hospital system. Today another patient has come forward to state that her surgery has been cancelled twice and has been scheduled for early November only because she went to the media, she went public. We have heard about a woman who had a miscarriage in a public toilet. We have heard about doctors speaking out about the system. The head of the emergency department at Royal North Shore Hospital claimed there were totally inappropriate practices at that hospital.

Today there has been a revelation that Dr Valerie Malka from Westmead Hospital has written to the chair of the medical staff council of that hospital listing 16 points as to why she thinks that hospital is totally dysfunctional. These points include cuts in services, the failure to increase the number of doctors and nurses, and the increase in the number of bureaucrats. Dr Malka has taken the step of writing to the medical staff council of that hospital and the council has had to say it will stand by her in case this Government decides to victimise and bully her into silence. It is not good enough. This Parliament needs to debate this matter right now.

It needs to be put on the record that the Minister for Health does not know what she is talking about. Today, again, she misled this Parliament by saying that the hospital budget at Royal North Shore was $9.5 million more this year than last year. I can give the Minister the budget documents that have been leaked to me. Maybe she does not talk to her administrator and she does not know what that hospital has to go through: a $346 million budget this year—$13 million less than last year—and last year the budget was overspent by $18 million, as it was the year before. I am afraid the indications so far this year, according to this budget, are that the hospital is $10 million over budget in the first three months alone.

How on earth are the hardworking, committed and dedicated doctors and nurses expected to do the right thing by their patients? We heard Professor Bill Sears speak out about the fact that he nearly quit the Royal North Shore Hospital. He is head of the spinal unit and a very dedicated and committed neurosurgeon. He said that his heart bled for his patient who dramatically needed surgery, which was delayed for five days. The patient was lying in the intensive care unit at risk of being permanently paralysed, not because there were not enough

nurses, not because he could not get an anaesthetist to assist him, but because the administrators—the bureaucrats—who run the operating theatres said the operating theatre could not be opened.

As revealed in these documents that we have had leaked to us, this was a budget saving exercise. It shows the administrators are cutting back on the budget overrun in various parts of the hospital, including surgery and anaesthetics, and they are doing that by shutting down the operating theatres. They are saying to people like Professor Bill Sears, "You can't treat your patients", despite the fact those patients may well be paralysed if they have to wait too long for surgery. Dr Tony Joseph, head of the emergency department at Royal North Shore Hospital, is an absolutely fantastic man. I have been a patient in the hospital and I can say that if any member becomes ill I hope he or she is treated by doctors such as Dr Joseph.

The Minister had the gall to say that she knew better than Dr Joseph about what was right for patient care in that hospital and that he was wrong. The Minister is out of her depth and she is totally incompetent. Mismanagement of the hospital system is not happening just at Royal North Shore and Westmead hospitals. At Liverpool Hospital a man had to deliver his wife's baby on a couch in the foyer of the lobby of the hospital, even though he had called the hospital ahead of time. His wife was in labour, he went to the desk and he asked for somebody to assist his wife to go to the labour ward. No assistance was forthcoming and he had to deliver the baby on a couch in the foyer. Today in the House we heard how a coroner in Tweed has said that the system has broken down in our hospitals across New South Wales. This Government deserves to be condemned and this Parliament deserves to have this matter debated.

Question—That the motion of the member for Maitland be accorded priority—put.

The House divided.

Ayes, 48

Mr Amery	Mr Harris	Mrs Paluzzano
Ms Andrews	Ms Hay	Mr Pearce
Mr Aquilina	Mr Hickey	Mrs Perry
Ms Beamer	Ms Hornery	Mr Rees
Mr Borger	Ms Judge	Mr Sartor
Mr Brown	Ms Keneally	Mr Shearan
Ms Burney	Mr Khoshaba	Ms Tebbutt
Ms Burton	Mr Koperberg	Mr Terenzini
Mr Coombs	Mr Lynch	Mr Tripodi
Mr Corrigan	Mr McBride	Mr Watkins
Mr Costa	Dr McDonald	Mr West
Mr Daley	Ms McKay	Mr Whan
Ms D'Amore	Mr McLeay	
Ms Firth	Ms McMahon	
Ms Gadiel	Ms Meagher	*Tellers,*
Mr Gibson	Ms Megarrity	Mr Ashton
Mr Greene	Mr Morris	Mr Martin

Noes, 39

Mr Aplin	Mrs Hopwood	Mrs Skinner
Mr Baird	Mr Humphries	Mr Smith
Mr Baumann	Mr Kerr	Mr Souris
Ms Berejiklian	Mr Merton	Mr Stokes
Mr Cansdell	Ms Moore	Mr Stoner
Mr Constance	Mr Oakeshott	Mr J. H. Turner
Mr Debnam	Mr O'Dea	Mr R. W. Turner
Mr Draper	Mr O'Farrell	Mr J. D. Williams
Mrs Fardell	Mr Page	Mr R. C. Williams
Mr Fraser	Mr Piccoli	
Ms Goward	Mr Piper	
Mr Hartcher	Mr Provest	*Tellers,*
Mr Hazzard	Mr Richardson	Mr George
Ms Hodgkinson	Mr Roberts	Mr Maguire

Pair

Mr Iemma	Mrs Hancock

Question resolved in the affirmative.

CLIMATE CHANGE

Motion Accorded Priority

Mr FRANK TERENZINI (Maitland) [3.56 p.m.]: I move:

That this House:

(1) rejects Prime Minister John Howard's plan to create a nuclear industry in Australia as a response to climate change, and

(2) calls on the Federal Government to ratify the Kyoto Protocol on climate change.

Climate change is one of the most pressing issues facing us today. The consequences of inaction will be catastrophic and we are already seeing the warning signs. The 10 hottest years on record have occurred in the past 14 years. We have less rainfall and more bushfires and rising sea levels and sea temperatures. All of this tells us that we must act, and we must do so now. That is why the Howard Government's repeated refusal to ratify the Kyoto Protocol, which sets emissions targets and encourages emissions abatement activity, is nothing short of a disgrace. The United States of America is the only developed country other than Australia not to have ratified the agreement. Japan, Canada, New Zealand, Bulgaria, Latvia, Russia and the Ukraine have all ratified the agreement. Why on earth does John Howard not see sense and ratify it? By not supporting this very important agreement he is sending a message to the rest of the world that Australia is not serious about climate change or curbing greenhouse gas emissions. We have had 12 years of inaction and denial of this critically important issue.

John Howard may not be serious about climate change, but many people in New South Wales are. He is displaying just how arrogant and out of touch he is by ignoring these community concerns. The community wants action and it needs to happen now. John Howard's response to climate change has been based on the ridiculous notion of imposing 25 nuclear reactors on the people of New South Wales and the rest of Australia. We watched as he embraced this concept with great enthusiasm, declaring that nuclear was the cleanest, greenest power of all. It was an enthusiasm that even saw him promising to overrule Commonwealth legislation to impose these reactors on our community. The Prime Minister is backed by Ziggy Switkowski's December 2006 report, which found that as many as 25 plants could be built by 2050 at a cost of $75 billion.

Many people in New South Wales are rightly concerned about the idea of having a nuclear power station in their backyard. Most of us do not want to join the Simpsons and live in a place like Springfield. Instead of acknowledging these legitimate concerns, this week we saw Mr Howard and his environment Minister Malcolm Turnbull try to confuse us with gobbledygook, which suggests that they are now running away from this issue. They are either running away to keep us in the dark about their plans until after the election or just hiding from the issue. This treats the people of New South Wales and the rest of Australia with utter contempt. We are entitled to know the real story. Has Mr Howard dumped these plans altogether, is he just too arrogant to publicly acknowledge that we do not want these reactors or is he just trying to neutralise the issue as best he can until after the 24 November elections, with the intention of forcing 25 nuclear reactor power stations on the people of New South Wales and Australia? One thing we know for sure is that John Howard is a clever politician.

Thankfully, Kevin Rudd has been very clear about his positive plans for tackling climate change. A Rudd Labor government will take on this issue with the seriousness it deserves. Unlike John Howard, he is very clear about that. Kevin Rudd will act decisively on climate change and secure our water supplies by ratifying the protocol, introducing emissions trading schemes, setting a target of 60 per cent by 2050 and substantially increasing investment in renewable energy such as solar and wind. He will be providing rebates of $500 for around 500,000 households across Australia to install rainwater tanks and grey water pipes. He will be providing loans of up to $10,000 to help 200,000 families to invest in solar energy and practical water- and energy-saving devices. He will be investing $500 million in clean-coal technology and $500 million in developing Australian green cars. He will be putting an end to John Howard's plans for 25 nuclear reactors once and for all.

As Mr Rudd has said, nuclear power is not the answer to Australia's future energy needs. It will be at least 2020 before nuclear energy can be fitted to the grid. By then we will have missed out on opportunities to reduce our greenhouse gas emissions. Also, it does not make sense to have nuclear power when it uses twice as much water as our current electricity supply. With the lack of water being a significant issue across New South Wales and the rest of the country, why would we want to put any further stress on our water supplies? There is also the issue of nuclear power waste. Early this year the Liberals unanimously approved a resolution identifying Australia as a global radioactive waste dump, but after 11 years the Howard Government still has no idea where to find a place to store these low-level wastes. As the Federal Opposition's environment spokesman, Peter Garrett, aptly put it:

> That is where Mr Howard's nuclear Australia is headed—a global waste dump and 25 nuclear reactors and radioactive waste dumps dotted around the Australian landscape.

It makes much more sense to make the most of the existing clean energy resources such as solar, wind and geothermal energy, which is part of Kevin Rudd's plan. Given Australia's existing coal and gas resources, and the potential for renewable energy, nuclear power is a dud option. Climate change is a serious issue and needs a serious response. So far John Howard's response demonstrates only that he is out of touch with what the community wants. John Howard must ratify the Kyoto Protocol and dump his nuclear plan. Even the climate change fund announced by John Howard—obviously because he did not have anything better to say—will take five years before it comes into effect.

I applaud Kevin Rudd for treating this issue with the seriousness it deserves. Nuclear power plants are banned in New South Wales. We oppose them, and it is as simple as that. Once again, as we have had with WorkChoices, with the GST and with mental health, what do we hear from Opposition members? A deafening, thundering silence on where they stand on this issue. Have they been convinced by their Federal colleagues to stand dead on the issue until after the election? In November 2006, during the State election campaign and probably sensing defeat, the former Leader of the Opposition said:

> No we don't support the Federal Government's push for nuclear energy.

That was almost a year ago. What is his position now? Has he been told by his Federal colleagues to stay quiet until after the election? That is what it sounds like. Does he intend to stand up for the interests of New South Wales and hold his Federal colleagues to account? Again, deafening silence. Those opposite must end their laziness and inaction on this issue. It is time they stood up. They should not do what they have done with WorkChoices and other issues. They should let the people of New South Wales know where they stand.

Mr PETER DEBNAM (Vaucluse) [4.05 p.m.]: One has to ask: Who wrote that speech? Another new member of Parliament takes a speech written by some bureaucrat in the background, or by Walt Secord, and reads it out. He was a police prosecutor. Did he ever do is own work or did he just reads this rubbish?

Mr Frank Terenzini: Point of order: I can see the member for Vaucluse is getting very excited about this but he should adopt Standing Order 76.

Mr Daryl Maguire: What is it?

The DEPUTY-SPEAKER: Order! I ask the member for Maitland to remind me of the terms of Standing Order 76

Mr Frank Terenzini: It refers to relevance in debate. The member should stick to the point.

The DEPUTY-SPEAKER: Order! I have heard enough. There is no point of order. However, I remind the member for Vaucluse to direct his comments through the Chair.

Mr PETER DEBNAM: This debate is about the Minister for Health and the Premier, and it is about the Premier being on the front page. What happens when the Premier is on the front page—you go nuclear. Time and again that is the issue. The member for Maitland made reference to a speech I made in this House in November last year. I said, "Over my dead body. There will not be nuclear in New South Wales." That was a statement from the Coalition last year. I repeated it this year. I think this is a second or third time this year we have discussed this topic. Why? Because Labor members get themselves into a deep hole and try to change the topic. What is the easiest way to do that? Get involved in the Federal election and attack the Prime Minister.

This debate is about Labor in New South Wales being unable to fulfil its responsibilities, whether it comes to climate change or any other portfolio. Here again another new member is given 10 pages to read in Parliament as an apologist for the Labor Party. I made the point to the member for Newcastle the other day that if she continues reading out that rubbish she will be a one-term member. That is what happens to apologists for the New South Wales Labor Party. One member who found that out was Neville Newell.

Mr Frank Terenzini: Point of order: The member for Vaucluse should be told that we are discussing climate change, a very important issue, and he should be relevant.

The DEPUTY-SPEAKER: Order! There is no point of order. The member for Vaucluse knows he is entitled to some latitude in this debate, but he should focus on the subject matter of the motion.

Mr PETER DEBNAM: This is all about getting the Premier off the front page by attacking the Prime Minister. It is introducing a new member to the culture of the Labor Party, which is to just read out rubbish in Parliament and become a one-term member. That is what happens to apologists. That is what happened to John Bartlett and what happened to Neville Newell. That is what happens to Labor members who do not represent their communities and simply act as apologists. I suggest the member does his own research. He should look at what I have said about the nuclear debate. We should go back to 1995 when I first moved the motion in this House about the nuclear issue—12 years ago.

I do not know how many times I spoke in this House or in the public arena last year ruling out this proposal. I also spoke on the issue in Parliament a couple of times. Why? Because we have to deal with Labor's political games. Whenever Labor members get into trouble they introduce a red herring and currently they are on the nuclear one. What is the nuclear one all about? It is about John Howard's frustration with Labor doing nothing on climate change. That is what it is all about. One has to understand why the Prime Minister was moved to look at other options. The Prime Minister is very concerned that New South Wales Labor has done nothing on climate change. The *Sydney Morning Herald* is concerned that Labor has done nothing on climate change. Each week it publishes "The Greenhouse Indicator, New South Wales". For the week ending 19 October it shows 1.835 million tonnes of greenhouse gases.

The *Sydney Morning Herald* is so concerned that it has given the Government its own page in the newspaper every week and it is publishing the figures for the Government. It is breaking the figures down into petroleum output and coal-fired electricity generation. The *Sydney Morning Herald* is doing that because, like everyone else, it has looked at what the Government should have done over the last 12 years and what it has not done. Today one of the Ministers talked about ethanol. We had to drag the Government kicking and screaming to adopt a policy on ethanol. I have been driving my car on 85 per cent ethanol since the middle of last year. I have asked the Premier to demand that all his Ministers change their cars to 85 per cent ethanol or to hybrid vehicles, but he is not going to do that. He is only interested in the rorts of office and ensuring that every Labor member of Parliament in this Chamber gets paid additional salaries.

Ms Tanya Gadiel: Point of order: My point of order relates to relevance under Standing Order 129. We have heard about the Machiavellian conspiracies.

Mr Peter Debnam: Tell the member for Maitland it is not Standing Order 76.

Ms Tanya Gadiel: You misled him and that was outrageous. Shame on you!

The DEPUTY-SPEAKER: What is the point of order?

Ms Tanya Gadiel: My point of order is relevance. I ask you to direct him back to the subject of the debate.

The DEPUTY-SPEAKER: Order! The comments of the member for Vaucluse are within the scope of the debate.

Mr PETER DEBNAM: The Government has done nothing on ethanol. We had to drag Government members kicking and screaming, yet they still resist. They are even back-pedalling on the 10 per cent ethanol.

Ms Marie Andrews: Point of order: The rules of this House clearly indicate that a speaker must address the Chair. For the last five minutes the member for Vaucluse has spoken across the table to Government members, not through the Chair.

The DEPUTY-SPEAKER: Order! The member for Vaucluse understands that standing order.

Mr PETER DEBNAM: Mr Deputy-Speaker, I also acknowledge you as a member of the New South Wales Labor Party, so I am talking to the House—to you, indeed, all of you. The fact is that the Government has done nothing about dealing with climate change, which is why the Prime Minister is so frustrated. Let us look at what the Government has done with electricity generation. For three decades Australia has shown leadership and innovation in solar energy yet the Government has done nothing. What has it got to show in terms of renewable solar energy in New South Wales today? Government members do not know, although the member for Coogee might know because he has actually studied this topic.

The fact is they have done nothing in terms of commercially producing solar energy. We have a trial at Liddell of solar thermal on a coal-fired power station, which is a great innovation for a coal-fired power station. Electricity is being generated in solar thermal farms around the world but it is not being done in New South Wales because the Government is not interested. That is why the *Sydney Morning Herald* has to publish the millions of tonnes of greenhouse gases that the Government pumps out every single week.

What has the Government done about wind farms? When the announcement was made a few weeks ago that there was to be a $2 billion investment in wind farms in New South Wales, the Minister for Energy dismissed that announcement. He was not enthused about that at all; there was not the wind resource in the area. This was a major investment in renewable energy, yet the Minister for Energy sought to discourage that announcement. How incredible! The hypocrites in the Labor Party are talking about climate change, yet the Minister for Energy is not interested in renewable energy. I ask Government members to point me to any commercial-scale solar energy in this State that they have encouraged. There is none. Let me turn to public transport. The Government is about to privatise Sydney Ferries, which it has run down. It handed that organisation over to the unions 12 years ago and said, "Go and rake as much money out of that as possible, use any rorts you like." Whenever any general manager of Sydney Ferries tried to do the right thing, the Government sacked them.

Ms Tanya Gadiel: Point of order: The subject matter of the debate is nuclear power and the Kyoto Protocol. The member for Vaucluse should stop talking nonsense and return to the substantive issue. We all know what he would do if he had been the leader, but his mob got rid of him.

The DEPUTY-SPEAKER: Order! I have heard enough. I uphold the point of order.

Mr PETER DEBNAM: This is about politics and climate change. The reason for this debate on nuclear power is because the Prime Minister is totally frustrated with the Government's inability to achieve anything in New South Wales. That is why members such as the member for Coogee stand up and take on their own Government. That is why capable Ministers such as the member for Mount Druitt were thrown off the front bench. [*Time expired.*]

Mr STEVE WHAN (Monaro—Parliamentary Secretary) [4.15 p.m.]: It is a pleasure to support the motion. It was laughable to hear the former Leader of the Opposition suggest that the Prime Minister is frustrated with the lack of progress of New South Wales on climate change. Over the past couple of days in this place it has become clear that Opposition members are apologists for John Howard as a self-declared climate change sceptic. The member for Vaucluse spoke about wind farms. Anyone speaking to wind farm developers would realise that they are frustrated at the lack of national leadership on the 2 per cent renewable energy target, which does nothing to encourage decent development.

The member for Vaucluse would find that some of his colleagues who proclaim to know something about climate change oppose wind farms in their own electorates: Not in my backyard, they say. There are right and wrong locations for wind farms, but they cannot all be wrong. I can remember the member for Goulburn opposing a wind farm in her electorate and the member for Burrinjuck has certainly opposed a wind farm, which is now in the electorate of the member for Goulburn. Yesterday the member for Goulburn spoke on this topic and it sounded like she was reading a prepared speech from the Howard Government. On a previous occasion in this House she criticised the State Labor Government. Labor governments are the only ones that have put together decent carbon trading policies with a cap that actually comes down. The member for Goulburn said that would bring Australian living standards down to medieval levels—right out of the manual of climate change sceptics.

A few months ago John Howard was a gung ho supporter of nuclear reactors. Now, just before an election, he has gone a bit cold on nuclear reactors because he knows they are unpopular. It is similar to the

never-ever GST. We saw the worm doing some fairly impressive things during the great debate on Sunday, and we now know about the Opposition's fondness for Conbantrin because of the worm. The Prime Minister made a paltry show of trying to care about climate change but even then he showed his lack of understanding of climate change when he said, "Well, we will give out money to subsidise people's energy bills", when he should be saying they would provide money to help people use less energy, which would lessen the impact of climate change.

Mr Peter Debnam: Point of order: Are you actually opposed to giving that money to pensioners?

The DEPUTY-SPEAKER: Order! That is not a point of order.

Mr STEVE WHAN: That is not a point of order. Pensioners should get money from the Federal Government to help them use less power because that means less energy use. Obviously the former Leader of the Opposition cannot understand that either. He is in the camp with John Howard and other climate change sceptics. State Labor governments have taken action on ethanol, again without the support of the Federal Coalition Government, which is why this motion is so important. Yesterday the Opposition bagged the Kyoto Protocol. Opposition members cannot understand the importance of signing on to something that demonstrates our commitment to the Kyoto process and Australia's willingness to stay involved in international efforts to tackle climate change. Constantly we hear this apology for a Government that went into the last round of negotiations and said, "We are going to negotiate for ourselves an increase in emissions, and we are going to use as the base year the year before Queensland cracked down on land clearing so that we do not have to do very much to achieve our targets." That is an appalling situation; it is the Federal Government dodging its responsibilities on climate change.

The simple fact is that Mr Howard and Mr Turnbull are misleading the people of New South Wales and treating them with contempt when it comes to their efforts to promote nuclear energy. Some time ago we saw a report about the fact that, conveniently, one of the Prime Minister's good friends is now involved in a company that wants to set up nuclear reactors. How coincidental that was with the Prime Minister's announcements of positive support for nuclear energy! We can all be suspicious about those sorts of things, but what we know for sure without a hint of suspicion is that John Howard is, and remains, a climate change sceptic. We see some pre-election stunts that are designed to make the people of Australia think he cares about the issue and that he wants to do something about it, but we all know that if John Howard stays in government and those opposite have their way, nothing will be done to prevent us losing our snow cover in Monaro, or to address all the other impacts on rural New South Wales that are potentially so severe.

Ms PRU GOWARD (Goulburn) [4.20 p.m.]: I find this motion extraordinary, given that the party that is most likely to introduce nuclear power to Australia is Labor. I cannot see how a Labor government, with arguments such as the ones we have just heard from members opposite—arguments that consistently take Australia in one direction, which is towards a carbon tax or a carbon price that will impose a nuclear energy industry on Australia—

Mr Steve Whan: Do you oppose alternative energy?

Ms PRU GOWARD: No. The carbon disclosure project released its figures today. At $10 a tonne for carbon, which is absolutely conservative, there would be a 17 per cent collapse in the pre-tax earnings of companies like BlueScope. The conservative estimate for a world carbon tax is $20 a tonne, so you can forget BlueScope in this environment. The price of carbon that would justify a nuclear industry is $40 a tonne. Forty dollars a tonne is only achievable if there is a government that consistently presses for a carbon price. Ten dollars a tonne is extremely conservative; twenty dollars a tonne is what everyone is estimating. An economically viable nuclear industry in this country would require a carbon tax of $40 a tonne. The side of politics that supports private enterprise, economic growth and economic development, our side of politics, is hardly likely to support a $40 a tonne carbon price. But it is very likely that a government and a side of politics that has a deep hatred for private enterprise and does not want to see further economic development would support a $40 a tonne carbon price. They have to prove why they think that this country will not go nuclear when they force on us a carbon price of $40 a tonne.

Let us look at the Kyoto Protocol. We looked at it yesterday; we looked at it last week. It comes back to one thing: Does Labor want the results or does it want to sign a piece of paper that, without results, means nothing? We are on track to reach our Kyoto targets; no-one disagrees with that. In contrast, a range of countries that signed the Kyoto Protocol are well away from reaching their targets. I refer to seven countries in Europe as

well as Canada, one of the biggest economies in the world. Signing a piece of paper has nothing to do with outcomes. Outcomes are what we as a community should be interested in. This is what will stop the snow in the Monaro from melting. No amount of signing pieces of paper will stop that. What will stop it is reductions in emissions. This country is on target to reach those emission reductions without having to sign the Kyoto Protocol. Members will be pleased to know that the new Kyoto Protocol—

Mr Steve Whan: Increased emissions.

Ms PRU GOWARD: It is true that we have seen a world increase in emissions. With the Kyoto Protocol in place, emissions are expected to go up by 41 million tonnes. Fantastic! What great proof of the achievement of the Kyoto Protocol! The new Kyoto Protocol, which will include India, China and the world's major emitters, will be worth signing, and that is where we might get some action. But to hang on to the failure to ratify the Kyoto Protocol, which has achieved nothing in terms of a multilateral achievement, is an absolute disgrace. We should be grateful we did not sign it. Who wants to be associated with country after country that failed and are making it clear every day in their parliaments not only that they are sorry they signed the Kyoto Protocol but that they have no intention of doing anything substantial at the domestic level that will enable them to achieve their targets any more rapidly. We have achieved our targets. That is what is important. That is what matters to the so-called working families of Australia. [*Time expired.*]

Ms MARIE ANDREWS (Gosford) [4.25 p.m.]: I proudly join my parliamentary colleagues the members for Maitland and Monaro in condemning the Howard Government's plan to install 25 nuclear power stations as a solution to climate change. People are understandably concerned about having a nuclear power station—or a nuclear waste dump, for that matter—in their backyards. We have heard suggestions of the following regions as suitable sites: the Hunter, Port Stephens, the Central Coast—where I come from—the Hawkesbury River, Bass Point, Warringah, Lucas Heights, Goulburn, Holsworthy and Jindabyne.

It is interesting to note what Mr Howard's parliamentary colleagues are saying about the prospect of having a nuclear power station in their electorates. Joanna Gash from the Federal New South Wales electorate of Gilmore last year told the *Age* she would resign if a nuclear reactor were ever constructed at Jervis Bay in New South Wales. Joe Hockey, the Howard Government's Minister for Employment and Workplace Relations and member for North Sydney, was asked on the ABC:

> Is your electorate of North Sydney a good place for a nuclear reactor?

His response was:

> We think they're trivial questions, they're just irrelevant.

They may be irrelevant to Mr Hockey, but they are not irrelevant to the people of New South Wales. Alby Schultz, the Liberal member for Hume and former member of this House, told the ABC:

> There won't be any nuclear reactor in the electorate of Hume, mate.

Malcolm Turnbull, the Prime Minister's environmental attack dog and member for Wentworth, seems to have no problem keeping the rest of the electorate in the dark because he is confident that there will not be a nuclear reactor in his backyard. He told the ABC in February this year:

> My electorate is an inner city electorate and there isn't a lot of free space, so it's probably a theoretical exercise.

The Federal Nationals leader, Mark Vaile, the Federal member for Lyne, cannot seem to make up his mind on the issue. When asked on the Ten network whether he would welcome a nuclear power station in his electorate he said:

> Well, I'd like to have the debate and get hold of all the scientific facts before I answer that question. That's all that we should be doing …

But his position clearly is not reflective of what others in The Nationals feel. Sue Page, The Nationals candidate for Richmond, was referred to in an article in the *Courier Mail*, which stated:

> "The Prime Minister is not the leader of my party," said Dr Page, arguing that her stand against nuclear power reflects the views of the Richmond electorate.

She was then quoted in Australian Associated Press as saying:

> There's no way the Liberals can get this up without the support of the Nationals. So far as the party's concerned, it's off the table. We've actually got to draw the line in the sand on this one because we are different from the Liberals in this regard. If the National Party was going to waver on this one and say we are going to ride roughshod over it, I'd have to resign.

Clearly, the Coalition ranks are either in complete denial or threatening to resign. If John Howard will not listen to the electorate, he should listen to his own party. Nuclear power is not the way forward. It is a flawed response to the climate change dilemma. The best way forward on climate change is to ratify Kyoto and follow the approach of the Leader of the Federal Opposition, Kevin Rudd. He has a plan, a way forward—a plan that includes ratifying the Kyoto Protocol, introducing an emissions trading scheme, setting a target to cut greenhouse gas emissions by 60 per cent by 2050, substantially increasing investment in renewable energy, such as solar and wind, and investing $500 million in clean coal technology and $500 million in developing Australian-made green cars.

Importantly, Kevin Rudd will put an end to Mr Howard's plan for 25 nuclear reactors across Australia, including New South Wales. Members opposite must cease being lazy and disinterested in this issue. They should tell us where they stand. For once, they should stand up to their colleagues in Canberra and urge John Howard to sign up to the Kyoto Protocol. I find it extraordinary that the member for Goulburn does not see any point in signing international treaties. There are a number of international treaties that have benefited Australia, including treaties on children, discrimination and a host of other things. It is disgraceful that a nation such as Australia, a leading nation in the world, has not signed the Kyoto treaty. I take pleasure in commending the motion to the house.

Mr FRANK TERENZINI (Maitland) [4.30 p.m.], in reply: One thing this debate has done is to demonstrate how good members of the Opposition are at ducking, weaving and weaselling in and out, but at the end of the day they do not address the issues or answer the questions. Why? The only reason is that they are apologists for John Howard. They have not stood up to their Federal mates on any other issues and they will not stand up to them on this one. They are ducking and weaving here and there—"No, we will not answer this. No, we will not answer that." The member for Goulburn has clearly shown today that she is against the carbon trading scheme and does not want it to be introduced, even though reports have said we need one.

Ms Pru Goward: Not at $40 a tonne unless you want to send the Illawarra broke.

Mr FRANK TERENZINI: We need to set caps to achieve a result, and what happens? More ducking and weaving and more rhetoric—

Ms Pru Goward: Go on and call for $40 a tonne! I dare you.

Mr FRANK TERENZINI: An apologist for John Howard! Why not address the signing of the protocol? Signing the protocol would send a clear message to the rest of the world that we are committed and serious. All these countries are sitting back and asking, "What is wrong with Australia? Why have they not signed it? Oh, America has not signed it!"

The DEPUTY-SPEAKER: Order! The member for Goulburn will cease interjecting.

Mr FRANK TERENZINI: Once again, we are no wiser. We know, and it is confirmed, that members opposite do not want to stand up to their Federal mates. The Opposition does not want to go to them and say, "This is wrong, the community does not want nuclear power stations." They are remaining silent until after the election. They do not worry about nuclear power stations. They do not worry about the GST, dental care or WorkChoices. They just come in here and do not worry. There is a deafening silence. They indulge in an avalanche of rhetoric to sideswipe the issue, and again we are no wiser. They still will not tell us where they stand on nuclear power stations. All we have is a year-old quote from the former Leader of the Opposition that he was against it and since then there has been a deafening silence. Nothing from the present Leader of the Opposition, Mr Invisible—out of sight, out of mind, out the back fixing his photocopier or something and not worrying about this issue. Again members opposite have failed to stand up for the people of New South Wales, this time on nuclear reactors. They are a failure to themselves.

Mr Daryl Maguire: I seek a ruling on a point of order that was raised previously by the speaker. He raised Standing Order 68, which states:

> The reply of the mover of the original motion closes the debate.

I think he meant Standing Order 129. For the edification of the member, would you inform the House as to which standing order you ruled on?

The DEPUTY-SPEAKER: Order! The point of order was in relation to the relevance and was ruled on as such.

Mr Peter Debnam: A further point of clarification. The member who moved this motion obviously read a very extensive speech.

The DEPUTY-SPEAKER: Is there a point of order? There is no standing order relating to clarification.

Mr Peter Debnam: The point of clarification is—

The DEPUTY-SPEAKER: Order! There is no standing order relating to clarification, so there is no point of order.

Motion agreed to.

SMALL BUSINESS

Matter of Public Importance

Mr DONALD PAGE (Ballina) [4.34 p.m.]: It is a cliché that small business is the engine room of our economy but it happens to be true. Those of us on this side of the House strongly support small business; it is part of our core constituency. In New South Wales we have over 600,000 small businesses employing well over one million people. Interestingly, we are told that more than 282,000 of those small businesses are home-based. Whether small businesses are home-based or not, in this State they are suffering from a number of problems, including high State taxes, excessive red tape, occupational health and safety issues, high workers compensation premiums, skilled labour shortages and a general lack of confidence. As regards lack of confidence, in a recent Sensis business survey only 4 per cent of small to medium-size businesses supported the New South Wales Labor Government's policies, whereas 44 per cent supported the Howard-Vaile Government. Furthermore, New South Wales businesses have the lowest levels of business confidence in Australia, with confidence levels in regional New South Wales substantially lower than their metropolitan counterparts. I quote from page 4 of the survey:

> Regional businesses were less confident than their metropolitan counterparts for the fifth successive quarter.

The survey also noted:

> The lowest confidence level was recorded in the wholesale trade, retail trade and accommodation, restaurant and café sectors.

A significant part of the problem in some of those sectors has been the decline in the tourism industry. I have had many calls from businesses in the tourism industry in particular. They are very concerned about the lack of activity in that industry and the flow-on effects to small business. That is because New South Wales has lost market share to Queensland, Victoria and Western Australia. Is it any wonder that is the case when one looks at the lack of investment by the Government in the tourism industry and the cuts to the tourism promotion budget in New South Wales over the past five years? The budget has dropped from $56.9 million in 2002-03 to a mere $52.5 million last year. Whilst there has been a notional increase of $3.4 million in the latest budget, the New South Wales Government's investment in tourism promotion is well below where it should be, given that tourism is one of New South Wales's biggest export industries, with visitors spending $5.4 billion in New South Wales in the year to 30 March 2007.

The lack of commitment by the New South Wales Government to promoting our State is in stark contrast to that of our competitors, Queensland and Victoria, who have increased their share of the tourism market at the expense of New South Wales. In contrast to New South Wales, Victoria has increased its tourism promotion budget from $38.4 million in 2002-03 to $70.3 million in this year's budget. The New South Wales tourism budget is still well below where it was in 2002-03, whereas Victoria has almost doubled its tourism promotion budget in the past five years.

I mentioned earlier the problems small businesses are having with State taxes. Members may be surprised to learn that there are at least 25 State taxes on small businesses in this State, and I would like to list

just some of them. We have the bushfire services levy or fire levy, duty on vehicle registration and transfers, insurance premium tax, insurance protection tax, vehicle registration fees, weight tax and payroll tax. I will have more to say about that later. In the property area we have debits tax, duty on hire of goods or rental business duty, duty on the acquisition of business and goodwill, land tax, land transfer duty, conveyance duty and mortgage duty. As to environment taxes, we have a congestion and parking space levy, landfill waste levy and an environment levy. The New South Wales Government has recently introduced a new tax on liquid waste even for businesses that are already paying the waste levy. There are 25 separate taxes that can and are imposed on New South Wales small businesses. That is the highest number of taxes levied by any State in Australia. How does that compare to other States? If you take Tasmania as an example, it has 15 State taxes and New South Wales has 25. That is disgraceful!

New South Wales imposes far too many taxes, and the administration and collection of them are complex. I will refer to payroll tax. Broadly, payroll tax is levied on wages. Unfortunately, the application of the tax is far from simple. Not only do the States have a different threshold at which the tax starts to apply, they have different tax rates as well. In addition, the payroll tax base is of great concern. Almost 50 types of payments to employees may or may not constitute wages. For example, businesses in New South Wales pay tax on the wages of an employee who is on maternity leave, yet in the Australian Capital Territory they are exempt and in Victoria they are exempt for a maximum of 14 weeks. The definition of "wages", the treatment of contractors and inconsistencies in grouping provisions are regularly raised by small business as problems. We also need more harmonisation between the States in relation to taxation, including payroll tax. We need cuts in these taxes to ensure that businesses are able to get on with what they do best, that is, provide goods and services to our communities. That is especially true in New South Wales. Another problem with payroll tax is that it is levied after adding all the on-costs to the wage package. In other words, the employer pays payroll tax not only on the wages paid to employees but also on the on-costs, such as superannuation contributions, overtime, holiday pay and so on.

New South Wales has become excessively dependent on payroll tax as a source of revenue. According to the most recent budget figures, payroll tax is now the biggest source of taxation revenue for the New South Wales Government. Payroll tax now accounts for a massive 34 per cent of tax revenue in New South Wales, with property stamp duty down to 30 per cent and land tax at 10 per cent of total tax revenue in New South Wales. All members of the House would be appalled that payroll tax, a tax on the employment of people, has become the biggest single source of taxation revenue in this State. At 34 per cent, it is a bigger source of tax revenue than stamp duty. That is disgraceful. This record increase in payroll tax has occurred under a Labor Government, which is supposed to look after the workers. Yet, under this Government, payroll tax is now the biggest single contributor to tax revenue. Is it any wonder that so many businesses want to do their business interstate?

The tax system in New South Wales is complex and makes New South Wales businesses uncompetitive compared to businesses in other States. For example, New South Wales has a much higher payroll tax than most other States. Currently, the New South Wales payroll tax rate is 6 per cent, as compared to Queensland's rate of 4.75 per cent. Moreover, the threshold above which payroll tax is payable is much lower in New South Wales than it is in other States. Businesses start paying payroll tax—a direct tax on employment—in New South Wales when their payroll reaches $600,000. In Queensland businesses do not pay payroll tax until it reaches $1 million. Is it any wonder New South Wales businesses cannot compete and many choose to operate in Queensland rather than in New South Wales? If the Government were to lift the payroll tax threshold in New South Wales to even just $850,000—which was the Coalition's policy before the last State election—this would alleviate the need for 4,500 businesses in New South Wales to pay payroll tax. They would not have to pay payroll tax at all.

I mention the number of small businesses that are struggling with their land tax bills, especially as property values have been increasing at a faster rate than the upward movement in the land tax threshold. Many small businesses that have struggled to own their own business premises will have to pay land tax on those premises once the land value exceeds $352,000. In today's market that is not a particularly valuable property, especially in coastal towns or in Sydney. Even if businesses do not own the premises, the rent paid by the small business tenant will reflect the need to pay land tax. Land tax is a major expense for small businesses, whether they own their own premises or are tenants. It is payable whether or not the business is profitable. A local Byron Bay small businessman recently rang me to say that he was selling and going to Queensland because of his land tax bills. He owns a small guesthouse and he told me his land tax bill in New South Wales is more than four times the amount he would have to pay in Queensland. There are many others like him. While we recognise that as part of the State Labor Government 2007-08 budget mortgage duty will be phased out, I believe that is a minor reform in the multitude of taxes on businesses and, in any event, will take time to be completely removed.

I refer now to the harmonisation of taxes. Not only does Australia have a multiplicity of different State taxes, but they are often complex and difficult to administer for small business operators. Often it takes considerable time for small business to satisfy the statutory requirements associated with all these taxes. For businesses that operate in more than one State—and there are plenty of those—the situation becomes even more complex. Tax harmonisation between the different States has to be a high priority for all State governments. In April 2007 the Business Council of Australia released a report that stated that harmonisation of taxes was a high priority. That is largely due to the increasing cost of tax compliance and administration. [*Time expired.*]

Mr JOSEPH TRIPODI (Fairfield—Minister for Small Business, Minister for Regulatory Reform, and Minister for Ports and Waterways) [4.44 p.m.]: I am pleased to have the opportunity to address the House on this important issue. I feel sorry for the shadow Minister for Small Business and Regulatory Reform, who has to try to defend the record of the Federal Government, particularly so soon after the release of inflation figures, which mean that interest rates are currently at risk of increasing—unfortunate for the Liberal Party during a Federal election campaign. But it is more unfortunate for small businesses across Australia, who will now experience an increase in their costs and particularly an increase in borrowed funds because of the mismanagement in Canberra. The people of Australia will get an opportunity very soon to pass assessment on the administration in Canberra. As I said, I feel sorry for the shadow Minister for Small Business who has to defend in Parliament the Federal Government's record while inflation and interest rates are at risk of continuing to rise.

When speaking about the difficulties confronted by the tourism industry, the shadow Minister referred to items of expenditure across the country. He forgot to mention probably the single most important difficulty the tourism industry confronts, that is, the exchange rate of the Australian dollar. Interest rates in this country are extremely high, particularly in real terms. As a consequence, the exchange rate is very high. That is the single biggest reason the tourism industry is confronting the current difficulties. The shadow Minister for Tourism and for Small Business conveniently failed to mention that point. He did mention the $3.2 million extra in this year's State Government budget for the promotion of tourism in the State. I thank the shadow Minister for bringing that increase to the attention of the House and for congratulating the Iemma Government on its commitment to growing the tourism industry in this State.

The shadow Minister spoke about taxes. I refer to the press release that he issued this week. I point out that it is the shadow Minister's first Small Business press release since the election eight months ago. I congratulate him on working as hard as he does and issuing his first press release. In the press release the shadow Minister says, "The government imposes 25 state taxes." I have some good news for the shadow Minister for State taxes. The hire of goods duty was abolished in July this year. Mortgage duty for owner-occupied housing was abolished from 1 September this year. Mortgage duty on investment property will be abolished from 1 July next year, and it will be abolished altogether by 1 July 2009. Unlisted marketable security duty and transferred duty on business assets will be abolished over the next five years. Whilst the shadow Minister has been asleep, the Government has been making further achievements. The Government has reformed the payroll tax system so that 90 per cent of businesses in New South Wales do not pay any payroll tax at all. For those that do pay wages above the tax-free threshold, the rate has been reduced from 7 per cent under the last Coalition Government to 6 per cent under Labor. That is a very substantial decrease. A Labor government brought in that reform.

Our achievements also include no payroll tax for apprentices and trainees. That is another Iemma Government initiative. Reforms to payroll tax will save New South Wales businesses $990 million in 2007-08 alone. That is almost $1 billion in savings to New South Wales businesses in this financial year as a consequence of our reforms to payroll tax. The Government has reduced workers compensation premiums by 25 per cent. The Opposition gives the Government no credit for those reforms, only political expediency. That means total savings of $675 million flowing to industry each year: $675 in workers compensation and almost $1 billion in payroll tax reform each year as a consequence of the reforms of the Iemma Government.

We introduced a $74 million package to exempt apprentices' wages being used to assess an employer's workers compensation premium. In August the Premier announced a review of the New South Wales tax system, which will be conducted by the Independent Pricing and Regulatory Tribunal. Of course, that review will find out what we already know: Australia is confronted by one of the worst vertical fiscal balances of any federation in the world, and Canberra collects much more than it spends and it drips money to the States. That vertical fiscal imbalance is the source of all the problems that confront this country.

When Kevin Rudd wins the next election, that vertical fiscal imbalance will be addressed because Canberra and the States will have a good working relationship. Vertical fiscal imbalance is the single biggest

problem facing the finances of this country: we must get some serious conversation going in that area. Finally, the $3 billion redistribution through the GST—conveniently overlooked once again by the shadow Minister—is the reason for the tax structure in New South Wales. There is a massive redistribution going on and we are subsidising struggling States such as Queensland and Western Australia. It is an absolute joke, and we have had no leadership from Canberra on that issue.

On the very important issue of red tape reform I draw attention to an article by Paul Kerin in the *Australian* on 25 September, which highlights the complete farce that is the Commonwealth Government's commitment to red tape reform. The article states that in his first election in 1996, John Howard promised to cut red tape for small business by 50 per cent in his first term. What a joke. He has not gone anywhere near to achieving that. He has established committees, commissioned papers, held discussions and established more committees, but very little has been done to reduce red tape.

Since then, Commonwealth red tape has grown at a rate of 10 per cent a year. The Prime Minister has commissioned numerous reviews and promised reform in a number of areas, but he has achieved nothing. He has shown no leadership on this issue, and ignored the pleas of business and the community. Despite the Commonwealth's inaction on reducing red tape in areas that are most important to business, such as the GST, New South Wales has been taking strong action to fix up our own backyard. The Iemma Government has made real progress to strengthen the economic position of the State. We have cut five State taxes and the Government's sound fiscal management has meant we have retained our triple-A credit rating, as announced by the Treasurer in September. Through the State Plan, we have committed to boosting the level of business investment in New South Wales. One of the main ways we will achieve this is through reducing the costs of doing business in New South Wales, especially by reducing red tape, and we have taken major steps towards achieving that goal.

We are absolutely committed to cutting red tape in this State, and we have demonstrated that by creating the position of Minister for Regulatory Reform, who is responsible for the many elements that make up the red tape reduction project. In the past year, this Government has undertaken three complementary reviews of red tape in New South Wales. First, Treasury has been reviewing the ways in which government agencies impose red tape on each other. Treasury has completed stage one, which focused on the reporting requirements that government agencies manage. Reforms are being implemented to build more flexibility into those requirements, including exempting smaller agencies from the need to complete some reports altogether. Treasury is now turning its attention to cutting red tape costs in other government processes such as procurement, information security and recruitment.

On another front, the Small Business Regulation Review Taskforce has been undertaking rolling reviews of specific industries and is committed to three reviews a year over five years. The Government has already endorsed the recommendations of the first two small business reviews covering the motor vehicle retailing and services sector and the accommodation, food and beverage services sector. The Small Business Regulation Review Taskforce has recently finished its review of the metal manufacturing sector and is finalising its fourth review into the professional and business services sector. Its next red tape review into the rental, hiring and real estate industries has commenced, with submissions sought by 30 November.

The third main part of the red tape project has been the implementation of the 74 recommendations made by the Independent Pricing and Regulatory Tribunal in its report on the burden of regulation in New South Wales. This broadscale, high-level review made 16 recommendations around improving regulatory design, consultation and decision-making processes within Government to ensure a best practice regulatory approach is used. [*Time expired*.]

Ms KATRINA HODGKINSON (Burrinjuck) [4.55 p.m.]: Today I raise an issue that affects small business in rural New South Wales. I am pleased that the Minister for Small Business and the shadow Minister are present to hear this because this important matter affects everybody's dinner table and everybody's breakfast table: it concerns canola oil and cold-pressed canola oil. Cootamundra Oilseeds, which is the largest cold-pressing canola company in Australia, is facing a very serious problem. Cootamundra Oilseeds provides products to many well-known companies including Inghams, Prydes and Ridleys. Much of its product is used to make high-quality stock feed for use within the thoroughbred racing industry and to make speciality gourmet food. No other Australian company can duplicate the oil; the only alternative to the product has to be imported from overseas. It is a totally Australian product that is made right here in New South Wales in Cootamundra, which has been very heavily impacted by the drought.

The term "cold-pressed" means that the oil has been extracted by mechanical means only and the oil has had no contact with chemicals, with heat before crushing, or with solvents, which together destroy some of the natural benefits of the product. The way the oil is extracted does not affect its fats, but it can change the protective substances, called antioxidants, of which canola oil has a much greater variety than other oils. This oil is cold-pressed and then filtered. The process retains all the natural benefits of the oil, including its colour, aroma and flavour, all of which would be destroyed using other processing methods. Canola oil has many uses, including cooking in the kitchen, baking, adding to livestock rations and organic fertilisers. It also has many industrial uses. Because it is a vegetable oil it has no cholesterol, but it is made up of seven different types of fats. Canola oil has only 7 per cent saturated fat and therefore has the lowest level of any mass-produced Australian vegetable oil. It is heart-tick approved by the National Heart Foundation.

I have written to the Minister for Primary Industries about this extremely important small business because the company is facing significant difficulty in accessing canola seed. It has already had to reduce its staff from 25 to 15. The remaining staff have forgone pay rises for the past two years and they are voluntarily working about 50 per cent unpaid overtime to keep the company operating. About 50 external jobs, mainly in the road transport industry, are totally dependent on the company for their employment. Cootamundra Oilseeds is unable to access the small business interest rate subsidy because under the current eligibility criteria it does not derive its income from the provision of goods and services to farming activities, but it depends directly on the provision of goods from the primary industry.

Clearly, there is a flaw in the eligibility requirements, which is why I have written to the Minister for Primary Industries. The eligibility requirements for the subsidy are that a small business must source a minimum 70 per cent of its income from the provision of goods and services for farming activities in exceptional circumstances declared areas. It is very distressing for all the citizens of Cootamundra that Cootamundra Oilseeds has fallen into this predicament. It is a very well-known company and one of the largest employers in the area. Its office is located at the Cootamundra Showground—and what a wonderful show Cootamundra held last Saturday. I took great pride in opening the show.

Cootamundra Oilseeds is a private company. Its shareholders are mainly district canola growers. The company began operations more than 15 years ago and it has enjoyed excellent growth. The company had 26 staff two years ago and it embarked on a major expansion project. It had a new greenfield site for which the environmental impact statement and the development application were approved and potential equity partners were ready in the wings. However, that was put on hold last year when all the crops in the region failed. The 24-hour, seven-day-a-week operations ceased at the two plants in the town and the company was forced to cut the number of staff back to 15.

Almost all the crops in the district have been cut for hay this year and it looks as though there will be no canola seed to crush. This year is looking particularly grim for the company. There is a distinct chance that it will have to close down, which will cost the jobs not only of those currently employed but also of the 40 employees the company would have employed. In addition, at least 50 outside jobs will also be lost. I ask the Minister for Small Business and the Minister for Primary Industries to show a little sympathy for these small businesses that are facing the worst drought on record, and cut them a bit of slack. I also ask them to provide the assistance that Cootamundra Oilseeds desperately needs. [*Time expired.*]

Mr DONALD PAGE (Ballina) [5.00 p.m.], in reply: I thank the member for Burrinjuck and the Minister for Small Business for their contributions to the debate. The Minister referred to the appreciating dollar. It has been a factor in tourism, but it has affected all States equally. The point I made was that tourism has declined in this State and Victoria, Queensland and Western Australia have benefited. Those States have been equally affected by the rising Australian dollar, so his point is not valid. The Minister also outlined a number of Government initiatives. I will not deny that they have been implemented, but they are rats and mice measures. They are small measures, not major regulatory reforms that will have a significant positive impact on the small business community. When this Government does something serious with payroll tax, land tax and red tape, I will be prepared to acknowledge it.

Taxes are not the only area of complexity and concern for small businesses. This State's occupational health and safety laws consist of 200 statutes and regulations with uniform sets of standards. Our occupational health and safety laws place a heavy burden of responsibility on employers while having little expectation of

personal responsibility on the part of employees for their own workplace safety. Under present occupational health and safety laws, if an accident occurs on a work site, the employer is assumed guilty unless he proves himself innocent. Clearly it is not possible for an employer to monitor the actions of every employee for his or her entire time on the work site. This burden of responsibility on the employer is unfair and unbalanced, and is a deterrent to small businesses that may consider employing staff. An inquiry into occupational health and safety laws must be undertaken to find ways to rectify what I see as a one-sided situation. It is Coalition policy to have such an inquiry. Through that mechanism we can ensure that people are properly protected in the workplace, as they should be, but with less bureaucracy.

The ever-increasing amount of red tape that the New South Wales Government has introduced has further added to the small business burden. The New South Wales Business Chamber noted in its 2005 red tape register that 40 per cent of business operators believe that current laws either do not work or hinder business performance. For example, in New South Wales builders are required to enlist the services of qualified electricians to make quarterly safety checks on all electrical equipment. That includes equipment such as the kettle and the portable radio in the staff room. At the very least, the Government should take a one-on-one-off approach to regulations of the type successfully implemented by the Blair Labour Government in Britain. I would prefer it if we were to go to a one-on-two-off system. At least that way we would achieve a genuine reduction in the number of regulations.

I note that the Government appointed a committee last week to look into red tape. However, on the basis of past performance, I doubt whether the committee will yield any serious benefit for the small business community with regard to reducing the level of red tape. It seems to be yet another committee designed to give the appearance of doing something while very little is happening. As I said, we have the highest number of business taxes and the highest level of taxation of any State in Australia.

Predatory pricing has been an important issue for small business following the High Court decision in the Boral case. I note that Treasurer Peter Costello has introduced legislation that has been passed at the Commonwealth level to make it possible for smaller businesses to take big businesses to the Australian Competition and Consumer Commission on a charge of predatory pricing. I congratulate the Federal Government on that initiative, because that issue was potentially a problem for small business.

The overwhelming conclusion for New South Wales small businesses is that there are far too many taxes, and those taxes are too high, which makes New South Wales uncompetitive with other States. The taxes are complex and time consuming to comply with and there is unnecessary overregulation generally. The occupational health and safety system should be properly reviewed so that some common sense can be introduced. The Minister for Small Business faces many challenges if he is serious. I encourage him to get busy implementing tax and business regulatory reform so that small business has a better environment in which to operate. We need fewer taxes and lower taxes, and less red tape so that small businesses can flourish in New South Wales.

Our State's reliance on payroll tax as the biggest source of taxation revenue is a disgrace and a high priority should be given to reducing our reliance on it. Lifting the threshold to a $1 million payroll and reducing the tax rate to 4.75 per cent, as has happened in Queensland, would be a damn good start. At least we would then be competitive with Queensland. Notwithstanding what the Minister said, this Government has done nothing of any significance to relieve the burdens on small business. I thank the House for the opportunity to raise these issues on behalf of the small business community of New South Wales.

Discussion concluded.

JURY AMENDMENT BILL 2007

Bill introduced on motion by Mr Barry Collier, on behalf of Mr David Campbell.

Agreement in Principle

Mr BARRY COLLIER (Miranda—Parliamentary Secretary) [5.04 p.m.], on behalf of Mr David Campbell, I move:

That this bill be now agreed to in principle.

This bill will allow up to three additional jurors to be appointed in lengthy criminal trials to reduce the risk of proceedings being abandoned because jurors die or are discharged. Long-running trials face a greater danger of jurors falling seriously ill or being discharged for other reasons.

The bill amends the Jury Act 1977 to enable the court to allow up to 15 jurors to be sworn in for trials expected to last for longer than three months. This will ensure the proceedings can continue even if several jurors are subsequently discharged. Under the Jury Act 1977, the court can already allow a criminal trial to continue with 10 or 11 jurors if members of the jury die or are discharged, or with even fewer jurors if both the defendant and the prosecution agree, or if the trial has run for at least two months. Nonetheless, it is still possible, particularly in long trials, that a trial will be abandoned if the number of jurors falls too low. This may be even more likely in trials for Commonwealth offences because comments made by the High Court suggest that section 80 of the Constitution may prevent Commonwealth trials proceeding with fewer than 10 jurors.

If a long trial has to be abandoned because a number of jurors are discharged and a retrial is held then the financial cost to the State, and the financial and emotional costs to the victims, witnesses and defendants will be substantial. The delay may reduce the likelihood of a successful prosecution, especially as witnesses may no longer be available: The retrial may even not proceed. While long-running trials are still relatively rare in New South Wales, these changes to the jury system will help ensure such cases can continue to be heard even if a number of jurors are discharged from the jury.

While the bill will allow up to three additional jurors to be appointed in lengthy criminal trials, not all the jurors will be required to deliberate. All the jurors will have equal standing throughout the trial, but once the judge has summed up the case, a random ballot will decide the 11 jurors who, along with the jury foreperson, will retire to consider their verdict. It is important to note that the foreperson, once selected, will remain the foreperson throughout the trial. The 12-member jury has a long history and is thought to be large enough to contain a cross-section of the community but small enough to enable the jury to come to a decision. These amendments retain the 12-member jury for the consideration of verdicts while at the same time reducing the possibility of abandoned trials.

I now turn to the detail of the bill. Section 19 of the Jury Act 1977 is amended to allow the courts to order that up to three additional jurors be selected for a jury in criminal proceedings if the court is satisfied of three things: firstly, that the trial is of a kind prescribed by the regulations. Section 19 (3) provides that initially this will be that the trial is likely to last for more than three months. Secondly, additional jurors will have to be an appropriate means of ensuring there will be sufficient jurors remaining when the jury retires to consider its verdict. Thirdly, appropriate facilities to accommodate the additional jurors will need to be available. The number of additional jurors that can be appointed in other Australian jurisdictions varies from two additional jurors in Tasmania, to six additional jurors in Western Australia. However, most jurisdictions allow an additional three jurors to be appointed. This avoids the difficulties associated with a larger number of jurors while still providing adequate protection against trials being discharged because the number of jurors falls too low.

The court will need to be satisfied the trial is likely to last for at least three months before it can appoint additional jurors. Appointing additional jurors requires more citizens to perform jury service, involves additional expenses such as juror fees, and requires courtrooms that can accommodate the extra jurors. The bill initially limits the circumstances where additional jurors may be appointed to the longest trials where the risk of a trial being abandoned is the greatest. However, the bill also allows the kinds of proceedings where additional jurors may be appointed to be prescribed by regulation so that this can be altered later if the experience with the new provisions suggests this is warranted. Various courts throughout New South Wales, including courts in the new Parramatta Justice Precinct, will be able to accommodate up to 15 jurors.

A peremptory challenge can occur when a jury is being selected. This involves an accused person or counsel on his or her behalf or the Crown objecting to a person sitting as a juror without giving any reason for the objection. In New South Wales criminal trials each accused is currently entitled to three peremptory challenges and the Crown is entitled to three peremptory challenges for each accused. The bill amends the Jury Act 1977 to confer an additional peremptory challenge on both the Crown and each accused if the court has ordered that additional jurors be appointed. Three of the other States and Territories allow additional peremptory challenges where reserve or additional jurors are to be appointed and four States and Territories do not.

A new section 55G will be inserted in the Jury Act 1977 to provide that if there are more than 12 jurors remaining when the jury is due to retire and consider its verdict then a random ballot will be conducted to

choose the 11 jurors that, along with the jury foreperson, will be the verdict jury. Jurors not selected to consider a verdict will be discharged except in certain limited circumstances. The first of these circumstances is where the court directs the jury to deliver a particular verdict in relation to some, but not all, of the accused or some, but not all, of the counts in the indictment. The second is where the jury retires to consider whether to return a verdict without hearing further evidence and decides it does want to hear further evidence. In these circumstances the jurors not selected in the first ballot rejoin the jury for the continuation of the trial and another ballot will be conducted when the jury later retires to consider a verdict.

The provisions of the Jury Act 1977 that allow criminal trials to continue with fewer than 12 jurors will still apply. Allowing additional jurors to be selected in longer trials will simply be a further safeguard against trials being abandoned because a number of jurors are discharged. The new provisions will apply where the jury is empanelled after the commencement of the bill. The Commonwealth Director of Public Prosecutions, the New South Wales Senior Public Defender, the Chief Judge of the District Court and the New South Wales Bar Association all suggested amendments to the Jury Act 1977 to allow additional jurors to be appointed. These were consulted in the drafting of this bill, as were the Supreme Court, the New South Wales Director of Public Prosecutions, the Law Society of New South Wales and the Legal Aid Commission. I thank all these persons and organisations for their suggestions and assistance in the development of this bill. The Government greatly appreciates their contributions.

The resulting bill will reduce the risk of long criminal trials being aborted and so reduce the trauma felt by victims of crime and their families. Delays arising from aborted trials can cause considerable distress to victims and may reduce the likelihood of a successful prosecution, particularly in cases where witnesses become unavailable. The bill improves the criminal justice system and could result in substantial savings of taxpayers' dollars by avoiding aborted trials and the resulting retrials. I commend the bill to the House.

Debate adjourned on motion by Mr Daryl Maguire and set down as an order of the day for a future day.

BUSINESS OF THE HOUSE

Notices of Motions

General Business Notices of Motions (General Notices) given.

PRIVATE MEMBERS' STATEMENTS

MERRAN CREEK CLOSURE

Mr JOHN WILLIAMS (Murray-Darling) [5.16 p.m.]: It is common knowledge among those who speak with rural residents just how scarce a commodity water is in this time of continuing drought. However, it has become even more so in recent weeks for hundreds of people in the southern part of the Murray-Darling electorate. The New South Wales Government has made a decision to deny landholders along a number of creek systems access to even stock and domestic water, despite the fact there are families reliant on that water for their very survival. I particularly point to the example of the Merran Creek system.

On 24 July this year State Water issued a customer notice to licence holders that the Department of Water and Energy was going to close the old Merran cutting. Closing that system meant water users immediately downstream of the structure saw a drop in creek levels but, according to the customer notice, "a small stock and domestic flow will be maintained". On 24 September State Water withdrew even its supply of stock and domestic water to licence holders in the area and the system has dwindled to a minimal flow at the bottom and small pockets of water further up, while the top has run dry. That decision to totally cut supply was made despite the fact that the total allocation for stock and domestic in the system is 479 megalitres a year and that 215 megalitres of that was still available for this year's use. In addition, there were still 1,233 megalitres of carryover water left in the system.

In recent weeks I have received dozens of calls from landholders in the Merran Creek system area expressing their concern about that decision. Their concerns are twofold: the loss of stock and domestic water and the impact it will have on their daily lives. They are also concerned about the long-term environmental damage closing down the system will have on it. There are 127 homes on the creek system, with about

60 farming families. They acknowledge that water savings need to be implemented to conserve what little of the resource is still available. However, they believe they have been unfairly singled out by the Government and made to pay for its lack of adequate planning and infrastructure. While all the calls were from people wanting the Government to reinstate the Merran Creek water supply, some also want the Government to install pipe networks in some parts of the creek system to replace the existing open channel systems to minimise losses and help prevent from this happening again. The department, in its regular communiqués, states:

> Earthen channels and dams have high losses and where possible, water should be conveyed by a piped system.

If the Government knows this, why is it not doing anything to rectify the situation and guard against system closures like the one that happened with the Merran Creek system? Part of the department's justification for closing the Merran Creek open channel system was that the losses from it were too high. Some who live on the system claim the department's assessment of those losses was inaccurate and questioned the validity of the results and the methods used to arrive at them. Licence holders in the system are also angry that with no water flowing, cattle and sheep are able to walk unrestricted as the creek acts as a pseudo fence line in places, causing additional cost to them in stock losses. In addition, native flora and fauna populations are at risk. A number of threatened species in the area will have their numbers dwindle even further without access to water, including platypus and the Murray hardihead, which the Victorian Government is spending millions of dollars on preserving. Murray cod populations are drastically dropping away, as are those of other native fish in the system.

While no-one denies the essential long-term environmental health of the land, sending extra water down the Murray to South Australia is not benefiting New South Wales residents, who cannot even gain access to a regular supply for stock and domestic use. Merran Creek water users are asking for only 20 megalitres a day to keep stock alive and for domestic use. They feel that if the creek system is run dry it will take a lot longer to bring it back to its current state and even longer to bring it back to vitality. The department has suggested that if there was a reasonable flush down the river, Merran Creek water users would get some of it, but the truth of the matter is that if that does not occur they will be left high and dry.

OUR PLACE SUPPORT CENTRE

Ms CARMEL TEBBUTT (Marrickville) [5.21 p.m.]: This afternoon I want to speak about an organisation in my electorate called Our Place Support Centre, which operates out of a hall in St Lukes Anglican Church, Enmore. Our Place was established by four amazing volunteers—Sue Steedman, Mollie Striglioni, Caryl Kinny and Dick Boyd—to provide a welcoming space for disadvantaged people in the inner west. Visitors to Our Place can come and have a meal, read the paper, watch television and seek help with advocacy or referrals. The clients of Our Place are many and varied, including local boarding house residents, people who are homeless, people with addictions and people who are lonely and marginalised. In the words of Our Place staff, "The common denominator for all our visitors is that they live in extreme poverty."

Last week was Anti-Poverty Week. On Friday I visited Our Place to serve lunch and meet firsthand some of the visitors and volunteers. I was incredibly impressed by what I saw. More than 80 people turned up to partake in a pasta meal prepared by Rita, one of Our Place's many volunteers, cheerfully served by Mollie, Alex, Judy and helped by me. Our Place is staffed entirely by volunteers and receives no government funding. Since it opened just over a year ago some 2,700 meals have been served, 4,200 volunteer hours have been worked and client numbers have increased to about 180 people a week. Our place has also been successful in attracting support from corporations, such as Clayton Utz and Network 10. This service is clearly meeting a need in the inner west. It is a tragedy that in times of economic prosperity and low unemployment, poverty is still a feature of far too many people's lives.

The Australian Council of Social Service estimates that two million people live in poverty today. That is one in 10 Australians. It will come as no surprise that groups most at risk of poverty include indigenous people, those without a job and single parents. We also know that poverty is concentrated in defined neighbourhoods. The work of Tony Vinson has found that in New South Wales 5.5 per cent of the most disadvantaged postcodes accounted for over half the incidents of long-term unemployment, child abuse and court convictions. New research, a study of welfare clients, released last week by Mission Australia, the Brotherhood of St Lawrence and Anglicare found that more than one-third of those surveyed who had children said they could not provide school books and new school clothes. About one quarter said that their children did not participate in school activities or outings and 18 per cent did not have a separate bed for every child in the family.

Children growing up in these circumstances start life way behind the eight ball. There is no doubt that against extraordinary odds some make it through. But for many children poverty means a poor start to life, particularly when it is combined with parental drug and alcohol addiction, domestic violence and inadequate parenting. This influences behaviour and conduct, and capacity to learn, to form relationships and to have empathy—all the things needed to make a success of life. Of course, tackling poverty requires multifaceted action from governments at all levels. The three organisations responsible for this research called for a national strategy to attack poverty. I hope that in the near future we have a Federal Government that takes poverty seriously. However, in the meantime, programs such as Our Place—modest in its aims, small in its scale—can make a real difference to the day-to-day lives of those who live in poverty.

Since opening its doors in October 2006, with a grand total of three visitors during its first week, Our Place is now seeing around 180 visitors a week, and numbers continue to rise. Visitors range in age from 19 to 74 and are usually unemployed due to multiple causes including mental illness, intellectual disability, neglect or abandonment, drug and alcohol addiction and/or histories of domestic violence. Our Place provides a safe, dignified and nurturing environment and simple meals that help engender trust between staff and visitors. This was obvious on my visit last week. With such a mix of clients, it might be expected that incidents of violence would occur. However, Sue Steedman told me that this was extremely rare because of the respect for and value placed on the service. As Sue said:

> We have seen some fantastic relationships form between people who are coming here. Some of the regulars are helping the new ones find accommodation or get to their doctor's appointment. That gives them a sense of belonging.

The centre is run on a shoestring. Sue and the other principals hope to create a model that can be used in other locations. I congratulate Sue, Mollie, Caryl, Dick and all the other volunteers on what they have created. I enjoyed my visit to the centre and my chat with many of the visitors. Our Place provides a space for people, free of violence and judgment.

HUNTER REGION POLICING

Mr CRAIG BAUMANN (Port Stephens) [5.26 p.m.]: This evening I bring to the attention of the House an issue that is of everyday interest throughout the Hunter Valley: policing. On previous occasions I have put to this place that effective provision of law enforcement in Port Stephens is the ultimate responsibility of the State Government, but through neglect and mismanagement it has failed to provide the ability to enforce the law that we take for granted in other parts of the State. As has been reported widely in the Hunter media these past few weeks, the problem is not just restricted to our slice of paradise north of Newcastle. Communities such as Dungog, Maitland and Cessnock are suffering from the Government's continued failure to properly resource the Lower Hunter Local Area Command.

Today a meeting of the New South Wales Police Association was convened due to the enormous risks our police are placed under while working this particular local area command. Lower Hunter Local Area Command police officers are said to be seriously considering industrial action. Instead of making this command safer and better equipped in support of our police, Premier Morris Iemma and the Minister for Police are waiting for the outcome of a review into Hunter policing before making any decision. This review commenced last year. It has no deadline. When deflecting criticism of this command's operating strength, the Government has been caught out twice now. It referred to the Lower Hunter Area Command being 21 officers over strength. Meanwhile, 29 officers are on stress leave. This command is ranked first or second in the State for every crime category. While the Labor Government might make a big song and dance about aggregate crime rates being stable, or even dropping, throughout the State, according to the Bureau of Crime Statistics and Research the Lower Hunter continues to record increases in crimes such as assault, theft and malicious property damage.

This command lacks proactive investigation units for theft and drug offences, even though these crimes are skyrocketing in the region, because there is a dire shortage of detectives. As the incidence of stress leave increases, highway patrol officers are being taken off the road to fill general duties positions and stations are being closed to meet first-response agreements. One car crew, in a 12-hour night shift, could be called out to 52 jobs. Officers are often forced to work on rest days to keep up the workload. No-one doubts that policing New South Wales is an arduous task, one that places the brave men and women of the New South Wales Police Force under greater levels of stress than that of the general workforce. However, the Government's failure to appropriately resource one of the State's largest local area commands has placed lives at risk and highlighted its inability to respond effectively to the demands of this vital emergency service.

I am passionate about providing a dedicated Port Stephens local area command to the people of the region. The Government frequently claims that such a commitment will not address the issues at the Lower

Hunter Local Area Command. Indeed, it might not. More police will address those issues, and it is more police that the Police Association is crying out for. However, given that in the wake of the State election, when four more police were committed to the region and only one has been delivered, I sincerely doubt the Government's ability to deliver a satisfactory solution to this problem. An open, transparent approach to addressing the Hunter region policing is the way forward. Rather than engage in internal reviews that the community never hears about until the Government needs to justify inaction, the police Minister needs to visit the Port Stephens community and police in the area to discover for himself just how bad things have become.

Not everyone agrees with me that a Port Stephens local area command is the way forward to take the pressure off the Lower Hunter. However, rather than having a debate on the issue the Government continues to spin its lacklustre achievements in the House while telling outright lies to the regional press. This is not the way to reach an acceptable outcome. I hope, for the sake of the people of Port Stephens and the greater Lower Hunter area, that no industrial action is undertaken as a result of today's meetings. I call on the Government to work with me and the Police Association to reach an acceptable outcome with regard to the future of policing this large regional area.

As I have said, today the New South Wales Police Association met to consider strike action to protect its workforce. I am informed that its ultimate decision was to commence industrial action, and the Government, therefore, has 28 days to come to an amicable compromise for all parties. The most important party involved is the people of the Lower Hunter. It is their need to be protected that the Government must place before all else. If that means biting the bullet, admitting it was wrong, and doing what the Police Association and I have asked of the Government on numerous occasions, so be it. That is the Government's responsibility to the region.

CAMDEN LIBRARY VISITING AUTHORS PROGRAM

Mr GEOFF CORRIGAN (Camden) [5.31 p.m.]: Two years ago I was honoured to join then Premier Bob Carr and the mayor of Camden at the official opening of the wonderful new Narellan Library. Earlier this year I attended the reopening of Camden Library. Both libraries are housed in outstanding buildings, the Narellan Library building being a tribute to modern architecture and Camden Library, which incorporates Camden Museum, being a wonderful example of the readaptation of an existing building. I could extol the virtues of these two wonderful libraries—the Internet access, the many books and all the modern things that libraries have these days—and how they serve the multiple, and at times complex, needs of the Camden community. But tonight I want to speak about Camden Library's excellent Visiting Authors Program.

Camden Library has established such a reputation for its visiting authors program that on 24 September 2007 the visiting author was American writer Kathy Reichs, who spoke about her latest book, *Bones to Ashes*. This was particularly interesting for me as I have read several of her books, which are about forensic investigations. Kathy was very entertaining, and she held the audience of 540 enthralled as she spoke about her career as a forensic anthropologist in North Carolina and Quebec. She told us how she builds her characters from real life experiences and people she has met. It was a real experience to hear how such a wonderful, well-known international writer goes about constructing her books and how she reflects her life experiences in them. I am sure that most members would be aware that the popular television show *Bones* is based on Kathy's novels.

I particularly thank Virginia Ghezzi, the team leader at Camden Library, for inviting me to thank Kathy on behalf of the audience. It was a great pleasure to do this simple task. Even though Kathy Reichs attracted the largest audience at the Visiting Authors Program to date, with not just Camden people in attendance but also visitors from Wollongong, the Blue Mountains and the Sydney area, the program has been building in popularity. Visiting authors who have spoken at previous Camden Library Visiting Author Programs include Todd Russell and Brant Webb, the Beaconsfield miners; Hugh McKay; Kate Grenville, winner of the Miles Franklin Award and the New South Wales Premier's Award for Fiction; Mike Munro; Nick Earls; Peter Corris, one of Australia's leading crime writers; Sandra Cabot, a local writer of best-selling alternative health books such as *The Liver Cleansing Diet*—I think before Kathy Reichs, Sandra attracted the largest audience—Susan Duncan, author of best-selling memoir *Salvation Creek*; and William McInnes, star of *Sea Change* and author of *A Man's Got to have a Hobby*, a memoir of growing up with his father in Queensland.

Camden Library has also held book launches for local authors, such as my friend Charles Inglis. All these book launches have been successful and much enjoyed by audiences. In December-January the library hopes to host a visit by Esther Coleman Hawkins, the editor of a new book, to be launched in November, about the wonderful Choir of Hard Knocks. Hopefully she will be accompanied by the inspirational Jonathon Welch,

the founder and musical director of the choir. In February the library will host a visit by Judy Nunn, who is a bestselling author and the actor who plays Ailsa in *Home and Away*, together with her husband, Bruce Venables, who is also an actor in various television productions and the author of a new thriller. For the benefit of members who are interested in reading Judy Nunn's books, they are available in the Parliamentary Library. As I speak crowds will be starting to arrive for tonight's visiting author, Andy Griffiths. A popular children's author of books such as *The Cat on the Mat is Flat* and the *Just* and *Bum* series, I am sure Andy will be well received, particularly given that he will talk about his new book, *Just Shocking*.

The library is able to secure the attendance of authors free of charge as part of its promotional tour. The Camden Library Service keeps its fees low; they are mainly to cover the cost of hiring the Camden Civic Centre. For example, the fee for the Kathy Reichs talk was $7 per person—and, yes, I paid—and the fee for the Andy Griffiths talk is $4 per person or $12 per family. This covers entry and, with Kathy, a glass of wine and cheese, and, with Andy, a glass of orange juice. Of course, all this does not happen by accident. It is a tribute to all the staff at Camden Library that this wonderful program is so popular. I will not seek to name one librarian or one library staff member, because if I do I will get into trouble. However, I congratulate my good friend Virginia Ghezzi on such a wonderful program. I have had a long association with libraries wherever I have been, in Wyong or North Sydney. I consider that the library staff at Camden are amongst the best in the State, indeed in Australia. I congratulate the Camden Library on its Visiting Authors Program.

HORNSBY POLICE AND COMMUNITY YOUTH CLUB

Mrs JUDY HOPWOOD (Hornsby) [5.36 p.m.]: I wish to speak about the Hornsby Police and Community Youth Club, which operates in the Hornsby-Mount Kuring-gai area. At the outset I congratulate the club and the very committed team that works with young people on the fantastic work they do. I acknowledge in particular Chris Perry, the civilian manager, who has pulled the team together since he took over that role and has been extremely effective in increasing club membership, which has increased dramatically over the last year, as well as sorting out many of the club's affairs, including the proposed relocation of the club to a brand new building in association with Hornsby Bowling Club. I also acknowledge Peter Kirkwood, the president of the board, who does an excellent job in that role. I am proud to be the patron of the Hornsby Police and Community Youth Club, a role I have undertaken since my election to this place. It is certainly a pleasure to work with these extremely committed people.

I also acknowledge Belinda Rammage and Lynda Hart, a dynamic team of police officers who work with the young juvenile offenders or potential offenders. Three years ago they created a project known as the Kick Start Program, which has been running very successfully. Under the program, on one day a week for a period of eight weeks groups of young girls and boys attend sessions at the club. These young people have been found to be at risk: they are either serial truancy offenders or they may have come to the notice of local police, and they have benefited greatly from being part of the Kick Start Program. Police and Community Youth Clubs New South Wales is Australia's leading youth development organisation, with 59 clubs and more than 54,000 members. Its mission is to get young people active in life, work with young people to develop their skills, character and leadership, and prevent and reduce crime by and against young people. I can certainly say that its mission has been achieved in Hornsby.

I also mention the young Russell brothers, James who is 12 years old and Tim who is 11 years old. The brothers train at the Police and Community Youth Club and are top wrestlers in their weight division for the State. They are two of 20 wrestlers at the club and form part of what is becoming an increasingly popular sport. The Russell brothers have contributed to the success of the PCYC in the Hornsby—Ku-ring-gai area. Sydney Olympian Brett Cash and local upcoming star James Lord train the boys. I congratulate the two boys, who performed extremely well in the recent Australian school-age wrestling championship.

SoccerFit is also a relatively new program at the Hornsby Police and Community Youth Club for young people. Soccer is a great way to get fit and it is one of the world's most popular sporting activities. The Police and Community Youth Club provides this activity for young people to get fit. Everyone can participate and no previous experience is required. SoccerFit is going from strength to strength. I also congratulate Sam Davis as part of the Blue Star Youth Leadership Program "Where Tomorrow's Leaders Shine". Sam organised a trivia night on Friday, 19 October 2007, which raised $1,500. Sam did an outstanding job at that event. There was a lot of vying for success at all tables but my team won, and we were very proud of them. The Blue Star program is a wonderful leadership pathway for young people and I congratulate the Hornsby Police and Community Youth Club on supporting it.

ST VINCENT DE PAUL SOCIETY ANIMATION PROJECT

Mr GRAHAM WEST (Campbelltown—Minister for Gaming and Racing, and Minister for Sport and Recreation) [5.41 p.m.]: On Wednesday, 17 October 2007, the International Day for the Eradication of Poverty, the Campbelltown public housing estate area celebrated the tenth anniversary of the Animation Project of the St Vincent de Paul Society, which began as a small pilot project in Claymore in 1997. It has since gone on to achieve national recognition, receiving the Mercy Foundation Award for achievement in the field of social justice. The Animation Project is about people. The process of animation, of bringing to life, of energising and inspiring is based on a strong belief in the power of ordinary people to affect change in themselves and their communities, if supported, encouraged and trusted.

The project focuses not on achieving a predetermined set of outcomes or on what non-government organisations can do for residents in a struggling community, but on how residents can be supported to discuss and act on community needs that they regard as important. Each community action that residents decide to take together brings about change and, over a period of time, people's self-belief, capacity and influence grow. The member for Camden, Geoff Corrigan, and I have been associated with this project for many years and are pleased to see it thrive and make a real difference. Bev from Minto best summed it up when she said:

> Our community wasn't told what to do, rather the Animation Project worked with us to help solve our problems for ourselves.

That is very much the form that Julie Foreman, the coordinator of the project and her dedicated team of three other workers, use in supporting the residents. Some of the other projects they have been involved with over the years include things that other communities may take for granted, such as realising a laundromat in the suburb of Claymore and building a coffee shop as part of that with the local community involved in the running and staffing of it. Involved participants have said:

> I feel good about myself because I'm doing something for the community … I have learned so many wonderful things being involved with the Laundromat … from a narrow environment to a wider environment … from shyness to confidence … from poor English speaking to fairly good English speaking … from a scary heart to a strong heart … from poor self-esteem to positive self-esteem, from a lonely person to a social person … It made me look like a new woman in a new world.

These are some of the ways in which the Animation Project has given people confidence. The Animation Project fought for a bus service between Claymore and the local shopping centre in Eagle Vale. It is only a short distance of one kilometre or more, but it is up hill all the way. Many other communities would take such a service for granted but Claymore residents fought for it, supported by the Animation Project, and were successful.

The Animation Project has also supported the establishment of many other community organisations. It has developed arts programs to encourage residents to connect with each other and to express themselves. It has been involved in a community park in the Minto Housing Estate, which has been the site of many positive outcomes over the years, including annual Christmas events. It has encouraged residents to become involved in research of problems that affect them and has made sure that residents lead all their projects. It has involved many religious orders, not only the St Vincent de Paul Society, but also the Franciscan Friars who live in a community in Minto; the Wagga Wagga congregation of the Presentation Sisters, which supports them from the Nagle Centre in Campbelltown and has been essential in providing facilities; the Good Samaritan Foundation; and the Sisters of St Joseph, who work in Claymore and Minto—all of them living on the estates and working with people to help them see how to solve their own problems.

The Animation Project values collaboration with government and non-government organisations, believing it has an important role in linking residents to services in such a way that residents are in control and in strengthening existing networks. Not only does it work with religious orders, it also works with the Centre for Popular Education at the University of Technology, Sydney, the University of Western Sydney and the Edmund Rice Centre for Justice and Community Education. It has also hosted international guests from Paraguay and Zambia who work within the animation framework developing an international network. It has also developed links with the Government and has been funded by both the Federal and State Governments over the years in its work. Most importantly, the project is about the people. Further feedback from participants includes:

> Animation is about soul-building … gradually got involved in the Laundromat Group and began to realise there was more to life. Being involved helped me regain confidence. I began to believe I can do something. I can take control of my life … I can give back. Through this process I've met others, become aware of injustices and the issues that people face on public housing estates. This has all been important in helping me work out my purpose. I now say: I don't survive anymore, I live! (Sue, Eagle Vale)

CLOUD SEEDING

Mr KEVIN HUMPHRIES (Barwon) [5.46 p.m.]: Water use in all Australian States is an ever-increasing problem, not least in New South Wales and my area of Barwon. Increasing demands for fresh water coincide with the ever-growing demands of population growth and the need to feed and clothe the world as we move to maximum population in the next fifty years. Water use in the future is likely to be rationed and that which is available is likely to come at a much higher cost. We are not left helpless, however, as changes in management practices and the application of tried and proven technological solutions make it possible to restore significant proportions of that which has been lost.

In some parts of our world, including New South Wales and, indeed, in Barwon, evidence in the last 30 years in particular strongly suggests that our temperatures are getting warmer and rainfall less predictable. The last remaining frontier of future water availability is the vast reserves of atmospheric water available in the clouds. The cloud seeding method of water harvesting was pioneered in 1946 but little commitment and effort has been made since in progressing this initiative on the mainland of Australia. The CSIRO Division of Radio and Cloud Physics undertook initial work between 1947 and 1970 in Australia. For a while Australia emerged as the leader in cloud seeding technology until it was handed over to the States for operation, the result being that various States have made a haphazard approach to the program ever since, with the exception of Tasmania, which has a continued commitment to cloud seeding in partnership with Tasmania Hydro.

A rush of activity in cloud seeding was undertaken during the last big drought in Australia in the 1960s, but following a break in the weather the effort diminished and virtually disappeared, with expertise, equipment and skills dissipating to all parts of the world that were keen to expand the technology. In Sydney alone the Warragamba Dam catchment was targeted by cloud seeding trials on three separate occasions: 1948–1952, 1956–1959 and 1960–1964. In all cases rainfall was significantly enhanced to well above historical levels. The dam was built within the four-year trial period, even though Sydney Water Board engineers estimated it would take a minimum of seven years and a maximum of 21 years to fill.

In my own area a five-year trial was undertaken, with the first year showing a 30 per cent increase in average rainfall. Subsequent years did not show a marked increase. The trial illustrated the need to vary the location of the seeding within the identified areas and the fact that, with various weather patterns, seeding in an area will often translate to falls outside the initial target areas. This phenomenon is now far better understood. The most recent cloud seeding program for drought relief was conducted in north-western New South Wales in 1994-95 from November to February. The 12-week clouding program based out of Tamworth covered an area of 13,000 square kilometres and targeted the catchments of Keepit Dam on the Namoi River, Split Rock at Manilla River, Copeton Dam on the Gwydir River and Pindari on the Severn River. The operation was an outstanding success.

Suitable clouds, known as cumulus clouds, from the Charleville trough, originating in Central Queensland, occurred every two to three days and heavy rains followed seeding. Rainfall in the target area increased on average from 90 per cent to 160 per cent of the long-term average. Unfortunately, with a change of Government in 1995 the program was abandoned. Ian Searle and the team from Tasmania Hydro returned home to the island State. Once again, science was gazumped by politics. Socioeconomic studies that were completed in conjunction with the trials concluded that cost benefit ratios for run-off into storages alone was 9:1 and rainfall on crops and pastures rose to 33:1. The benefit on one average seeded day exceeded the cost of the whole three-month program.

I call on the State of New South Wales to re-establish aerial cloud seeding trials in line with worldwide accepted practice in countries such as the United States, Russia, South Africa and Israel. Queensland is progressing a large-scale trial in the south-east of the State and has just been granted $10 million from the Federal Government for assistance. New South Wales led the way post-war in cloud seeding. The release of silver iodide into moisture-bearing clouds is environmentally friendly and can only lead to beneficial returns for both city and country communities. To continue to ignore this technology at a government level is negligent. Whilst Snowy Hydro continues with its ground-based trials in the south of the State under extreme environmental pressure, aerial cloud seeding is a proven technology.

The global positioning satellite navigation overlaying current weather monitoring technologies provides an enormous amount of predictability, with cloud seeding vastly improving targeted outcomes. Costs are minimal. A full-scale five-year program costs in the order of $5 million. Well-correlated control areas would have significant benefits to the whole Murray-Darling Basin and, indeed, larger cities such as Sydney. Last year

I hosted a cloud seeding forum in Narrabri. The ingredients and people are available to undertake the program. The only thing missing is the political will.

NATIONAL HISTORY CHALLENGE

Mr ALAN ASHTON (East Hills) [5.51 p.m.]: Tonight to congratulate the teachers, students and parents who were involved in the 2007 National History Challenge. The theme for 2007 was "Lessons from the Past". The presentation was held last night in the Jubilee Room, the old parliamentary library. The Deputy Premier presented the awards. It is the fourth or fifth year in a row that he has done so. The National History Challenge is a research-based competition to give students a chance to be historians, investigate their community and explore their own past. It emphasises and rewards quality research, the use of community resources and effective presentation. Students from years 5 to 12 submit their research at school level and can progress through regional, State and national finals. The National History Challenge demonstrates the quality of work that is being produced in our primary and secondary schools, and testifies to the importance, value and understanding of our own past.

I congratulate the students involved at the New South Wales level and later national level. As to the category winners announced last night, the State winners were for years 5 to 6 Jessica Hough, for years 7 to 8 Samuel Walker, and for years 9 to 10 Abby Cone. In the special categories, for War and Peace the winner was Jack Pollard with Daniel McKay highly commended, for the Life and Times of John Curtin the winner was Diana Reid, and for Indigenous Australia the winner was Ellen Donald with Abby Cone and Jessica Seymour highly commended. Jessica attends East Hills Girls Technology High School in my electorate. In the special categories, for Women Shaping History the winner was Paris Hansch, and for Using Primary Sources the winner was Daniel McKay with Millicent Walker highly commended. Millicent was also the winner of the special category for Australia's Heritage, with Christopher Corby highly commended. In the special categories, for History of Sport the winner was Jessica Harrison with Rhys Hardaker highly commended, for Human Rights through History the winner was Jenny Kyung Jin Lee with Catherine Hall highly commended, and for Lessons from the Past through a Museum Display the winner was Samuel Walker. The New South Wales Young Historian of the year was Annabelle Walker, who won the Premier's Award.

The National History Challenge presentation has taken place here for the eight to nine years I have been a member of Parliament. Officiating at the event have been former Premier Bob Carr, former Deputy Premier Andrew Refshauge, and for the last four to five years Deputy Premier John Watkins. I pay tribute to the Deputy Premier, who has told me that the more he reads history the more he falls in love with it. As most members would know, he was a teacher before he entered Parliament, as was I. I want to acknowledge the people who were actively involved in this event. They are Jennifer Lawless and Kate Cameron from the New South Wales Board of Studies, and Albert Marchetto from the History Teachers Association, a former school inspector.

Albert has been the master of ceremonies every year. I had the privilege of teaching with him many years ago at Busby High School in Green Valley. I moved on to Punchbowl Boys High School. They were tough schools, with great kids. Tracey Sullivan, who is involved with Macquarie University, is the State Coordinator of the National History Challenge. Other people involved in the event are Tina Hutton from the History Teachers Association, Fiona Burn from the National Archives, and Dr Caroline Jones from the Women's History Forum.

There has been a lot of talk lately about history. There is no one narrative of history; there are many versions. I have found over the years that it is a subject one never gives up learning. I taught the subject for 20-odd years before I became a member of Parliament and I continue to read about history. It was the most obvious pursuit I had in common with Bob Carr. We often questioned each other on our knowledge of history. Bob Carr liked asking questions, and I got more right than I got wrong. I have just finished reading *The Great War* by Les Carlyon and I am currently reading a book called *Shell Shock* by Anthony Babington. I am sure the member for Blacktown, who is present in the Chamber, has read all the books I refer to. Perhaps he could let me know more about them to save me having to read all of them.

The next book I will read is *Somme Mud*, and I have on the dressing table *Kokoda and Tobruk* by Peter FitzSimons. On a recent trip overseas I visited Passchendaele and Ypres, in Belgium. I spent reflective time at the Menin Gate, where the names of countless thousands of soldiers without proper graves are chiselled onto the wall. I was interested to note that recently five bodies were found, two of which were recognised through DNA testing to be Australian servicemen who died in World War I. A couple of weeks ago they were buried with full

military honours at Zonnebeke in Belgium. Their names can be taken off the list of soldiers without named graves. I remind members that historians are lovers of all the ages.

GUIDE DOGS NSW/ACT

Mr RAY WILLIAMS (Hawkesbury) [5.56 p.m.]: Hawkesbury has many wonderful organisations and volunteer service groups spread throughout the electorate. These organisations bear testament to the thoughtfulness and care of this community and its residents. One particular organisation I had the pleasure of visiting with my wife, Wendy, on Sunday 21 October is Guide Dogs NSW/ACT. The purpose of this special visit was to celebrate 50 years of Guide Dogs operating in New South Wales. Guide Dogs NSW/ACT, which is an organisation located at Glossodia, in one of the rural areas of my electorate, has been operating since its inception on 22 October 1957. From humble beginnings—it was started by a group of nine dedicated volunteers—this wonderful facility has provided care and an increased quality of life to many people who are visually impaired. Last Sunday Guide Dogs NSW/ACT opened to the public its vast training centre at Glossodia, and hundreds of locals turned out to explore the facilities and learn more about the dogs and the role they play in assisting visually impaired people.

Mr Joe Finucane, chief executive officer, and Mr Andrew Pierce hosted the day. Mr Finucane spoke about the commitment by various people in the early days of the association. Particular mention was made of Dr Noel Pryde, who was the driving force in the early development of the association and was elected as the association's first president in 1958. Dr Pryde served the association with great distinction for many years. Guide Dogs for the Blind Association, as it was then known, was incorporated in 1962, and developed and expanded through the 1960s as the major partner to the national body. The national body, Guide Dogs for the Blind Association of Australia, was granted royal patronage in 1969 and was renamed the Royal Guide Dogs for the Blind Association of Australia.

After the 1960s a wind of change was moving through mobility training for the vision impaired. White cane or long cane training, which is believed to have been invented by blind former World War II pilots in the United States, was developed as the new mobility aid. It is still the primary mobility aid in use by people with vision impairment today. A new type of instructor course was created at that time to train people in the field of orientation and mobility instruction. I mention especially Juliet Smith, who was present during the course of last Sunday's celebrations. As a young lady in 1973, Juliet became the association's first Australian-trained orientation and mobility instructor to work in the New South Wales association.

Over the past 20 years Guide Dogs NSW/ACT has extended its services to rural areas right across New South Wales, such as Coffs Harbour, Newcastle, Orange, Tamworth, Lismore and Albury, including other regional areas surrounding Sydney. In 2000 the Guide Dogs Centre in Glossodia was opened by the then Governor of New South Wales, the Hon. Gordon Samuels, AO. In 2006 the first book was published by the association, entitled *Guide Dogs—Current Practice*. The book has been described as a landmark in this field.

Today, Guide Dogs NSW/ACT employs 175 people throughout New South Wales. This figure includes 106 staff members involved with client services, 63 instructors, 31 staff currently employed at Glossodia, and 36 staff members in administration, finance, fundraising, marketing, communications and bequests. The organisation proudly boasts it receives no government funding whatsoever. Volunteers still play a major role in the association today by raising the puppies for the centre, which are provided from several local breeders. Golden retrievers and Labrador crosses are the preferred breeds of dogs used by Guide Dogs. The puppies are fostered out to families for approximately 12 to 14 months. After this time the dogs are each assessed as to their suitability to be guide dogs. The successful dogs then embark on an extensive five-month training program before being placed in service with a person who is visually impaired.

Guide Dogs NSW/ACT provides care, companionship of animals and a quality of life to people suffering visual impairment. I commend the organisation for 50 years of valuable service to the community and wish it all the best for the future. Guide Dogs NSW/ACT at Glossodia is an amazing facility and I am extremely proud to have the pleasure of bringing it to the attention of this House.

POLITICAL CREDIBILITY

Mr PAUL GIBSON (Blacktown) [6.01 p.m.]: Tonight I speak about my electorate of Blacktown, an area of which I am very proud, and something all of us must have in this place and in virtually every walk of life: credibility. Credibility is something we have to work hard for, and we have to earn it. When people learn to

trust you and believe in you, that is credibility. One way to lose credibility is to make promises at elections and not keep them; then one loses credibility fairly quickly. Without being too political, before the last Federal election John Howard said we would never have a goods and services tax, but straight after the election we have the GST. Before the last Federal election John Howard said the number of troops fighting overseas would not be increased. Of course, straight after the election the number of troops overseas doubled.

Blacktown has a population today of more than 300,000 people. It is one of the largest cities in New South Wales and the second or third largest in Australia, behind only Brisbane and the Gold Coast. It is a very diverse area. Many industries have moved to Blacktown over the past 7 to 10 years because they can transport their goods on the M2, the M4 and the M7, which means they can go north, south, east or west. Before the last election I made certain promises in Blacktown. One promise was that the Government would supply a magnetic resonance imaging machine. The $4.5 million magnetic resonance imaging machine has not only been delivered to Blacktown Hospital but it is now being used. The first patients were treated on the machine some weeks ago.

It is interesting to note that 70 per cent of all magnetic resonance imaging licences go to the private sector but we were lucky enough to get one in Blacktown Hospital. I also note—there must be an election in the air—that last week Louise Markus, the Federal member for Greenway, and Tony Abbott were out at Blacktown Hospital basking in the glory of the magnetic resonance imaging machine. The Federal Government certainly issued the licence but it did not put one zack towards buying the machine; the State Government forked out the $4.5 million for it.

Another promise I made before the last election related to extensions to the psychiatric centre at Bungarribee House at Blacktown Hospital at a cost of $1.9 million. We had been fighting for those extensions for a long time, and that work is almost completed. A school hall for Marayong Primary School, one of the largest primary schools in this State, was at the top of the list many times over the years but it never happened. Since the election the money for the hall has been supplied and the hall has been built. There was a scare in the Blacktown area when the Liberal Party claimed that the Government was going to close the Roads and Traffic Authority office and people would not be able to obtain their drivers licences and renew their vehicle registrations in Blacktown because this dastardly State Government was taking away that privilege. Last Monday I had the privilege, along with the Minister for Roads, to open the new $1.1 million state-of-the-art motor registry office at Blacktown. The office employs 24 people and last Saturday morning it served about 500 people. It is a better motor registry office in a better locality and represents another promise the Government has fulfilled.

Also on Monday the member for Smithfield, the member for Toongabbie and I opened the $3.4 million section of the bus transitway at Prospect, another promise we have kept. Evans High School now has a new toilet block at a cost of $55,000. That is something else we promised. Blacktown station has the largest number of morning commuters on the whole rail network, and we promised we would build a commuter car park. The Minister confirmed the promise only last week that it will be built during this term of government. Credibility counts for everything, and people in the electorates know that. They know how hard the State Government is working and that it is working for the betterment of the people of Blacktown. They say thank you.

WORKCHOICES HIGH COURT DECISION: CONSTITUTIONAL ARRANGEMENTS

Mr ROBERT OAKESHOTT (Port Macquarie) [6.06 p.m.]: Tonight I talk about the constitutional arrangements following the WorkChoices case in the High Court and where it leaves service delivery in the Port Macquarie community, which is seeking a sensible answer from the State Government so that service delivery and future Commonwealth-State relations can be clarified. The Commonwealth used its unusual powers of having control of both Houses to muscle up to the High Court to test the waters in relation to the corporations power in the case of the States versus the Commonwealth. It is my view that whilst taking the baby out of industrial relations, 12 months after the decision has been made in the High Court the bathwater has been left behind on many other issues. Those issues include defining exactly what are constitutional corporations in New South Wales and Australia, so that at both a State and Federal level we can sort out future working arrangements with the benefit of the legally defined responsibility of the Commonwealth and the legally defined responsibility of the State.

The boundaries of the corporations powers that have now been decided upon by the Commonwealth have clearly been left unanswered. They were consciously left unanswered by the High Court in the WorkChoices case, despite a substantial and wide reading of the corporations powers both in the case and in the 5-2 judgment. On its widest reading the judgment can have far- reaching obligations for State powers and

authorities, and it is remiss of this Chamber to simply turn a blind eye, assume a victim mentality, and hope that the Commonwealth will go away. The Commonwealth is not going away, and the sooner all of us get on the front foot and address the broader issues involved in this matter the better.

It could be argued that on a wide reading absolutely everything from energy, gaming, health and education are under direct Commonwealth authority. A constitutional corporation can be expected to include entities incorporated under incorporation association laws, statutory corporations and possibly even councils. I note that a test case is to go before the Federal Court of Queensland that may help answer some of the questions relating to who has authority over councils. A range of bodies has previously been defined as constitutional corporations, such as not-for-profit football leagues and clubs, the RSPCA and the Australian Red Cross. Government agencies that have previously been identified as constitutional corporations include the Government Insurance Office of New South Wales, the Queensland Commissioner for Railways, Royal Prince Alfred Hospital, the Victorian State Superannuation Fund and the Hydro-Electric Commission of Tasmania. The laws of the Commonwealth are different when they override State laws.

The more interesting issue, and the issue that this place should consider, is where State laws are invading the field that a Commonwealth law is intended to cover. This cover-the-field inconsistency will be the true test of the boundaries of the corporations power. I assume that the Solicitor General and the Crown Solicitor have provided advice to the Government. I ask that that become part of a public debate rather than a private debate. If that were to happen, communities such as those on the mid-North Coast could engage in and debate the issues in question. The Teachers Federation, representing TAFE colleges that are concerned about the State Government's proposed increase in fees for those wanting to use TAFE facilities, lobbied me today. That once again raises the question of who has authority over TAFE colleges, particularly if they are being asked by the State Government to trade at a more commercial level than they already do. A range of issues is not being discussed in a sensible and rational debate— [*Time expired.*]

BATTLE OF BEERSHEBA ANNIVERSARY

Mr PETER DRAPER (Tamworth) [6.11 p.m.]: Next week, on 31 October, we will celebrate the ninetieth anniversary of the Battle of Beersheba, where the Australian Light Horse won a hard-fought victory over the Turkish forces in what many have labelled the last great, successful cavalry charge in military history. This commemoration is special for Tamworth and the north-west of New South Wales because many of the troops involved came from our region as members of the 12th Light Horse, who were the forefathers of the current 12/16th Hunter River Lancers, which is still based in Tamworth. They will commemorate this event at their headquarters known as Beersheba Barracks.

A special commemorative moment of reflection is being held in Tamworth at the Light Horse Memorial in Bicentennial Park. Generally known as the Waler Memorial, this sculpture was unveiled on 29 October 2005 in recognition of the important contribution the stock horses and the men who rode them made to Australia's military commitments in the Boer War and the Great War. The Waler memorial was designed and sculptured by Tanya Bartlett, who currently resides in Newcastle but who is originally a Gunnedah girl. The project cost $150,000, with Joblink Plus in Tamworth donating $35,000. Public subscriptions totalled $90,000 and the remainder was contributed through government grants, including $10,000 from the New South Wales Government, for which the Tamworth community is very grateful. I must pay tribute to local resident David Evans, who was the driving force in bringing this project to fruition. Although unveiled only in 2005, the Waler Memorial was recently voted the number one man-made attraction in inland New South Wales in an ABC Radio poll. That is amazing when one considers that it was up against icons like the Snowy Mountains Scheme.

Tamworth's Major Eric Hyman led the 12th Light Horse on the left flank of the overall charge by the 4th Brigade at Beersheba, which was a major operation in the third battle of Gaza, and part of the Sinai and Palestine campaign of World War I. They charged more than four miles at the Turkish trenches and, despite withering rifle and machinegun fire, they overcame the odds and took the trenches. However, more importantly, they captured the wells at Beersheba, whose vital water supplies were needed for the Light Horse Brigade to keep the campaign moving. In capturing Beersheba, the 4th Light Horse Brigade took 38 officers and 700 other ranks prisoner, as well as four field guns. This came at a cost of 31 men killed and 36 wounded. The rest, as they say, is history.

This epic charge has been depicted a number of times, including in the Charles Chauvel 1941 epic, *Forty Thousand Horsemen*, again in the 1987 film, *The Light Horsemen*, and in a 1993 episode of *The Young*

Indiana Jones Chronicles.Today, many dedicated armed forces reservists from the Tamworth and Northern Tablelands electorate form the 12/16th Hunter River Lancers, the direct descendents of the 12th Light Horse. Lieutenant Colonel Michael Hanna, commanding officer of the 12/16th Hunter River Lancers, and his command are very proud of these historical links. It is only fitting that to commemorate the ninetieth anniversary of the Battle of Beersheba the 12/16th Hunter River Lancers will exercise their right of freedom of entry to Armidale. They will conduct a mounted parade to formally announce their transition from the M113 armoured personnel carrier to the newly acquired Bushmaster infantry mobility vehicle on Saturday 3 November. General Peter Leahy, the Chief of Army, will review this event. In 2007 the descendents of the 12th are still a cavalry unit, and their skills can still be called upon to provide manpower for Australia's overseas military commitments. It is ironic that 90 years down the track they could well find themselves serving very close to the part of the world in which their forefathers served.

In commemorating this wonderful history that is so closely related to the Tamworth region, I am very proud to say that along with the Waler Memorial, we have a large number of fitting memorials to those who have served our nation across the years. In Tamworth city alone we have the Anzac Memorial Gates, the Sandakan Memorial, the Boer War Memorial, both Vietnam and national service memorials, the Man of War Gates Naval Memorial, the Second World War Memorial, the West Tamworth Memorial Clock Tower, a Korean war memorial, the Gipps Street Avenue of Honour and Memorial to the 1914-18 War, a remembrance garden at Tamara hospital, the Nazareth House War Memorial, the Forest Road War Cemetery, the Ex Services Last Post Memorial at Lincoln Grove Lawn Cemetery, the Grave of the Unknown Soldier, the 2/30th infantry battalion 8th Division Memorial, the Air force Memorial and the Tamworth War Memorial Town Hall.

Most other towns and villages have memorials of one form or another. The vast number of memorials means that prior to Anzac Day a pilgrimage is organised to pay respect at each of them. I salute the efforts of the Returned and Services League sub branch president Bob Chapman and secretary Ron Follington and their dedicated members who do so much to ensure we never forget, and for their ongoing efforts to involve the youth of the district in many events. I also thank Joan Rankin and the members of the War Widows Guild, who organise the yearly Field of Remembrance celebrations. I am very proud to represent a community that remembers and respects the actions of so many men and women who have served our nation. Many of these heroes paid the ultimate sacrifice, but their legacy continues to inspire the dedicated and skilled members of our armed forces through the 12/16th Hunter River Lancers—Lest We Forget.

Private members' statements noted.

HOUSING AMENDMENT (COMMUNITY HOUSING PROVIDERS) BILL 2007

EVIDENCE AMENDMENT BILL 2007

ANTI-DISCRIMINATION AMENDMENT (BREASTFEEDING) BILL 2007

TRADE MEASUREMENT LEGISLATION AMENDMENT BILL 2007

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

[*Acting-Speaker (Mr Thomas George) left the chair at 6.17 p.m. The House resumed at 7.30 p.m.*]

FOOD AMENDMENT BILL 2007

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

CRIMES (FORENSIC PROCEDURES) AMENDMENT BILL 2007

Bill introduced on motion by Mr Barry Collier, on behalf of Mr David Campbell.

Agreement in Principle

Mr BARRY COLLIER (Miranda—Parliamentary Secretary) [7.31 p.m.], on behalf of Mr David Campbell: I move:

That this bill be now agreed to in principle.

The Government is pleased to introduce the Crimes (Forensic Procedures) Amendment Bill 2007. The bill amends the Crimes (Forensic Procedures) Act 2000. The amendments implement a 2007 Government election commitment to expand the range of offences in respect to which DNA samples may be taken without a person's consent. Currently, police can only take DNA samples from people accused of indictable offences like murder, sexual assault and robbery unless they consent to the forensic procedure. The changes will expand this to include all offences, including non-indictable offences such as loitering by convicted child sex offenders and minor drug offences.

The amendments also clarify the legal test that must be met before a police officer can take a DNA sample from a suspect without his or her consent. This test has two important limbs. Firstly, the police officer must reasonably suspect that the person committed an offence. Secondly, there must be reasonable grounds to believe that the DNA sample might produce evidence tending to confirm or disprove that the suspect committed that particular offence. Police will not take DNA samples from suspects for the sake of it. Police will not be able to compel a person to provide a DNA sample if there is no information indicating that there is DNA material taken from, or available at, the crime scene against which the intended suspect sample can be compared.

There are already other safeguards in the Crimes (Forensic Procedures) Act. Part 10 of the Act requires that a suspect's forensic material be destroyed if the suspect is acquitted of the offence or no criminal proceedings are commenced within a 12-month period. Exceptions to this rule include where a magistrate has approved the extension of this period or the person is the subject of an arrest warrant. The bill makes a related amendment to ensure that the destruction provisions apply in the same way to a sample taken for one offence, where proceedings are taken in relation to another offence arising out of the same act or omission by the suspect. This will ensure that the forensic material is available for those criminal proceedings. The bill implements important election commitments regarding DNA sampling and provides clarity as to the tests that must be met before a person's DNA sample can be taken without their consent. I commend the bill to the House.

Debate adjourned on motion by Mr Thomas George and set down as an order of the day for a future day.

ROAD TRANSPORT (SAFETY AND TRAFFIC MANAGEMENT) AMENDMENT (NOVICE DRIVERS) BILL 2007

Bill introduced on motion by Mr Michael Daley, on behalf of Ms Reba Meagher.

Agreement in Principle

Mr MICHAEL DALEY (Maroubra—Parliamentary Secretary) [7.37 p.m.], on behalf of Ms Reba Meagher: I move:

That this bill be now agreed to in principle.

The purpose of this bill is to ensure all visiting interstate and overseas learner and provisional drivers are subject to the same zero alcohol limits that apply to novice drivers in New South Wales. This builds on the New South Wales Government's commitment to improving road safety, particularly the safety of young drivers on our roads. Under current New South Wales road transport law, learner and provisional licence holders are not permitted to drive after consuming any alcohol. However, also under current law a legal blood alcohol limit of less than 0.05 is allowed for a visiting provisional driver when driving in New South Wales. That same driver could be subject to a legal blood alcohol limit of zero when he or she is driving in his or her own jurisdiction. For example, under the current legislative provisions, a Victorian probationary licence holder has to comply with a zero alcohol limit when driving in Victoria and a 0.05 alcohol limit when driving in New South Wales. The same would apply to the holder of a learner or provisional licence issued overseas.

The member for Tweed recently formulated the Transport (Safety and Traffic Management) Amendment (Alcohol) Bill 2007 because of similar concerns with the current arrangements. While the intent of the private member's bill is generally supported, it does not capture all novice licences issued by other jurisdictions that equate to a provisional licence, namely, probationary licences issued by Victoria and Western Australia. Further, it does not capture those holding equivalent provisional and learner licences issued overseas and fails to make consequential amendments to the provisions relating to the legal alcohol limits of drivers supervising learner drivers.

Prior to a zero alcohol limit being introduced in New South Wales, the legal limit for special category drivers, which included learner and New South Wales provisional licence holders, was 0.02. In 2004, the New

South Wales Government introduced legislation to reduce the legal limit to zero for holders of learner and provisional licences. The legislation sent a clear message to novice drivers that alcohol and driving do not mix. It also addressed the misconception among young drivers that they could drink small amounts of alcohol and remain under 0.02.

Prior to the zero alcohol limit being introduced, many young drivers were confused about how much alcohol they could safely consume and still stay under the limit. The introduction of zero alcohol legislation in 2004 targeted New South Wales novice drivers. Visiting novice drivers from other jurisdictions were not included in the new provisions because of the inconsistent application of legal blood alcohol levels for provisional drivers that existed across jurisdictions at that time. Since that time, other States and Territories have, or are in the process of, introduced a zero alcohol limit for their respective learner and provisional drivers. The Australian Capital Territory and Western Australia currently apply a 0.02 alcohol limit to novice drivers.

I note the Government of Western Australia is proposing to move to a zero alcohol limit later this year. The current law in respect of the zero alcohol limit treats the holders of learner licences equally regardless of which Australian State jurisdiction issued the licence. However, for the purpose of consistency, the opportunity is being taken to include overseas learner and provisional licence holders as those who must also observe the zero alcohol limit when driving in New South Wales. The Roads and Traffic Authority will update information on its website and publications available to overseas visitors, and will also seek the assistance of other States and Territories to update their respective websites and published material.

Alerts will be displayed on roadside variable message signs to inform visiting novice drivers of the zero alcohol limit applying in New South Wales. Alcohol remains one of the major factors in the New South Wales road toll, with one in five fatalities involving alcohol. Alcohol was a factor in the deaths of 87 people on New South Wales roads in the 12 months ending in May 2007. Novice drivers are at an even greater risk because their newly developing driving skills make them more susceptible to the effects of alcohol. Research has shown that the effects of alcohol are more pronounced on skills that are not highly practised or developed. Alcohol impairs a driver's coordination and ability to concentrate. It also increases a driver's confidence and risk-taking behaviour.

This bill ensures that all visiting learner and provisional licence holders are subject to the same zero alcohol limits that apply to New South Wales novice drivers. The measures I have outlined today are sensible and will have a positive impact on young driver safety. The New South Wales Government is committed to young driver safety and this bill further enhances that commitment. Through this bill the New South Wales Government is sending a strong message to all novice drivers that drinking and driving will not be tolerated in New South Wales. I commend the bill to the House.

Debate adjourned on motion by Mr Thomas George and set down as an order of the day for a future day.

TOW TRUCK INDUSTRY AMENDMENT BILL 2007

Agreement in Principle

Debate resumed from 17 October 2007.

Mr THOMAS GEORGE (Lismore) [7.44 p.m.]: I lead for the Opposition on the Tow Truck Industry Amendment Bill. The Opposition does not oppose the bill, which was introduced last week. The bill implements the outstanding recommendations of the 2004 review of the tow truck industry. The key features of the bill include the establishment of the Roads and Traffic Authority as the tow truck industry regulator, the dissolution of the Tow Truck Authority, the Tow Truck Authority Board and the industry advisory council, and the repeal of provisions relating to the job allocation scheme.

The Opposition does not oppose those amendments and notes that the Tow Truck Authority, the Tow Truck Authority Board, the NSW Police Force and the Roads and Traffic Authority have indicated their support for the bill. However, concerns have been expressed about new costs to tow truck drivers under the Tow Truck Authority. Towing charges have increased from $187 to $205. However, of most concern to tow truck drivers is that from 1 September 2007 a book of five authorisation forms cost $100 and a book of 20 authorisation forms cost $400—$20 each—whereas previously a book of 50 authorisation forms cost $38 or 70¢ each. That is a significant increase.

I discussed this increase with Des and Scott Walker of Walker Towing of Casino when the matter was first mooted. Their company has three trucks, each of which previously carried a $38 book of 50 forms. A book of 20 forms now costs $400 per truck. Drivers cannot operate with only four or five forms remaining because if they get two or three jobs on a busy Friday afternoon they will not have enough forms left for the weekend. Therefore, each truck must have a spare book, which means the total cost is $800 per truck. That is an additional burden on top of other increases.

Local tow truck operators have approached Opposition members highlighting their difficulty in meeting the increased costs. They have expressed concern that no compensation will be paid if the books are stolen and have to be replaced. One tow truck operator suggested that they could have registered plates similar to taxis. He said that many problems in the industry result from people paying the start-up costs and commencing operations. Genuine tow truck drivers do a tremendous job throughout the State and they are the ones who have expressed concern about the additional charges, which could increase further. I ask the Parliamentary Secretary at the table, the member for Maroubra, whether tow truck drivers could face further increases in costs? We hope that they will not, as the tow truck industry is vital to the community, especially in rural and regional areas, and current charges involved with the industry are already substantial.

The Opposition will not oppose the bill but we wish to place on record our concerns about the costs to the industry, particularly the exorbitant increase in the cost of authorisation forms. As I said, tow truck drivers almost need to have two books in each truck, at a cost of $800. It is difficult to accept that a government could justify an increase from $38 for a book of 50 authorisation forms to a charge of $800 for a book of 40 authorisation forms. As I said, tow truck drivers have one book in the truck but they need to have a second book to use as a safeguard for when they get low on authorisation forms, for example, if they have a busy weekend. I reiterate that the Opposition does not oppose the Tow Truck Industry Amendment Bill 2007.

Mr ALAN ASHTON (East Hills) [7.51 p.m.]: I thank the Opposition for its support for the Tow Truck Industry Amendment Bill 2007. I acknowledge the arguments raised by the member for Lismore in leading for the Opposition. I am sure the Parliamentary Secretary will make a note of his arguments and perhaps respond to them. The bill is about improving the management and regulation of the tow truck industry. Its main objective is to transfer the functions of the Tow Truck Authority to the Roads and Traffic Authority. This follows a statutory review of the Tow Truck Industry Act, undertaken in 2005, which made a range of recommendations.

I am pleased to note that the New South Wales Government has already progressed the majority of the review's recommendations. The bill will implement the remainder of the key recommendations stemming from the review. This will result in improved governance, management and regulatory arrangements for the tow truck industry. Over the years concerns have been expressed about the tow truck industry and about the performance of the Tow Truck Authority. Indeed, when I was first elected to this Parliament in 1999, along with the member for Lismore, I recall that there was quite a bit of debate about the tow truck industry and how it was being managed, and about the role of the Tow Truck Authority. That debate continued until the review was undertaken, and following that review a series of recommendations were made.

The most important aspect of the bill, I believe, is the transfer of regulatory functions from the Tow Truck Authority to the Roads and Traffic Authority. The bill will pave the way for improved efficiencies, as well as enhanced services provided to the industry. Extensive consultation is being undertaken with regard to the bill's proposals. The bill has the support of the Tow Truck Authority, the Tow Truck Authority board, the New South Wales Police Force, the Roads and Traffic Authority and the Ministry of Transport. In addition, consultation with other industry groups and stakeholders, including the Motor Trades Association, the NRMA, the Insurance Council of Australia and other insurance groups, was undertaken during the course of the statutory review. So hardly a stakeholder has not had active input into the amendments provided in the bill.

The Roads and Traffic Authority has a greater pool of resources to drive industry reform, and this will allow for the provision of better services to the industry. For example, the Tow Truck Authority has only 14 staff, based at one metropolitan location, with a limited regulatory presence in regional areas. In comparison, the Roads and Traffic Authority is a large, well-resourced organisation. As the member for Lismore would appreciate, the Roads and Traffic Authority will have a presence in many parts of the State, including in many regional areas, to take account of what needs to be done to regulate the tow truck industry.

Members would be aware also, as I alluded to earlier, that a statutory review of the Act was undertaken, and at the time concerns were expressed about the tow truck industry. Members would be aware that concerns had been expressed about some of the people involved in the tow truck industry. It has also been the wish of

those operating tow trucks to improve the standing they have in the community, to ensure that the industry's reputation is as good as it can be. The industry has not always had a good reputation, but it is certainly a lot better than it was when I was elected to this place in 1999.

In terms of compliance and enforcement, the Roads and Traffic Authority will have a statewide presence. This will enhance the operations of the tow truck industry. The bill creates the potential to enhance regulation of the industry throughout the State, particularly in regional areas. Integrating the functions of the Tow Truck Authority into the Roads and Traffic Authority will allow Tow Truck Authority staff to focus on more strategic matters. The current statutory Tow Truck Industry Advisory Council has not met since 2002 and it is not representative of the industry. As part of the new arrangements, the Government will assist industry to form a new, more effective industry body. This approach reflects the preference of the industry. In place of the Tow Truck Industry Advisory Council, an interim consultative committee will be established to determine the composition of a new body which will more effectively represent the views of industry to the Government.

The removal of the job allocation scheme will not change current operating conditions. I am aware that tow truck operators in all areas of the State were never quite happy with the job allocation scheme, and this led to much debate between the insurance industry and tow truck operators. I think most of us feel that the scheme was not the best system. I note that the scheme was trialled in 2003 but that it has never been fully implemented. I am glad about that, as I am sure most members are. An evaluation of the trial found that the scheme did not produce improved customer service levels, and that response times were slower than expected resulting in delays in clearing accident scenes.

The scheme failed to eliminate corrupt payments, or drop fees as they are called, and there were very high establishment and recurrent running costs. As I said, the scheme was also quite unpopular with tow truck operators, given the extra red tape that was involved. People who had run very successful tow truck businesses found themselves in a position where they had to be allocated a job, and if they could not do the job they would give it to someone else who could perhaps do it. Whilst the job allocation scheme was an attempt by the Tow Truck Authority to bring some degree of order to the industry—six or eight tow trucks would turn up at an accident scene and at times there were almost fisticuffs as drivers worked out which driver would get the job—I do not think anyone made a full commitment to introducing the scheme. In that sense the removal of the scheme is a win for all of us who had concerns about it, including both Government and Opposition members.

Significant progress has already been made with respect to the conduct of the industry. While provisions in the Act relating to the job allocation scheme will be removed, the requirement to obtain a towing authorisation for accident towing will be retained, which is appropriate. The bill will facilitate increased protection for consumers and allow for improved services for the industry. It will also provide improved representation for the industry, and will allow industry members to participate in the shaping of the industry's future. The bill allows the New South Wales Government to take the next important steps towards enhancing the regulation of tow truck activities. I commend the bill to the House and thank the Opposition for its in-principle support for it.

Mr MICHAEL RICHARDSON (Castle Hill) [7.59 p.m.]: The Tow Truck Industry Amendment Bill is a response to the Ministry of Transport's review of the Tow Truck Industry Act, which was completed two years ago. Its key provisions are to dissolve the Tow Truck Authority and the Tow Truck Industry Advisory Council, to transfer their responsibilities to the Roads and Traffic Authority and to repeal the provisions of the job allocation scheme.

The Tow Truck Authority was established by this Government in 1998. Like so many other things the Government has done, the authority has proved to be an abject failure. Chief amongst its problems has been that it is not financially sustainable, given its very narrow revenue base of tow truck operator and driver licensing fees. The bill seeks to fold the Tow Truck Authority into the Roads and Traffic Authority, together with its four staff. The question to be asked is: Why will this improve the situation? Unless the Roads and Traffic Authority seconds extra staff, we will have the same situation obtaining as at present. In analysing whether this is a positive or a negative move, we need to look at why the Tow Truck Authority was set up in the first place.

In the early 1990s there were widespread complaints raised by both insurers and the community relating to exorbitant fees for towing and storage of accident damaged vehicles; drop fees, or commissions, paid by repairers to drivers and operators for delivering accident-damaged vehicles to their workshops; and standover tactics by tow truck drivers to ensure they managed to tow the damaged vehicle to a repairer who paid drop fees. I am sure members would be aware of this situation as a result of the considerable publicity surrounding it.

There were even fights between drivers at accidents. In addition, tow trucks were being vandalised—this also received significant publicity—and tow trucks were racing through suburban streets to be first at the accident scene. That very dangerous practice could have caused another accident—or perhaps they were trying to drum up business for themselves. All of these things are undesirable.

Although the Tow Truck Authority has been in existence for nine years, many of these problems, or variations of them, still exist. Repairers still pay drop fees to drivers, as I understand it. Insurers now have business arrangements with some operators. The tow trucks carry the insurer's logo as if to say, "If you are insured with our insurer you must come with us." I ask members to put themselves in the position of an accident victim whose car has been badly damaged. The person may have been slightly injured, but not sufficiently to require an ambulance. The person is in a vulnerable position. Some unscrupulous tow truck drivers will still arrive at an accident late, use their insurer's logo to convince the victim to ring their insurer and seek instructions from them. Because of the arrangement that exists between the tow truck operator and the insurer, the insurer will persuade the victim to revoke his or her already signed towing authorisation and sign up with the insurance preferred operator, who then takes the vehicle to his chosen repairer and collects his commission.

This is likely to continue to happen, despite the Minister's assertion in his agreement in principle speech that the Government's new towing authorisation will stamp out unconscionable activities. The new towing authorisation that the Minister has lauded lists three insurers' names and phone numbers at the bottom. For example, the NRMA tow truck operator whose truck is decorated with the NRMA badge will look at the towing authorisation and say, "Look, the NRMA is down here as an approved insurer so you can come with me." He then takes the vehicle to his repairer and gets his drop fee. Other tow truck drivers may say the accident has occurred after hours, the vehicle needs to be towed to a holding yard and then taken to the smash repairer in the morning. Of course, there are considerable holding charges associated with that action.

The bill also abolishes the job allocation scheme. This scheme was trialled briefly in 2003 but did not progress. Why did it not progress? Because the Government could not even get this right—like everything else, it would seem to me, associated with the tow truck industry. The job allocation scheme was not a true accident allocation process; it was more a glorified roster or directive process. The Tow Truck Industry Advisory Council, which dreamed up the scheme, was largely comprised of academics who had little knowledge of the industry. Its outcomes were based on selected views from self-interested parties. A handful of towing companies were put on the roster. What eventuated was more a way of getting cars to the repairers than a better way of removing accident-damaged vehicles and, most importantly, allowing consumer choice.

Lest it be thought that it is impossible to put together a job allocation scheme that works, a job allocation scheme has operated, as I understand it, in Victoria for the last 17 or 18 years and in South Australia for 5 years. In Victoria the areas are based on electoral boundaries. The operator will buy a licence for that area and he must meet agreed standards. If he does not meet those agreed standards, much the same as if a bus company does not meet agreed standards, he will lose the right to operate in that area. A tow truck operator might have the rights to operate in 10 areas and he might have paid $150,000 for each one of those areas, so he stands to lose a very substantial investment if he does not do the right thing.

I wonder why these States could get it right and New South Wales got it so hopelessly wrong? The scheme was trialled for just six months in 2003. It was an abject disaster. The bill abolishes this scheme, but it has not really existed. The bill essentially abolishes something that does not exist. There is no allocation system and, apart from this clayton's approach in 2003, there never has been. Finally, I refer to costs. I am not surprised to find that the Government is going to significantly raise the charges for tow truck authorisation books and towing charges. In fact, the member for Lismore tells me that those charges have already gone up.

Mr Thomas George: Yes, they went up on 1 September 2007.

Mr MICHAEL RICHARDSON: Why am I not surprised about this? It has been a tried and proven technique of this Government that whenever it needs money, instead of trying to do things more efficiently, it will raise the charges to the public. I will inform the House as to how much the charges have gone up. The former charge for tow truck authorisation books of 50 forms was $38; the new cost will be $100 for a book of five forms. That is $20 per form, which is a very significant increase. Towing charges are now $187, and I understand they are going up to well over $200. Lest it be thought that the tow truck operator will absorb these costs, ultimately these costs will be passed on to the consumer. In that respect, it is no different from the section 94 contributions that the Premier announced were going to be significantly reduced in Sydney—I can still hear him on the radio saying there is going to be $25,000 straight off the bottom line for new homebuyers. There will

not be. Community centres, roads and other facilities are still going to have to be provided and, ultimately, the consumer will pick up the tab.

The consumer will pick up these new charges, whether through increased insurance premiums or the cost of towing when the car is collected after the accident. Historically, the greatest obstacle the Tow Truck Authority has faced has been lack of resources. As soon as the authority is moved into the Roads and Traffic Authority its revenue base will go up. One might ask why the revenue base could not have been raised so the authority could have done the job properly in the first place. The Tow Truck Authority was simply under-resourced, like so many other agencies within this Government, and could not do its job properly. The Opposition does not oppose the bill. However, if the Government thinks this bill will solve all the problems of the tow truck industry it is sorely deluding itself.

Mr MICHAEL DALEY (Maroubra—Parliamentary Secretary) [8.09 p.m.], in reply: I thank the Opposition for its support of the Tow Truck Industry Amendment Bill, a simple but important bill. I thank the members for Lismore, East Hills and Castle Hill for their contributions. One of the salient points that has been raised during this debate is the issue of costs. The member for Lismore raised the pertinent question as to why the cost of tows will increase as a result of this bill. The simple answer for the modest increase is because the Tow Truck Authority has previously been subsidised by government but is now moving to a user-pay system.

From 1 September the Tow Truck Authority increased the protection it provides and shifted to a user-pay system. Also from 1 September the schedule of maximum fees, which is updated in line with the consumer price index, now sets a cap on storage fees for the first time. At the same time a new towing authority form came into use. The form contains consumer advice and provides an audit trail for the authority, if required. Operators are being charged $18 plus GST for these forms. The maximum tow has gone up by this amount plus CPI, so that operators can recoup the cost. That means the cost is truly and effectively passed on to consumers. That is appropriate. It is the user, not the taxpayer, who pays for the service.

I will briefly address some other provisions in the bill. The bill will allow the New South Wales Government to take the next steps to enhance regulation of tow truck activities in New South Wales. It will provide further protection to road users and those who use tow truck services. It will result in improved services for the tow truck industry. It will also give a stronger voice to industry, particularly in the shaping of the industry's future. The matters addressed in the bill have arisen primarily from a statutory review of the Tow Truck Industry Act. The review recommended that the Tow Truck Authority and the board of the Tow Truck Authority be dissolved and that the Roads and Traffic Authority be established as the tow truck industry regulator. It also recommended that the Tow Truck Industry Advisory Council be abolished and the job allocation scheme provisions within the Act be repealed.

The initiatives in this bill will enhance the regulatory environment in which the tow truck industry operates. It will improve the efficiency of the delivery of services to both the tow truck industry and those who rely on tow truck services. It should be noted that extensive consultation has been undertaken in respect to this bill. In particular, consultation has been undertaken with the key stakeholders, including the Motor Traders Association, the NRMA, the Insurance Council of Australia and the New South Wales Police Force. It makes sense to transfer the functions of the Tow Truck Authority to the Roads and Traffic Authority. The capacity, support and knowledge base of the Roads and Traffic Authority will improve services to industry and strengthen the way the industry is governed.

The establishment of the Roads and Traffic Authority as the industry regulator will strengthen compliance and enforcement in the industry. The Roads and Traffic Authority, in turn, will draw on the expertise of the Tow Truck Authority staff to refine its enforcement programs and improve compliance within the industry. The Roads and Traffic Authority has effective processes and procedures, which will produce more efficient, streamlined customer identification and enrolment procedures for the tow truck industry. The important enforcement work the Tow Truck Authority has been undertaking with the support of the New South Wales Police Force will be continued and enhanced by the Roads and Traffic Authority.

Joint compliance operations targeting tow truck hotspot areas have already been successful and will be even more effective under the new arrangements. The Roads and Traffic Authority's resources, including the network of registries, will be used to educate road users on their rights and responsibilities and the obligations of tow truck drivers. I wish to acknowledge that since the Tow Truck Authority was established in 1998 it has implemented a range of reforms. These reforms have delivered a more effective regulatory system for the tow truck industry. The reforms have also improved the industry's professional standards, as well as the standard of

service provided to the tow truck industry. This bill will build on the success of the wide-ranging reforms already implemented by the Tow Truck Authority and will provide the foundations to drive further tow truck industry reforms. Once again, I thank the members who participated in this debate and for their support of this bill, which I commend to the House.

Question—That this bill be now agreed to in principle—put and resolved in the affirmative.

Motion agreed to.

Bill agreed to in principle.

Passing of the Bill

Bill declared passed and transmitted to the Legislative Council with a message seeking its concurrence in the bill.

CROWN LAW OFFICERS LEGISLATION AMENDMENT (ABOLITION OF LIFE TENURE) BILL 2007

Agreement in Principle

Debate resumed from 23 October 2007.

Mr GREG SMITH (Epping) [8.15 p.m.]: I lead on the Crown Law Officers Amendment (Abolition of Life Tenure) Bill on behalf of the Opposition. I expect other Opposition members will also speak to the bill. It is wilful blindness, sheer incompetence or blatant political prejudice that is driving the Iemma Government to undermine the independence that successive directors of public prosecutions and Crown Prosecutors have enjoyed in this State for over 20 years. In 1986 the New South Wales Parliament enacted the Director of Public Prosecutions Act, which shifted front-line responsibility for the prosecution of serious criminal offences in New South Wales from the Attorney General to the Director of Public Prosecutions.

At the time Parliament also enacted the Crown Prosecutors Act 1986 and the Criminal Procedure Act 1986. Then Labor Attorney General Terry Sheahan—whom I commend—commenced his second reading speech by referring to his earlier announcement of far-reaching reforms to the administration of justice in this State. One of those reforms has already entered into the statute books. It is the Judicial Officers Act, which deals with judicial education, accountability and sentencing. Former Attorney General Terry Sheahan said:

> The package of bills I now bring forward makes the other fundamental changes to the criminal justice system, which I foreshadowed. Its principal features are, first, the Office of the Director of Public Prosecutions is to be established. This will mean that the general responsibility for the prosecution of serious criminals in this State will be vested in a single person who is politically independent.

The proposed removal of tenure from the Director of Public Prosecutions and Deputy Directors of Public Prosecutions, Crown Prosecutors, Public Defenders and the Solicitor General, but particularly the criminal officers, make the officers appointed to those positions vulnerable to attempts to influence their decision making and conduct, thus undermining the necessary independence that those officers should have. Let us not forget that at the present time two prominent Labor Party members are facing trial for child sexual assault and other charges. Judging from what happened in the past before the Office of the Director of Public Prosecutions was established, there was an unacceptable amount of interference in serious prosecutions.

Clearly, the Office of the Director of Public Prosecutions was established to take politics out of the prosecution process. Prior to the enactment of the Crown Prosecutors Act 1986, Crown Prosecutors were appointed by commission and no age limit was nominated in their instruments of appointment. Former Labor Attorney General Sheahan said of persons who are already serving as Crown Prosecutors that not only is their status as independent prosecutors preserved, but they gain a security of tenure not provided by the present system of appointment by commission.

I want to clear up something that happened in 1991, I believe, during debate on an amendment to the Crown Prosecutors Act and the Statute Law (Miscellaneous Provisions) Bill No. 3. Then Director of Public Prosecutions Blanch, at his initiative I believe but certainly at his encouragement, sought to allow the Attorney General to appoint acting Crown Prosecutors for up to five years. It was not, as the Attorney General now says,

that the Government of the day was seeking to put a tenure of five years on Crown Prosecutors. It was to extend the acting Crown Prosecutor's position from one year to five years. At that stage Labor's shadow Attorney General, Paul Whelan, expressed his support for Crown Prosecutors in the following terms—and I remind Government members that this is one of their respected and legendary Ministers of the recent past:

> It is offensive that Crown Prosecutors are going to be appointed for merely five years.

He was talking about acting Crown Prosecutors. He went on to state:

> The Crown Prosecutors do not agree with that because they see it as offensive and contrary to the law.

It was not contrary to their financial interests but it was contrary to the law. Peter Anderson, another Labor legend and shadow Minister for Police and Emergency Services, also supported Crown Prosecutors retaining tenure after discussing an experience he had as a police prosecutor when an inspector tried, inappropriately, to direct him. The reports of the Wood commission and the report of the Independent Commission Against Corruption on Milloo are full of those types of interference. Peter Anderson stated:

> It was understood that we had a degree of independence as police prosecutors. The independence of Crown Prosecutors is far more important because they are dealing with indictable matters that carry the full range of penalties available under our statutes.

A little later he said:

> The Crown Prosecutor has a responsibility to perform his or her duties without fear or favour, affection or ill will.

Later he said:

> It is well and good to have judges who make decisions, but we need committed, competent and honest Crown Prosecutors and Public Defenders. They carry out their duties for a lot less money than they would receive at the private bar.

That is the reason they have tenure of office. He then said:

> If their roles are diminished and the principles of independence are eroded, the justice system in this State will never recover.

I repeat: Peter Anderson, an eminent Labor Minister, who is still on good terms with the party, said:

> If their roles are diminished and the principles of independence are eroded, the justice system in this State will never recover.

Yesterday the upper House passed legislation that will do that very thing—it will put Crown Prosecutors, deputy directors and Public Defenders on seven-year contracts in the future—up to seven years, as they might get only two years. The Attorney General threatened Opposition members and said that if this legislation did not go through there would only ever be acting Crown Prosecutors, one year at a time. An examination of the legislation reveals that the Attorney General can sack them at any time without reason, without cause, if they are only acting. Shame on this Labor Government for what it is doing to independence in our courts! This is just the tip of the iceberg because I have no doubt that next it will be the magistrates and the judges.

Prior to the enactment of the Director of Public Prosecutions Act 1986 and the Crown Prosecutors Act 1986 there were a series of criminal cases where corrupt or political interference had been attempted. Let me refer to some of those cases. Laurie Brereton and Geoff Cahill, both significant Labor figures, were involved in the Botany council case, which is referred to in *Wran*, a publication that has not been taken off the shelves but that might not now be available for sale. *Wran*, which was written by Mike Steketee and Milton Cockburn, sets out what happened in the Botany council case. Good Labor people were threatened after the Labor Party was offered money to turn a blind eye to a rezoning and they were expelled from the party when they would not agree to that rezoning. The Philip Western bail case was a case of some scandal and, in the Commonwealth area, we remember the social security conspiracy case. I refer to the Kevin Humphreys case and to the involvement of Murray Farquhar, a great friend of the Premier at the time. I refer also to Kevin Jones, the magistrate.

Mr Michael Daley: Why don't you go back to Askin?

Mr GREG SMITH: I am giving some context to these matters. I have also mentioned cases that occurred when Liberal governments were in power. The Croatian case—a case involving men being drilled to form an army to go back to Croatia—was a Commonwealth matter, and the least serious charge was chosen. That matter did not involve a New South Wales government. In the context of both Commonwealth and State

governments—New South Wales in particular—there was clearly a reason to take away the prosecution power from politics. I refer also to the Cessna-Milner case—a terrible case in which New South Wales police prosecutors were leaned on to accept a matter involving a large amount of cannabis being prosecuted in the magistrates court before Magistrate Murray Farquhar. The Spencer-Brindle case involved narcotics agents and interference with the course of justice. That case was one of the issues examined by the Stewart royal commission.

In the Morgan Ryan immigration racket, Justice Lionel Murphy and Judge John Foord were charged and eventually discharged—ultimately they were not convicted—but Mr Wran, the then Premier, was convicted of contempt of court. I refer to the Donald Mackay murder. The interference that occurred in the police investigation and other things led to the Wood royal commission and later to the Nagle commission. I refer also to the Baldwin bashing and the inner city branches of the Labor Party where Domican and Meissner, on behalf of head office, wreaked havoc on people who did not vote their way. I will refer in more detail to the Love Boat scandal involving Virginia Perger, as it is pertinent to this debate. Virginia Perger, a prostitute, said that a number of politicians—mainly Labor members but one Liberal member was mentioned—came on board this boat and she gave them her services. For a long time politicians on both sides were trying to buy photographs as photographs were supposed to have been taken.

I refer to the matter of Duigan and others, to police corruption and to their involvement in importing drugs. It was a Commonwealth prosecution in which the police prosecutors, branch managed, somehow managed to put a corrupt court constable in charge to handle the documents and to try to obtain documents concerning Maurice Kaplan, the so-called fat man and Mr Big, a witness and main witness in the prosecution of Rex Jackson. I remind Government members of the prosecution of Rex Jackson, a Labor Minister for Corrective Services, taking corrupt money for the early release of prisoners. Labor members distanced themselves from that issue. The day before the committal the Clerk of the Peace entered into an agreement to support an application for a closed court for Mr Kaplan, Mr X, Mr Brown, or whatever they called him. Late in the afternoon the Government instructed the Clerk of the Peace to withdraw that agreement and so he was exposed without State Crown support.

Mr Barry Collier: Point of order. My point of order relates to relevance under Standing Order 76. This debate is about an Act to amend the terms of appointment of the Director of Public Prosecutions, Crown Prosecutors, Public Defenders and the Solicitor General. The member for Epping is giving us a good lesson on the history of both parties but it is not relevant to the appointment of Crown officers. I ask you to draw him back to the leave of the bill.

ASSISTANT-SPEAKER (Mr Grant McBride): Order! As a lawyer the member for Epping would appreciate that argument. However, the member for Epping has had a fair go and it would be appropriate for him to come back to the leave of the bill.

Mr GREG SMITH: I have come to the end of those featured matters. I am glad that the member for Miranda could see the relevance of debate up until then. However, it was getting a little too tough. When those cases were conducted we had no Director of Public Prosecutions. Once we appointed a Director of Public Prosecutions the atmosphere of all these cases—the foundation of the National Crime Authority, the Woodward, Stewart and Costigan royal commissions—led to politicians saying, "Let us distance ourselves from politics in the prosecution area and have independent directors." That happened right around Australia as well as in New South Wales.

Since then prosecution agencies at that level have been clean. There might have been complaints from time to time about sentences or about the fact that a Crown Prosecutors annoyed a witness, a victim's family, or something like that, but prosecution agencies enforcing the criminal justice system have remained clean. That is at risk if somebody perceived to be a mischievous director is not going to be affected by this legislation and stays. In recent years the Director of Public Prosecutions has acted independently and has outspokenly criticised the Government and the Coalition regularly. That is largely what brought all this about.

If the claim by the Attorney General that a decision was made two and a half years ago by the Government not to appoint any more Crown Prosecutors is true, it shows deception by the Government in its present term and last term in office because it never revealed that to those who are willing to serve as Acting Crown Prosecutors. Many of those people gave up successful practice at the Bar because they wanted to be Crown Prosecutors. The practice had been that after serving for a period as Acting Crown Prosecutors one became a permanent tenured Crown Prosecutor. About six years ago the Criminal Procedure Amendment

(Pre-Trial Disclosure) Act was passed. It was an attempt by the Government to get more cases dealt with by pleas of guilty or to have issues disposed of well before the trial date to save the cost of running trials.

The Government authorised the Director of Public Prosecutions to appoint about 12 extra Crown Prosecutors to be available as arraignment Crowns. There are people here today, including my learned friend the member for Maitland, who have worked through the culture of arraignment Crowns, finding bills much earlier than they used to so that there could be more certainty in what charges would be brought at trial, bearing in mind one has to obtain the leave of the court to amend the indictment. That system, which put on an extra 10 Crown Prosecutors—and some of the acting Crown Prosecutors are now acting in those vacant positions—did not succeed in that respect. It also did not succeed in getting more disclosure from the defence.

Because that system did not work so well the Government moved into criminal case processing, but that has not worked well either. Everything was aimed at cutting the cost of proceedings, keeping as many matters as possible out of the superior courts and getting as much plea bargaining as possible—or charge negotiation, as they now call it—so that the criminal justice system would be more efficient. It has largely been the Crown Prosecutors who have achieved this efficiency, and, because of their experience, the Public Defenders have achieved greater efficiencies than many counsel who do defence work.

Someone who expects to be a Crown Prosecutor permanently cannot be told that he or she has to give up his or her practice to do that and then be told the tenure will be only for seven years, and if he or she has already reached 60 it will be only five years. In his second reading speech the Attorney General said that life tenure is an anachronistic concept. Last week we celebrated the 30th anniversary of the Anti-Discrimination Act, and we did that by passing of the Anti-Discrimination Amendment (Breastfeeding) Bill. Age discrimination has long been a fundamental plank in the Anti-Discrimination Act, and now the Commonwealth has enacted age discrimination legislation. Crown Prosecutors and Directors of Public Prosecutions have life tenure because of the Anti-Discrimination Act.

Mr Michael Daley: What about superior court judges?

Mr GREG SMITH: Under the Constitution they go to age 72.

Mr Michael Daley: Exactly. It is discriminatory.

Mr GREG SMITH: This is discrimination that has been discovered after all these years. Crown Prosecutors have been known to go to 78 years of age under the old system. We now get into the situation where life tenure suddenly becomes an evil thing. The Attorney General thinks he can sell to the community and to the media that nobody gets life tenure these days. In effect, that suggests that all these crotchety, senile lawyers will be in practice until they are about 103 because they do not have to retire. In fact, the oldest Crown Prosecutor in recent years was 74 when he retired and the oldest one still practising now is 68. He is still appearing in very difficult murder trials in the Supreme Court and he has got plenty of years left in him. Because the Government says he can stay on, that is fair enough. He may stay until he is much older—and he is very fit for it.

Judges and magistrates in the Supreme Court, the Local Court and the District Court can stay until they are aged 72, but for some reason a Crown Prosecutor, a Public Defender and a Deputy Director of Public Prosecutions, who could become the director or could act as the director, has to retire at 65. Somebody made a smart comment and said that 65 is the retirement age. Since when? That had been so until about 15 years ago. But the legislation we have just celebrated removed the compulsory retirement age of 65, and people in the public service are exempt from having to retire at 65. Will the Government say that is anachronistic too and bring the retirement age back to 65? What about staffers in this Parliament? Will they be limited to 65 years of age?

Mr Thomas George: What about members of Parliament in this place?

Mr GREG SMITH: What about members of Parliament? Are they all going to be limited to 65 years of age? What an insult when the population is growing older and people are working longer. The Attorney General claimed that New South Wales is on its own in having this tenure, but that is not really so because in Victoria Directors of Public Prosecutions, Crown Prosecutors or Chief Crown Prosecutors can get renewable contracts up to 20 years, which means they could be in those positions for 40 years. In the legislation there is no age limit on these people. To set an age limit in New South Wales is to do something that is not done with other prosecutors in Australia. I ask the Government to check the facts.

So what if former Justice Greg James undertook a review? He is a good friend and he is a good lawyer, but what is his qualification to undertake a review of Crown Prosecutors and Public Defenders? Where are the reasoned comments? It is just a review in which he says, effectively, "This is what I think is a good idea". I do not mean any disrespect to him. That was all he was asked to do. He was asked, "Is this a good idea?" and he said, "I think it might be a good idea". He gives no justification for discriminating between the Director of Public Prosecutions continuing until age 72 and the Solicitor General continuing to age 72—on a renewable contract, of course—because he has not trodden on the corns, like the Director of Public Prosecutions might have. Why is the Director of Public Prosecutions non-renewable and the Solicitor General renewable? That is a good question. But I will not adopt the Kevin Rudd approach of just asking questions; I will give answers instead. I mention the Meissner case.

Mr Michael Daley: Go back to Askin.

Mr GREG SMITH: When Askin was around Crown Prosecutors had no limit on how long they could stay. Going back to the Meissner case, the Attorney General was asked recently if he could express support for the Crown Prosecutors. He said he could not do that because he had not investigated what the other Crown Prosecutors were like. This is a man who says he has got all the information to change everything. He says he knows what is happening in other States but now he cannot make a comment on the Crown Prosecutors and he will not give them the credit they deserve. He will not mention the outstanding Mark Tedeschi or the Margaret Cunneen or the many other outstanding people, and he will not express his support for them.

If a member of the public complains about a Crown Prosecutor, rather than finding out what the Crown Prosecutor's version of events is, and the version of those instructing him, he just shoots the complaint off to the Legal Services Commission. That is called loyalty, is it? It is not loyalty and the Attorney General not only has a duty to defend judges; he should defend prosecutors. He was not prepared to comment on Queensland or the other States. Let me remind the House what the Court of Criminal Appeal said in the Pauline Hanson case. Queensland has many good prosecutors, but because they are employed under the Public Service Act, which is most undesirable, and are not paid much, when they get more experience they leave and go to the private bar. So Queensland loses the benefit of their knowledge and experience. In the Pauline Hanson case in 2003 Chief Justice De Jersey said:

> The case will in my view provide a further illustration of the need for a properly resourced, highly talented, top level team of prosecutors within or available to the Office of the Director of Public Prosecutions. In this complex case, which resulted in a trial of that length, and a consumption of vast public resources, highly talented lawyers of broad common law experience should desirably have been engaged from the outset in the preparation and then presentation of the Crown case … I do not raise this critically of the prosecutors who were involved: my observation relates to the resourcing of the Office. Had that been done, the present difficulty may well have been avoided.

Unfortunately, that was a reflection on the lack of resources given to the Queensland Office of the Director of Public Prosecutions and the fact that there was a culture in that State of not paying prosecutors enough. The same applies in South Australia and Western Australia. It is only in Victoria that Crown Prosecutors are paid reasonably well. In that State they are appointed for up to 20 years at a time and the term is renewable. In this State Crown Prosecutors are well paid, and that is how we attract the best. The Government should recognise that we attract very good Crown Prosecutors. Just as the Government recognises the hard-working staff in hospitals who are under attack, it should recognise—

Mr Michael Daley: Who is attacking them?

Mr GREG SMITH: The Attorney General was not prepared to recognise that they were doing a good job. The Government should recognise that our Crown Prosecutors do a sterling job. I should like to give an example of a Crown Prosecutor being in a crucial and dangerous position if he or she is under contract that is coming up for renewal and is prosecuting someone. A Crown Prosecutor prosecuted Joe Meissner over the love boat scandal. He put to one of Joe Meissner's witnesses, Frank Walker, QC, that he had an improper relationship with a well-known criminal, Abraham Gilbert Saffron. The judge rejected that question. The Crown Prosecutor had material from a criminal justice source to support the question. Nevertheless, the judge disallowed it. Mr Walker complained to the Bar Association, which then disciplined that Crown Prosecutor. Imagine if a Labor Government is in office and that Crown Prosecutor sought to obtain another contract. What chance would he have? No chance whatsoever.

Mr Michael Daley: Does it work in reverse?

Mr GREG SMITH: I agree. It could work in reverse. I believe that in the important and most sensitive area of criminal justice, whoever is in power must not be allowed to discontinue the services of somebody for

political reasons or because they have upset someone. Crown Prosecutors regularly upset people by cross-examining them and sometimes calling them liars or accusing them of doing awful things to some child or to some other person. Sometimes Crown Prosecutors upset judges by disagreeing with them and refusing to call a witness, as is the right of a Crown Prosecutor, who makes that ultimate decision. Crown Prosecutors make enemies by upsetting people. Judges and various other people who have been upset ring and complain to people like the Attorney General, the Director of Public Prosecutions and the Deputy Director of Public Prosecutions.

If a Crown Prosecutor were to apply for reappointment, naturally those complaints may be relevant. The complaints may be quite unfounded because generally a thorough inquiry is not conducted into them because the Crown Prosecutor was just doing his job for the community: fighting crime. That is the real job: fighting crime. Serving infringement notices for crimes such as breaking into cars and things like that is not fighting crime; that is giving criminals a slap on the wrist and letting them go. The real fighters of crime are the police, prosecutors, Public Defenders, jurors and judges involved in the incredible process of the criminal trial. That cannot be replicated in any other form.

It is like being in the army for the citizens of this State or country. The New South Wales Crown Prosecutors have been operating for 177 years and have a proud record of service to this State. It is not suggested that we abolish the position, but it is a different thing once those positions are taken from tenure under commission and then from tenure under legislation to appointments under a seven-year contract. A Crown Prosecutor older than 57 will not be offered a seven-year contract but, instead, six, five or four years. Perhaps a contract may not be offered because if someone dares to criticise this Government, he or she may be put out.

From time to time people have paid the penalty when they have upset their political masters. It is not right that Crown Prosecutors just doing their job but who belong to the political party not in government, or who follow an unusual religion, or are of a colour or nationality that is not liked, or because they are ugly or for some other reason, get up the nose of some official in the Attorney General's Department, the Attorney General himself or perhaps even someone who talks to the Attorney General, who could say, "We will not reappoint him. I am not going to put that person back." That is the problem with this proposal. I believe sincerely that this is a big mistake by the Government.

I can assure members opposite that if we are elected next time, and I believe we will be, we will restore tenure—not life tenure, but we will act in accordance with our amendments for all officers except the Director of Public Prosecutions and the Solicitor General, because the obvious argument is to limit those terms to 10 years initially. Officers in those positions operating at that extreme level of work usually suffer burnout, often when they are getting towards the age people normally retire. Crown Prosecutors and Public Defenders often start in that office when they are in their thirties, and they may give 30 or 40 years of good service. One or two of those officers might be seen as a bit resistant to change or a bit stubborn in accepting particular types of briefs or get on people's nerves. That does not justify cutting down this fine structure and fine group of people to a limited term of seven years.

I have spoken long enough in this debate. The Opposition does not oppose the bill, but it certainly pursued its amendments, and the result was close. The Attorney General was lobbying the crossbench members personally. There seems to be something personal from him on this issue and he claims that there is something personal on my side. I have no personal view; I have given all that away. When I left that office I had to weigh up everything. I have not changed my mind. I would not now get a job back there because I would not be reappointed. I am on the wrong side of the fence. In recent times we have seen that if someone is on the other side of the fence, they will not get reappointed.

Mr Barry Collier: You can always have a by-election.

Mr GREG SMITH: We can always have a by-election. I am not offering myself for a by-election. I shall conclude my remarks as I expect other people will speak in this debate, but this is a black day in the history of this State.

Mr MALCOLM KERR (Cronulla) [8.48 p.m.]: The Crown Law Officers Legislation Amendment (Abolition of Life Tenure) Bill 2007 seeks to amend the Director of Public Prosecutions Act 1986, the Crown Prosecutors Act 1986, the Public Defenders Act 1995, and the Solicitor General Act 1969 to, inter alia, remove life tenure for future appointees to certain statutory legal offices and to fix the term of the office and retirement age for future appointees under these Acts. The member for Epping mentioned approaches to crossbench members. I take the House to a speech of Reverend the Hon. Fred Nile in another place. The Government has a

very high regard for Reverend the Hon. Fred Nile. It made him an Assistant Deputy-President and he was the Government's choice to head the Joint Select Committee on the Royal North Shore Hospital. One would expect that what he said in another place would be said with integrity and honesty.

Mr Michael Daley: It depends on what he said.

Mr MALCOLM KERR: That is an interesting character assessment of Reverend the Hon. Fred Nile. He said:

> My concern is that if the bill is amended in the way the Opposition proposes, the Minister then can simply not proceed further with the bill. We would finish in a worse situation.

Why? Without any reference to Crown Prosecutors and the Director of Public Prosecutions, this Government decided arbitrarily that it would not appoint Crown Prosecutors permanently. It made that decision 2½ years ago but never announced it. It was a State secret. As a result, the Crown Prosecutors who were given a commission could have their employment terminated after one year by the Attorney General. That is what Reverend the Hon. Fred Nile meant when he said we would be in a worse situation. That was the sword of Damocles being held over the heads of the crossbench members.

That is an indictment of the way legislation is dealt with in another place. The Government says to crossbench members, "If you do not pass this—you may not think it is a satisfactory piece of legislation—there will be worse to come." That is the state of government in New South Wales and the justice system—the most important area that any Government must administer because it delivers justice to our fellow citizens. I will deal with the office of Crown Prosecutors, because it goes to the heart of this legislation. I am indebted to R. R. Kidston, QC, who wrote an article in the *Australian Law Journal* entitled "The Office of Crown Prosecutors". The article states:

> When in 1788 Captain Phillip and some thousand souls of varied rank and calling landed here, they came not as barbarians without a law, nor as Utopians minded to fashion or try out a new set of laws, though in part they did make something new. They came at that time to found a penal settlement under England's Crown. They were all persons under her law; and indeed two-thirds of them were prisoners of it. With them the existing law of England came, and was at once in force, so far as it fitted their condition and that of the new settlement.
>
> By 1821, when Macquarie finished his administration, the settlement, of less penal and military character, had a substantial civic and economic life; it held nearly 40,000 people … It could fairly be called a colony in which free men might follow in the main the English way of life, under English law.

However, even in 1821 some English laws were no longer applicable and would never be suited to improving the colony. I have referred to English decisions and textbooks, no doubt as the member for Maitland and the Parliamentary Secretary have done.

Mr Frank Terenzini: Up-to-date editions.

Mr MALCOLM KERR: I would hope that the member consulted up-to-date editions that also contained some history to show how we got to modern times. There is an old saying in Cronulla: "Those who forget the past are condemned on relieve it."

Mr Barry Collier: To relieve it?

Mr MALCOLM KERR: No, to relive it. The only relief here is that the Parliamentary Secretary is not speaking. This point is very important because England has no office of Crown Prosecutors. The office exists only in Australia.

Mr Greg Smith: It has the Crown Prosecution Service.

Mr MALCOLM KERR: That is correct, but there is no office of Crown Prosecutors. Therefore, it is very important that we protect what we have.

ACTING-SPEAKER (Ms Diane Beamer): Order! The member for Cronulla will address his remarks through the Chair.

Mr Michael Daley: Point of order: Standing order 74 is very clear. The Speaker can intervene when members are quarrelling among themselves. They are slowing down the proceedings.

Mr MALCOLM KERR: To the point of order: It is quite clear that we are in heated agreement. There is a Crown Prosecution Service.

ACTING-SPEAKER (Ms Diane Beamer): Order! I asked the member for Cronulla earlier to stop having a conversation with the member for Epping and address his remarks through the Chair. The member for Cronulla may proceed.

Mr MALCOLM KERR: Madam Acting-Speaker, I am certainly speaking through you and I want to respond to the interjection. The CPS is sometimes referred to by the English police as the "Criminal Protection Service". No-one would say that about Crown Prosecutors in New South Wales. In fact, Kidston went on to say that Crown Prosecutors are there—and we should be proud of this:

> Neither to indict, nor on trial to speak for conviction except upon credible evidence of guilt; nor to do even a little wrong for the sake of expediency, or to pique any person or please any power; not to be either gullible or suspicious, intolerant or over-pliant: in the firm and abiding mind to do right to all manner of people, to seek justice with care, understanding and good countenance.

Mr Barry Collier: That sounds like wedding vows.

Mr MALCOLM KERR: We on this side of the House are married to justice. I have not even consummated my speech. It is true: we are wedded to justice. It is a high note to sound and hard to hear in the babble. Nevertheless, that wedding has taken place and that is why we are here: to speak on behalf of justice. Let us presume that a Crown Prosecutor is proceeding in a case that involves the police. The Government is uncomfortable with the matter and someone from the Attorney General's office might telephone and say, "Bill Bloggs, do you enjoy being a Crown advocate? The matter before the court is very important and I do not think it suits the Government's interests for the prosecution to proceed with the same degree of vigour," or words to that effect. Does any member believe that that is an unreasonable example to provide?

Mr Michael Daley: Yes.

Mr Barry Collier: Point of order: That is an outrageous thing to say, whether the member is talking about a Labor or a Liberal Attorney General. It is completely outrageous and the member for Cronulla should withdraw it.

Mr MALCOLM KERR: To the point of order. I do not intend to withdraw it because I was quoting from a speech given by Paul Whelan in this House. It was the example that he gave. I am simply reciting an historic example given by a member of the Labor Party.

ACTING-SPEAKER (Ms Diane Beamer): Order! I have heard some fairly outrageousness things in this debate. The member for Cronulla may proceed with his version.

Mr MALCOLM KERR: Thank you, Madam Acting-Speaker. I also thank you on behalf of Paul Whelan.

Mr Barry Collier: I am sure you will produce that.

Mr MALCOLM KERR: Of course I will. For the benefit of the Parliamentary Secretary and his speechwriter, the quote comes from a second reading speech Paul Whelan gave on the Statute Law (Miscellaneous Provisions) Bill (No. 3) and the Statute Law (Penalties) Bill. The debate resumed on 7 May and it is in *Hansard*.

Mr Frank Terenzini: What year was that?

Mr MALCOLM KERR: I think it was 1992.

ACTING-SPEAKER (Ms Diane Beamer): Order! The member for Cronulla need not respond to interjections or questions.

Mr MALCOLM KERR: As always, Madam Acting-Speaker, I will follow your ruling and not respond. The effect of this bill is that one of the most important offices in the State is being threatened and made vulnerable. My evidence for that assertion is the extract cited by Mr Paul Whelan, a former Minister for Police and a former shadow Attorney General, which shows exactly how inappropriate the bill before the House is.

Unlike the member for Epping in his exposition of the historical basis on which the permanency of the office of Crown Prosecutors exists, I will not cite examples. The member for Epping mentioned the discrimination involved the age limit of 65 years but the Attorney General asserts that life tenure is an antiquated concept—but then this Labor Government thinks a life sentence is an antiquated concept as well. People who commit murder receive a sentence of 20 years in New South Wales.

I have to say that 65 is a very arbitrary limit. Winston Churchill was 65 when he became Prime Minister of England. It is just as well the current New South Wales Attorney General was not in England in 1939 saying, "Stop! We cannot have a 65-year-old leading the fight against Hitler. This man is too old. He could not even be a Crown Prosecutor in my jurisdiction. He should not be England's Prime Minister." If the present Attorney General had been in office in England in 1939, he would have cost us World War II! That is what happens when people are committed to ageism. Johno Johnson served this Parliament with distinction after turning 65. Let us not have an attack on people because of age. Anybody would think that Crown Prosecutors are older drivers. The regard in which Crown Prosecutors are held by this Government is absolutely appalling. I am pleased the member for Miranda recognises that the Opposition is wedded to justice. Long may that continue. I assure the House and the Government that it will continue.

Mr BRAD HAZZARD (Wakehurst) [9.03 p.m.]: As the member for Epping has indicated, the Opposition has concerns about this bill. A lengthy and detailed debate has taken place in the Legislative Council and in this House. The bill is directed to amending the Director of Public Prosecutions Act 1986, the Crown Prosecutors Act 1986, the Public Defenders Act 1995 and the Solicitor General Act 1969. Its principal purpose is to remove life tenure for future appointees and to fix the term of office or retirement age of future appointees under those Acts.

Most members of this House would know that I am a lawyer and that I have more than a passing acquaintance with each of the offices affected by this bill. I have the highest regard for those offices. One of the more base traits of the Parliament is that frequently members choose to attack the legal system, the judiciary and cornerstone safeguards of our democracy. If members on both sides of the Chamber are fair about it, in our private moments we will admit that Executive Government can lend itself to excesses of power.

It is quite important for members on both sides of the Chamber to ensure on behalf of the broader community that legislation passed by this House reflects the need for a strong judicial system and strong support for the judicial system to maintain the necessary democratic safeguards for the citizens of New South Wales. One of the aspects of the current arrangement with the various offices to which I have referred is that they feature effective life tenure. As the member for Epping pointed out earlier, life tenure does not usually mean a particularly advanced number of years. In practical terms life tenure is far less than what might be considered excessive.

In my view it is important that as far as is humanly possible we have a system whereby people who fulfil these roles can be strong and untainted advocates and totally without any fear whatsoever of influence from government. The member for Epping set out various examples of his experience. I do not propose to discuss those but I am able to say that when we fiddle with something less than strong tenure that is provided under current tenure arrangements, we run a grave risk that the people who will be subject to reappointment, particularly relatively short reappointment in the ambit of a working life, from time to time may feel pressure from their political masters.

In this State under this Government particularly, I must say that there has been an intrusion into all levels of government at the highest levels by members of the current political party in government. To that extent I must add that the risk of intrusion exists far beyond the current Government and I do not direct my comments especially to the current Government. It is a risk that exists throughout the whole political spectrum, but it has been particularly evident during the last 12 years of this Government.

For that reason, I have some real concerns about what this bill purports to do. Although it may be unnecessary, I nevertheless propose to embark upon a defence of the current Director of Public Prosecutions. This is a very interesting bill because it seeks to differentiate tenure arrangements for the Director of Public Prosecutions and the Solicitor General. Each officer will have a 10-year term, but there is a difference that has no basis in logic whatsoever. The bill states:

> The Solicitor General is to be appointed for a fixed but renewable term of 10 years with compulsory retirement at age 72 …
>
> The Director of Public Prosecutions is to be appointed for a fixed and non-renewable term of 10 years with compulsory retirement at age 72 …

The difference between the two positions is that the Director of Public Prosecutions has a non-renewable term. The merits of renewable or non-renewable appointments can be argued in opposite directions in debating whether a renewable or a non-renewable term is reasonable. But there is no argument and no justification whatsoever for treating the Director of Public Prosecutions in a manner that is different from the manner in which the Solicitor General will be treated if this bill is passed.

There appears to be only one explanation for the differentiation. Currently New South Wales has a Director of Public Prosecutions who is very much his own man. He has been a regular subject of criticism in the media by the Government and occasionally by the Opposition. In all honesty I submit to the House that the steadfast resoluteness of a Director of Public Prosecutions standing up to the forces of political influence and media influence is far more important to a system of justice which safeguards our community than is anything else, other than having a strong independent judiciary. In the context of this legislation the Director of Public Prosecutions should be treated in exactly the same way as the Solicitor General is treated.

There are strong arguments that tenure until 72, as the member for Epping said, is entirely appropriate. I would argue that tenure could be extended beyond 72. Some of the greatest wisdom in legal and judicial spheres, in the major professions, and broadly in the community, is to be found in people in their 70s and 80s. I recall judges who were writing excellent appraisals of the legal process in their 80s. It is disappointing that the House is happy to take an ageist approach to removing life tenure and reducing the retirement age to 65 for some officers and to 72 for the senior positions of Director of Public Prosecutions and Solicitor General. That makes no sense at all to me.

Nick Cowdery holds a most difficult position but he speaks up regularly on many issues. He is vested with the task of choosing whether to pursue prosecutions or drop them, without giving all the reasons for his decision publicly. Such decisions often upset those immediately involved, including family members. His is a difficult position, but a necessary one. This bill, which seeks to distinguish between the Solicitor General and the Director of Public Prosecutions, is fundamentally flawed. On balance, Nick Cowdery has done far more good than bad, and it is disappointing to think that a government may determine Crown law office positions based on an assessment of personality.

With regard to each of the other offices, the Opposition has indicated clearly that there will be changes when we are returned to government. The Opposition has a strong view that officers who have to make impartial decisions in a process that safeguards our community should not be or feel under threat. I look forward to the day when the Liberal Party and The Nationals, in government, are able to bring sense to this legislation to ensure that officers appointed for seven years do not have to worry whether their decisions will put their necks in the guillotine of political opportunism.

Mr BARRY COLLIER (Miranda—Parliamentary Secretary) [9.13 p.m.], in reply: I thank honourable members for their contributions to debate on this bill, particularly the members for Epping, Cronulla and Wakehurst. This bill will abolish life tenure for a number of statutory legal offices in New South Wales, including the Director of Public Prosecutions. One point made by all speakers for the Opposition—although I note they did not oppose the bill—related to the independence of the offices. Every other Australian jurisdiction has rejected the assertion that there should be lifetime appointments in order to be independent.

In his second reading speech on the bill, the Attorney General, the Hon. John Hatzistergos, noted that the law in the Commonwealth and the other States and Territories generally specifies a term of appointment for these positions or allows a renewable fixed term. New South Wales with its provision for life tenure is the anomaly. We are the only jurisdiction to automatically provide the Director of Public Prosecutions with a life appointment. We are the only jurisdiction to provide Crown Prosecutors with a life appointment. In his report to the Hon. John Hatzistergos, the Hon. Greg James, QC, a person of the highest integrity, said this:

> The Director, Solicitor General, Public Defenders and Crown Prosecutors are barristers, with the responsibilities, protections, immunities and roles as such. They are represented by the Bar Association, and practice, subject to their Acts, in accordance with the ethics of the Bar and the Rules of the Bar Association. Those rules mention their independence and detachment as barristers. The Acts of Parliament under which the DPPs and Crown Prosecutors are appointed and practice, and the general law, including that as to contempt, as to perverting justice etc, operate to ensure independence, impartiality and detachment. Protections are also found in scrutiny under the ICAC Act, by the Ombudsman, the Auditor-General and the Police Integrity Commission, so far as officials or police might act adversely towards office-holders. The Parliamentary Code of Conduct and Standing Orders apply to criticism in Parliament and office-holders have the ability to apply to the judges and the Attorney-General for assistance. All these operate to give Crown Prosecutors in particular, and other office-holders who are barristers, a great deal of protection in the performance of their public duties so that, if those duties are being properly performed, no compromise of their independence, whether they are appointed for life or for a term, would seem to be in prospect.

> It is clear that in the performance of their official functions the Prosecutors, the DPP and Deputies, and, indeed all the offices with which this advice is concerned, must be free from adverse influence and should not themselves seek to exercise their office for any personal benefit or advantage. The various Acts and institutions to which I have referred above also operate to prevent that.

The reforms in this bill are timely and appropriate. They bring New South Wales law into line with the law of other Australian jurisdictions. They also align New South Wales law with contemporary management theory and practice. Fixed-term appointments provide an incentive for performance improvement and allow for some turnover in highly demanding positions. These public offices, and the communities they serve, will benefit from these reforms. I commend the bill to the House.

Question—That this bill be now agreed to in principle—put and resolved in the affirmative.

Motion agreed to.

Bill agreed to in principle.

Passing of the Bill

Bill declared passed and returned to the Legislative Council without amendment.

CRIMES (SENTENCING PROCEDURE) AMENDMENT BILL 2007

Agreement in Principle

Debate resumed from 23 October 2007.

Mr GREG SMITH (Epping) [9.17 p.m.]: The Opposition does not oppose the Crimes (Sentencing Procedure) Amendment Bill but I wish to make some comments about it. The purpose of the bill is to enact new aggravating circumstances that may be taken into account by a court when sentencing a person for an offence; to make it harder for criminals to use arguments such as remorse as mitigating circumstances when their sentences are considered; to establish standard non-parole periods for a number of offences and to increase the standard non-parole period for any person convicted of an offence of aggravated indecent assault of a child under the age of 10.

The amendments will incorporate into the Crimes (Sentencing Procedure) Act standard non-parole periods for crimes that currently do not have one. These include murder of a child, 25 years; recklessly causing grievous bodily harm in company, five years; and the cultivation, supply or possession of a large commercial quantity of a prohibited plant, 10 years. It was made quite clear by the Court of Criminal Appeal in the decision of *Regina v Way* that standard non-parole periods are merely guidelines for sentencing judges and, strictly, they apply only when the prisoner has been convicted at a trial. They are less of a guide for the 90 per cent or so of cases that are dealt with by way of a plea of guilty.

It is not accurate to say, as the Premier is reported as saying recently when he talked about these offences, that the bill imposes mandatory minimum sentences. It does not. They are not mandatory at all. There is no mandatory sentencing in this State. It is an attempt to give guidance to the courts but the courts have discretion, and in many circumstances determine the proper sentence. The High Court has set those out in various cases in recent times.

As I recall, the case of *Queen v S. D. and J. D.* involved a Crown appeal against a sentence of 20 years. The accused was convicted of murder, armed robbery with wounding and another offence. The standard non-parole period was 20 years. The prisoner got a non-parole period of 20 years, despite the fact that he could have been sentenced to life for the murder and 25 years for the robbery with wounding. I think the other offence had a sentence of 20 years. It was argued to the court that the purpose of the legislation meant that his sentences should have been cumulative on the 20 years for murder. Unfortunately the court did not take up other aspects of the case relating to the impact on the victims. Another regretful thing about this Government is that it will not be honest about victims and victim impact statements. The Government should be following section 95A of Victoria's Sentencing Act and allowing the impact on a victim to be an aggravating circumstance for the purpose of sentencing.

The Court of Criminal Appeal said that despite amendments to the sentencing laws—section 21A of the Crimes (Sentencing Procedure) Act provided for a court to look at the impact on victims—it could not consider

the impact on the victim as an aggravating circumstance. In this case the mother had gone to a place in Glebe to sell a valuable diamond engagement ring her son had received back from his ex fiancé. The woman, her husband and her son were ambushed by the two accused. The husband was stabbed. The woman was assaulted, and when her son chased the man who stabbed her husband he was stabbed to death. She witnessed all of that, and she will carry the guilt of all that with her for the rest of her life because she feels that she is responsible for that crime.

The Court of Criminal Appeal said that the Government had not been clear enough in the legislation and there was no avenue for it to count as an aggravating circumstance her guilt, her shame, her pure sadness over the loss of her only son, or the serious damage to her husband. He will never recover from the wounds he received, but that does not count for anything in terms of increasing the sentence. The sentencing procedure legislation needs to provide more certainty. Certainly I will be pressing for that in my party before the next election if the Government does not take that up beforehand. Victoria, which is another Labor State, has enacted laws that take those matters into account.

New section 21A should be scrapped. Frankly, including many new so-called aggravating circumstances will simply cause more confusion. The courts, the Bar Association, the Public Defenders, the Crown Prosecutors and the Office of the Director of Public Prosecutions have all said that section 21A has made sentencing much more complex, and many successful sentencing appeals have been based on errors by judges who have double dipped in terms of adding on to the elements of the offence. It would be better if we went back to a simpler sentencing provision whereby the court could use its discretion and apply common law principles and the factors listed in the bill could be taken into account as aggravating circumstances. The Court of Criminal Appeal seems to require that all the aggravating circumstances be spelt out in detail, which is leading to errors by sentencing judges.

No doubt increasing the number of matters outlined in the standard non-parole period provision signals an intention that people will be punished soundly for medium-range offences. The worst case scenario will still be the maximum sentence or close to it. That will give the courts some guidance. However, it has not worked in substantially increasing the level of sentencing for the offences already set out in the legislation. Various relatives and friends will say that the prisoner is remorseful, because actual evidence of that remorse must be provided under this bill. But in many cases expressing remorse will be a charade to get the sympathy of the court. Inflaming the victims will not get sympathy. Real remorse is shown when the offender tries to make up for it promptly, and that rarely happens.

I am not against the idea of circle behaviour, getting people face to face, particularly for less serious offences. However, offences of malicious wounding, attempted murder, sexual assault and other serious offences are out of that league; offenders do not expect the victims to forgive them or, effectively, to be helped by the healing. The Law Society has written to me about this bill. I will set out what the Law Society's Criminal Law Committee would like the Parliament to consider. The letter states:

> The Committee considers that the new aggravating factors contained in the Bill are unnecessary.
>
> The Committee notes that the factors referred to in ss 21A(2) do not provide an exhaustive list of the aggravating or mitigating factors that the court may take into account in determining a sentence: s 21A(1)(c) and *R v Way* (2004 NSWLR 168 at [104]. If the particular matters that the Bill addresses are present in an appropriate case they may be taken into account as aggravating factors.
>
> The Committee is opposed to the proposed amendment as there is no deficit in the current law.
>
> **Standard Non-Parole Periods**
>
> The Committee is opposed to the introduction of standard minimum sentences for offences in Schedule 1[8],[9] and [12]-[14] of the Bill.

Item [8] relates to murder of a child, item [9] covers various offences under section 35 dealing with recklessly causing grievous bodily harm or reckless wounding in company and various derivations of that, items [12] to [14] cover car or boat rebirthing activities, item [13] covers cultivation under section 23 (2) of the Drugs Misuse and Trafficking Act, and item [14] covers various firearms offences, including the unauthorised sale of a prohibited firearm, the unauthorised sale of firearms on an ongoing basis and unauthorised possession of more than three firearms, any of which is a prohibited firearm or pistol, and unauthorised possession or use of a prohibited weapon where the offence is prosecuted on indictment. The Law Society is opposed to those offences being included in the section dealing with standard non-parole periods. The letter continued:

> Standard minimum sentences undermine the independence of the judiciary and limit judicial discretion. The Committee attaches great importance to judicial discretion in sentencing, as it is essential to doing justice in individual cases. The court that hears the evidence and sees the accused is best placed to decide on the sentence and it must retain a wide margin of discretion.

Remorse

The Committee does not put the amendment to current s 21A(3)(i).

The court is already in a position to adjudicate the remorse of an offender and it appears that the amendment will require the accused to give evidence on sentence if they are to receive a discount on remorse. This will be unfair on many offenders especially in less serious criminal cases. It will disadvantage indigenous, poorly educated and inarticulate offenders. The capacity of people to articulate their remorse is very subjective and should not be limited in this fashion.

The discretion as it stands for the court to weigh such matters should remain as it is.

The amendment will prolong proceedings and waste court time particularly in the Local Court where it is unusual for an offender to give evidence in a sentence proceeding.

Other than that, the Opposition does not oppose the bill.

Mr FRANK TERENZINI (Maitland) [9.31 p.m.]: I support the Crimes (Sentencing Procedure) Amendment Bill 2007. I note that the bill provides for further standard minimum sentences to cover an additional 11 criminal offences and increases the standard minimum sentence for aggravated indecent assault of a child under 10 years of age. It also introduces eight new aggravating factors that a judge must take into account at sentencing. It creates a requirement that offenders who seek to rely on remorse as a factor in sentencing must provide evidence that they have accepted responsibility for their behaviour and acknowledge the damage, hurt and impact of their crime on victims and/or have shown evidence that they have made reparation for an injury or loss. Sentencing encompasses many things, such as general deterrence, the seriousness of the crime, retribution, remorse, rehabilitation, antecedents and a whole host of other factors. The scheme was introduced in the 2002 bill. As this bill states:

When determining a sentence for an offence, a court is required to set the standard non-parole period as the non-parole period for the offence unless the court determines that there are reasons for setting a longer or shorter non-parole period. Aggravating or mitigating factors may result in the court setting a longer or shorter non-parole period.

There have been several subsequent Court of Criminal Appeal decisions in relation to the scheme. As the member for Epping stated, the initial case was *Queen v Way*. In that case the court found that the scheme was to apply, strictly speaking, after a trial. Subsequent decisions found that although the standard non-parole period allocated to a particular offence would apply after a trial, it did not mean that if a person came up for sentence it would not apply at all. The standard non-parole period allocated to that particular offence was another factor to be taken into account along with all the other factors to which I have referred earlier. It was not irrelevant on sentencing when a person had pleaded guilty. The cases indicate it was not a starting point to be taken into account.

The bill adds further offences to the current list of offences to which a standard non-parole period applies. In my years at the Office of the Director of Public Prosecutions I have prosecuted more offenders than I care to mention and I can say without a doubt that this scheme has had the effect of structuring the discretion of the court, which has resulted in increased consistency. A standard non-parole period has resulted in a vast increase in consistency in sentencing, which is what the people of New South Wales want: structured discretion and consistency in sentencing. When the case came before the court the judge would be told that section 54A applied and that would be taken into account.

As I recall, a very senior justice in a Court of Criminal Appeal decision said that the overall intention of the legislation was to increase sentences, and that is exactly what happened. The scheme has been successful in establishing structure in discretion and consistency. This bill adds to the offences that already exist. The aggravating features in the bill clearly indicate to the public and to judges what factors a judge must take into account in the sentencing process to provide transparency and full accountability in sentencing.

On the subject of remorse, it is often the case on sentencing that an offender will give evidence and express remorse for his or her actions. The judge will give that evidence due weight. This bill provides that an offender must give further evidence in support of his or her remorse and intention to rehabilitate. The court will then take that evidence into account as a genuine expression of remorse. All too often offenders merely say they are sorry without providing any evidence of their remorse. This evidence can be independent evidence or reparation for a crime so long as it is evidence that demonstrates to the court that the offender is genuine.

I do not agree with the proposition that section 21A should be scrapped because it provides some measure of transparency. This bill improves on an already successful scheme. It increases the number of offences to which the scheme applies and fulfils a Government commitment made in the election campaign to

introduce further standard non-parole periods. Judges still have full discretion according to the circumstances of the case. A judge is not bound to impose the standard non-parole period; it is merely a factor that can be taken into account depending on the aggravating or mitigating factors. It is a structured discretion; it is not mandatory. I commend the bill to the House as a sound improvement on the present successful system, which should result in more structure and discretion in the sentencing process.

Mr BARRY COLLIER (Miranda—Parliamentary Secretary) [9.38 p.m.], in reply: I thank the member for Epping and the member for Maitland for their considered contributions to debate on the Crimes (Sentencing Procedure) Amendment Bill 2007 and for their expressions of support for the bill. This bill will ensure that sentencing laws promote a fair, just and equitable criminal justice system. Such a system requires that sentences imposed on offenders be appropriate to the offence and the offender, protect the community and help rehabilitate offenders to prevent them from offending in the future. Such a system also requires that sentences be consistent in like cases and that they have regard to the expectation of the community that the courts will impose appropriate punishment in individual cases.

As to the amendments relating to aggravating and mitigating factors, inevitably with any new legislation framework there will be a period of intensive appellate review while the courts are settling the correct interpretation of the new laws. It is clear that the error rate is diminishing, as it usually does when the law becomes settled in relation to any new legislative scheme. In its report on sentencing trends and practices in 2005-06 the Sentencing Council noted:

> Of assistance to judges in their application of section 21A is a Sentencing Bench Book, which was published by the NSW Judicial Commission on 24th October 2006. The Bench Book provides extensive guidance and commentary on all aspects of sentencing, including the provisions found in s 21A.

Turning to judicial discretion, the new scheme will assist judges in exercising discretion by introducing further guidance and structure to judicial discretion. The reforms will also promote consistency and transparency in sentencing as well as public understanding of the sentencing process. They will also assist sentencing judges by setting a further reference point in the spectrum of culpability for an offence. This new reference point is created by the standard non-parole period for an offence, which is the non-parole period for an offence in the middle of the range of objective seriousness for a particular offence. The primacy of the Crimes (Sentencing Procedure) Act 1999 in sentencing law has been recognised by the Court of Criminal Appeal as:

> … provid[ing] the framework upon which a court determines the sentence to be imposed upon a particular offender for any offence. The Act provides the sentencing practice, principles and penalty options that operate in all courts exercising State jurisdiction. There are also the sentencing principles and practices derived from the common law and that have been preserved by the provisions of the Act.

That is taken from the application by the Attorney General under section 37 of the Crimes (Sentencing Procedure) Act for a guideline judgment concerning the offence of high-range prescribed concentration of alcohol under section 9 (4) of the Road Transport (Safety and Traffic Management) Act 1993, No. 3 of 2002, as quoted in *New South Wales Law Reports* 2004 at page 305 per Mr Justice Howie at [45]. Several aggravating factors already relate to victims. The purpose of sentencing is to recognise the harm done to the victim, as stated in section 3A of the Act. In fact, we are tightening the provisions relating to remorse to assist victims further and see that justice is done. For example section 21A, subsection (2) (a) states that aggravating factors to be taken into account in determining the appropriate sentence for an offence include whether:

> … the victim was a police officer, emergency services worker, correctional officer, judicial officer, health worker, teacher, community worker, or other public official, exercising public or community functions and the offence arose because of the victim's occupation or voluntary work.

Subsection (2) (h) reveals that another aggravating factor is:

> … the offence was motivated by hatred for or prejudice against a group of people to which the offender believed the victim belonged …

Subsection (2) (k) refers to the offender abusing a position of trust or authority in relation to the victim and the aggravating factor in subsection (2) (l) is:

> … the victim was vulnerable, for example, because the victim was very young or very old or had a disability, or because of the victim's occupation …

Victims are referred to several times in the list of aggravating factors that should be taken into account in sentencing. That is clearly spelt out in the legislation. I note that victims of crime groups have supported the

Government's amendments regarding remorse. I am pleased that they have welcomed the reforms. The amendment aims to ensure that offenders provide evidence that they have taken responsibility for their actions. This can be done by a statement of apology, by reparation or in several other ways. It does not necessarily mean that the offender must give evidence in the witness box.

In fact, the amendment to the remorse mitigating factor does not require the offender to give evidence. It asks that an offender simply provide evidence, which may be done in a number of other ways. For example, others may be able to give evidence of the accused accepting responsibility or making reparation and there may be documentary evidence to that effect. It is not the intention of the amendment to force offenders into the witness box to give evidence on these matters, although that may be one way of achieving its aim. The intention of the amendment is for reliance on remorse to be established by something more than simply a belated apology or a submission put to the court by defence counsel that there is remorse on the part of the offender. The amendment need not lengthen sentencing proceedings but if there is a slight variation it will benefit the victims of crime as they can be made aware that there is some recognition of the harm that has been done in a particular case.

I was surprised to hear the member for Epping recommend that we add an aggravating factor in line with the Victorian Act while saying at the same time that the aggravating factor should be scrapped. There was some inconsistency from the member for Epping despite his obvious support for the bill. I thank members for their contributions to the debate on this important legislation. I commend the bill to the House.

Question—That this bill be now agreed to in principle—put and resolved in the affirmative.

Motion agreed to.

Bill agreed to in principle.

Passing of the Bill

Bill declared passed and transmitted to the Legislative Council with a message seeking its concurrence in the bill.

The House adjourned at 9.45 p.m. until Thursday 25 October 2007 at 10.00 a.m.