

LEGISLATIVE ASSEMBLY

Wednesday 12 October 2005

ABSENCE OF MR SPEAKER AND MR DEPUTY-SPEAKER

The Clerk announced the absence of Mr Speaker and Mr Deputy-Speaker.

The Chairman of Committees (Mr John Charles Mills) took the chair as Acting-Speaker at 10.00 a.m.

Mr Acting-Speaker offered the Prayer.

Mr ACTING-SPEAKER (Mr John Mills): I acknowledge that we are meeting on the land of the Eora people.

PROPERTY LEGISLATION AMENDMENT BILL

SECURITY INTERESTS IN GOODS BILL

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

LUNA PARK SITE AMENDMENT (NOISE CONTROL) BILL

Bill introduced and read a first time.

Second Reading

Ms SANDRA NORI (Port Jackson—Minister for Tourism and Sport and Recreation, Minister for Women, and Minister Assisting the Minister for State Development) [10.03 a.m.]: I move:

That this bill be now read a second time.

The amendments contained in this bill arise from the need to secure the ongoing operation of Luna Park. Parliament has already legislated twice to ensure the survival of Luna Park: In 1990, by adopting the Luna Park Site Act to provide for its future management by the establishment of the Luna Park Reserve Trust—Luna Park was vested in the Crown and dedicated for public recreation, public amusement and public entertainment—and in 1997, by amending the Luna Park Site Act to broaden the range of land uses permissible at Luna Park and to allow use of the cliff top sites for commercial activities. Both sides of the House supported the need for legislation to protect Luna Park and I trust these further amendments will also be supported.

Luna Park first opened in 1935. It was built on the construction site for the Harbour Bridge to honour and thank the workers involved in the Bridge construction. It provided a much-needed playground for Sydneysiders during the Great Depression years. At various times the famous lights of the Luna Park Face, Coney Island and Crystal Palace have been in darkness—sometimes for years—but Luna Park has survived against, at times, seemingly hopeless odds. It says a lot about the nature of Sydney as a city that an amusement park can be established, thrive and be revived on such an important and valuable harbour site. The park had a successful reopening in April 2004 and is now in its seventieth year.

On 5 April 2005 four plaintiffs commenced action in the Supreme Court alleging that the operation of Luna Park constitutes a nuisance. The plaintiffs have sought orders to stop the operation of three permanent and two temporary outdoor rides at Luna Park and to seek damages from the operation of the rides. The core of the current action is directed at noise created by the patrons at Luna Park—the thrill and pleasure screams fundamental to a fun park. I am advised that Luna Park is operating within its conditions of development consent. No-one has claimed they are in breach of their development consent. The current action claims that the noise being made by Luna Park is a nuisance, notwithstanding the Park has been operating in accordance with its development consent.

Luna Park is authorised to operate as a place of public entertainment by an Act of Parliament and it is the subject of a number of development consents, which deal with the emission of noise from the premises. Despite these specific authorisations that allow it to operate as an amusement park there remains a risk that Luna Park could be the subject of successful legal action as a result of the noise that is emitted. Although there is a good argument that such authorisations and the development consents will provide a defence to any action, it is by no means certain. This ongoing uncertainty, however, is affecting the operation of Luna Park. What is at threat here is not the operation of the modern facilities at Luna Park, such as the Big Top or the cafe brasserie; what is at risk is the fundamental operation of Luna Park as a fun park. Already, those seeking to use Luna Park's facilities for functions and other events are expressing concern about the future operation of the park as a result of the ongoing uncertainty around noise issues.

The aim of this bill is to provide certainty for the future in relation to the emission of noise so that the operations of the park will be protected. This bill creates legislative certainty for the operators of Luna Park and the residents in the area by providing that legal proceedings may not be brought in respect of noise levels being emitted from the park, provided that the noise being emitted is within the prescribed maximum noise level. This level provides that noise from any activity cannot exceed 85dB(A). I am advised that since its reopening in 2004 Luna Park has been operating below this level, however a buffer is required to take into account peaks in noise levels, such as screams from people on rides or from the effects of unusual weather conditions. It is anticipated that if levels reach 85dB(A) these will be momentary, that is, that the maximum permissible noise level will not be sustained for extended periods of time.

The maximum permissible noise level is only likely to be reached as a result of screams from patrons on rides and not by the mechanical operation of the ride. To ensure that this is the case, the bill stipulates that the maximum permissible noise level of 85dB(A) must not occur for longer than 15 minutes. The bill also specifies how and where noise will be measured. In addition, the bill provides that noise from the Luna Park site that does not exceed the maximum permissible noise does not constitute a public or private nuisance. This provision protects the ongoing operation of Luna Park and has precedents in the Olympics Arrangements Act 2000 and the Mount Panorama Racing Act 1998.

So long as Luna Park is operating within the specified noise levels, no criminal, civil proceedings or noise abatement action may be taken with respect to noise emissions at Luna Park. If noise levels from Luna Park exceed the maximum noise level, complainants may still be able to take action against the park. I should also point out that where the development consent for Luna Park deals with the issue of noise, those standards will continue to apply and action can be taken under the Environmental Planning and Assessment Act to enforce those standards.

For example, this means that noise emanating from internal spaces must not exceed 60dBA. The bill also includes provisions which deal with the emission of noise from the park since its reopening on 4 April 2004. These provisions address the existing uncertainty in the law as to whether Luna Park is protected from an action in nuisance in respect of noise emitted from the park, even though to date it has been operating as authorised by its development consent as an amusement park, which necessarily involves the emission of noise. These provisions will apply to proceedings which have already been commenced but which have not yet been determined. It will also ensure that any injunction granted prior to the commencement of the bill does not affect the operation of the park if the noise level is within the maximum prescribed noise level. This aspect of the legislation is necessary to ensure that the past operations of Luna Park and the uncertain state of the law do not jeopardise the park's future viability. As I have said before, I am advised that Luna Park has been operating in accordance with its development consent.

This bill is consistent with action taken in March 2005 under the Protection of the Environment Operations Act 1997, which protected the operations of Luna Park against noise actions if the park was complying with its conditions of development consent. The bill goes one step further than that regulation by effectively specifying a maximum noise level for the outdoor areas of Luna Park rather than relying on the provisions of the Luna Park Acoustic Plan of Management. The bill is also consistent with the Government's commitment and actions to return a viable Luna Park to the people of Sydney for their ongoing enjoyment and at no cost to the New South Wales taxpayer. I trust honourable members will support the preservation of Luna Park as a Sydney Harbour icon along with the Harbour Bridge and the Opera House and as an ongoing heritage funfair for Sydney's children and for the adults who remain children at heart. I commend the bill to the House.

Debate adjourned on motion by Mr Daryl Maguire.

RESIDENTIAL TENANCIES AMENDMENT (SOCIAL HOUSING) BILL

Bill introduced and read a first time.

Second Reading

Miss CHERIE BURTON (Kogarah—Minister for Housing, and Minister Assisting the Minister for Health (Mental Health)) [10.14 a.m.]: I move:

That this bill be now read a second time.

The Residential Tenancies Amendment (Social Housing) Bill 2005 provides the legislative foundations to implement the Government plan for reshaping public housing announced by the then Premier on 27 April 2005. These reforms are consistent with the Government's approach of delivering social justice through sound economic and program administration. These reforms focus on the fair allocation of scarce resources to those most in need in our community, the fostering of tenant responsibility, the promotion of efficient and effective operations, and significant investment in the renewal of public housing.

The New South Wales Government is committed to allocating the valuable resource of public housing to those most in need because this approach delivers the best outcomes. Well-targeted public housing assistance provides the opportunity to maximise the outcomes of health, welfare, educational and support services provided to tenants by other New South Wales agencies. It provides the best outcome for Government and, more importantly, for the people of the community in greatest need. The reshaping public housing reforms announced in April this year are intended to ensure that public housing is well placed to assist those in greatest need. Over time, with declining Commonwealth contributions to public housing, and with the demographic and social changes, public housing has increasingly been focused on those most in need. The New South Wales Government's challenge is to make effective use of limited resources given the growth in demand for public services by those who require support. The reshaping public housing reforms respond to this challenge.

In summary, they provide for eligibility for public housing to be based on the concept of housing need rather than the traditional measure of income level as the primary eligibility criterion; an end to the policy of public housing for life to be replaced by assistance for the duration of need through a range of renewable leases from two to ten years; changes to rent and water charging policies to ensure that public housing tenants make a fair contribution, with this contribution being invested along with a significant level of state funding above the Commonwealth-State Housing Agreement requirements to significantly renew the public housing asset base. Much of this reform package can be implemented without legislative change. However, there is a need for legislative reform in relation to a number of key elements and to ensure a smooth implementation. This bill proposes amendments to the Residential Tenancies Act 1987 and consequent amendments to three Acts—the Housing Act 2001, the Aboriginal Housing Act 1998 and the Real Property Act 1900—to provide these reforms.

In summary, this bill will achieve six outcomes. First, it institutes a structured and fair process whereby the eligibility to continue in public housing can be assessed at the end of the lease and allows for termination where the tenant is determined to no longer be eligible. It makes several amendments to the Residential Tenancies Act to ensure that tenants are treated consistently and the department has appropriate operational flexibility following the introduction of fixed-term leases. It allows the department to charge tenants for water usage costs. It adds a number of tenant protection clauses in relation to the revision of market rents. It is structured so that these changes also apply to the Aboriginal Housing Office and could potentially apply to Community Housing following consultation with that sector. It also amends the objects of the Housing Act and the Aboriginal Housing Act to ensure they are consistent with these reforms.

I will discuss each of these outcomes in turn. First, the bill institutes a structured and fair process whereby the eligibility to continue in public housing can be assessed at the end of the lease and allows for termination where the tenant is determined to no longer be eligible. Public housing is an important aspect of a fair society because it can offer so many opportunities to those most vulnerable in our society. Currently, however, if a person does not breach their tenancy agreement they can enjoy the benefits of public housing for life regardless of their housing need. The reshaping reforms change this. All new tenants from 1 July 2005 will be placed on a fixed-term lease that will commence some time after July 2006. The terms of the tenancy agreements will vary from two to ten years depending on the type of need. The ten-year leases will be aimed at households that are most in need and will remain in that state for some time to come.

These may include elderly pensioners or those with ongoing disabilities. The five-year lease will be aimed at households such as families with children at school, and whose circumstances may change when their

children's schooling is complete, or households in which the parents are undertaking training to move into the work force or change jobs. The two-year lease is aimed at households whose need for public housing is most likely to be of a passing nature. This may include young tenants with no family support or those experiencing homelessness and who are in need of time to address the issues they face.

At the end of these agreements, tenants will have to demonstrate an ongoing need for public housing. This will provide fairer access to a social housing system that both promotes responsibility and meets the needs of the disadvantaged well into the future. In order to operationalise this, the social housing landlord—that is, the Department of Housing, the Aboriginal Housing Office, or potentially a community housing operator—must be able to both review the ongoing eligibility of the tenant and, if they are no longer eligible, terminate their tenancy. This is a distinct and separate ground for termination that is not a part of the current Act, and allows the department to pursue its policy goals as earlier indicated.

Proposed section 63B provides new grounds for termination of a tenancy agreement where the tenant has failed the eligibility review. Tenancies will be renewed if the housing need still exists. It is, however, the duty of responsible Government to focus on those in serious need for public housing. As the current legislation does not allow for the social housing landlord to ask those no longer in need to move on following the review of a completed fixed-term tenancy, it is the Government's duty to respond to this. If a tenant no longer has the housing need and could be accommodated in the private rental market, it is the public responsibility of the social housing landlord to ensure that the tenancy is not renewed in order to make room for someone in greater housing need.

Proposed section 63C provides a process for the assessment of the eligibility of a tenant under a social housing tenancy agreement to continue residing in the social housing premises concerned. The criteria for eligibility will be established by guidelines approved by the Minister for Housing. This will allow the criteria for continued eligibility to vary from those used for assessing entry. For example, this could be used to permit tenants with moderate but insecure incomes—say from casual wages—to remain in public housing for a further period while they become more established. The eligibility assessment may only occur in the last six months of a fixed-term tenancy.

Proposed section 63D provides for a review process in cases where the landlord decides to issue a notice of termination on the ground that the tenant is no longer eligible. This process provides for notice to the tenant and for the tenant to make representations to the decision maker. This builds in important procedural fairness requirements. The section also provides for the Minister to make guidelines in relation to the appeals process. I undertake that in addition to the legislated requirement for an internal review of the decision, I would require in these guidelines that a second tier appeal would be available to the Housing Appeals Committee. The Housing Appeals Committee currently hears second-tier appeals from Department of Housing decisions on a number of matters. Its recommendations are nearly always adopted by the department. This will provide a useful and credible oversight function.

In addition to this, schedule 1 [3] inserts section 14A in the Act to enable a landlord under a social housing tenancy agreement to declare, by notice given to the tenant, that the agreement is subject to a fixed term from a date specified in the notice. This is most important because, under current legislation, when a fixed-term tenancy is not renewed, the tenancy lapses to a continuous tenancy. This is in direct conflict with the intention of public housing being available to those most in need, which is facilitated by issuing fixed-term tenancies subject to an assessment of such need.

The second key outcome of the bill is that it makes several amendments to the Residential Tenancies Act and the Real Property Act to ensure that different tenants are treated consistently and the department has appropriate operational flexibility and efficiency following the introduction of fixed-term leases. By way of explanation, the introduction of fixed-term leases for up to ten years involves a major operational change for social housing landlords. Most tenancy agreements in the social housing sector are of a continuous nature, that is, they technically operate from week to week or fortnight to fortnight, despite the fact that tenants have "lifetime tenure". This allows for tenancy agreements to be revised and updated as circumstances and needs change.

The introduction of fixed-term leases could have the effect of preventing such revision of tenancy agreements. This, in turn, could have the effect of leaving different tenants with different rights and obligations under their tenancy agreements depending upon when they were entered into. Ultimately this could severely limit the operational flexibility of social housing landlords, including the Department of Housing. The social

housing system administers more than 138,000 properties and needs operational flexibility to ensure valuable administrative resources are directed to the most important tasks.

Let me describe the areas where consistency and operational flexibility are required, and how the bill responds to those requirements. As many honourable members would be aware, a number of our public housing estates require sustained attention or upgrading. In some cases, substantial rebuilding is required to allow these upgrades to occur, and to do so the dwellings need to be vacated. Without amendment, the significant improvement of an entire estate could be jeopardised by a handful of tenants who refuse to vacate their premises, even after reasonable alternatives have been offered, and insist on their rights under a long, fixed-term tenancy agreement.

Proposed sections 63F and 63G provide a process that allows a landlord under a social housing tenancy agreement to give notice of termination of the agreement after offering the tenant a new tenancy agreement in respect of alternative premises. This would allow the department to relocate a tenant to alternative accommodation if the premises are no longer suitable or are required for redevelopment, or for some other reason. Of course, the department would continue its current practice of seeking to relocate by negotiation. However, this power is essential to ensure that important renewals are not delayed unnecessarily, which is of benefit to all tenants of public housing.

These sections also address the issue of under-occupancy, a problem that can prevent the allocation of suitably sized homes to struggling families. At times the department needs to be able to rehouse tenants who, because of changing circumstances, such as children leaving home, no longer require the larger family home they are leasing. The amendment allows the department to insist that the smaller household move to a smaller home—even though it may have a long-term tenancy agreement for that property—to ensure that a family who does require the larger property is able to access it. This will also be a measure of last resort, used in cases where the tenant has refused reasonable offers of alternative accommodation from the department, to address the imbalance.

It should also be noted that any terminations under this ground would also be subject to procedural fairness requirements and ministerial guidelines. Again, under these guidelines a second-tier appeal would be to the Housing Appeals Committee, further ensuring a useful and credible oversight function. This section will also provide a clear legislative basis for relocations as a measure for managing serious neighbour disputes, such as were experienced on the Gordon Estate in west Dubbo. Another potential impact of longer, fixed-term leases would be the requirement for leases of more than three years duration to be executed in the approved form under the Real Property Act 1900. Schedule 2 amends section 53 of the Real Property Act 1900 in order to exempt social housing tenancy agreements from this potentially costly requirement.

Schedule 2 also exempts the Department of Housing from the requirement of the Real Property Act 1900 to register residential tenancy agreements that have a term of longer than three years. This helps avoid costs for the department in relation to an exercise that is required to protect the rights of private sector tenants, but would be costly for New South Wales social housing landlords. Another area of potential impact is that under the Residential Tenancies Act rent cannot be increased during a fixed-term tenancy unless there is a clause specifically stating the amount of rent increase or a specific formula setting out the terms of rent increases and the date from which they will apply. It is not possible for the social housing landlord to set such a formula with a property portfolio of more than 138,000 dwellings. As such, increases and formula are determined according to market conditions. It is necessary to keep market rents of social housing properties up to date, so that market rent paying tenants pay their fair share and contribute to the financial viability of this important government service.

Schedule 1 [25] amends section 132 of the Principal Act to exempt social housing landlords from the requirements of section 45 (4) of the Act to allow revision of rents under fixed-term social tenancy agreements. This will simplify the process of uniformly addressing changes in rents across public housing. Proposed section 9A would enable regulations to be made to introduce particular terms or conditions to apply to all social housing leases. This would allow any changes to policy to be introduced for all tenants at the same time. This means that consistency can be maintained between social housing tenants regardless of when they signed their tenancy agreements and the length of their agreements. An important example of how a uniform change would be required is if, based on new circumstances or events, a refinement of what constitutes anti-social behaviour by tenants was required. To ensure that all public housing tenants were required to adhere to the same level of behaviour, to enjoy the same rights and to meet the same obligations, we may need to amend all agreements.

This is based on the clear policy need to maintain a uniform system of rights and obligations for all tenants. A further simple example of a change that may be required is the department's companion animals policy. New evidence or concerns may lead to new policies in relation to the keeping of dogs of certain breeds. The department would be in an invidious position if it could not implement changes to this policy that applied to all tenants through the tenancy agreement. Proposed section 9A would allow this to occur. All changes brought about through this power would be subject to the Government's well-established processes for approving regulatory change. That is, there would be a requirement for a regulatory impact statement. Furthermore, this regulatory power could not be used to insert a term that was contrary to the Residential Tenancy Act, an important caveat to which I draw attention.

The final area in which further flexibility is required is prior tenancy debts. There are likely to be cases where a person at the end of the fixed-term tenancy is in arrears, but is making appropriate progress in paying these off. If this tenant is still eligible for public housing, he or she will be granted a new fixed-term lease. The debt under the old tenancy agreement would then become a mere civil debt, which would be extremely difficult to recoup. As the financial viability of an important resource such as public housing relies on fair contributions by both Government and those utilising the system, it is important for Government to be able to fairly recover costs from consumers. For this reason, section 19B would provide for financial obligations to continue from one tenancy to another provided that the tenant remains the same. This means that debts from one fixed-term tenancy could be carried over to a new fixed-term tenancy. This is important to ensure that tenants who are in arrears are obliged to pay back those arrears, whilst minimising the threat of jeopardising their opportunity to receive a new fixed-term tenancy.

The third key outcome of the bill is to allow the department to charge tenants for water usage. This already occurs in the private market and in many community housing properties where premises are separately metered. The need to charge existing and new public housing tenants for water usage has been recognised by a number of other social housing organisations across Australia. Tenants pay for other utilities such as electricity and gas. Charging for water usage will promote responsible water usage and complements existing strategies to install water-efficient devices in public housing. This is an important additional reform in light of the effects of drought conditions across large parts of the State. Current tenancy agreements for public housing tenants do not include terms that incorporate charging for water usage. The bill will incorporate such a term into all existing leases. The bill also allows tenants to be charged where their premises are not separately metered. This has been put in place to ensure that such tenants are not advantaged relative to tenants with separate water meters, and to ensure that this issue does not discourage prospective tenants from accepting offers of metered properties. The determining, levying and collecting of water charges will be in accordance with ministerial guidelines.

I propose that water charges will be levied on the same cycle as rents, rather than impose a larger quarterly bill on tenants. At the outset all tenants will be levied with a water usage contribution charge of 4.1 per cent of their net rent or a little over 1 per cent of their household income. After a few months of operation, tenants with separate meters will have their accounts reconciled with actual usage and their charge will be adjusted. If their actual usage has been less, they will receive a credit. If it has been more, they will be advised and their charges will be adjusted upwards, but there will be no outstanding charge. For properties not separately metered, their charges will remain based on a percentage of rent. Given the need to levy a charge on tenants without separate meters to maintain equity with metered tenants, this is a fair basis for assessing a water charge. Obviously, this approach aligns closely with the capacity of tenants to pay. A single pensioner will pay approximately \$2.40 per week and a pensioner couple will pay \$3.90.

This approach is also well aligned with actual usage. The vast majority of social housing households are dependent on Centrelink benefits. Such benefits are based on household composition, and water usage is also driven by household composition. If the usage of water by tenants without meters declines over time then the overall percentage also will be adjusted. The percentage will be set to collect less than total unmetered usage to allow for common area usage. Metered tenants with medical or other conditions requiring excessive water usage will be able to apply to be treated as an unmetered tenant and pay only a flat percentage of their rent. It is important to remember that the regime established under these amendments for water usage charges is based firmly on equity of charging across both metered and unmetered tenants. It is a fair and stable approach to ensure that public housing tenants are brought within our existing strategies for responsible water usage.

I am proud to say that the fourth key outcome of the bill is an enhancement to tenant rights in the determination of market rents. Under the current legislation, particularly regulation 22 of the 1995 regulations, a social housing tenant in receipt of a rent rebate cannot dispute under section 47 that an increase in market rent under section 45 is excessive. Proposed section 47A enables a social housing tenant whose rent rebate has been

cancelled to apply to the Consumer, Trader and Tenancy Tribunal for an order that the current market rent applicable to his or her premises is excessive. This is a strong consumer protection principle. It means that a tenant with the opportunity and the initiative to improve his or her circumstances will not be discouraged by having to pay an excessive rent that was inadvertently imposed during the period in which the tenant was subsidised. This amendment responds directly to concerns raised with me and with my predecessor by tenant representatives.

In addition, under Section 132 of the Residential Tenancies Act, the department is not required to provide 60 days notice of a rent increase. As a further consumer protection for tenants, the bill removes the exemption applying to housing let by the New South Wales Land and Housing Corporation and the Aboriginal Housing Corporation, and now requires the giving of advance notice of rent increases. The fifth key outcome of the bill is to extend the reshaping reforms to the Aboriginal Housing Office [AHO] and, potentially, to community housing. At the announcement of the reshaping reforms, their extension to Aboriginal housing was foreshadowed subject to consultation with the Aboriginal Housing Office Board. I am pleased to inform the House that the board has endorsed the reforms and as a result they will apply consistently to tenants of the department and of the AHO. The reforms have been drafted to allow them to include all social housing tenancy agreements, subject to the ability to exclude certain landlords by regulation. At the outset community housing providers will be excluded, but I will consult further with the community housing sector regarding the extension of these reforms to that sector.

The sixth and final outcome of the bill is that the change in focus for social housing is recognised by proposed amendments to the objects of the Housing Act and the Aboriginal Housing Act. Schedule 2 to the bill amends the Aboriginal Housing Act 1998 and the Housing Act 2001 to insert objects into those Acts aimed at ensuring the public housing system is focused on housing people who are most in need and that the available supply of housing is shared equitably among those people. The bill introduces important changes to the structure and operation of residential tenancy management in New South Wales in relation to social housing tenancies. Without these amendments the Government will not be able to deliver the sound economic and program reforms required to ensure that our social housing system provides a fair and just opportunity to those most in need. I commend the bill to the House.

Debate adjourned on motion by Mr Daryl Maguire.

AUDIT OFFICE

Report

Mr Acting-Speaker (Mr John Mills) tabled, pursuant to section 38E of the Public Finance and Audit Act 1983, the performance audit report of the Auditor-General entitled "Implementing Asset Management Reforms", dated October 2005.

Ordered to be printed.

PUBLIC SECTOR EMPLOYMENT AND MANAGEMENT AMENDMENT (EXTENDED LEAVE) BILL

Bill introduced and read a first time.

Second Reading

Mr GRAHAM WEST (Campbelltown—Parliamentary Secretary) [10.40 a.m.], on behalf of Mr John Watkins: I move:

That this bill be now read a second time.

The New South Wales Labor Government has been active in seeking a fair balance between employers and employees in the pursuit of greater flexibility in the workplace. As an employer, the New South Wales Government values its employees and is always looking at further ways in which the Government can attract and retain a diverse, experienced and skilled workforce, whilst also achieving value for money for the New South Wales community. This new bill will meet this challenge by securing more flexible delivery of extended leave to New South Wales public servants. In particular, the bill will provide public service employees with earlier access to extended leave entitlements and enable these entitlements to be used at a faster rate. The bill

will also provide a new regime to update and clarify the recognition of service provisions in the Transferred Officers Extended Leave Act.

The changes to extended leave entitlements contained in the bill deliver on an agreement reached with the Public Service Association on the main public service salaries award in December 2004. The agreement reached with the Public Service Association was made in settlement of the association's work value and special case claims. Since that time, a number of other groups of employees in the public sector have also received an entitlement to the enhanced extended leave provisions in settlement of their wage and salary claims. Such groups include wages staff in public service departments, police, firefighters and allied health employees. Unlike those groups, the entitlement for the public service will be legislated. Employees covered by the bill include important frontline staff, such as prison officers, child protection workers and court officers.

In preparing the bill, the Government consulted with key stakeholders, including Unions NSW, the Public Service Association of New South Wales, the New South Wales Teachers Federation, NSW Health, the New South Wales Department of Education and Training and NSW Police. The Government is now satisfied that the bill is an appropriate reflection of the settlement with the Public Service Association of New South Wales and the intention of the joint working party, which conducted the review of the Transferred Officers Extended Leave Act.

Turning to the key features of the bill, at a glance the bill will do four things. First, it will allow New South Wales public servants pro-rata access to their extended leave entitlement after seven years rather than 10 years. That is, the quantum of leave available after seven years will be a proportion of the two months that is normally available to employees following 10 years service. This proposal will benefit employees by allowing earlier access to extended leave and removing the need to resign in certain circumstances. To give an example, an employee with seven years service but less than ten years will now be able to access their extended leave in order to care for a sick family member without having to resign. Second, the bill will allow New South Wales public servants to take their extended leave entitlement at double pay. Under this arrangement, the amount of extended leave will be equal to the actual absence from the workplace, plus an equivalent amount in order to make up the additional double payment. For example, an employee may use their entitlement to two months extended leave by taking one month's leave and receiving two months pay.

Importantly, this measure provides incentives to employees with accrued leave to take a well-earned break by providing additional cash at this time. This will also reduce government liabilities that would otherwise accrue, and will assist in meeting the objectives set out in the Government's Fiscal Responsibility Act 2005. While extended leave at double pay provides employees with additional flexibility, it is important to emphasise that the proposal will not be subject to employer influence. Employees will be free to apply for extended leave at double pay, and there will be no ability for employers to compel employees to take periods of double pay. The bill will also amend State superannuation legislation to confirm that extended leave at double pay will not fall within the definition of salary in the closed New South Wales public sector employees' superannuation schemes governed by the Police Regulation (Superannuation) Act 1906, the State Authorities Non-contributory Superannuation Act 1987, the State Authorities Superannuation Act 1987 and the Superannuation Act 1916.

These schemes do not include ups and downs from payments such as special allowances in their calculation of the superable salary. It is therefore consistent that the hump that would arise from double pay extended leave is excluded. The double payment will, however, be superable for employees who are covered by the First State Superannuation Act 1992. This is because the payment is considered to be earnings in respect of ordinary hours of work and therefore within the meaning of salary or wages under superannuation guarantee legislation. Thirdly, the bill will provide that public holidays occurring during a period of extended leave—including a period of double pay—will not be deducted from an employee's entitlement.

That is, one additional day of extended leave will be credited to an employee for any public holiday occurring within a period of extended leave, provided it is on a day on which the employee would have received payment had they been rostered normally. This amendment reflects the current provisions under the State Long Service Leave Act, which applies to private sector employees. Finally, the bill will replace the Transferred Officers Extended Leave Act, which was written over 40 years ago and is very legalistic and difficult to read and interpret. The Act has been rewritten to make it more easily understood and user friendly with the provisions to be consolidated into the Public Sector Employment and Management Act and the existing cross-New South Wales public sector mobility provisions under that Act.

This Act essentially provides for recognition of governmental service for the purpose of extended leave from other State, Territory, and Commonwealth governments. Other State, Territory and the Commonwealth

governments have similar legislation to provide for mobility across government. The provisions remain largely unchanged, continuing to allow previous eligible service with a recognised governmental employer to be taken into account when assessing and determining an employee's extended leave entitlement. The provisions create a clear definition of a governmental agency and provide for the Director General of the Premier's Department to declare interstate and Commonwealth agencies as recognised for extended leave purposes.

The bill also clarifies that service as a full-time member of the various administrative tribunals is recognised service. The continuity of service requirements have been modified and simplified to allow a person's service to be recognised as long as the new service commences within two months of leaving the previous eligible governmental employer. These changes will improve the efficiency of corporate services in agencies in the application of the provisions of the Act. The bill will also remove situations where employees transferring from other jurisdictions could have a debit or credit service balance based on the extended leave entitlements they may have taken or been paid for by the previous employer. Employees from other jurisdictions with previous eligible service with another recognised governmental employer will also be deemed to have taken or been paid for all extended leave entitlements whilst continuing to be able to have that service recognised for future accruals.

These changes to extended leave will provide public service employees with additional flexibility in balancing their work and personal lives. The three proposals central to this bill—bringing forward eligibility to extended leave after seven years, providing for extended leave at double pay and simplifying recognition of service provisions—will ensure that the New South Wales Government remains an employer of choice, and will assist in meeting the current and future work force needs of the New South Wales Government.

Debate adjourned on motion by Mr Daryl Maguire.

HEALTH LEGISLATION AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

Mr GRAHAM WEST (Campbelltown—Parliamentary Secretary) [10.49 a.m.], on behalf of Mr Frank Sartor: I move:

That this bill be now read a second time.

This bill proposes amendments to a number the Health Administration Act 1982, the Public Health Act 1991, the Human Tissue Act 1983, the Poisons and Therapeutic Goods Act 1966, and the Podiatrists Act 2003. Schedule 1 amends the Health Administration Act to extend the definition of relevant health services organisation to include the New South Wales Ambulance Service. The Health Legislation Amendment (Complaints) Act amended the Health Administration Act to establish a new statutory privilege for the proceedings of root cause analysis.

The privilege applies to root cause analysis conducted by relevant health services organisations. This is defined in section 20L as relevant health services organisation, which means any area health service, a statutory health corporation prescribed by the regulations, or an affiliated health organisation prescribed by the regulations. The intention was that the definition would cover all New South Wales public hospitals and the New South Wales Ambulance Service. However, the New South Wales Ambulance Service does not fall into any of the categories covered by section 20L. The amendment is needed to include the New South Wales Ambulance Service in the definition.

The proposed amendments to the Human Tissue Act in schedule 2 cover four areas: the use of technicians to remove donated musculoskeletal tissue, donation of regenerative tissue by young children, certification of brain death, and the use of tissue for quality assurance programs. Turning first to the use of technicians to remove donated musculoskeletal tissue, I point out that currently only medical practitioners may remove human tissue other than corneal tissue from a deceased person. Under the Act, corneal tissue may also be removed by a person authorised by the director general. In practice, trained technicians are employed to remove donated corneal tissue.

The proposed amendment will create a similar approach to that applied for the retrieval of musculoskeletal tissue by trained technicians. Musculoskeletal tissue includes muscles, bones and cartilage. The

current requirements have reduced the amount of musculoskeletal tissue that is available for use in New South Wales. Tissue removal must be undertaken within a short time after death but medical practitioners are often unable to do this, due to their operating lists and attendance on other patients. Consequently New South Wales currently needs to obtain musculoskeletal tissue from interstate. Technicians are used to retrieve musculoskeletal tissues in Queensland, Victoria, Western Australia and overseas. The New South Wales Bone Bank proposes to offer specialist training to technicians, who will undertake tissue removal.

The second amendment to the Human Tissue Act relates to the current practical prohibition on the use of regenerative tissue provided by very young children. Under the Act, regenerative tissues, such as bone marrow, may be removed from the bodies of children for the purpose of transplantation to a sibling or parent only if a medical practitioner certifies that the child can understand the nature and effect of the donation and transplantation, and is in agreement with the proposal. This requires the child to have a certain level of intellectual and emotional development that is not present in the very young. The proposed amendment arises from a recommendation of the Department of Health's clinical ethics advisory panel. The amendment will allow the donation of regenerative tissue by children, including the very young, when the parent consents to the donation, two medical practitioners certify that the child's sibling or parent is likely to die or suffer serious irreversible damage to his or her health without the tissue, and the risk to the child from the procedure is minimal.

The proposed amendment will also require that one of the medical practitioners is a paediatric transplant specialist or a paediatric medical specialist from an institution other than the institution at which the transplant will occur. The Department of Health's clinical ethics advisory panel is of the view that certification by an independent specialist will ensure that there is an independent assessment and source of advice available to the parents. The proposal provides a permanent life-saving benefit for recipients as opposed to minimal risks and temporary discomfort for the donor. Although there is no physical benefit for the donor child, there is the potential psychological benefit for the child to be later made aware that the child has helped to save the life of a sibling.

The third proposed amendment to the Human Tissue Act concerning certification of brain death arose out of exhaustive public consultation that was undertaken as part of a review of the Human Tissue Act. The Act requires that when a person is to be declared dead by the brain function criteria, two medical practitioners must certify that there has been irreversible cessation of all functions of the person's brain. The proposed amendment provides that when death is to be certified by the brain function criteria prior to the removal of organs, neither of the certifying medical practitioners may be part of the medical team responsible for transplanting the tissues into the body of the recipient or for the primary care of the recipient. This proposed amendment is designed to avoid any concerns of a perceived conflict of interest that may arise if a medical practitioner who is responsible for the care of the recipient were also to certify death of the donor.

The final amendment concerns the strict statutory controls on the use of tissue without the specific consent of the person from whom it was obtained. Currently, certain exemptions to the consent requirement are made for material in blocks and slides used in microscopic examination to be used for coronial, scientific, and educational purposes to improve diagnosis and medical treatment for the benefit of the community. The same overriding public interest requirement applies equally to the use of lawfully obtained bodily fluids for quality assurance, audit, and quality control purposes. It is therefore proposed to extend the exemptions in section 34 to allow lawfully obtained bodily fluid and tissue samples to be used for the purposes of a quality assurance program, audit, or quality control program, and other purposes reasonably incidental to the proper conduct of the facility or institution where treatment is provided.

Schedule 3 proposes an amendment to the Podiatrists Act to insert a regulation-making power in relation to infection control standards. This regulation-making power is in the other health professional Acts in the health portfolio and will mean that podiatrists will be subject to the same standards and requirements to prevent infection that apply to other registered health professionals. I turn next to the proposed amendment to section 29 of the Poisons and Therapeutic Goods Act in schedule 4 that allows the director general to authorise the prescription or supply of drugs of addiction. Section 29 (5) (a) currently provides that the authority must specify the maximum quantity of the drug that may be supplied or prescribed. Section 29 (5) (b) requires the director general to specify, in the authority, the period for which the drug may be prescribed or supplied.

Whilst these restrictions are appropriate in many cases, there are circumstances in which prescribers need greater flexibility—for example, the management of severe pain in terminal patients, or long-term patients who may require escalating or continuing doses of drugs for an indeterminate period. It is inappropriate to fetter

the appropriate palliative doses, and an administrative burden on medical practitioners to have to seek intermittent amendments to the authority as the condition and level of pain of their patients alters. It is therefore proposed to allow the director general a discretion in relation to whether to specify a maximum quantity of drug and a set time period in each specific case.

As an added safeguard, the amendments to section 28 are included to ensure that injectable drugs of addiction and other addictive drugs that may be susceptible to abuse are subject to more stringent restrictions. These drugs are listed in the regulation as type B drugs of addiction and an authority must be granted for them to be used for periods exceeding two months. The proposed amendment to the Public Health Act 1991 in schedule 5 recasts the exemption for registered nurses undertaking surgical debriding of hypertrophic tissue of the foot as a permissive provision rather than as a defence to prosecution. Currently the section provides a defence to prosecution if the treatment was necessary to provide immediate relief from pain and discomfort.

The proposed amendment will not change the type of foot care that registered nurses will be able to undertake, but it will be framed to provide clear and direct statutory authority to registered nurses so that they may undertake surgical debridement of feet in certain circumstances rather than the less direct authority conferred by a defence to prosecution. The Nurses Association requested the amendment and it is supported by the Australian Podiatry Association. These various amendments are designed to ensure the relevant pieces of health legislation are up to date, accord with current best practice and deliver improved health outcomes for the community. I commend the bill to the House.

Debate adjourned on motion by Mr Daryl Maguire.

GENE TECHNOLOGY (GM CROP MORATORIUM) AMENDMENT (POSTPONEMENT OF EXPIRY) BILL

Bill introduced and read a first time.

Second Reading

Mr GRAHAM WEST (Campbelltown—Parliamentary Secretary) [10.59 a.m.], on behalf of Mr David Campbell: I move:

That this bill be now read a second time.

This bill makes a small but important amendment to the statute that provides a moratorium on growing genetically modified crops in the State, the Gene Technology (GM Crop Moratorium) Act 2003. It enables a moratorium to be imposed on the cultivation of specified genetically modified crops in New South Wales. The Act is due to expire on 3 March 2006 but as the legislation is still needed, the bill will extend the Act's operation for a further two years. The three-year duration of the Act was originally considered appropriate. It was thought that that period would allow sufficient information to be collected on the potential impact of genetically modified crops.

The House will be aware that under the intergovernmental agreement, the human health and environmental aspects of gene technology are managed on a national basis by the Federal Office of the Gene Technology Regulator. This is pursuant to the Commonwealth Gene Technology Act 2000. The Gene Technology Regulator assesses the potential impact of proposed dealings with gene technology on human health and the environment. However, the Gene Technology Regulator does not consider marketing or trade issues in making its assessments. These issues are managed by the States, together with industry. To date, the focus has been on GM canola because it was the first broad-acre GM food crop that was approved for commercial release by the Federal Gene Technology Regulator. Honourable members would recall that following approval by the Gene Technology Regulator, this Government moved decisively to impose moratoriums on the cultivation of GM canola in New South Wales.

The Government has maintained a staged, careful approach to introducing genetically modified crops into the State. In keeping with this philosophy, it is important that independent, small-scale agronomy trials of GM canola occur prior to larger-scale segregation trials being conducted to address marketing issues. Small-scale agronomy trials of GM canola have been approved during the current moratorium period, but due to a variety of reasons, including the ongoing drought, they have not been undertaken. Consequently, larger scale segregation trials have not proceeded. Marketing issues associated with the possible adoption of GM canola have been researched to some degree at a national and State level.

However, at this point the lack of segregation trials means that there has been no practical demonstration of the capacity to segregate GM and non-GM product across the supply chain to differing market standards. A review of the Commonwealth Gene Technology Act 2000 is currently being undertaken. The review will, among other things, consider whether economic, marketing and trade issues should be assessed under the Commonwealth Act. It is unlikely that the outcome of the review will be available until 2007. In any event the New South Wales Government would not support ceding management of marketing issues to the Commonwealth. They are quite clearly a matter for the State.

Until now I have focused my comments on GM canola. I draw the House's attention to the fact that the provisions of the Act can be applied to any specified GM food plant, not just canola. Various GM food plants are currently being trialled under the Federal regulatory system, and those food plants may be considered for commercial release in the future. They include herbicide-tolerant Indian mustard, wheat with altered starch content with potential benefit to human nutrition, and salt-tolerant wheat. They also include sugarcane with altered sugar content, virus-resistant white clover, pineapples with reduced occurrence of blackheart and delayed flowering, and virus-resistant papaya. It is evident that many of these advances in gene technology have the potential to help address a range of human, environmental and industrial issues.

However, they may also pose unique challenges associated with their potential impact on marketing. It is therefore important that New South Wales maintain the capacity to control the release of these new GM food plants until such time as the potential marketing issues are resolved. Given the lack of segregation trials, the uncertainties associated with the review of the Commonwealth legislation, and the rapid advances in the development of GM food plants, New South Wales needs to maintain measures to preserve the identity of GM or non-GM food crops for marketing purposes.

Amending the Act will ensure that a moratorium on the commercial cultivation of GM canola in New South Wales can continue to be imposed. Extending the duration of the Act will provide more time to collect necessary data, as well as time to reconcile any outstanding uncertainties relating to marketing GM and non-GM products. The proposed amendment also provides further consistency with gene technology moratorium legislation in other States in accordance with the intergovernmental agreement. I commend the bill to the House.

Debate adjourned on motion by Mr Russell Turner.

CONFISCATION OF PROCEEDS OF CRIME AMENDMENT BILL

Second Reading

Debate resumed from 21 September 2005.

Mr ANDREW TINK (Epping) [11.05 a.m.]: The Confiscation of Proceeds of Crime Amendment Bill makes a number of amendments to bring up to date existing legislation relating to the confiscation of proceeds of crime. It focuses on particular offences relating to the use of precursors to drug and supply drug offences. It also recognises that fundraising for terrorist groups can now be carried out through this type of activity. Therefore the bill allows law enforcement authorities, amongst other things, to discourage the commercial basis upon which such fundraising can be undertaken, central to which is confiscation of proceeds that are legally obtained from fundraising for illegal purposes.

I note that NSW Police, the Director of Public Prosecutions, the New South Wales Crime Commission, the Legal Aid Commission, the Public Trust Office and the Bar Association have been consulted. The bill also reflects agreements that have been reached by the Council of Australian Governments at various meetings that discussed terrorism and cross-border issues relating to catching and deterring terrorists and terrorism. On that basis the Opposition does not oppose the bill. Indeed, we hope it will help to deter terrorist acts by targeting fundraising for those purposes.

Mr MALCOLM KERR (Cronulla) [11.07 a.m.]: The Opposition supports this important bill, which deals with certain financial proceeds used in illegal practices. The confiscation of assets has a fairly recent history, which is surprising given that a lot of crime is carried out on a commercial basis, particularly the drug trade. I recall that a former President of the Court of Appeal, the Hon. Athol Moffitt, wrote a book called *Quarter to Midnight*, which I hope the Attorney General has read. He referred to the drug trade and the way in which confiscation of assets could be used as an effective weapon to deter that trade. We now have the war on terror, in which legitimate businesses are using their considerable financial base to generate funds for many

terrorist activities. This matter will evolve; the terrorist situation will not disappear overnight. It must be fought against, and its financial base has to be attacked, so this will not be the last bill that deals with the subject. It will need to be carefully monitored, and when amendments are necessary they should be introduced. The Opposition will support the bill.

Mr BOB DEBUS (Blue Mountains—Attorney General, Minister for the Environment, and Minister for the Arts) [11.09 a.m.], in reply: I thank the honourable member for Epping and the honourable member for Cronulla for their support for the bill, which will substantially strengthen criminal asset confiscation and money laundering laws in this State. I shall make a few further comments on these aspects in order to reinforce the importance of the bill. It is estimated that up to 70 per cent of recorded crime is acquisitive—a great deal of it drug related. Criminal asset confiscation attacks criminality through this profit motive. A number of prominent criminals are on record as saying they are not deterred by custodial sentences as long as the proceeds of their crimes remain secure.

Criminal asset confiscation is a vital weapon in the armoury of law enforcement. It is a deterrent to profit-motivated criminals because it reduces the return they can anticipate from the proceeds of their crime. Effective, diligently enforced criminal asset confiscation laws send the all-important message that crime does not pay, and those laws underpin confidence in a fair and effective criminal justice system to show that nobody is above the law. Additionally, stripping criminals of cash and assets that are the proceeds of crime prevents them from funding further criminality. By ensuring that the State has an effective criminal asset confiscation regime in place, we will make it a significantly less attractive environment for those who are contemplating criminal activity.

The bill aims to embed criminal asset confiscation as part of criminal investigations and prosecutions. It will now be much easier for police and prosecuting authorities to integrate criminal asset confiscation into the mainstream of their work so that asset confiscation becomes a routine part of law enforcement. Within the criminal justice system it must be recognised that the law has not been satisfied until criminals have been deprived of their unlawful gains. The bill has the strong support of New South Wales Police and the Office of the Director of Public Prosecutions. Indeed, those agencies expect that the amendments will result in a substantial increase in criminal asset confiscation. Strong money laundering laws complement criminal asset confiscation laws. Of course, attacking money laundering is recognised internationally as the key to undermining criminal activity. Many criminal businesses are most vulnerable when they are trying to launder their funds into the legitimate economy. The bill will ensure that New South Wales money laundering laws are in line with national and international best practice, and I commend it to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

CRIMES AMENDMENT (ROAD ACCIDENTS) BILL

Second Reading

Debate resumed from 21 September 2005.

Mr ANDREW TINK (Epping) [11.14 a.m.]: The Coalition strongly supports this bill, the purpose of which is to increase the maximum penalty for people who fail to stop and render assistance after a road accident when grievous bodily harm or death has been occasioned to a party. The penalty will increase from 18 months to 10 years imprisonment. This follows the tragic case of Brendan Saul, who was killed while riding his bike at Dubbo on 8 January 2004 by a 15-year-old driver who fled the scene. On 4 May 2005 the former Premier, Bob Carr, in answer to a question without notice, gave an assurance that there was a "need to strengthen penalties for people who fail to stop at accidents and the need for a tougher drug driving regime".

The bill deals with the former Premier's first undertaking but not the second—being tougher on drug drivers. I trust that the Government will quickly take action to give effect to the former Premier's second undertaking, and that the new Premier will not have a change of heart. I know from speaking to Kevin Saul, Brendan's father, that these two elements are equally important. Of course, provisions dealing with the first undertaking are welcome, but the Government should deal with the second undertaking without delay. Each day that passes without the Government meeting the former Premier's undertaking to be tougher on drug drivers is another day when regrettably there is likely to be a recurrence of a crime that was one element in the tragedy of

Brendan Saul's case because no adequate deterrent was in place. As I said, the former Premier recognised that, and I trust that the new Premier will follow through on it. At the end of her second reading speech on 21 September 2005 the Minister for Western Sydney said:

In a very real sense, this is Brendan's law.

Earlier that day, in answer to a question without notice the Attorney General said:

In a very real sense this law, for which I am sure the House will give bipartisan support, will be Brendan's law.

We would all like to see that, and I think one further step can be taken to achieve that. I sought Parliamentary Counsel's advice on this. I also spoke, yesterday, to Kevin Saul, who would like to see this. I would like to amend the name of the bill to "Crimes Amendment (Road Accidents) (Brendan's Law) Bill". I understand that there is no problem with that; it will not in any way narrow the impact of the bill, which stands on its terms as a general application to the public of New South Wales, which of course is its purpose. We would name the bill in honour of someone's memory, rather than in any way limit the bill to the facts surrounding Brendan's case.

Everyone has approached this bill with goodwill, and I am not trying to score points. While the Attorney General and the Minister for Western Sydney recognise that the bill will be called Brendan's law, the Act will not. This is a small but very important point for the Saul family. The bill will move to the background as the amendment is incorporated into the Crimes Act. The principal Crimes Act will be amended as proposed to change the law and will not in any way be limited in its application by its wording. But it would be nice for the Saul family to receive—as I have once or twice as the proposer of a private member's bill that passes through the Parliament—an embossed copy of the Act signed by the Clerk and by the Speaker and bearing the green seal of the Legislative Assembly and a green ribbon. I do not know what the upper House practice is but it may be the same. It is a magnificent looking document.

I know from speaking to Kevin Saul yesterday that if the bill can be named "Brendan's Law" and bear that title on the page, it would be very important symbolically. So many families of victims of crime that result in death do not want the death to be in vain; they want something positive to come out of it. For the Saul family this would be an official statement by the Parliament that this death—though a complete tragedy—has not been in vain. I foreshadow that amendment and table copies that have been drafted by Parliamentary Counsel. Otherwise I support the bill.

Mr MALCOLM KERR (Cronulla) [11.21 a.m.]: I support the honourable member for Epping. His amendment is an acknowledgement that the bill is the result of the tragic death of Brendan Saul. The absence of a real deterrent in the Crimes Act was highlighted by this tragedy. The former Premier gave two undertakings. This bill pursues one undertaking, and we expect the second undertaking to be honoured. The honourable member for Epping has foreshadowed his amendment and given strong reasons for it. It acknowledges that Brendan's death, though a tragedy, will make a contribution to the criminal law in this State by providing a more adequate deterrent. This would give some comfort to the Saul family and be an acknowledgment of the debt this State owes Brendan; some good could come from this tragedy and be so acknowledged.

Mr BOB DEBUS (Blue Mountains—Attorney General, Minister for the Environment, and Minister for the Arts) [11.23 a.m.], in reply: I thank honourable members for their contributions to the debate. The Government is always vigilant to ensure that the most vulnerable people in the community have their interests protected. There is no question as to the vulnerability of those who are seriously injured in road collisions and who are vitally dependent on the assistance of others. When a driver leaves the scene of an accident, leaving in their wake a dead or badly injured person without attempting to render assistance, the fundamental code of a civilised society is breached. The law should not offer any incentive to drivers to fail to comply with their duty. It should not allow any advantage to accrue to those who evade their duty and who are perhaps criminally responsible for their actions. The measures in this bill are a clear and unambiguous statement of the seriousness with which the community views the dereliction of duty of drivers who flee accident scenes with callous disregard for seriously injured victims.

The drug-driving reforms announced by former Premier Carr and raised again in this debate by the honourable member for Epping are the responsibility of the Minister for Police and the Minister for Roads, but, as I understand it, the drafting of a bill is well advanced. I do not wish to bind my colleagues to these details, but I understand that the bill will provide for random roadside drug testing for the presence of certain illicit drugs, compulsory drug testing of a driver involved in a fatal crash, and the offence of driving with any presence of a prescribed range of illicit drugs. The House will understand that the technology involved in the implementation

of that bill is new and is evolving rapidly. Amendments concerning drug driving are of necessity difficult to draft and to implement. That is why the Government is of necessity taking a little time to prepare them.

I am pleased to support the Opposition's amendment to change the name of the bill in recognition of the tragic loss of Brendan Saul. However, I have a suggestion that we should follow a slightly different formulation to that which the honourable member for Epping has proposed. I understand he is amenable to the change to that formulation, which we will do in Committee. So far as I am aware, a person's name has never been used in the title of a bill, and therefore it is not something that Parliament should adopt lightly. On the other hand, it is true that the bill will incorporate a new provision in the Crimes Act and that Brendan's name will not appear in the Crimes Act. That is proper because the Crimes Act should be filled almost randomly with the names of individuals depending on how members of Parliament respond at any time to events in the community.

However, I accept that, in the present context, the proposition by the honourable member is reasonable. As the House will know, I too have had a number of conversations with Kevin Saul, the most recent in Dubbo just several weeks ago. It is true that Parliament as a whole has extended its feelings of deep compassion to the Saul family for their tragedy. I commend the bill to the House on the assumption that we will spend a brief time in Committee settling the title of the bill.

Motion agreed to.

Bill read a second time.

In Committee

Mr ANDREW TINK (Epping) [11.30 a.m.]: I move:

Page 2, clause 1, line 3. After "(Road Accidents)" insert "(Brendan's Law)".

I am grateful to the Attorney General for agreeing to this amendment and for suggesting a slight change to my original amendment, to retain the words "Road Accidents". I believe the retention of those words is appropriate. I accept that this amendment will not appear in the principal Crimes Act as other amendments are incorporated into the Act. It is important that the Crimes Act applies and is seen to apply to everyone in New South Wales equally without fear or favour. As the Attorney General acknowledged in his response to my earlier comments, the tragedy that was the impetus for this bill is recognised by all honourable members. In this case it is appropriate to use Brendan Saul's Christian name as part of the name of the bill, but it is not a precedent that should be followed lightly. When the bill is assented to I hope we have an opportunity to present an Act with this agreed title to Kevin Saul as a symbolic reminder that Brendan's death was not totally in vain and to show that the law has been changed to deter others from being involved in the type of crime that led to Brendan's death. I am grateful for the Attorney General's support for his advice on this amendment. I commend the amendment.

Mr BOB DEBUS (Blue Mountains—Attorney General, Minister for the Environment, and Minister for the Arts) [11.33 a.m.]: I confirm that the honourable member for Epping and I have agreed, for the reasons we have already sufficiently explained, that the title of this bill should be amended by inserting the words "(Brendan's Law)" after the words "(Road Accidents)".

Mr ANDREW TINK (Epping) [11.33 a.m.]: I indicate that I have used the Clerk's formal words.

Mr BOB DEBUS (Blue Mountains—Attorney General, Minister for the Environment, and Minister for the Arts) [11.33 a.m.]: Which, no doubt, are better than mine. We are in agreement.

Mrs DAWN FARDELL (Dubbo) [11.34 a.m.]: I thank all honourable members for their support on this issue. It has been a tragic time for the Saul family. This tragedy has brought together all members of the House to clarify the law so that in future other families will not have to suffer the same consequences as the Saul family. The tragedy has affected my whole community, which has stood behind this family, as has the Attorney General and the shadow Attorney General, the honourable member for Epping. I appreciate the bipartisanship that has been shown on this issue. It is hard for any family to tragically lose a child, but to have the name "Brendan's Law" inserted into the legislation is very important to the family and to others.

I thank the Parliament for agreeing to this amendment and I also thank the Attorney General and the former Minister for Juvenile Justice, the Hon. Diane Beamer, for their work and for supporting the efforts by the

Saul family to bring some finality to this matter, although it is something the family will always have to live with. Hopefully, when this bill and a bill on drug testing that is to be introduced are passed, other families will not have to suffer the same consequences as the Saul family. I hope that the Saul family will then be able to concentrate on raising their other three wonderful young sons, while at the same time maintaining the memory of Brendan.

Amendment agreed to.

Clause 1 as amended agreed to.

Clauses 2 to 4 agreed to.

Schedules 1 and 2 agreed to.

Bill reported from Committee with an amended short title and report adopted.

Third reading ordered to stand as an order of the day.

CRIMINAL PROCEDURE AMENDMENT (PROSECUTIONS) BILL

Second Reading

Debate resumed from 21 September 2005.

Mr ANDREW TINK (Epping) [11.37 a.m.]: The purpose of the bill is to amend the Criminal Procedure Act to ensure that all prosecutions conducted on behalf of the Director Of Public Prosecutions [DPP] are recognised as valid and that an indictment signed by a private legal practitioner acting on behalf of the Director of Public Prosecutions is not made invalid simply because the DPP failed to authorise the practitioner to sign indictments. Earlier this year, the Court of Criminal Appeal held in the cases of Halmi and Janceski that indictments signed by barristers at the private bar were invalid unless the DPP had expressly authorised by order the barristers to sign the indictments. This situation cannot be allowed to go unremedied. Therefore the bill has been introduced. The Opposition has no objection to it. I am tempted to say more about the technicalities, but it would be better if I restrained myself. We have to get these matters right, and that is all there is to it.

Mr BOB DEBUS (Blue Mountains—Attorney General, Minister for the Environment, and Minister for the Arts) [11.38 a.m.], in reply: I thank the honourable member for Epping for his extraordinary restraint. I am also tempted to say something more, but I will not. The Government's policy is that criminal trials should be decided fairly on their merits. The amendment proposed advances that policy by closing the door to one extraordinarily technical ground of appeal that has gained favour recently. The result of a criminal trial is determined by the jury, based on the case for the prosecution, normally represented by the Director of Public Prosecutions, and the case for the defence. Once the jury's determination has been made and if the trial was otherwise fair, there is no reason to overturn the jury's decision merely because of a signature that appears on the indictment. The amendment made by this bill is a small but entirely necessary one. Criminal law proceedings are brought for the protection of the public and those proceedings should be determined on the substance of the case, to the greatest extent that that is possible, not on technicalities. This bill promotes that principle and I commend it to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

NATIONAL PARKS AND WILDLIFE AMENDMENT (JENOLAN CAVES RESERVES) BILL

Second Reading

Debate resumed from 21 September 2005.

Mr MICHAEL RICHARDSON (The Hills) [11.41 a.m.]: The Opposition has a number of concerns about the bill. Chief among those is the fact that it does not deal with the central problems facing the administration of Jenolan Caves. Those problems relate, of course, to the commercial zone. The second reading

speech on the bill was delivered by the honourable member for Menai, not by the Minister. The honourable member for Menai may know something about her electorate, but I think her knowledge of Jenolan Caves is about zero. It could probably be written on the head of a pin with a textacolor! I wonder why the Minister did not introduce the bill. Was it because he does not believe in what he is doing either? Was it because he was too embarrassed to be seen to introduce a bill that does not provide a complete solution to the enormous problems facing Jenolan Caves?

Make no mistake about it, Jenolan Caves is in a mess. An administrator, Mr Allan Griffin, has been in place for 21 months. Under the provisions of the bill he will not retire until the Government can deal with the commercial zone at Jenolan Caves. The Opposition has considerable concerns about the fact that the administrator has been in place for 21 months. We are of the view that the Government is running the caves in an illegal way. Indeed, I issued a press release to that effect in December last year. I am not the only person to have said this. The New South Wales Speleological Council obtained a legal opinion from Senior Counsel well known to the Labor Party—in fact, a member of the Labor Party—that says the same thing. I will quote from that opinion. Perhaps the Minister might address those issues in his reply. He is, after all, also the Attorney General of this State. The memorandum of advice states in part:

There are essentially three questions for advice. Did the Minister have the power to appoint the administrator to the Trust?

Section 58ZE of the Parks Act is the source of power to appoint an administrator to the Trust.

The memorandum quotes that section. If honourable members are interested they can have a look at it for themselves. The memorandum continues:

It is apparent from sub-s.(1)(b) that the only circumstance in which an administrator can be appointed to the Trust is where the Minister has removed all members of the Trust Board from office. He did not do so. The term of office of the members of the Trust Board expired by effluxion of time, and was not truncated by removal. It follows that there was no power to appoint the administrator ...

As the power to appoint an administrator only arises when all Board members are removed by the Minister, it is evident that it is in the nature of a reserve power, to be exercised where the Minister is of the opinion that the Trust Board has not properly performed its functions of care, control and management of the Trust lands.

The memorandum goes on to say:

Indeed, it can be seen that the power has been exercised to achieve a result which is contrary to the provisions of the Act, a conclusion which can be more readily drawn from the fact that the Minister sought to amend the Act, unsuccessfully, to authorise the result (handing over control of the Trust lands to the Director-General of the Department) which he could not otherwise achieve. I am of the opinion that the appointment and renewal of appointment of the administrator are also invalid on this ground.

The final question is whether the invalidity of the administrator's appointment has any legal consequences. Section 176A of the Parks Act enables any person to enforce its provisions ...

In the absence of power, the appointment is a nullity and the administrator's acts ... are also nullities ...

The Minister exceeded his power under the Act to appoint and renew the appointment of the administrator. This was a jurisdictional error. The Minister's act was a nullity.

Essentially, Senior Counsel is saying that everything that has been carried out by the administrator over the past 21 months was illegal. That is so because the Minister did not sack the trust board. The Trust Board voluntarily handed over its authority to the Minister and said it did not want to continue doing what it was doing, because the Government was not providing adequate funds for it to carry out its responsibilities. The administrator did not have the authority to administer Jenolan Caves, Wombeyan Caves, Abercrombie Caves or Borenore Caves over that period of 21 months.

Under the bill the administrator will have that authority, but it calls into question whether the decisions that he made during that time, and contracts he may have entered into during the past 21 months, are legal. The big issues with Jenolan Caves have always related to the Jenolan Caves commercial zone, which the Government in its legislation calls the "visitor use and service zone". It was the failure of the Government to properly promote and administer the caves that led to the trust standing down at the end of 2003 and Mr Griffin being appointed. One only has to look at the fall-off in visitor numbers to understand how badly the Government managed Jenolan Caves. When the Coalition left office in 1995 there were around 260,000 visitors each year to Jenolan Caves. In 2003, when the trust board quit, there were 214,453, a fall of 17.8 per cent. That is a fairly substantial number in anyone's book.

The bill does not address these issues at all. It addresses the peripheral issues without addressing the core issue of the management of the commercial zone at Jenolan Caves. The bill transfers the other lands—that is, the land surrounding the commercial zone, Abercrombie, Borenore and Wombeyan caves—to the Director General of the Department of Environment and Conservation [DEC]. It leaves the commercial zone in the hands of the administrator. It dissolves the trust and transfers the trust staff to the DEC, except, presumably, for those involved in the administration of the commercial zone. It was not spelled out in the inadequate second reading speech of the honourable member for Menai exactly how many staff would be transferred to the DEC and how many would remain under the control of Mr Griffin. That information has not been provided.

Given that in the opinion of many people Mr Griffin has been doing a fairly inadequate job, probably because the Government has not been backing him up—that has been suggested to me by a number of people—that does not seem to be a satisfactory arrangement. The Opposition has no problem with the transfer of the Wombeyan, Abercrombie and Borenore caves to the Department of Environment and Conservation. Indeed, in the meeting about Jenolan Caves that I had with the Minister last year I was quite supportive of that proposal. It is in the best interests of the environment and, frankly, those caves will never in any way be self-sustaining. They are certainly not what might be described as profit centres for the National Parks and Wildlife Service, and they were a considerable drain on the resources and reserves of the Jenolan Caves Trust board.

That is particularly the case in relation to Borenore Caves, which were added to the board's responsibilities a few years ago notwithstanding the fact that the board did not receive supplementary funding for management of the caves. The caves were run by the staff at Wombeyan Caves, which also were not provided with additional staff, so it was simply an additional responsibility for them at that time. We do not oppose that aspect of the legislation. Indeed, as I said, I was quite supportive of it during the meeting I had with the Minister.

It is not surprising that the number of people visiting Jenolan Caves has fallen: there has been very little promotion of the caves. When did members last see an advertisement for Jenolan Caves in a metropolitan newspaper or magazine, or hear an advertisement on radio, or see an advertisement on television? It simply does not happen. In fact, the trust was spending 76 per cent of its money on labour costs and only 2 per cent on marketing. So Jenolan Caves has not been run in any sense as a commercial operation, and it is clear that the Government has no idea whatsoever how to run a business or, indeed, how to negotiate a contract.

In 2002-03 there was a significant wage increase of 9 per cent, which was supposed to be paid only if there was a productivity increase. I understand there were no productivity improvements at the caves but that the trust was told it had to pay the 9 per cent increase regardless. We know that the Government is now running out of money, that there has been a wages explosion, and that a large proportion of Government outlays are now taken up by wages. So what has happened at Jenolan Caves is a microcosm of what has happened across the whole of the New South Wales public sector under the maladministration of the Government.

The bill establishes a Karst Management Advisory Committee and a karst conservation unit, to be based in Bathurst. The latter will be very expensive, as I said in last year's debate on the previous very brief bill that the Government introduced, which would have abolished the trust. Indeed, that bill did not receive majority support in the upper House, so the Government did not proceed with it in that place. Last year the administrator estimated that the karst conservation unit would cost \$350,000 per annum plus \$140,000 in set-up costs.

But the Minister's briefing note, which contains more information than the honourable member for Menai's second reading speech, says that the five karst conservation unit staff will be located in Bathurst and will inject some \$400,000 a year into the local economy. That suggests that the costs have gone up significantly, because I assume that the \$400,000 is the after-tax income of the five staff. Alternatively, the Minister is exaggerating, in that he is suggesting that all their salaries will be spent in the town. Or maybe the staff will be given a \$140,000 salary package each. I ask the Minister to elaborate on those figures from his briefing note.

The Karst Management Advisory Committee will be just that. Its function will be to advise the Nature Conservation Council on a range of matters, including the conservation and management of karst environments; any plan of management for land reserved under the Act—which is important, because a new plan of management for Jenolan Caves is currently being prepared; the development, implementation and review of policies directed towards achieving the objects of the Act in relation to karst environments; opportunities for sustainable visitor use and enjoyment of karst conservation reserves compatible with the reserves' natural and cultural values; and opportunities for sustainable use of any buildings or structures on, or modified natural areas of, karst conservation reserves having regard to the conservation of the reserves' natural and cultural values.

A criticism that I had of the previous arrangements for managing Jenolan Caves was that the trust board did not have sufficient people on it with a business background. I note that the people to be appointed to the Karst Management Advisory Committee have an environmental or scientific background. That is appropriate when we are talking about managing karst environments but it is not appropriate when we are talking about advising on opportunities for sustainable visitor use and sustainable use of buildings, which are commercial issues. The Government, in introducing this legislation, runs the risk of falling into exactly the same trap it fell into before, in that it will not have on tap the expertise it needs to operate what is quite a significant commercial operation.

Jenolan Caves is New South Wales' largest inland tourist attraction. The fact that it attracts 214,000 visitors a year indicates just how significant it is. I suspect that every member of this House would have visited Jenolan Caves at some time or other, whether as a child or an adult, and gone through one or more of the caves, perhaps with their children. Indeed, I suspect that probably 70 to 80 per cent of the people in New South Wales have visited Jenolan Caves at some time or other. It is, unquestionably, an extremely significant tourist attraction and ought to be one of the jewels in the crown of the National Parks and Wildlife Service instead of being a drain on resources. But, of course, if people do not visit the caves, if the caves are not promoted and there are insufficient gate takings, those outcomes will not be achieved.

In a letter the Minister wrote to me in March he suggested the establishment of a second committee, the Jenolan Management Advisory Committee, specifically to assist with managing Jenolan Caves. However, such a committee is not referred to in the legislation. I ask the Minister whether he intends to resurrect the proposal at some time in the future, perhaps when the issues relating to the lease on Jenolan Caves House are resolved, or whether he has had second thoughts about it. I believe that is important, in the context of the remarks I have made previously about the Karst Management Advisory Committee.

New section 58 provides the administrator with the legal authority, which he has lacked for the past 21 months, to administer the commercial zone of Jenolan Caves during the relevant period, which is defined in section 45 as being from that time the Act is proclaimed to the time a new plan of management is adopted for the Jenolan Caves visitor use and services zone. None of that was mentioned by the honourable member for Menai in her brief contribution, even though it goes to the core of what the Government is trying to achieve. One gets the impression that the Government wants to be seen to be doing something about the caves while its attempts to resolve—not my word but the Minister's word, from his briefing note—the lease of Jenolan Caves House.

Given that this is a 99-year lease dating from 1989, Mr Griffin could have a job for life. But one suspects that the Government is simply trying to starve the lessee of Jenolan Caves House, Mr Archer Field, into submission. Given that the Government failed to promote the caves and failed to cross-promote Jenolan Caves House, and that it could not even provide clean water to Caves House, the kiosk and other businesses, one starts to get rather suspicious. A letter dated 15 June this year from David Templeton, the Manager of JMA Food and Beverage, which runs the kiosk at Jenolan Caves, to Bob Carr, the former Premier of New South Wales, points to the problems the Government has been creating for the lessees at the Jenolan Caves commercial zone. I repeat: the proposed legislation before the House does not deal with those issues. The letter states:

Dear Mr Carr

JMA provides food and beverage to staff and tourists at Jenolan Caves.

Sonic water tested Jenolan Caves tap water and confirmed that drinking water contains ecoli and other bacteria from water tanks with open tops. The Administrator and Trust Managers were told this was happening.

JMA also believes some of the breaking water pipes are made of asbestos. JMA understood the water pipes should have been fixed years ago.

JMA was told the Government commissioned Byron Johnson to investigate these and other problems 2 years ago. Since then Trustees were sacked—

We know that was not exactly the case—

an Administrator appointed for 6 months and the Trust Managers retained. Alan Griffin said he would fix things in 6 months and after 1½ years the problems seem to be much worse.

JMA really wants the Government and Resort [to] fix these problems immediately or to set up a public inquiry and find out why people's lives continue to be placed in danger and these very important things ignored.

JMA and every staff member ask you to find the time to deal with this now.

Did Mr Templeton and his staff members receive a response from Mr Carr to this very important issue: water contaminated with bacteria that could give cave visitors gastroenteritis and worse? No, they did not. No response came from Bob Carr. I have in my possession another letter that was written to Mr Carr about related issues in September last year, and the writer did not receive a response to that letter either. One has to wonder why the Government, which is supposed to be responsible for issues such as providing clean water to visitors to Jenolan Caves, has taken such a cavalier attitude towards this issue.

Did the Government not care about the health and safety of visitors to the caves? Was this part of the Government's plan to try to undermine the lessees in the commercial zone and force them out of business so that the Government could carry out its preferred option, which was to amalgamate the cave tours with the operations of Caves House and other businesses in the commercial zone? If that is the case then the Government stands condemned. I am concerned about the way in which the Government has been prepared to put people's health at risk to fulfil its objective of gaining control of the commercial zone. I am also concerned about the way in which the Government has demonstrably failed to cross-promote Caves House as an option for people who are visiting the Caves perhaps on a day trip, and by so doing the Government has been reducing the commercial viability of Caves House.

I have seen some material that suggests that no matter what is done with Caves House it cannot stand on its own two feet, that the operator is always destined to lose money on Caves House. The suggestion is that by integrating the operation of the cave tours with Caves House, cave tours can subsidise the operation of Caves House as a guesthouse and, by so doing, presumably make a small profit out of the entire operation. I think it is a very negative way of looking at what is, as I said previously, the greatest tourist attraction in inland New South Wales. It is interesting to note that 10 years ago 21 per cent of visitors to the caves stayed at Caves House and that because of the lack of synergies between the cave tours and Caves House that figure is now down to 11 per cent. Interestingly, just 1 per cent of Caves House guests are referred by the tour operators. So there clearly seem to be some unresolved issues and some conflict between the Government, the operators of the cave tours and the lessee of Caves House.

This is an operation that ought to be, along with Kosciuszko National Park, Royal National Park, Kuring-gai Chase National Park and a number of others, a jewel in the national parks crown and a profit centre for the National Parks and Wildlife Service. But, on the basis of what the Government is suggesting, I do not think that that is going to happen at all. Once again, it is not just me who is expressing these concerns. The president of the New South Wales Speleological Council, Megan Pryke, wrote to me in June expressing grave concerns about what the Government was proposing. I will just spell out those concerns, and it would be good if the Minister could address those concerns in his reply. Ms Pryke writes:

We are concerned that the Government's proposal is not in the best interests of the Reserves and may lead to a decline in management quality for these important areas, which are iconic natural assets. This is for the following reasons:

- The Government has refused to release detailed costings of its new management model. We understand that whilst it is proposed to achieve some savings by way of administrative overhead, the overall proposed business model will remain the same and there are no detailed plans on how to increase revenue from these areas. The figures that the Government have provided only relate to the first stage of the transfer and exclude the impact of Jenolan. Our requests for detailed costings have been refused.
- The Review process has been shrouded in secrecy. No copy of the CQCG Review is available. Our requests for detailed costings have been refused. Requests for other documentation have been denied on the basis that they are Cabinet documents.

That is something that is familiar to members on this side of the House. Mrs Pryke continues:

- There is no clear proposal for the future operation of the Jenolan Caves commercial precinct, including cave tours. The possible licensing of commercial operations at Jenolan to a private operator is a matter of great concern. This is likely to remove the strong management presence on-site, and result in a large part of revenue from cave tour operations, which are currently public funds, being diverted to private profit, and to subsidise the currently unprofitable privately operated Caves House hotel. Any such proposal should be fully considered prior to any management restructure.
- The karst on Trust lands has been managed at a much higher standard in the recent past than karst within the NPW estate. The NPWS has had inferior karst expertise, with little in the way of karst experts located on site. Whilst this proposal has the opportunity to enhance management of karst in the NPW estate we consider that management of the Trust lands may suffer. We have great concerns about the ability of NPWS to manage these Reserves properly, and in particular to administer the commercial operations at Jenolan.
- In particular, we consider that the use of a stakeholder-based management board representative of many interests (including NPWS) has allowed the Trust to manage at a higher level than pure NPWS management. The proposed

Statewide Karst Advisory Committee is no substitute for the close involvement of stakeholders in management of the Trust lands. The Government refuses to countenance any closer degree of stakeholder involvement in management.

- There is no legal reason why the Government could not provide the funds proposed whilst retaining management of the Trust areas under a stakeholder-based management board with appropriate expertise. The Government has been unable to provide us with a satisfactory explanation of why it considers such a model is not feasible.
- The proposed Karst Unit will be in a policy division of DEC, removed from the day-to-day management of reserves. The Administrator has told us that the Karst Unit will levy a charge on reserve management for some of the services which it could provide to each reserve, which would provide a major disincentive for reserves to seek its advice unless compelled to do so.

Independently of the Opposition, the New South Wales Speleological Council has reached very similar conclusions. It is concerned about the same sorts of issues that the Opposition is concerned about: we are concerned about the day-to-day administration particularly of the commercial zone; we are concerned whether karst management is going to improve under this new model or whether it will deteriorate; we are concerned about the lack of involvement of stakeholders in the administration of Jenolan Caves which the Speological Council has indicated has allowed the trust to manage at a higher level than pure National Parks and Wildlife Service management; and we are concerned about the fact that if the Government achieves its stated end of integrating the cave tours with the running of Caves House, there will be a significant revenue stream lost to the Government, a revenue stream that can be used for conservation purposes within the National Parks and Wildlife Service.

I repeat that Jenolan Caves ought to be a profit centre for the National Parks and Wildlife Service—one of the jewels in the crown, as is Kosciuszko. The speleologists also did not refer to reporting on the caves operations, which I raised with the Minister when I met with him last year. Last year I was promised that, although there would no longer be an independent report on the caves, as occurred during the days of the trust, there would be full and detailed reporting on Jenolan Caves in the annual report of the Department of Environment and Conservation. I would like to quote from a letter I received from the Minister dated 4 March 2005 in which he addressed this very issue. He stated:

To ensure transparency and accountability in the management of Jenolan and the other DEC-managed caves, the DEC will compare, in close consultation with the karst management advisory committee and the Jenolan management advisory committee, the state of the caves report. This will be linked to the new state of the parks reporting system, with the first state of the caves report expected to be published in 2006.

The Department of Environment and Conservation will also ensure that as part of its annual report tabled in the New South Wales Parliament separate information will be included on financial management reports for the four reserves, including the capital works program and state of the environment/caves reports. In broad terms this information will be similar to that contained in the existing Jenolan Caves Reserve Trust Annual Report.

These two measures, I believe, respond constructively to your concern that should management responsibility for Jenolan Caves be transferred from the trust to the Department of Environment and Conservation accountability to the broader public and to the Parliament will be reduced. My aim is to ensure this does not occur.

I repeat the Minister's last sentence, "My aim is to ensure this does not occur." There is nothing before the House currently, in the legislation, in the scanty contribution made by the honourable member for Menai or in the Minister's briefing note, to indicate there will be an appropriate level of reporting on the caves to the Parliament and that it will be separated from the broader Department of Environment and Conservation report to inform people of what is going on at the caves. It is not satisfactory for there simply to be a small mention in the annual report, nor is it consistent with the Minister's own words to me in his letter of March this year. The Minister is honourable and I believe he meant these words when he wrote them, but perhaps something has changed between then and now to cause him to no longer want to provide the state of the caves report or a report on Jenolan Caves and the other cave areas. I ask the Minister to address that matter in reply.

The bill does not deal with the real issues affecting Jenolan Caves, the management of the commercial zone and whether the cave tours should be operated by the private sector or continue to be run by the Government. Therefore, I ask the Minister to consider deferring the bill and referring the management of Jenolan Caves to an upper House committee. This is necessary because the present plan is incomplete and the bill does not deal with the broad range of concerns have been raised by the Opposition, the speleologists and the current lessees.

A better structure must be established for the commercial zone at Jenolan. The administrator, Alan Griffin, in his interim report dated 31 March 2004, put forward a number of alternative models for administering the caves in the future. His preferred options were a split ownership model under which responsibility for the

cave tours would remain separate to the accommodation, either run by government or by licence to a private operator, or an integrated lease in which the cave tours and the accommodation would be run by a single entity and would be offered as an integrated package to that entity. The bill does not address those issues.

I feel sure that Mr Griffin, unless he wants to stay at Jenolan Caves for the rest of his life, would like those matters dealt with. An inquiry would be able to constructively determine the optimum structure. This is a positive suggestion, consistent with the way in which we have tried to address the management of Jenolan Caves over the past 18 months. We want the New South Wales taxpayer to get best value for money and for the people employed there to retain their jobs. We also want the best environmental outcomes for the caves and for future generations to be able to visit and enjoy the magnificent splendour of the caves. This bill does not achieve those aims. We will not oppose the bill, but we ask the Minister to address in reply the matters I have raised and to consider supporting an upper House inquiry to investigate the best way of managing the commercial zone at Jenolan Caves.

Mr BOB DEBUS (Blue Mountains—Attorney General, Minister for the Environment, and Minister for the Arts) [12.16 p.m.], in reply: As the honourable member for The Hills acknowledged, the Jenolan, Wombeyan and Abercrombie caves are priceless natural wonders. They are world-famous for their natural significance and the Government is acting to ensure their long-term conservation and financial viability as a tourist destination.

I remind the House of recent past events. The Jenolan Caves Reserve Trust, which looked after the caves, had been operating on the same basis since the Greiner Government created it in 1990. It was a self-funding, not-for-profit body, with competing commercial and conservation obligations that were hard for it to manage. It was charged with administering a 99-year lease of the historic Caves House, signed off by the Greiner Government. The trust comprised dedicated people who did many good things, but they wrestled with the difficult brief of knowing that its commercial and conservation obligations in many ways conflicted with one another. Another problem was that this 99-year lease contained many provisions that are still now, upon examination, astonishingly generous to whoever happened to be the lessee.

I initiated a special review of the trust in 2003 by the Council on the Cost and Quality of Government. The review team consulted widely with stakeholder groups and staff at the cave. A steering committee located in the Premier's Department oversaw the work of that review team. The review found that the trust had been managing its finances without recourse to recurrent funding, despite the longstanding structural commercial impediments that I have mentioned, caused by the business model put in place originally by the former Coalition Government. In other words, the review found that the trust had been doing well in what were difficult circumstances that could not be corrected without substantial structural change to the way governance of this area was organised. To implement the review's recommendations I appointed an administrator whose job was to develop proposals for structural and legislative change to place the caves on a sound footing and to develop a new business model for the Jenolan Caves commercial area.

I should say by way of parenthesis that the appointment of the administrator has been examined by the Crown Solicitor, who found that it was valid not only at the time but on an ongoing basis. In the Crown Solicitor's view, there is no question about the validity of the appointment of the administrator, the opinion of this or that senior counsel notwithstanding. The former trust has fully supported everything I have done with respect to Jenolan Caves. I have had the most amicable relationship with former trust members. I had a long meeting with them, at which they made it entirely clear to me that they believed that the course of action taken by the Government was appropriate. As I said, they have never contradicted the work the Government has been doing. Surely the honourable member for The Hills would have heard if they had had feelings of resentment about the actions I have been taking over the past several years.

The Government has developed a revitalisation package for the caves to conserve the natural assets and to assist local communities by providing more regional employment and increased opportunities for tourism. It has increased funding with a \$4 million capital program to upgrade the caves infrastructure and an additional \$540,000 each year in recurrent funding to support the management of not only the trust caves but also all the limestone caves managed by the Department of Environment and Conservation—Yarrangobilly in Kosciuszko National Park, the caves in the Bungonia area and so on. We have already held a reopening of the Lucas Cave, which has been rejuvenated with state-of-the-art lighting. At present similar work is being carried out in the Imperial Cave, the Chifley Cave and the Temple of Baal. Walking tracks are presently being upgraded within the reserve area to improve visitor experience.

I am establishing a statewide karst management advisory committee, which will consist of karst scientists and others with a particular interest in this area who will provide advice to the National Parks and Wildlife Advisory Council on karst matters. This means—again I say this parenthetically—that it is no longer

necessary to create the specific Jenolan committee that the honourable member for The Hills mentioned. The statewide committee will be supported by a specialist karst conservation unit which is to be set up within the Department of Environment and Conservation at Bathurst. That unit will also support departmental staff in decisions affecting cave management and management of the State's whole cave network.

A number of the management options for Jenolan caves presently being investigated include the option of licensing caves tours. All those options are aimed at providing significantly improved visitor experience by better integration of all the services at Jenolan, that is, by overcoming those structural difficulties that I referred to moments ago. If the caves tours are licensed, then proper environmental and conservation safeguards will be put in place, including monitoring by an environmental regulator. At this stage there is no proposal to privatise or licence caves tours at Wombeyan or any other cave systems managed by the department. I am committed to giving the caves a new lease of life and protecting them for future generations.

On the question of visitation, in the past financial year visitation to Jenolan caves was up 6 per cent, and it was up 5 per cent the previous year. The number of visitors to Jenolan reached 240,000 in 2004-05, which was the highest level of visitation since 1999-2000. These increases demonstrate, first, that the propositions being made about visitation by the honourable member for The Hills are plainly wrong and that he has poor sources of information in this respect. They are wrong; visitation has been increasing for the caves themselves. There has been most substantial promotion through a variety of particular marketing mechanisms, including those that operate generally for my electorate of Blue Mountains. Notwithstanding the claims of the honourable member for The Hills about the failures of tourist promotion, the fact is that visitation to the caves has been significantly increasing.

The fall-off that occurred in about 2000 and 2003 was associated in particular with the fall-off that happened to tourism in most places because of September 11, the collapse of Ansett, bushfires and many other events that were sent to try the tourist industry. The National Parks and Wildlife Amendment (Jenolan Caves Reserves) Bill is a result of the most detailed negotiations with stakeholder and user groups. It is clear to me that the honourable member for The Hills is not talking to all or even most of them. He read out a lengthy letter from Ms Megan Prike, apparently suggesting that she represented the Speleological Society. The fact of the matter is that she does not represent the totality of the views of the Speleological Society. Someone who is better able to so represent that society will be appointed to the karst advisory committee.

As I said, the bill aims to achieve a comprehensive revitalisation package to conserve the natural assets while boosting tourism and therefore regional employment. A highlight of stage one of the bill is the incorporation of the significant areas of Abercrombie, Wombeyan, Borenore and Jenolan caves into the Department of Environment and Conservation to ensure that the management of all significant caves is located within one organisation. The establishment of the first ever karst conservation unit in New South Wales will ensure that the highest level of knowledge in karst management within the department is available across the State. As I said, the staff will be located in Bathurst. That will in turn inject some \$400,000 per annum into the local economy of Bathurst and enshrine that city as the capital of karst science in Australia.

This unit will provide expert management advice for the State's caves network managers. It will also be a resource for all cave managers across Australia and, indeed, through the Asia Pacific region. As I said, the bill will see the establishment of a karst management advisory committee to provide expert advice to the Minister for the Environment and the Director General of the Department of Environment and Conservation. It will comprise representatives from groups such as speleologists, conservationists, scientists, hydrology experts, ecotourism representatives, the New South Wales Heritage Office and traditional landowners. Stage two of the bill will see the finalisation of the plan of management for Jenolan and the transfer of the Jenolan visitor use service zone in the Jenolan Caves House leased area.

The issue of leasing has proven to be of particular interest to the honourable member for The Hills. That comes as no surprise. Indeed, the Coalition has a lot to hide with regard to the previous leasing arrangements for Jenolan caves. By way of background, as I said, in 1990 the Greiner Government entered into a 99-year lease for Jenolan Caves House, covering accommodation, food outlets and a souvenir shop. In February 1995 the Field family purchased the lessee company and has continued as lessee at Jenolan Caves House, operating as Jenolan Caves Resort Pty Ltd. Although visitation at the caves has been increasing steadily over the past several years, the level of increase has not been reflected at Caves House. This is a most significant distinction.

There has been a fall-off in visitation at Caves House, but not at the caves as a whole. The present lessee has been unable to make rent payments on time and has failed to implement a satisfactory building

maintenance program over a protracted period. The Government assisted Jenolan Caves Resort by providing a 3½-month moratorium on rental payments, followed in mid-2004 by a further extension of time for rental payments ranging from four to 10 weeks. The lessee sought a further extension of the moratorium but unfortunately the trust was not in a position to offer any further assistance. As a significant contributor to the local regional economy, the trust is dependent on this rental income to meet its obligations in managing the karst conservation reserves, providing educational activities for schools and discount packages for pensioners, and employing the staff of the trust.

Negotiations were under way with the lessee to reach a joint approach in providing integrated services to visitors and to renegotiate the current lease, especially in regard to rental payments and the duration of the lease. However, the lessee proved unco-operative during the process of developing a joint approach to an integrated management solution at Jenolan Caves. This, combined with the lessee's continued inability to meet his obligations under the lease, resulted in the termination of negotiations and the formal issue of default notices. Interestingly, the lessee and his advisers, almost eight months after the termination of negotiations, reached the conclusion that this Government was right all along and that an integrated approach was the way to go.

Did the lessee address any of the concerns that led to the termination of negotiations? Unfortunately, he did not. Instead, he came up with the variation whereby the Government was expected to contribute \$2 million per annum in forgone rentals and \$1.5 million in direct payments to prop up the lessee and undertake marketing on behalf of Jenolan Caves House. Now there are suggestions that we should delay implementing this urgent revitalisation package to further hide the fact that the mess was created by the original conditions under which the lease was negotiated. There is no point in carrying out further investigations into the leasing arrangements at Jenolan Caves because we know that the model implemented by the Greiner Government is dysfunctional. Nevertheless, before we resolve the issue we need to address the problems with the present lessee.

We often hear allegations raised by the lessee that the Government has failed to address asbestos issues at Caves House. Those issues were raised again by the honourable member today, but the lease is absolutely specific: the responsibility for the asbestos is clearly with the lessee. Similarly, there are allegations that the Government is not supplying potable water to Caves House. Those allegations were raised again today by the honourable member. More than 15 years of testing by the Department of Health shows that the Government has been supplying drinking water that complies with the Australian guidelines.

In addition, other areas supplied with water by the same infrastructure that supplies Caves House have experienced no problems of the sort alleged by the lessee. If the House followed the advice of those opposite, Caves House would be in the running to host a new series of *Fawlty Towers*. I will quote from some of the guests of Caves House who have written to the trust complaining about its management over recent years. I remind the House again that the management system was essentially put in place by the former Government. A Bilgola Plateau visitor said:

The experience is without a doubt, the worst dinner experience we have ever encountered, anywhere ... appalling.

A visitor from Eastwood said:

Caves House is an insult to the paying public ... completely unsatisfactory.

These are unsolicited letters from respectable, middle-class people who live in Bilgola and Eastwood. Someone from Western Sydney wrote a letter saying:

Caves House was filthy and unorganised ... it was so bad that they ran out of complaint forms on the Sunday morning ... [I am] not amused.

Someone from Pennant Hills wrote:

I recently stayed in Caves House, the room occupied by me was not very clean and the toilet and bathroom were dirty. The people to whom I have spoken told me how disappointed they were with the deterioration of Caves House ... [needs] immediate attention.

Nothing better articulates the present management problems at Caves House than a letter from the president and 34 members of the Killara Probus Club. In my experience, the Killara Probus Club is not quite the most revolutionary organisation in the southern hemisphere. Indeed, if I had to choose an organisation that represented the soul of respectability and social responsibility I might well choose the Killara Probus Club.

Mr Andrew Humpherson: Over the Labor Party?

Mr BOB DEBUS: Far over the Labor Party. That club wrote me a very courtly letter. It said:

We received what can only be described as appalling treatment at Caves House ... we would certainly question the ability of the management to run such an establishment ... Killara Probus is a friendly group of people who have shown great tolerance over many hundreds of outings that have been conducted through the years.

For the future of your wonderful Jenolan Caves, we suggest that you take some remedial action to ensure this kind of incident does not happen again.

I feel obliged to accept the importunities and cries for assistance from the Killara Probus Club more keenly than I feel such requests from most people. Those members say the Government has to do something and I propose to do it. The Jenolan Caves Trust has formally issued the lessee with notices to urgently resolve the problems once and for all. We cannot stand by and allow this kind of thing to continue. Through this bill the Government is committed to remedying the unsatisfactory leasing situation at Caves House. We want a stay at Caves House to add to the fantastic experience of being at Jenolan, not one that visitors would prefer to forget. I urge all members of the House to support the bill and not to tolerate any further delays, so we can ensure that the State's cave networks—not least Jenolan Caves—get the revitalisation they urgently deserve and that the Killara Probus Club so manifestly expects. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

STATE EMERGENCY AND RESCUE MANAGEMENT AMENDMENT BILL

Second Reading

Debate resumed from 22 September 2005.

Mr ANDREW HUMPHERSON (Davidson) [12.38 p.m.]: The Opposition will not oppose the State Emergency and Rescue Management Amendment Bill. Volunteer and permanent emergency service personnel do a terrific job right around the State in all sorts of trying conditions and circumstances. I pay tribute, as I have on other occasions, to the work they do, the commitment they have, and the wonderful service they provide across the State. As an aside, I note it is perturbing that today a threat has been made against a number of fire stations in metropolitan Sydney. That threat should be condemned. On behalf of the Opposition I condemn any form of threat against emergency service personnel, particularly our firefighters, who do an excellent job, who put their lives online, and who are committed and well-trained to protect property and lives in this city. Any threat deserves absolute condemnation.

I commend the Commissioner of Police and his staff for their quick response and notification of today's threat to NSW Fire Brigades. Searches have been made and a high level of security has been put in place at all fire stations in Sydney. Whoever is responsible for the threat will receive the condemnation of the wider community. The intention of the bill is to outlaw the sale and misuse of State Emergency Service insignia and uniforms and to make it an offence to impersonate a State Emergency Service officer in this State. A similar law currently applies to the uniforms of New South Wales police officers. It is appropriate to expand this law to ensure that State Emergency Service uniforms and insignia are not misused. It will be against the law for them to be used for anything other than their approved and appropriate purpose.

Further, the bill specifically provides for the appointment of deputy district emergency operation controllers, who will be police local area commanders. These deputy controllers will be appointed by the relevant senior police personnel. Predominantly, there are no contentious issues in this legislation. State Emergency Service uniforms and insignia should not be widely available. They should only be available to those who have the right and responsibility to wear them. In any respect, it will be an offence to impersonate a State Emergency Service officer. The Government introduced the legislation under the guise of antiterrorism legislation. Clearly, it is not. It is a sensible piece of legislation that should be facilitated.

The bill will not be a deterrent to terrorists who intend to obtain or use State Emergency Service equipment, uniforms or insignia with ill intent. That is not to say we should not be vigilant against those who do not have at heart the best interests of the citizens of this State. This Government and the Federal Government have put in place severe sanctions and penalties against those who do not act appropriately in relation to public safety, particularly those who intend to commit terrorist acts. This legislation should be regarded as a simplistic and logical extension of the current laws that apply to impersonating a police officer or misusing police equipment, uniforms or insignia.

Mr PAUL McLEAY (Heathcote—Parliamentary Secretary) [12.42 p.m.], in reply: I thank the honourable member for Davidson for his thoughtful and constructive comments. In the wake of international events and attacks the New South Wales Government has remained vigilant in the fight against terrorism. We constantly review and update our plans and powers and explore every means to keep our community safe. Potential loopholes, no matter how small, that could be exploited need to be closed. The bill goes some way toward doing so. It removes the unofficial market for the insignia and uniforms of these organisations and will help minimise the opportunity for such items to be used deceptively.

Motion agreed to.

Bill read a second time and passed through remaining stages.

CIVIL LIABILITY AMENDMENT (OFFENDER DAMAGES TRUST FUND) BILL

Second Reading

Debate resumed from 15 September 2005.

Mr ANDREW TINK (Epping) [12.44 p.m.]: Although the Coalition does not oppose the Civil Liability Amendment (Offender Damages Trust Fund) Bill, we seek clarification of a number of issues from the Attorney General before the bill passes through the House. The bill amends the Civil Liability Act in relation to damages awarded against the Department of Corrective Services and other public sector defendants to an offender for injuries suffered whilst in custody. The bill seeks to address the wrongs committed by offenders against victims by altering the balance in favour of the victim rather than the offender. The legislation has been introduced in response to community outrage about offenders receiving financial compensation for injuries suffered whilst in the custody of the authorities. That community outrage is compounded where victims of offenders receive little, if any, compensation. Having put the arguments in favour of the bill, I indicate that we do not oppose it.

A number of technical issues may affect the amount of money that is available to interested parties. One matter of significant concern relates to multiple victims making claims against a victim trust fund. As the honourable member for Tweed said when he delivered the second reading speech on 15 September 2005, the bill puts the onus on a court hearing a victim's claim to award total damages against an offender and to specify how much of the total damages is to be awarded against the victim trust fund, taking into account any amount that is likely to be awarded in respect of other existing claims.

Does that mean that legal action against an offender cannot proceed until the expiry of the six-month period that is allowable? Further, what provisions are available when a court incorrectly anticipates the amount likely to be awarded in respect of other claims? In other words, where there is a limited sum of money and multiple claimants, what safeguards are in place to ensure that the fund is not exhausted and that there is proportionality reflecting the needs of multiple victims? In cases where not all the victims have come forward at the time the court addresses the first matter, how can such estimates be made? The Law Society has also raised a number of issues. On 21 September 2005 Laraine Walker of the Law Society of New South Wales responded to a request for comment on the bill. As to clause 26R (1) the Law Society states:

This clause states that the protected defendant is to pay the surplus to the offender once all eligible claims have been satisfied. This leaves the section open-ended. It is preferable if a time limit is specified within which the protected defendant should transfer the surplus funds after all claims have been met.

Although that is a slightly different version of the issue I raised earlier, essentially our concerns about the provisions in the bill relating to limited funds and multiple claimants are the same. As to clauses 26R (1) and 26S the Law Society states:

Clause 26R 4 (b) states that all amounts payable to the Public Trustee should be deducted from the trust fund. The Public Trustee's fees for managing funds, similar to private organisations of this type, can be quite high. Therefore the amount payable to the victims may be greatly reduced as a result. Perhaps a special scale of fees should be provided by means of regulation for the management of these funds by the Public Trustee.

Clause 26S states that the reasonable costs of the Public Trustee incurred in managing these funds are to be deducted from the trust fund. As stated above, either a special scale of fees or caps based on the quantum of the funds to be managed should be included to prevent erosion of the funds for the satisfaction of the victims.

Whilst the Public Trustee acts to some extent on a commercial basis, the funds available to victims should not be seen as a source of potential profit for the Office of the Public Trustee. I mean that in the right sense. The Public Trustee undertakes activities on a commercial basis in State matters and so forth, but perhaps some other principles ought to apply to victims of crime and a limited fund. Referring to Clause 26T, the Law Society stated:

This clause provides an exception for the recovery of legal costs, payable to the offender ... These costs do not form part of the trust fund, and this is supported. However, no provision has been made for the offender's solicitor/client costs, payable by the offender in recovering damages from the Department of Corrective Services to be recovered from the damages awarded.

The Law Society proposes that these costs—the balance between costs recovered from the department and the offender's liability—should be recoverable from the awarded damages before they are classified as victims' trust funds. That, without thinking about it in great detail, seems to some extent to run counter to the point just made in relation to the Public Trustee, which is interesting. Nevertheless, I hope the Attorney General will respond to it in due course. The Opposition does not have any problem with the bill, but I seek clarification of those matters.

Debate adjourned on motion by Ms Virginia Judge.

[Madam Acting-Speaker (Ms Marianne Saliba) left the chair at 12.53 p.m. The House resumed at 2.15 p.m.]

PETITIONS

Alstonville Bypass

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

Gaming Machine Tax

Petition opposing the decision to increase poker machine tax, received from **Mr Andrew Tink**.

South Coast Rail Services

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

Southern Tablelands Rail Services

Petition opposing any reduction in rail services on the Southern Tablelands line, received from **Ms Katrina Hodgkinson**.

Murwillumbah to Casino Rail Service

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

Blacktown to Richmond Night Bus Service

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

CountryLink Rail Services

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

Mid North Coast Airconditioned School Buses

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

Anti-Discrimination (Religious Tolerance) Legislation

Petitions opposing the proposed anti-discrimination (religious tolerance) legislation, received from **Mr Steve Cansdell** and **Mr Andrew Stoner**.

Jervis Bay Marine Park Fishing Competitions

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

Shoalhaven River Water Extraction

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

Kempsey Water Fluoridation

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

Model Farms High School Hall

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

Colo High School Airconditioning

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

Breast Screening Funding

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

Campbell Hospital, Coraki

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

Coffs Harbour Aeromedical Rescue Helicopter Service

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

Lismore Base Hospital

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

Isolated Patients Travel and Accommodation Assistance Scheme

Petition requesting that the distance criteria for patients to qualify for the Isolated Patients Travel and Accommodation Assistance Scheme be lowered to 100 to 150 kilometres, received from **Mrs Shelley Hancock**.

Kurnell Sandmining

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

Old Western Road Commercial Development

Petition opposing the proposed land development on the existing line of the Old Western Road for commercial and recreational purposes, received from **Mr Paul Gibson**.

Isolated Patients Travel and Accommodation Assistance Scheme

Petition objecting to the criteria for country cancer patients to qualify for the Isolated Patients Travel and Accommodation Assistance Scheme, received from **Mr Andrew Stoner**.

Hawkesbury Electorate Youth Transport Services

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

Bomaderry Milk Processing Plant

Petition opposing the decision of Dairy Farmers to close the Bomaderry milk processing plant, received from **Mrs Shelley Hancock**.

Genetically Modified Crop Trials

Petition opposing genetically engineered canola trials, received from **Mr Robert Oakeshott**.

Recreational Fishing

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

Crown Land Leases

Petition requesting the withdrawal of changes to the rental structure of Crown land leases, particularly enclosed road permits, received from **Ms Katrina Hodgkinson**.

F6 Corridor Community Use

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

Nowra Bypass

Petition requesting an appropriate bypass for Nowra, after community consultation, received from **Mrs Shelley Hancock**.

Barton Highway Dual Carriageway Funding

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

Tumut River Junction Bridge

Petition opposing the indefinite closure of the Tumut River Junction Bridge, received from **Ms Katrina Hodgkinson**.

Old Northern and New Line Roads Strategic Route Development Study

Petition requesting funding for implementation of the Old Northern and New Line roads strategic route development study, received from **Mr Steven Pringle**.

Carlingford Traffic Conditions

Petition requesting additional commuter angle parking in Carmen Drive, Carlingford, received from **Mr Michael Richardson**.

Forster-Tuncurry Cycleways

Petition requesting the building of a cycleway in the Forster-Tuncurry area as shown on plans of the State coastal cycle way, received from **Mr John Turner**.

Shoalhaven City Council Rate Structure

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

Macdonald River Signage

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

PARLIAMENT HOUSE MUFTI DAY

Mr SPEAKER: I acknowledge a letter of thanks from Penelope Hess, Chief Executive of the Royal Hospital for Women Foundation, to members and parliamentary staff for the generous donations raised during Mufti Day for the Royal Hospital for Women newborn intensive care unit.

BUSINESS OF THE HOUSE**General Business Notices of Motion (General Notices)**

Mr SPEAKER: In view of the resignation of the honourable member for Pittwater, John Brogden, in accordance with past practice I order that General Business Notices of Motion (General Notices) standing in his name be removed from the notice paper.

BUSINESS OF THE HOUSE**General Business Orders of the Day (for Bills)****Motion, by leave, by Mr Daryl Maguire agreed to:**

That, in relation to the General Business Orders of the Day standing in the name of Mr Brogden, former member:

- (1) the honourable member for Gosford have carriage of General Business Order of the Day (for Bills) No. 5 [Save Orange Grove Bill];
- (2) the Deputy Leader of the Opposition have carriage of General Business Orders of the Day (for Bills) No. 10 [Transport Legislation Amendment (Implementation of Waterfall Rail Inquiry Recommendations) Bill]; and
- (3) General Business Order of the Day (for Bills) No. 16 [Duties Amendment (Abolition of Bob Carr's Vendor Duty) Bill] be discharged.

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

Mr TONY STEWART (Bankstown—Parliamentary Secretary) [2.38 p.m.]: I move:

That General Business Order of the Day (General Notice) No. 922 standing in my name have precedence on Thursday 13 October 2005.

I have moved to give my motion precedence because of the dire impact the decision by NRMA Insurance and its parent company, IAG, to implement its Preferred Repairer Network Scheme has had on the smash repair industry. The decision will compromise the safety of motorists in this State. There are 2,200 smash repairers in

this State. The smash repair industry is a major industry that employs 20,000 people. Those 20,000 employees, who are learning skills through TAFE or working as apprentices, are being told to compromise safety as a result of what NRMA Insurance and IAG have instituted through their so-called care and repair system, their preferred repairer system.

The preferred repairer system has devastated the smash repair industry. People in the industry who want to tender for a job must now do so on the Internet; they must look at a photograph of a smash repair. It is impossible to estimate the full extent of the damage—whether there is undercarriage damage, suspension damage and so on—but they are expected to tender for the job. And they may discover that there might be a safety problem with the car only after they win a job under the new, bedazzling system. There could be suspension damage or underpinning damage. If the repairer quotes for that damage they get penalised by the NRMA and they lose out on the opportunity to tender for further jobs in the future. That immediately sends the message that repairers will cut corners and cut costs in some circumstances. That is what the NRMA and IAG are demanding of smash repairers by stealth. The new system institutionalises the use by smash repairers of second-hand parts on almost new vehicles. A vehicle that is taken in for a smash repair may have second-hand motor parts and second-hand panel parts installed, which could compromise the safety of the driver.

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

Mr TONY STEWART: Astonishingly, smash repairers are being asked to give a lifetime guarantee for repairs they carry out. That lifetime will be about three or four weeks if the NRMA and IAG get away with this. We in this Parliament need to stand up for the rights of the 2,200 smash repairers and the 20,000 employees in this industry, and stand up against the bullying of the NRMA. We need to ensure that a safe, fair and reasonable system is put in place. Safety is paramount, but it is being lost.

Mr ANDREW TINK (Epping) [2.42 p.m.]: I move:

That General Business Notice of Motion (General Notice) No. 882 standing in my name have precedence on Thursday 13 October 2005.

Among other things, my motion calls on the Attorney General to lodge a High Court appeal without delay in the case of the pack rapist Bilal Skaf. The House will recall that I sought to reorder this motion on 21 September 2005, at which time the Leader of the House said that the Attorney General was seeking advice. Yesterday I asked the Attorney General a question without notice, and his response was that he is still seeking advice. The matter should be reordered because the judgment in this matter was handed down on 16 September 2005, and under High Court Rule 41.02.1 the application for leave to appeal must be filed within 28 days. That means that the Attorney General has probably just over 24 hours to lodge an application to seek leave to appeal in this case.

An appeal should be lodged. Bilal Skaf is the convicted pack rapist who not only was involved in a pack rape but, as the court found, led a pack rape—one of the worst pack rapes in New South Wales history. The Court of Criminal Appeal reduced his sentence firstly from 55 years to 46 years and then to 30 years. That means that this leader of a group of pack rapists has had his head sentence cut by more than half. With just 24 hours to spare, the Attorney General is mucking about trying to work out whether an appeal should be lodged. It must be lodged. If nothing else works, the appeal point is the fundamental and vital question: Has a person who led a pack rape committed the worst class of that offence? If that is not something for the High Court to consider and rule upon for the whole of Australia, I do not know what in the criminal law is.

Public interest in the Bilal Skaf matter could not be higher, and with good reason. The issue is clear: If the Director of Public Prosecutions [DPP], for whatever reasons—it may be professional reasons—is not prepared to lodge an appeal, the Parliament has given the Attorney General a complete and parallel power to mount an appeal on his behalf and on behalf of the people of New South Wales. There is nothing to stop him briefing someone to appear to seek leave in the High Court and to lodge the appeal accordingly. The Parliament has given him the power to do that, whatever the DPP does or does not do, and he should appeal on the basis of the question: Has someone who led a gang of pack rapists in the worst pack rape that anyone can remember committed the worst class of crime? That is a question that can be decided on appeal, and an appeal must be lodged by the Attorney General.

Question—That the notice of motion of the honourable member for Bankstown be reordered—put.

The House divided.

Ayes, 52

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

Noes, 35

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

Pairs

Ms Megarrity	Mr Armstrong
Mr Price	Mr Roberts

Question resolved in the affirmative.

Motion agreed to.

COMMITTEE ON THE OFFICE OF THE OMBUDSMAN AND THE POLICE INTEGRITY COMMISSION

Report

Mr Paul Lynch, as Chairman, tabled the report No. 9/53, entitled "Seventh General Meeting with the Inspector of the Police Integrity Commission", dated October 2005, together with transcript of proceedings.

Ordered to be printed.

QUESTIONS WITHOUT NOTICE

CROSS-CITY TUNNEL

Mr PETER DEBNAM: My question is directed to the Minister for Roads. Given one of the compromises made by his Government was to reject a toll-free period, will he now reverse that mistake and adopt the Coalition's five-point rescue plan, including a toll-free period?

Mr JOSEPH TRIPODI: I was really hoping that Opposition members would not do it to themselves, but they have chosen to. It is quite disappointing. Today the New South Wales Opposition has proposed to tear up the cross-city tunnel contract, and this would cost taxpayers hundreds of millions of dollars. Members of the Opposition have popped the top off the spendometer today. Today they have ripped up the last tatters of any financial credibility they had as an opposition. A couple of weeks ago the honourable member for Myall Lakes, at a Pacific Highway conference, promised \$5.9 billion, money that the Federal Government should have coughed up. He just came along and handed over \$5.9 billion.

Mr John Turner: Point of order: The Minister is clearly misleading the House.

Mr SPEAKER: What is your point of order?

Mr John Turner: He should read the speech and show some intelligence in the debate on the Pacific Highway, where people are being killed every day while he plays politics.

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

[Interruption]

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

Mr JOSEPH TRIPODI: Today members opposite have popped the top off the spendometer; they have no economic credibility whatsoever—zilch, zero. This announcement today is a policy that will cost taxpayers dearly. Today the Leader of the Opposition has suggested that the Government reopen the cross-city tunnel contract, which means that taxpayers will have to get out their chequebooks and write out a cheque to the Cross City Motorway company for hundreds of millions of dollars. The Opposition's proposal today is the same solution, to pay off the mistakes, that members opposite signed off on when they were in government.

This policy initiative is from the same Liberal and National parties that brought taxpayers the \$700 million airport rail link contract, and the Port Macquarie Base Hospital disaster, which the taxpayers of New South Wales paid for twice and then gave it away. It brings us the same deal as the Eastern Creek fiasco, which also cost taxpayers millions of dollars. Members of the Opposition want a taxpayer bailout of the Cross City Motorway company. They want to give hundreds of millions of dollars to multinational banks, dollars that will come out of the pockets of taxpayers in this State.

Mr Peter Debnam: Point of order: My point of order relates to relevance under Standing Order 138. The question is very simple: Will you give a toll-free period or not?

Mr SPEAKER: Order! The Minister is answering the question.

Mr JOSEPH TRIPODI: I am worried that the Opposition wants the Government to introduce here in New South Wales the mickey mouse type deals the Federal Government has done with its corporate mates. Do members remember National Textiles when John Howard got out his chequebook and bailed out his brother? That is what they want to do in New South Wales. They want a National Textiles-type deal here in New South Wales. Do members remember the Patrick's deal where it got a couple of hundred million dollars to let the dogs loose on workers? Taxpayers' dollars went into the pockets of corporate Australia.

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

Mr JOSEPH TRIPODI: The New South Wales Government will not put taxpayers' dollars into the pockets of a company that has miscalculated the patronage through its tunnel.

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

Mr JOSEPH TRIPODI: We have guaranteed insulation against the loss of taxpayers' dollars. We will honour that commitment because it is part of the agreement. The Opposition needs to consider its own economic credibility. If they want any chance of running this State they will have to learn to count.

COUNTER-TERRORISM MEASURES

Mr MICHAEL DALEY: My question without notice is addressed to the Premier. What is the latest information on the New South Wales Government's counter-terrorism initiatives?

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

Mr MORRIS IEMMA: Earlier today I attended the memorial service to mark three years since the initial Bali bombings. It was an emotional occasion, which was amplified by the tragic backdrop of the second Bali bombings just 12 days ago. Both attacks were a harsh reminder that Australian lives and Australian interests are on the front line in the war against terror. In the sad days after 1 October the best of this State was on display. Three New South Wales doctors and three New South Wales paramedics were immediately sent to Indonesia to provide medical support to Australians on their return flight to Australia. Two forensic pathologists were despatched to assist Indonesian police with their investigations.

New South Wales doctors, nurses and ambulances have all met flights arriving from Bali. The outstanding clinical staff at Newcastle's John Hunter Hospital have provided superb care to nine of the Australian victims, including a family support centre to help the families of the injured. We are good at responding to attacks, but we also need to be good at preparing for one. That is what this Government has been doing since the events of September 11, 2001. Since the bombings in Madrid in London, public transport has become a priority target for terrorists. We are working hard to make our transport system safer.

Mr SPEAKER: Order! The Deputy Leader of the Opposition will come to order.

Mr MORRIS IEMMA: The Deputy Leader of the Opposition might want to show a bit of respect today.

Mr Barry O'Farrell: Point of order: My point of order relates to Standing Orders 138 and 139. The Premier failed to fund two burns units, which had been promised by the former Premier in the aftermath of the first Bali bombings.

Mr SPEAKER: Order! The Deputy Leader of the Opposition will resume his seat.

[Interruption]

Mr SPEAKER: Order! The Deputy Leader of the Opposition is contravening Standing Order 139. I direct him to resume his seat and place him on two calls to order.

Mr MORRIS IEMMA: The attacks in Madrid and London showed that public transport has become a priority target for terrorists. We are working hard with all agencies to make our transport system safer. A special report by the Independent Transport Safety Regulator, which was released today, shows that 69 per cent of train passengers felt more secure when transit officers were present on their train or station. The proportion of train users who are worried about being injured in an incident has increased by five percentage points on the previous survey. That is probably due to the fact that the London bombings occurred midway through the survey period. That is not a surprising result because, understandably, people feel more uncomfortable. We have 600 transit officers, all counter-terrorism trained, patrolling the CityRail network. This month the Government announced a \$25 million safety plan for Sydney Buses, including new digital closed-circuit television [CCTV] systems, extra security and targeted patrols.

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

Mr MORRIS IEMMA: In rail the Government has recently awarded a \$25 million contract to upgrade and maintain all of CityRail's 6,200 CCTV cameras. These are some of the measures that the Government has taken over the past couple of years in response to the attacks. Of course, the best response is prevention by using intelligence to pre-empt attacks and closing legal loopholes that terrorists can exploit. Two weeks ago the Prime Minister and all the State leaders gathered in Canberra to thrash out proposals to further strengthen Australia's counter-terrorism laws. I can inform the House that the successful meeting concluded with the formulation of a new package that balances the dual imperatives of protection of civil liberties and protection of Australians against the threat of terrorism. The Commonwealth and the States will give effect to the decisions that were made at that meeting by the implementation of new laws.

The package includes: control orders for up to 48 hours to restrict the movement of those who pose a terrorist risk to the community; preventative detention for up to 14 days; stop, question and search powers in areas such as transport hubs and places of mass gathering; and the banning of organisations that advocate terrorism. At the same time the meeting agreed on a range of safeguards and accountabilities including: judicial oversight of control and preventative detention orders; parliamentary oversight with a requirement for the Federal Attorney General to report annually to Parliament on the operation of both orders—specifically a

Commonwealth measure; the right to legal representation for anyone subject to such orders; a 10-year sunset clause applying to the new laws; and a Council of Australian Governments review of the laws after five years. This balanced package shows that we can produce tougher laws to deal with terrorism and at the same time protect individual rights.

As I said previously, one of New South Wales' key contributions to both Bali bombings was the provision of forensic expertise. It is a reminder that this State's forensic capacity is world-class and deserves all the support we can give it. That is why today I have announced a decision to locate the new state-of-the-art forensic science centre at Greystanes in Sydney's west. We have concluded a deal with Stocklands, the owner of the former CSIRO facility, which will be refitted to create the new forensic science centre. The \$4.7 million facility will amalgamate the police forensic science services that are currently located at Westmead, Surrey Hills and Parramatta. It will have the capacity to detect and analyse explosive residue and chemical and biological warfare agents.

It will also feature new equipment to analyse paints, soils, glass, fibres, plastic and hairs. It will contain approximately 140 staff specialising in counter-terrorism, disaster victim identification, ballistics, forensic chemistry, biology and botany. Fingerprint enhancement equipment will also be included in this new facility. Every year more than 10,000 suspects leave behind traces of forensic evidence at crime scenes in this State. Without this new crime scene investigation technology many crimes would remain unsolved. I will inform the House on further initiatives the Government is undertaking in this area at a later date.

FEDERAL GOVERNMENT AUSLINK PROGRAM

Mr ANDREW STONER: My question is directed to the Minister for Roads. Given that the Government is getting 78 per cent more Federal road construction funding under AusLink, when will the Minister stop playing the blame game and keep his Government's promise to build the Alstonville bypass and new bridge at Grafton and upgrade the Oxley Highway?

Mr JOSEPH TRIPODI: I welcome a question from the Leader of The Nationals that relates to country areas. That is a change. The Leader of The Nationals has a preoccupation with city activities and does not represent his own constituency in the bush.

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

Mr JOSEPH TRIPODI: When it came to looking for help, making calls on behalf of rural New South Wales, there was nothing but silence from The Nationals. There was nothing but silence from their side of politics, at the Federal level and at the State level. Throughout the whole process of negotiating the AusLink agreement, there was nothing but silence from The Nationals. They were all ducking and weaving. The honourable member for Coffs Harbour and the Leader of The Nationals were ducking and weaving. The honourable member for Myall Lakes pretends he has a cheque for \$5.9 billion and runs around making all kinds of promises. There is a \$298 million cost imposition on the State of New South Wales and on motorists in this State, because of the Federal Government's agreement. The Federal Government threatened to impose \$940 million of cost impositions on this State if we did not sign by 12 o'clock on the Friday night.

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

Mr JOSEPH TRIPODI: The Federal Government made one of those offers that we—

[Interruption]

Mr Steve Cansdell: Point of order: My point of order is Standing Order No. 138 on relevance. What does an iron-clad guarantee mean to the Government? When is the Government going to build the Grafton bridge? The Minister and the Premier are shameful; they could not run a pub chook raffle.

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

Mr JOSEPH TRIPODI: It is disappointing that the honourable member for Clarence is screaming out now, whereas during the AusLink process he said nothing on behalf of his constituents; he was absolutely silent.

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

Mr JOSEPH TRIPODI: The honourable member for Clarence was absolutely silent when we were calling on the Federal Government to give this State a better deal.

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

Mr JOSEPH TRIPODI: Where is the petrol excise going?

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

Mr JOSEPH TRIPODI: Between 1987 and 1999, 21 per cent of petrol excise tax was coming back into the road network. Now, under the AusLink agreement, that figure has dropped to only 12 per cent—\$1.6 billion is coming back, while motorists in this country are paying \$13.6 billion in petrol excise. The Federal Government is ripping off this State.

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

Mr JOSEPH TRIPODI: The Federal Government is driving motorists into the dangerous situation in which they find themselves. The members opposite have no shame. There was nothing but silence from them before the AusLink agreement and there has been nothing but crocodile tears since.

WILD DOG CONTROL

Mr STEVE WHAN: My question without notice is addressed to the Minister for the Environment. What is the latest information on the Government's efforts to prevent stock losses from wild dog attacks in New South Wales, particularly in the Kosciuszko National Park region?

Mr BOB DEBUS: I am pleased to announce that, following effective lobbying by the honourable member and a request by the New South Wales Farmers' Association, aerial baiting for wild dogs will be expanded in southern New South Wales. In particular, aerial baiting will now occur in an area of Kosciuszko National Park adjoining Snowy Plains and Rocky Plains. This is in addition to aerial baiting that has been occurring in the nearby Adaminaby-Yaouk area. These runs will provide additional protection for livestock from attacks by wild dogs. Officers from the Department of Environment and Conservation have met with landholders from the Snowy Plains and Rocky Plains Wild Dog Association and the Cooma Rural Lands Protection Board to plan how and when the runs should take place in that area. At this stage, I anticipate that aerial baiting will occur over the next three weeks.

Mr SPEAKER: Order! Members of the Opposition will come to order.

Mr BOB DEBUS: These new runs are needed because, despite an intensive ground baiting and trapping program in the area, landholders continue to sustain stock losses. I anticipate positive results from this more intensive feral animal control work, and a consequent reduction in stock losses. That has certainly been our experience in other parts of the State. Because of this Government's wild dog eradication programs, stock losses, for instance in the nearby Wee Jasper area, have dropped by 75 per cent since the Co-operative Wild Dog Plan was adopted in 2002. That plan involves the National Parks and Wildlife Service, the rural lands protection boards and private landholders working together. At the same time, some areas around Glen Innes reported a drop in stock losses of around 65 per cent. As we have heard in the last several minutes, on this issue more than most The Nationals are inclined to make hysterical allegations. The Nationals' claim that feral animals—

Mr Andrew Stoner: Point of order: I would just like the Minister—

Mr SPEAKER: What is your point of order?

Mr Andrew Stoner: —to tell us how many wild dogs there are in Balmain.

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

Mr BOB DEBUS: The claim of some of those opposite that feral animals somehow originate in national parks trivialises an important issue and is, of course, demonstrably ridiculous. Australia's introduced animals date from the very first days of European settlement. Ever since that time animals not indigenous to this country have been brought from other places and released into the Australian environment, sometimes with

good intentions and sometimes not. When our first national parks were formally created from the late 1960s onward, pest animals were already well established across the whole landscape. Of course, people dump thousands of unwanted cats and dogs every year and many of them end up in national parks, as they end up in other bushland. Pig shooters, illegally hunting in the bush—sometimes in national parks—sometimes intentionally release dogs or pigs, without caring at all about what will happen next. After just a few years in the wild, these released animals become feral cats, wild dogs and feral pigs. They kill our wildlife and also savage livestock on neighbouring farms.

The National Parks and Wildlife Service plays an absolutely vital role in controlling feral animals on its estate. Contrary to the warped interpretation by those opposite, the recent New South Wales State of the Parks Report found that in more than 90 per cent of parks across New South Wales, the problems caused by pest animals were either being reduced or held steady. That is to say, in less than 10 per cent of national parks problems were getting worse. That, of course, is exactly where more resources will be allocated to control the problem into the future. That is the point of having the State of the Parks Report. I assert that, in the meantime, feral animal and weed problems are far less acute in national parks generally than they are across most other land in this State.

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

Mr BOB DEBUS: The honourable member for Lismore is consumed by his own prejudice, but does not understand the simple fact. In this financial year the Department of Environment and Conservation will spend \$18 million across the State on the control of feral animals and weeds. That is a record amount. I have mentioned before in this House that from 1991 to 1995 the Coalition allocated a mere \$4.2 million for pest management in national parks. That is \$1 million a year, compared with \$18 million that this Government is spending. This year the National Parks and Wildlife Service is to carry out 1,500 pest animal and weed programs across the State, including the additional aerial baiting runs I have just announced. The Coalition displays its prejudice against conservation and national parks not only in respect of feral animals. Consider bushfires, which are just beginning again as Spring advances. Of the thousands of bushfires that burn every year—most of them caused by lightning or arson—only a small fraction start in national parks.

Mr SPEAKER: Order! The Deputy Leader of the Opposition will come to order.

Mr BOB DEBUS: The Coalition, of course, would like us to think that the opposite is true. Members opposite are welcome to look at the statistics. These are the facts. During the memorably intense 2003-04 fire season, there were 5,600 wildfires in New South Wales, and only 263 of them occurred inside a national park. The year before, there were 7,700 wildfires in the State, and only 433 of them occurred inside a national park. In other words, for those two years, a mere 5 per cent of all New South Wales bushfires burned inside a national park. And even then, over the last 10 years, 68 per cent of the bushfires that started in a national park were extinguished inside the park. Only a small proportion escaped and burned onto adjoining property—in fact, a mere 10 per cent. More than twice as many, or 22 per cent—a lot of them in the honourable member for Lismore's part of the world—actually burned into the national park from adjoining private land.

Mr SPEAKER: Order! The honourable member for Murray-Darling will come to order.

Mr BOB DEBUS: The overwhelming majority of bushfire ignitions in New South Wales in the two worst bushfire seasons on record happened outside national parks. Of those that occurred inside national parks, 70 per cent were extinguished. Of the fires that were left, two left private land and came onto national park land for every fire that went the other way. In this respect, the Coalition cannot give up its obsession with myth making and distortion. I do not entirely understand why, because a satisfactory approach to these kinds of problems—that is to say, looking after the bush and landscape in this State—involves complex and concerted responses, and all agencies and landowners working together co-operatively. I try to do that, whereas the Coalition does not.

CROSS-CITY TUNNEL

Mr ANDREW TINK: My question is directed to the Minister for Police, Minister for Utilities, and Leader of the House. Following his blazing row with roads Minister Tripodi after he blamed the Leader of the House in question time yesterday for "too many compromises" over the cross-city tunnel, when will he stop abusing his position as Leader of the House and intimidating a Minister from answering a question that apportions a share of the blame to him?

Mr CARL SCULLY: Didn't Joe go well today? I have to say my mate from Fairfield did really well. Good on you, Joe! Big tick! He whacked them! Regarding the cross-city tunnel, Coalition members were welcome to attend the press conference the Premier and I held today. At that press conference we were questioned at length. We received a number of questions from a whole range of media outlets wanting to know every nuance of my role in this project, and I answered every one of them. As a result, I have said enough on this, and I will say no more.

Mr SPEAKER: Order! I advise the Leader of the House that in future he should refer to his ministerial colleague by his correct title.

MENTAL HEALTH SERVICES

Mr STEVEN CHAYTOR: My question without notice is addressed to the Premier. How is the Government assisting older people with a mental illness?

Mr MORRIS IEMMA: I thank the honourable member for Macquarie Fields for his question and for his interest in mental health issues. He would be well aware of some of the significant recent developments in mental health services in his electorate, most notably the 20-bed non-acute unit at Campbelltown Hospital and the 50-bed acute unit at Liverpool Hospital, two state-of-the-art mental health facilities currently being developed as part of the Government's plans to improve services as well as infrastructure for those suffering a mental illness.

As members would be aware, this week is National Mental Health Week. World Mental Health Day was observed for the first time in 1992. The day is now officially commemorated every year in many nations around the world, including Australia. In New South Wales, Mental Health Week events and functions are co-ordinated by the New South Wales Mental Health Association. This year's theme for World Mental Health Day is "Mental and Physical Health Across the Lifespan". Providing a full range of mental health services is a key focus of the Government's \$854 million commitment to improving mental health services this year.

Our ageing population presents the greatest challenge for our public health system, and in this regard mental health services are no different. An estimated 120,000 older people in New South Wales have a diagnosable mental illness. This includes those with a life-long or recurring mental illness who have more complex needs as they get older, those who develop a mental health disorder at the age of 65 and over, and those who develop severe behavioural or psychiatric symptoms associated with the onset of dementia. It is estimated that around 54,000 older people with a mental illness live in a nursing home or hostel. But there is a prospect that some older people may remain untreated for their mental illness, or they may become semipermanent patients in non-acute and subacute facilities.

Today I am pleased to inform the House of a new partnership that will assist our older citizens. NSW Health is linking with the Hammond Care Group, a reputable non-government residential and community aged care provider. The partnership is working to develop an eight-bed special care unit at Hammondville, near Liverpool, as well as an eight-place transitional care program. The special care unit will be staffed by professionals with expertise in dealing with older people with a mental illness. The transitional program will assist older people from the special care unit into other permanent Hammond aged care places, following intensive behaviour management and care planning in the unit.

As part of this partnership the Government will make available \$1 million in recurrent funding to the Hammond Care Group to support a high level of mental health expertise at the facility. The facility will support older people with severe and persistently challenging behaviours relating to dementia and other mental health problems. They include patients who sometimes have difficulty accessing long-term residential and community aged care options. An important part of this partnership that requires extra attention on the part of governments of all persuasions, both State and Commonwealth, relates to patients accessing long-term residential and community aged care options. The new model of care will act as a bridge for older people in south-western Sydney in moving from an inpatient mental health facility, which may sometimes be inappropriate, to placement in an appropriate residential aged care facility with mental health support. A key aspect of this partnership is addressing the inappropriate placement of patients in an acute or subacute facility, such as one of our hospitals, and providing access to a residential aged care facility with mental health care support. It is an entirely appropriate model of care in which the Government is investing through this new partnership.

The Hammond Care Group will undertake the capital works for this facility, which is expected to be operating around the middle of 2007. This facility alone will provide a new type of high-level support and

assistance for about 50 aged citizens. The new partnership is also part of a \$4 million investment that the Government is making in further boosting community mental health services for our senior citizens, which will include the establishment of specialist community teams dealing with the mental health issues of senior citizens: behavioural assessment and treatment as well as the development of specialist residential care models for senior citizens with a mental illness. This is part of the Government's plan to boost mental health services, but to boost mental health services particularly for our senior citizens.

CROSS-CITY TUNNEL

Mr PETER DEBNAM: My question is directed to the Premier. When will the Premier show some leadership and put the interests of the community ahead of his feuding Ministers and simply adopt the Coalition's five-point plan to fix the cross-city tunnel debacle?

Mr MORRIS IEMMA: It is not surprising that the Leader of the Opposition would ask me that question because what we saw earlier today was the latest instalment and the best example of how the Opposition says yes to every issue when it comes to increasing expenditure and says yes to every pressure group when it comes to reducing tax. Its spendometer is at \$16.8 billion, and add the additional \$5 billion from the honourable member for Myall Lakes with his marvellous announcement on the Pacific Highway—

Mr Adrian Piccoli: Point of order: If our spendometer is \$16 billion, what is the Government's?

Mr SPEAKER: Order! The honourable member for Murrumbidgee will resume his seat. I place him on two calls to order.

Mr MORRIS IEMMA: This is not a plan, this is just the latest example of how this lot would bankrupt New South Wales if they ever got the chance to sit on this side of the house.

Mr Peter Debnam: Point of order: My point of order is Standing Order 138: relevance. The question is very simple—

Mr SPEAKER: Order! The Leader of the Opposition will resume his seat.

[Interruption]

Mr SPEAKER: Order! The Leader of the Opposition will resume his seat.

[Interruption]

Mr SPEAKER: Order! I call the Leader of the Opposition to order.

[Interruption]

Mr SPEAKER: Order! The Leader of the Opposition will resume his seat.

[Interruption]

Mr SPEAKER: Order! I call the Leader of the Opposition to order for the second time.

Mr MORRIS IEMMA: It is not a plan to help motorists, it is not a plan to help the taxpayers, it is the latest example of how the Opposition would bankrupt New South Wales if ever it got the chance to sit on this side of the Chamber. I was wrong, I thought the spendometer was \$16.8 billion, but the honourable member for Murrumbidgee has just indicated that it is \$30 billion, and after today's joke of a plan that is what it will amount to. The Opposition buckles straightaway. It talks about supporting motorists.

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

Mr MORRIS IEMMA: Rather than support the motorists the Opposition should support the operators taking on board an approach that would see some incentive and some encouragement for the motorists, and a bit of co-operation.

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

Mr MORRIS IEMMA: The Opposition would just buckle straightaway and say, "Here's the money". That is the approach it takes, and it is not surprising because it has got good form when it comes to shovelling hundreds of millions, if not billions, of dollars to private operators on infrastructure projects. The latest count on the rail project—

Mr Peter Debnam: Point of order—

Mr SPEAKER: Order! Before the Leader of the Opposition gives his point of order I remind him that the last time he tried to take a point of order he was called to order twice.

Mr Peter Debnam: That means this one will make three times. The point of order is Standing Order 138: relevance. The question is very simple—

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

[Interruption]

Mr SPEAKER: Order! The Leader of the Opposition will resume his seat.

Mr MORRIS IEMMA: Of course the Opposition would buckle and shovel hundreds and hundreds of millions of dollars to the operators; that is its form. If nothing else, the Opposition is consistent. That is what it did with the southern rail link when it said that would not cost the taxpayers of New South Wales one cent.

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

Mr MORRIS IEMMA: The latest count is \$800 million. That is what the Opposition said about Luna Park—not one cent—and the latest count is \$50 million. Nick Greiner said Eastern Creek would not cost us a cent—it cost \$150 million. Every time there has been an infrastructure project, every time the Opposition has had a chance, it has run out on the taxpayers of New South Wales and dumped them in favour of the companies. The Opposition is always in there ready to buckle and go in and bale the companies out. That is what the Opposition's approach is and that is what it wants the Government to do. We will not do that. We are going to stand with the motorists and the taxpayers of this State. It is time for the operators of this tollway to take a co-operative approach to dealing with motorists and the Government is prepared to help them to be co-operative. But we are not going to bale anybody out.

Mr Andrew Tink: Point of order: My point of order is relevance in relation to the word "buckling". The Minister for Police does not have the leadership and he buckles on the tollway—

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

Mr MORRIS IEMMA: He claims the operator requested a toll-free period. It is simply wrong. The operator confirms that while it discussed the matter with the RTA in the lead-up to the opening of the tunnel, the operator alone took the decision not to implement a toll-free period. That fact comes from the operator itself. The Government is prepared to work with the operator of the toll to get a better deal for motorists, but that involves not handing over hundreds of millions of dollars, if not at least \$1 billion, of taxpayers' money to bale it out. It is time the operator got more serious about encouraging motorists to use the motorway; it is time that it started offering incentives to get motorists to use the road, but that is not going to come at the expense of the Opposition telling us that we ought to just hand over hundreds of millions of dollars.

This has been the consistent policy of the Opposition for nearly 10 years. Whenever the Opposition has had the chance it has run out on taxpayers, and whenever it has had the chance it has dumped motorists and taxpayers in favour of the operators of all sorts of infrastructure. That is why it has been such a failure and that is why this plan, as well as the Opposition's other plans, would bankrupt New South Wales.

Mr PETER DEBNAM: I ask a supplementary question of the Premier. Given that the Premier has just told the House he will not adopt the Coalition's five-point plan, what is the Premier's plan?

Mr SPEAKER: Order! The Premier has already answered the question. There is no supplementary question.

Mr Peter Debnam: Point of order—

Mr SPEAKER: Order! There is no supplementary question. The Leader of the Opposition will resume his seat.

Mr Peter Debnam: I cannot accept that the Premier has answered the question.

Mr SPEAKER: Order! I call the honourable member for Campbelltown.

Mr Peter Debnam: It is very clear—

Mr SPEAKER: Order! There is no supplementary question. The honourable member for Campbelltown has the call.

Mr Peter Debnam: It is very clear the Speaker of this House, who is supposed to be bipartisan, is protecting the Labor Party. It is very clear the Premier did not have a plan and it is very clear the Speaker does not want that news out. The Premier announced this week that he has been able to make one decision, but he cannot take any action at all.

Mr SPEAKER: Order! The Leader of the Opposition has held that position for only a short time, so it is understandable that he is not showing a great degree of leadership at the present time. He was told clearly that under no circumstances was his question a supplementary question, and I ruled the question out of order. The honourable member for Campbelltown has the call.

SPEED CAMERAS

Mr GRAHAM WEST: My question without notice is directed to the Minister for Roads. What is the latest information on the effectiveness of fixed speed cameras?

Mr JOSEPH TRIPODI: Fixed speed cameras have proved to be an effective measure in reducing crashes in black spots, cutting the road toll and making our roads safer for motorists. Today I am pleased to inform the House of the details of a comprehensive report into the effectiveness of fixed digital speed cameras on our roads. This report examines the use of fixed speed cameras in terms of changes in driver behaviour, impact on the number and severity of crashes, value to the community and attitudes towards fixed speed cameras. The report involved an evaluation of a number of fixed speed camera sites in a wide range of traffic conditions and areas of the State, and it came back with some encouraging results. I can report today that in black spots where fixed speed cameras have been installed we have seen a 90 per cent reduction in fatal crashes, a 23 per cent reduction in various crashes resulting in death or injury, a 20 per cent reduction in crashes involving injuries, and a 17 per cent reduction in crashes where cars needed to be towed.

We all know that speed plays a key role in many serious accidents and these results are proof that speed cameras are working. Honourable members should consider the results of reducing speed in these black spot areas: a 71 per cent reduction in the number of vehicles travelling over the speed limit; an 82 per cent reduction in vehicles exceeding the speed limit by 30 kilometres per hour or more; and an average reduction in speed for all vehicles of six kilometres per hour. Safety is the paramount consideration on our roads and these results show that there are huge benefits in using speed cameras on our roads. It has now become clear just how important the speed cameras are on New South Wales roads in reducing the incidence of fatalities and accidents resulting in injuries.

[Interruption]

It took the mayor of Coffs Harbour to come down here and solve the issues while the honourable member for Coffs Harbour was hiding in Sydney somewhere.

Mr SPEAKER: Order! The honourable member for Coffs Harbour will come to order. The Minister will not respond to interjections.

Mr JOSEPH TRIPODI: The mayor of Coffs Harbour had to step in and do his job for him. Fixed speed cameras can be in operation 24 hours a day, seven days a week, and can operate on difficult and hazardous sections of the road where police have difficulty enforcing the speed limit. This research was

conducted over a period of three years and included a detailed evaluation of 28 fixed speed camera sites. This evaluation showed that fixed speed cameras are effective in reducing speed generally. However, most importantly, fixed speed cameras are extremely effective in reducing the number of severe crashes and fatalities.

The evaluation also looked at community attitudes to speed cameras. The results showed that the community has a generally positive attitude to fixed speed cameras and associates them with road safety. The New South Wales Government's investment in fixed speed cameras is paying dividends right across the State. These cameras are saving lives, with a 90 per cent reduction in fatalities at the sites where they operate. Every fatal accident is a tragedy. One cannot put a price on a life and that is why any reduction in the road toll is an achievement.

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

Mr JOSEPH TRIPODI: We will continue to do all we can to improve measures that save lives and reduce the incidence of tragic accidents.

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

Mr JOSEPH TRIPODI: There are 111 fixed speed cameras in New South Wales, including 13 in school zones.

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

Mr JOSEPH TRIPODI: The mayor of Coffs Harbour might be replacing the honourable member for Coffs Harbour in this Chamber in a couple of years time, so I would be very careful if I were he. The risks of speeding are well known by the community. However, some motorists persist in taking these risks. Driving at high speeds can severely reduce reaction times for dealing with hazardous situations. The higher the speed, the less time one has to stop. Fixed speed cameras clearly have a huge value to society and contribute greatly to reducing the road toll. Here is the proof that fixed speed cameras are preventing serious accidents in some of the State's most hazardous locations.

Mr Andrew Stoner: Point of order: If what the Minister says is true, why did he put speed cameras in the cross-city tunnel before it was even opened?

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

Mr JOSEPH TRIPODI: While speed increases the risk of a serious accident, I also want to remind motorists that if they speed, they will be caught. That is why the speed cameras are there. The New South Wales Government will continue its efforts to improve road safety.

Mr SPEAKER: Order! I call the honourable member for Bathurst to order. I call the Leader of The Nationals to order.

ARMIDALE POLICE STATION

Mr RICHARD TORBAY: My question is directed to the Minister for Police. Can the Minister update the House on the status of the tendering process and construction, including time lines, for the proposed new Armidale police station?

Mr CARL SCULLY: The honourable member for Northern Tablelands is a great local member. I acknowledge the \$200 million that the Government has committed and which my predecessor, John Watkins, secured from the former Treasurer, which will have a terrific impact. This Government, unlike the Opposition, is 100 per cent pro the cops. We have given them the best rate of pay in this country and a compensation scheme for injury—

Mr Andrew Tink: Point of order: He said he is 100 per cent pro the cops. He was fighting with the Attorney General this morning about conferencing, a serious assault against police officers.

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

[Interruption]

Mr SPEAKER: Order! I place the honourable member for Epping on two calls to order. A number of members have been called to order. I now deem those members to be on three calls.

Mr CARL SCULLY: Accommodation for police is a critical matter of concern to them but we have given them decent pay and a compensation scheme, ample powers and the resources and equipment they need to do the job—tick, tick, tick, tick! We need to address the accommodation of police, which is why we are allocating the \$200 million and why I involved Michael Knight in assessing private sector capacity for developing some sites owned by NSW Police. This budget has \$12.2 million and there are some winners. We are a Government of all the people. We do not just cover Labor seats when it comes to upgrading police stations. We are upgrading police stations at Lismore, Dubbo, Orange and Wagga Wagga.

Mr Chris Hartcher: The police station at Kincumber has been unmanned for 10 years. For 10 years there has not been a police officer there. Tell us about that!

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

Mr CARL SCULLY: I used to say this about the honourable member for Wakehurst, but I now say it to honourable member for Gosford: why are you still here? Also, \$33.1 million has been allocated to Muswellbrook, Griffith and St Marys—big ticks for the Government. I am pleased to say that \$9 million has been allocated to upgrade Armidale police station and work on that will begin later this month. The contract was awarded last week to Lahey Constructions Pty Ltd of Kempsey. The Independents, The Nationals and the Liberal Party are doing very well out of this. I will not suggest a review of that provided they behave themselves. This is a big win for the people of Armidale. I want the honourable member for Northern Tablelands to tell his community that the Government has heard the call from the people of Armidale that the station needs to be upgraded. I visited the station and I must say that the living quarters and the areas police work in are pretty crook and need a significant upgrade.

[Interruption]

The honourable member for Lismore is doing all right. Accommodation will be provided for approximately 94 staff attached to general duties, the crime management unit, detectives, the target action group, the highway patrol, prosecutors and volunteers in policing. I believe that the local member will also want a report on when the station will be open for business. It is expected that the new station will be refurbished and open during 2007. It will also involve the refurbishment of the existing heritage police station. I would like the honourable member for Northern Tablelands to tell each and every one of his police officers that this is what they can expect: conference and training facilities, strike force accommodation, improved prisoner handling, up-to-date technology, including closed-circuit television, secure storage facilities for seized goods, a communication room, office space, and underground parking for 20 vehicles. Armidale police wanted to stay in the same location because the present site provides operational advantages. It will remain in the central business district, and the expected co-location of the courthouse will reduce operating costs and improve security.

TRAIN TIMETABLES

Ms MARIE ANDREWS: My question without notice is addressed to the Minister for Transport. What is the latest information on timetable service improvements on the CityRail network?

Mr JOHN WATKINS: It is pleasing to hear that the experience of commuters has improved under the current timetable. On-time running during peak periods has averaged 94 per cent in the six weeks since the timetable was introduced on 4 September. The number of services that skip stations or are cancelled has also dropped significantly. Commuter confidence had been bruised in recent times, and the challenge now is to sustain these improvements over the coming months. That is why earlier today I announced a number of finetuning train services as further improvements to the new timetable. Also, there is now consultation about the eastern suburbs and Illawarra and South Coast lines draft timetable. We are asking people to make suggestions about the new draft timetable, which will be brought into force midway through next year.

Today a CityRail customer survey conducted by the Independent Transport Safety and Reliability Regulator [ITSRR] was released. The survey, which is the second of its kind conducted by this important agency, was the last survey under the old timetable. Some 2,755 people who had used a CityRail service some time over the previous six months were randomly surveyed in June and July this year. Participants were asked to rate the importance and quality of 37 different aspects of the CityRail service. It is no surprise that this survey of commuters using the old timetable found that their expectations were not met in terms of train punctuality, delays and cancellations, train crowding at peak times, frequency of trains, and clarity of train announcements.

The New South Wales Government is aware of these concerns and is working to improve the system for the travelling public; hence the new timetable. Pleasingly, 69 per cent of survey respondents expressed positive views about transit officers on trains and stations. Other aspects of the service that commuters expressed satisfaction with included their level of personal safety on stations in peak times, the provision of information via the CityRail web site and the 131 500 Transport Info line, signage across the network, and cleanliness through the removal of litter from stations. The ITSRR annual survey provides valuable feedback to Railcorp and the Government. We have listened to it, and we will act on the lessons learnt.

Questions without notice concluded.

BUSINESS OF THE HOUSE

Inaugural Speeches: Suspension of Standing and Sessional Orders

Motion by Mr Carl Scully agreed to:

That the business of the House be interrupted at 7.30 p.m. at this sitting to permit the members for Macquarie Fields and Maroubra to make their inaugural speeches.

PUBLIC ACCOUNTS COMMITTEE

Membership

Motion, by leave, by Mr Carl Scully agreed to:

That Gregory John Aplin, Noreen Hay and Kristina Kerscher Keneally be appointed to serve on the Public Accounts Committee in place of Gladys Berejiklian, Matthew James Brown and Paul Edward McLeay, discharged.

LEGISLATION REVIEW COMMITTEE

Membership

Motion, by leave, by Mr Carl Scully agreed to:

That:

- (1) Allan Francis Shearan be appointed to serve on the Legislation Review Committee in place of Noreen Hay, discharged.
- (2) A message be sent informing the Legislative Council of the resolution.

CONSIDERATION OF URGENT MOTIONS

Princes Highway Funding

Mr MATT BROWN (Kiama—Parliamentary Secretary) [3.55 p.m.]: What could be more urgent than talking about saving lives on the Princes Highway?

Cross-city Tunnel

Mr ANDREW STONER (Oxley—Leader of The Nationals) [3.55 p.m.]: No-one in this place would disagree that road safety and the Princes Highway are important matters, but the motion of the honourable member for Kiama is all about this State Labor Government playing politics once again by pointing the finger of blame at the Federal Government. It is time the Government got on with the job of fixing the roads of this State, like the cross-city tunnel debacle, which continues apace. My motion is urgent because the motorists of Sydney are voting with their feet and avoiding the cross-city tunnel like the plague because their interests have been sold out by this arrogant Labor Government.

This matter is urgent because it is high time the Premier stepped up to the plate and showed some real leadership on behalf of the community. We know that his incompetent Ministers cannot solve the tunnel problems, because they are the cause of the problems. Former roads Minister Carl Scully is the architect of the contract that toll road proponents dream about: tunnel funnelling to stream the cars in; quarterly consumer price index or 4 per cent, whichever is higher, guaranteed toll increases; \$1.60 administration fee for infrequent users; the Roads and Traffic Authority [RTA] paying for ventilation after five years; and the RTA to pay if taxes and rates go over \$170,000. Nice work if you can get it!

My motion is urgent because the former Minister is also the bloke who solicited the \$100 million backhander to the Government for awarding the contract to the successful tenderer. Of course, this was to fill the budget crisis brought about by the Government's mismanagement. This matter is urgent because the sweetener is being paid for by an extra 50¢ or so on top of the base toll, which is one reason drivers hate the tunnel. The first line of the Minister for Roads was the old "It's only teething problems; all will be fine." Then it became the Sergeant Schultz defence: "I know nothing." Then he tried to blame the operators. It is not the operators' fault; it is the Government's fault. That is why this matter is urgent. Then Minister Tripodi decided to cut former roads Minister Scully adrift. That was not too hard for Tripodi because he had only recently stabbed Scully during the Australian Labor Party leadership contest and he figured that one more little stab probably would not hurt too much.

Mr Alan Ashton: Point of order: I am sure the Leader of the Nationals knows that he is going beyond the urgency debate. A little history does not need to be retold.

Mr SPEAKER: I take it the honourable member for East Hills was attempting to assist the Leader of The Nationals.

Mr ANDREW STONER: This matter is urgent because while drivers are seething with the lousy deal they have been sold, nothing has been done to fix the problems—that is, nothing except the former Minister trying to stay low, and the present Minister bumbling around to no effect. It is a bit like an episode of the Three Stooges. The Premier then weighed into the fray, admitting that there had been too many mistakes and compromises with the deal and making vague statements about talking to the operators about getting a better deal for motorists. The horse had not long bolted when the former Minister sold out the community and signed off on a tidy little earner for his mates in big business.

This matter is urgent because the Premier obviously needs help to sort out this debacle. His friends in the Coalition have come up with a five-point plan: first, immediately release the complete contract; second, introduce a toll-free period as requested by the operator; third, review all current funnelling measures and road closures, including the William Street disaster, which has affected 300 small businesses, and freeze any future road changes; fourth, guarantee there will be no congestion tax or public transport limitations to force traffic into the tunnel; and, fifth, review toll pricing and abolish occasional user fees.

Mr Alan Ashton: Point of order: The Leader of The Nationals is making the points he would make in the substantive debate. He cannot just read his speech now. I ask you to bring him back to explaining why his motion is urgent.

Mr SPEAKER: Order! There is some relevance in the point of order taken by the honourable member for East Hills, particularly when the Leader of The Nationals is reading from a text that is clearly part of his substantive argument.

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

The House divided.

Ayes, 51

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

Noes, 31

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

Pairs

Ms Megarrity	Mr Constance
Mr Price	Mrs Hancock

Question resolved in the affirmative.

PRINCES HIGHWAY FUNDING**Urgent Motion**

Mr MATT BROWN (Kiama—Parliamentary Secretary) [4.10 p.m.]: I move:

That this House:

- (1) condemns the Federal Government for its failure to include the Princes Highway south of Wollongong in AusLink's new national network; and
- (2) calls on the Federal Government to explain why it excluded such an important highway from the new Federal roads funding agreement.

As the House now realises, John Howard and his crew decided they would not fund the bulk of the Princes Highway upgrade. Any road south of Wollongong to the Victorian border will not receive money under the new Federal Government funding arrangements, called AusLink.

Mrs Shelley Hancock: You didn't ask for it.

Mr MATT BROWN: The honourable member for South Coast interjects that the New South Wales Government did not ask for it.

Mr Andrew Constance: You didn't put it in your submission, you clown.

Mr MATT BROWN: The honourable member for Bega offers this furphy as well.

Mr ACTING-SPEAKER (Mr John Mills): Order! The honourable member for South Coast will resume her seat. She will have the opportunity to contribute to the debate later, if she wishes to do so.

Mr MATT BROWN: At last we hear some noise from the honourable member for South Coast and the honourable member for Bega. They have been silent about funding for South Coast roads during the whole AusLink process. After the AusLink agreement has been finalised, they have the hide to say in this Chamber that the New South Wales Government did not seek this funding in the submission. They are wrong and they are gutless. They are wrong because it is in the funding submission. And, if it is not in the submission, what have they been doing? They have been asleep at the wheel, as usual. Presumably the honourable member for Bega had a sudden thought: "I knew there was something I forgot to do—lobby my Federal colleagues for some funding for the Princes Highway." They are a joke, in every sense of the word!

Mr ACTING-SPEAKER (Mr John Mills): Order! The honourable member for Bega will resume his seat.

Mr MATT BROWN: The Federal Government not only refused the repeated appeals from New South Wales to include the whole length of the highway in AusLink funding but now claims that the State did not even ask for it to be a part of the deal. The Federal Government's own web site contradicts that ridiculous claim. On the Federal Government's web site the New South Wales submission for the Princes Highway asks that the Federal Government fund the road south of Wollongong. It is there in black and white buzzing away on the screen. That contradicts the Opposition's argument. The New South Wales submission requesting funding for the Princes Highway is clearly on the Federal Government's own web site. The submission proposes that the coastal route from Sydney to Melbourne via Wollongong be included in the national network. Where is the New South Wales funding submission, Shirley? The honourable member for South Coast should go to the site and read the submission, which says:

The F6 and the Princes Highway provide essential links to Wollongong, the Illawarra region and the South Coast of New South Wales.

That is part of the New South Wales Government submission, which is on the Federal Government's web site. Yet, for some bizarre reason, the Federal Government says we did not make a submission in relation to the highway. Someone is not talking to someone, that is for sure. The New South Wales Roads and Traffic Authority [RTA] took up the cause of the entire Princes Highway from the moment negotiations opened about AusLink in 2002. In fact, even before that time New South Wales had been arguing that the Princes Highway should be included as part of the Federal Government's previous roads of national importance [RONI] program. I am advised by senior RTA staff who conducted negotiations on our behalf that the Princes Highway was repeatedly raised, but that its calls fell on deaf ears. The Princes Highway did not appear in the final AusLink white paper, despite the New South Wales submission and repeated requests. From the start the Federal Government stubbornly refused to include the Princes Highway south of Wollongong in AusLink.

The honourable member for South Coast and the honourable member for Bega keep saying, "Why didn't you do it?" We did do it. But, more to the point, why did they not do it? Where are their submissions about the highway? They abrogated their responsibilities as local members. They did not talk to their Federal colleagues. Why did they not do something and make submissions that the road needs funding? They left it all up to the RTA, which did a very good job. The RTA was told in no uncertain terms that the Federal Government would not countenance the inclusion of this important road.

As to the development of the AusLink road funding deal, in 2002 the Federal Government released a discussion paper outlining its position on a whole range of major roads across Australia. The New South Wales Government was alarmed to note that the Great Western Highway and the Princes Highway were excluded from AusLink's new national network. The consequence of being excluded from the network was that the Federal Government would not contribute money for upgrades. The new national network replaces the old system of RONI funding. Under the new national network, the Princes Highway south of Wollongong has missed out. In its first proposal the Federal Government also refused to contribute money to upgrade the Great Western Highway.

On behalf of the New South Wales Government, the RTA went in to bat for these important roads. It put the case that they should be included in the new AusLink national network and benefit from Federal Government contributions to upgrades. The people of our State would expect nothing less, especially as they have paid billions of dollars to the Federal Government each year in fuel excise tax. Australian motorists contribute \$13.6 billion in fuel excise every year but get back only \$1.6 billion, shared around the country. It is a rotten return on their investment.

It is ironic that the Federal Government, which collects this fuel excise, has a similar amount in its surplus. I digress; I will return to the point. As we all know, AusLink was a terrible deal for New South Wales. But, as we all know, we reluctantly signed it, because a \$298 million loss is better than a \$940 million loss. What sort of national Government gives a State that sort of choice? A heartless, callous, miserable Liberal-National Party Coalition! What sort of management and leadership does that represent? It was a case of "Sign this and we will give you a kicking; if you do not sign we will kick the guts out of you."

Let us remember that just a few weeks ago in this House Opposition members, including the honourable member for South Coast and the honourable member for Bega, voted against debating AusLink. They had something to hide. They know they did not put in a submission. They did not support funding for the roads going through their electorates. At the time that the Minister for Roads was pleading with the Prime Minister for a better deal for New South Wales motorists, the State Coalition opposed debate on this issue. Shame on them! Obviously they knew their position was indefensible and, like ostriches, they preferred to stick their heads in the sand.

After the AusLink agreement was signed, I was astonished to learn that the Federal Member for Gilmore was making the same assertions. She claimed that the Federal Government shafted the Princes Highway and the communities it serves because the State Government had not included the highway in its AusLink submission. I have worked closely with the Federal member for Gilmore on many issues and I am disappointed that she has tried to focus this debate away from her Government's lack of funding for the road by saying it was not in the submission. It was in the submission! Again I make the point: Why did she not lobby for her electorate? Why did she not get out there and do some work to convince her Government? She is a member of those conservative misfits down in Canberra. She is a part of that mob. Why did she not lobby to get funds for her roads?

I kid you not: she would have her community believe that the New South Wales Government had neglected to fill in a form when the facts are clearly posted on the Federal Government's web site. These were desperate measures. The honourable member was simply trying to deflect attention from her own woeful inadequacies. Many people on the South Coast, including mayor Alex Darling, want the Prime Minister to finally come to the Illawarra and South Coast and to see for himself the parlous state of our roads. The State Government will continue to lobby to get its fair share of roads funding to enable it to look after New South Wales motorists. [*Time expired.*]

Mrs SHELLEY HANCOCK (South Coast) [4.20 p.m.]: Before turning to the facts relating to AusLink I must refute some of the comments made by the honourable member for Kiama. The first was the suggestion that I have been silent so far as the Princes Highway is concerned. I have raised the subject of the Princes Highway on more occasions in this Chamber that he could count on the fingers of two hands. I have raised it in an urgent motion, as a matter of public importance and in various other ways in this House. On numerous occasions honourable members have heard me present petitions from people concerned about the condition of the Princes Highway. In fact, it is the honourable member for Kiama who has been utterly silent on the Princes Highway.

Mr Matt Brown: Point of order—

Mrs SHELLEY HANCOCK: Now the member for Kiama is going to try to cut down my time, is he?

Mr ACTING-SPEAKER (Mr John Mills): Order! The honourable member for Kiama is seeking to take a point of order. I would point out to members on both sides of the House that the Chair takes a dim view of spurious points of order.

Mr Matt Brown: My point of order is that I did not say she did not make it here. She did not—

Mr ACTING-SPEAKER (Mr John Mills): Order! That is not a point of order and the honourable member for Kiama should know better. He has a right of reply in this debate.

Mrs SHELLEY HANCOCK: The other matter that I have to refute is the suggestion that the Federal member for Gilmore, Joanna Gash, has not lobbied for funding for the Princes Highway. I have never in my life heard anything so ridiculous! The Federal member for Gilmore, the honourable member for Bega and I have talked ad nauseum about the Princes Highway on radio and in the newspapers. In fact, in the past six months Joanna Gash has been successful in lobbying for an additional \$20 million for the Princes Highway. Once again the honourable member for Kiama has not done his research.

Let me refer to some of the debates that have taken place during the past week about AusLink. Last week the Minister for Roads finally signed the AusLink agreement. He claimed he had been pressured by the Federal Government into signing it. He then claimed in the local media that, despite the so-called mountains of paperwork that had been forthcoming from the New South Wales Government arguing for increased funding for the Princes Highway south of Wollongong, the Federal Government, and in particular Joanna Gash, had let down the people of the South Coast. I listened carefully to the Minister's comments last week. I listened carefully to the honourable member for Kiama, who also claimed that the New South Wales Government had argued strongly for funding for the Princes Highway throughout the AusLink discussions. I was most concerned that both the Minister and the honourable member opposite had so blatantly misled the community about the negotiations that took place in 2003 regarding the AusLink green paper.

I will have to summarise what happened in relation to the AusLink discussions, because I noted that the honourable member for Kiama was not present at one of the conferences I attended in 2002 when AusLink was

first talked about. He was not party to those discussions, and he was not present when the green paper was released. He should not debate the issue if he cannot do his research appropriately and arm himself with the facts about the Princes Highway. Honourable members know that the purpose of AusLink is to develop an integrated national land transport network that will be far more extensive than the old national highway system; it will include key corridors and links of national strategic importance. The AusLink green paper was released in 2002 and sought submissions on a range of questions, including the corridors and links that should be included. These are facts and the honourable member for Kiama and Minister have got it wrong. The New South Wales Government lodged a 40-page submission which I have here.

Mr Matt Brown: Table it!

Mrs SHELLEY HANCOCK: I can table it, if the honourable member for Kiama has not read it. Of course I can table it for his benefit. Clearly, he has not read it. If the honourable member had read the 40-page submission and was looking for any reference to the Princes Highway, he would be looking for long time. There are only three lines of reference to the Princes Highway. What did the submission argue for? First, it argued for the retention of the 1991 roads agreement, which separated roads into areas of responsibility—Federal, State and local government. That was the agreement signed in 1991, and the New South Wales Government argued for the retention of that hierarchical structure. The Government regarded AusLink as confusing the boundaries and so voted for retention of the 1991 agreement. The 1991 agreement stated that the Princes Highway is a State Government responsibility, and at that stage the New South Wales Government accepted that it was a State Government responsibility. As I said, there is scant reference to the Princes Highway in the submission, which contains three lines relating to the Princes Highway.

To be fair, at the time there was a brief two-line request from the State Government identifying the Princes Highway as a corridor of critical importance for regional economic growth and development. Let us get the facts right, but there were no mountains of paperwork that both the honourable member and the Minister referred to last week. Following the receipt of submissions the SCOT working group was established. I am sure the honourable member for Kiama has not heard about that group. It was established to discuss the funding submissions from all of the States regarding the links they wanted included in the final AusLink white paper. Those discussions took place over a period of 12 months or more. For 12 months the States had an opportunity to submit its priorities for road funding. At that stage the New South Wales Government had the perfect opportunity to argue strongly for the inclusion of its priority links and, of course, the Princes Highway.

After a meeting in June 2003—I assume the honourable member for Kiama is not aware of that meeting either—the SCOT working group was brought together and, once again, there was a discussion about the regional links that the States wanted included in the AusLink network. However, the New South Wales Government did not argue strongly for further consideration of the Princes Highway. It argued strongly for the Sydney-Central West corridor and, finally, the Sydney-Central West corridor was included in AusLink. I commend the New South Wales State Government for arguing for something, but it did not argue for the Princes Highway. In 2003 it gave up on the Princes Highway. Honourable members opposite should do their research and find out the facts.

It has now been revealed that when it counted for the people of the South Coast, and at the most opportune time for it to do so, the New South Wales Government argued strenuously for other links but dropped the ball on the Princes Highway and failed to pursue its inclusion as an AusLink corridor. By the way, those other links were subsequently included. The Minister's claim last week that there were mountains of paperwork is a blatant misrepresentation of the facts. For him to meekly suggest that he asked five weeks ago for the Princes Highway to be included is a joke. It was an absolute joke to have asked five weeks ago when the decisions had already been made six months ago. It was a little late, but we have to forgive the Minister because he is new to his portfolio. Clearly, he did not understand what had happened over three years with regard to AusLink.

I cannot forgive the former Minister and the honourable member for Kiama for so blatantly misrepresenting the truth to the people of the South Coast. The honourable member for Kiama should have been in a position at the time to argue for funding for the Princes Highway. After all, he was a member of the Government at the time and still is. But he did not. His constituents are now aware of the facts, because they were reported in today's *South Coast Register* under the headline, "The RTA failed to seek highway funding". In fact, the local paper has done its own research and discovered the facts. It has researched the past two to three years, way back to when the AusLink green paper was released. The honourable member for Kiama is misrepresenting the truth to his constituents. The *South Coast Register* article says:

The bottom line is that the NSW Roads and Traffic Authority failed to pursue the inclusion of the Princes Highway south of Wollongong and did not provide detailed data on this link to support its inclusion.

We must now work together to ensure that, as negotiations proceed for the next round of AusLink funding, the Federal Government is provided with the data and information on the Princes Highway that it has continually requested. The RTA is now starting to provide the data, which was gleaned from Shoalhaven City Council and the working group that was set up to address the Princes Highway. Time and again, the RTA and the New South Wales Government have failed to provide any detailed data to the Federal Government. [*Time expired.*]

Ms NOREEN HAY (Wollongong) [4.30 p.m.]: I am amazed to hear the honourable member for South Coast once again blaming the New South Wales Government for the failure of the Howard Federal Government to provide funding for the Princes Highway. Indeed, she has made similar comments on so many other occasions that I could almost repeat her words verbatim. On numerous occasions in this place I have participated in debate, including debate on urgent motions, specifically related to calling on the Federal Government to provide funding for the Princes Highway. In relation to funding for roads of national importance [RONIs], I called on the Federal Government to include the Princes Highway as a RONI and to direct funds to it from its huge surplus.

It appears that Opposition members have completely ignored any opportunity to say to their colleagues, "Just bear in mind that it is a Liberal-Coalition Government that is in control of these massive funds, which could assist the Princes Highway." But, as usual, we have heard not one word of criticism of the Federal Government from members opposite, who represent people who live on the Princes Highway and claim to suffer from a lack of funding for that highway despite the fact that the New South Wales Government has allocated funding in excess of \$300 million for it.

The Federal member for Gilmore, Joanna Gash, has been on radio bragging about black spot funding, but what do we have from the honourable member for South Coast? Does she represent her electorate? No. We do not hear from her, because it is her mates who will not put in the money. It is a disgrace that members opposite criticise roads such as the Princes Highway. A few months ago I organised a delegation of the South Coast group of unions to meet with the Minister. The delegation included the Lord Mayor of Wollongong, Alex Darling. Two years ago Alex Darling met with John Howard.

[*Interruption*]

I am sure this is boring and tiring for the honourable member for South Coast to listen to. Nevertheless, two years ago John Howard told the Lord Mayor of Wollongong that he would have a look at the Princes Highway.

Mrs Shelley Hancock: Say something new.

Ms NOREEN HAY: Yes, something new like, "Shelley, give them a call and get some money." Given that the Federal Government is in control of a huge surplus and is wasting money on advertisements, one would think that members opposite would ask their colleagues for funding for the Princes Highway. But that has not occurred. Two years ago John Howard promised to have a look at the Princes Highway, but he has failed to do so. Apparently, next week he will visit the area to open a Federal Senator's office and attend a fundraising event at \$250 a head. I am not quite sure where that money is going. However, John Howard has not fulfilled his commitment to have a look at the Princes Highway or to deliver to improve the road and help to save lives some of the funds that are being wasted on advertisements directed at taking away workers' rights to the Princes Highway.

Even the Save Our Bloody Roads campaign by the NRMA highlighted the need for Federal Government funding for the Princes Highway. No matter how many times we hear from Joanna Gash or the honourable member for South Coast, we do not hear from them one word of demand for the Federal Government to provide funding for the Princes Highway. They do not even ask the Federal Government to put some of the \$3 billion GST rip-off back into the Princes Highway. Joanna Gash and the honourable member for South Coast should apologise to their electorates for failing to represent them and for failing to demand that the Federal Government provide funding to the New South Wales Government for the Princes Highway.

Mrs Shelley Hancock: Did you put in a submission?

Ms NOREEN HAY: With regard to putting in submissions, I would have thought that the honourable member for South Coast and her colleagues would have done plenty of that. We on this side of the House have done so. The honourable member for South Coast should not criticise us in that regard.

Mr ANDREW CONSTANCE (Bega) [4.35 p.m.]: Was that not a wonderful contribution! People are fed up with the squabbling and bickering that goes on between politicians in the various tiers of government. Last year 26 people lost their lives on the Princes Highway, and over the past two years 1,050 people have been injured on it. Yet an enormous amount of bickering continues to take place regarding responsibility for funding the highway. All of us need to take a hard look at our overall approach to the Princes Highway.

In May this year I wrote to the State Coroner requesting him to conduct an inquest, pursuant to the Act, into the fatal accidents that have occurred on the Princes Highway. Whilst we are three or four weeks away from receiving the Coroner's determination, I am pleased to report to the House that the Coroner has referred a number of those fatal accidents to the NSW Police Traffic Commissioner for further input. The reason I raise the issue is that it goes to the heart of the problem. We all know that the Princes Highway is massively underresourced. The comments of the honourable member for Wollongong are a bit rich. The highway is being funded to the tune of \$380 million by the State Government over a 12-year period, but \$317 million of that \$380 million is being spent on upgrades north of Kiama. That money also includes Federal Government funding for the North Kiama bypass.

For the area south of Kiama, the funding works out at about \$5 million annually for 400 kilometres of highway. It is a goat track, but next to nothing is being spent. The budget for the State Government's roads program is \$2.9 billion. In other words, 0.98 per cent of the State's total roads program budget is being spent on that highway. It is, therefore, a bit rich for any Government member to claim that we should go to the Federal Government for such funding. Why are Government members not putting up a good case to their State roads Minister as to why funding for the Princes Highway should come from the State budget?

We need to prepare a good submission as negotiations proceed for the second round of AusLink funding. I find it bewildering that the Roads and Traffic Authority [RTA], which is one of the oldest and most incompetent bureaucracies within the State Government—a bureaucracy full of people who are comfortable in their jobs—failed in its initial response to the green paper to put forward the Princes Highway for further consideration. A working group was formed to recommend either the inclusion or exclusion from the network of key State roads. The RTA responded, requesting further consideration of the exclusion of the Sydney-Central West corridor, but it made no reference to the proposed exclusion of the Princes Highway south of Wollongong. The Central West corridor was given further consideration, and has now been included in the AusLink network. The RTA did not pursue the inclusion of the Princes Highway and did not provide detailed data on this link to support its inclusion.

Mr Matt Brown: Did you?

Mr ANDREW CONSTANCE: The honourable member for Kiama asks whether I did. I would like to see his submission. Indeed, he should table his submission.

Mr Matt Brown: I was with the RTA.

Mr ANDREW CONSTANCE: Conveniently, the honourable member for Kiama was with the RTA. That makes him an incompetent fool because he should have included it at that stage of the submissions and we might have had a better chance of getting the money. The reality is that he did not do so and he has failed constantly to go to the State Minister for Roads and argue for more money for the highway south of Kiama. Now that the boundaries of the honourable member's electorate are being extended further south as part of the redistribution, he is starting to panic. He is starting to wonder how he is going to get the Berry bypass in before the next election and how he is going to start to address the area around Foxground. We know the truth. The Government has a \$2.9 billion roads program budget this year alone and it is spending \$5 million on 400 kilometres south of Kiama. That is a joke! We should also throw in the fact that the State Government is getting a 70 per cent increase in roads funding as a result of the AusLink program. He hoped that increased funding would free up money from elsewhere around the State to spend on the Princes Highway, where lives are being lost. The Government is incompetent.

Ms MARIANNE SALIBA (Illawarra) [4.40 p.m.]: The honourable member for Bega should be ashamed of himself. He represents people on the South Coast who use the Princes Highway and who suffer day in and day out. The honourable member is fortunate enough to be able to pick and choose when he goes to his electorate. Those who live down there suffer the road every single day of the week. He and his State colleague the honourable member for South Coast and the Federal member for Gilmore—and they all belong to the same political party—had the opportunity to work together to lobby the Federal Government to ensure that there was

funding for the Princes Highway. They have failed their constituents. They have let the people of the South Coast down. I am absolutely appalled to hear the kinds of things that they have said in this Chamber today because they have an obligation to look after those people.

The honourable member for Kiama has worked very hard to ensure that the North Kiama bypass is in and that money has been made available for the Princes Highway. It would be good to know that other members further down the South Coast were working hard to make sure that their constituents are looked after as well. In my electorate of Illawarra the Princes Highway is an important road. Almost 50,000 vehicles travel on the Princes Highway daily. In many cases people's livelihoods depend on the highway as it is their only way of travelling up and down the coast. The Princes Highway is listed as highway No. 1. It is the most important highway in Australia and, as such, it should be funded by the Federal Government. On 3 October I heard Joanna Gash say on ABC radio:

Certainly my understanding is that Joe Tripodi—

who is, of course, the Minister for Roads—

did not even try to have the Princes Highway included in the bilateral agreement with AusLink.

That is not true. In fact the honourable member for the South Coast has said just that today. She said that it was mentioned in that submission.

Mrs Shelley Hancock: Mentioned.

Ms MARIANNE SALIBA: It was mentioned in that submission, and it should have been pursued vigorously by other members in this Chamber and by members of the Federal Parliament to ensure that the funding was made available. The State Minister for Roads spoke to the Federal Minister for Transport and Regional Services, Warren Truss, about six weeks ago in Sydney. The Minister for Roads asked his Federal counterpart directly to include the entire length of the highway in the agreement but his request was refused. Joanna Gash should apologise for misleading the constituents of the whole Illawarra region. She should also apologise to State Parliament because she has made a statement that was inaccurate.

If the honourable member for Gilmore thought the State Government was doing such a poor job negotiating for roads for her community, what did she do about it? She has direct links to the Federal Minister and could have made a submission. She should have been representing the people of her electorate. I am also sick of the Princes Highway being used as a ping-pong ball; it is not. This is about providing the best services that we can for the people of our community. Since 1994-95 the State Government has put more than \$380 million into the Princes Highway, and it is still committed to it. It has been all through the Illawarra region—

Mrs Shelley Hancock: No!

Ms MARIANNE SALIBA: Yes, it has. We have widened roads; we have put in turning bays in areas to avoid accidents. In my electorate there have been significant amounts of funding for the Princes Highway. Funding has not only been provided for North Kiama; it has been provided in a number of areas. It has been provided in the most important areas where it will prevent accidents and save people's lives. Members on the Opposition benches should support this urgent motion. They should speak up and challenge their Federal counterparts to ensure that the money is made available for the Princes Highway. For many years we have lobbied for the Princes Highway to be a road of national importance [RONI]. We have never heard anything about that from the Opposition. Now the AusLink agreement is a new way of shafting the people of the Illawarra and the South Coast. It is about time the Federal Government does the right thing by everyone who lives on the South Coast.

Mr MATT BROWN (Kiama—Parliamentary Secretary) [4.45 p.m.], in reply: I thank my parliamentary colleagues the honourable member for Wollongong and the honourable member for Illawarra for their spirited contributions to the debate, for their continued commitment to providing safer roads through better funding for everyone using the Princes Highway, especially working families, and for trying to open up the trade links that are necessary to generate jobs. The honourable member for South Coast raised nothing new in this debate. In fact, I pre-empted her argument and addressed it. She agreed that the New South Wales Government made a submission and mentioned the Princes Highway south of Wollongong. I thank her for that. The contribution of the honourable member for Bega was quite different. He mentioned deaths and the importance of road funding in lowering the road toll. No normal human being would disagree with that.

Mrs Shelley Hancock: Why don't you give us some more State money? Why don't you lobby the Minister?

Mr MATT BROWN: The honourable member for South Coast interjects again, "We just want more money". There is such a thing as a budget, which is designed to ensure that the State does not go bust. The typical Liberal Party policy in this House is to promise to spend as much as it can possibly lay its hands on and to reduce taxes at the same time. That policy does not add up; it will send the State bust. No cars will be driving anywhere because no-one will be able to afford them if the mob opposite run the economy in the way they are suggesting. The honourable member for Bega went further and, amazingly, started to attack the public servants in the RTA. This is another typical tactic of the Liberal Party: when everything goes wrong, attack the public service—hardworking men and women going to work every day to try to make a better deal.

Mr Andrew Constance: I have attacked the RTA.

Mr MATT BROWN: The honourable member for Bega says it again.

Mr Andrew Constance: Point of order: I want it noted that I am happy any day to attack the RTA and its incompetence in relation to the Princes Highway.

Madam ACTING-SPEAKER (Ms Marie Andrews): Order! There is no point of order. I remind the members of the Opposition that if they want to take points of order they should do so in accordance with the standing orders.

Mr MATT BROWN: The lack of parliamentary experience of the honourable member for Bega is breathtaking. He should know the standing orders. That was not a point of order; he should respect the rules of the Chamber. I was making the point well enough for him and if he wants to agree with that, that is all well and good. I only ever advocate the truth. Apart from our written submissions and discussions at numerous meetings, the Minister for Roads raised the Princes Highway with the Federal Minister for Transport and Regional Services, Warren Truss, only six weeks ago. At that meeting in Sydney Minister Tripodi looked Minister Truss in the eye and asked him to include the Princes Highway in the new national network. Guess what? Minister Truss again refused. He certainly did not claim that the New South Wales Government had neglected to pursue this matter properly in the past. It is simply not good enough for the Federal Government to try to wash its hands of this sorry matter. The simple fact is that we pushed for the Princes Highway in New South Wales to be included in the AusLink agreement but the Federal Government refused.

[*Quorum formed.*]

[*Time expired.*]

Question—That the motion be agreed to—put.

The House divided.

Ayes, 54

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

Noes, 27

Mr Aplin	Mr Kerr	Mr Souris
Ms Berejiklian	Mr Merton	Mr Stoner
Mr Cansdell	Mr Page	Mr Tink
Mr Constance	Mr Piccoli	Mr J. H. Turner
Mr Fraser	Mr Pringle	Mr R. W. Turner
Mrs Hancock	Mr Richardson	
Mr Hartcher	Mr Roberts	
Ms Hodgkinson	Ms Seaton	<i>Tellers,</i>
Mrs Hopwood	Mrs Skinner	Mr George
Mr Humpherson	Mr Slack-Smith	Mr Maguire

Pairs

Ms Megarrity	Mr Armstrong
Mr Price	Mr Hazzard

Question resolved in the affirmative.

Motion agreed to.

NRMA PREFERRED REPAIRER NETWORK SCHEME**Matter of Public Importance**

Mr RICHARD TORBAY (Northern Tablelands) [5.01 p.m.]: I ask the House to note as a matter of public importance the NRMA Insurance preferred repairer network scheme and its impact on rural and regional communities in New South Wales. The preferred repairer network scheme is having an impact throughout New South Wales generally but in rural and regional communities in particular. First, let me make it clear that I am talking about NRMA Insurance, which is an arm of the parent company IAG. NRMA Insurance has introduced a new repairer allocation system that requires repairers to do their quotes through photographs on the Internet. The feedback from many smash repairers in the industry—that is, those who are prepared to speak out and have the confidence to do it—has been overwhelmingly against this system. I am disappointed to report that many others feel intimidated. They cannot speak out and repeat what they have said to me and, no doubt, to many other members of the House.

I acknowledge the honourable member for Bankstown, who has been vocal on this matter previously in the House. NRMA Insurance claims that the latest changes apply only to Sydney, Wollongong and Newcastle. This is plainly untrue. The NRMA said that once the system is settled in these areas it will look at rolling it out in major regional centres throughout New South Wales. The NRMA's preferred repairer system has been operating in regional centres for three years, and it has caused margins to be tightened to the extent that many shops in country areas have closed. Many workshops have closed. When the roll-out is officially in place, with the new system on the Internet, the margins will be even tighter. Make no mistake: The latest changes, if locked into regional areas, will see more country smash repairers close down.

Mr Peter Draper: Killing more country jobs.

Mr RICHARD TORBAY: As the honourable member for Tamworth said, it will kill more country jobs. Just like the doctors and banks, smash repairers in the bush will close up shop. It is important that we acknowledge the impacts of the scheme on these communities. Families in the country have the right to go to their local smash repairer. We are talking about giving them the right to choose. In fact, the country Independents—I acknowledge the honourable member for Tamworth in the Chamber—met with the Motor Traders Association only last week in Parliament House and heard first hand about some of the impacts.

I am pleased to see the Minister for Fair Trading in the Chamber. We would like her to examine the American-style anti-steering legislation—it has been passed in many American States—to see whether it is applicable to be introduced in Australia. If the Government introduced anti-steering legislation that would enable people in New South Wales to send their vehicle to the smash repairer of their choice. We are simply asking that people in the country be able to build a relationship with the smash repairer in their community. All

the smash repairers in my region to whom I spoke said, "Please don't use my name". That is disturbing. The honourable member for Ballina is nodding his head. No doubt he has had similar representations. I have the names of the smash repairers in confidential information but obviously I will not table that. However, the seven smash repairers who spoke to me—many more have written to me—have either closed their business, closed the smash repair arm of their business or kept their business operating with reduced staff—

Mr Peter Draper: And no apprentices.

Mr RICHARD TORBAY: And apprenticeships have been drying up, to the extent that many communities no longer have a smash repair shop. It saddens me to highlight that Glen Innes no longer has a smash repairer. The NRMA is using bully-boy tactics. I would like the Minister to consider anti-steering legislation, which I believe would provide freedom of choice. Goodness me! Fancy having to introduce legislation to provide freedom of choice for people to develop a relationship with the smash repairer of their choice in their community—if they still have a smash repairer in their community.

The Motor Trades Association, with whom the Independents met last week in Parliament house, has highlighted similar plights in areas such as Wagga Wagga and in many metropolitan areas. Obviously, I will leave it to other members from those areas to highlight them, but they are equally disturbing. The Motor Trades Association also highlighted the plight of quite a few smash repairers in Penrith. I note that the honourable member for Penrith is champing at the bit on this issue. As the honourable member for Tamworth said, smash repairers are laying off apprentices; in some cases they are family members. Another point is that the scheme has impacted not only panel workers in the workshop but also front-of-house staff. We must acknowledge that it has an impact across the board.

Anyone with a bit of commonsense knows that it is impossible to quote for a job on the Internet. It is an utterly ridiculous proposition. I have seen these photographs on the screen and then looked at the actual vehicle damage. It was as different as night and day. The difference is enormous. A report by Merrill Lynch stated that NRMA Insurance expects to reduce its smash repair costs by \$15 million. I can tell the House who will be paying that \$15 million—country smash repairers and, indeed, smash repairers across the board in New South Wales.

[Interruption]

The honourable member for Ballina refers to safety issues. I will come to that later. It is impossible to detect structural damage from a photograph on the web. The glib-tongued, suited, briefcase-carrying insurance representatives will spin a different story—a story I have already heard. I question whether any of these people have ever been in a workshop in their lives and whether they have, since leaving school or university, undertaken a decent day's work in terms of understanding the impacts of these sorts of Big Brother policies. It is possible that the closest they have ever come to a smash repairer is when they sent the chauffeur-driven Mercedes Benz to get serviced. I urge them to visit Glen Innes and similar communities that no longer have smash repairers. And this is before the full scheme has been rolled out into regional areas. They should put themselves in the position of a smash repairer, who quotes from a photo and then finds that there is major structural damage that was not evident in the photograph.

Who is responsible? What alternative do they have? Do they try to absorb the costs? How can they keep doing that and remain viable? The incentive is there for them to cut corners by using inferior products, which raises many safety issues. We should not compromise on safety. All members of Parliament should join together to make sure we bring in safety mechanisms, like this anti-steering legislation. That is why I am so pleased to have the opportunity to debate this matter of public importance in this House today. Much is at stake—safety, jobs and the future of these businesses, not only in the metropolitan area but particularly in rural and regional centres, where the loss of those local jobs is having and will have ongoing, devastating impacts on communities. I call on NRMA Insurance to reconsider its latest moves on quoting for and delivering smash repairs and to respond to the voices in the industry and the issues raised, many of which have been highlighted by other honourable members in this Chamber.

One thing that concerns me the most is the number of people who have not been game enough to come forward and speak publicly. Clearly, there is intimidation. They feel they will be disadvantaged for speaking out. No member of this place should accept that as appropriate. We should be sending a strong message to NRMA Insurance not only about the jobs and the safety issues that I have pointed out but also about the way the big end of town takes over and steers business in a manner that is not competitive and does not take into consideration all the issues raised with me and with many other members in this place.

Ms DIANE BEAMER (Mulgoa—Minister for Western Sydney, Minister for Fair Trading, and Minister Assisting the Minister for Commerce) [5.11 p.m.]: I thank the honourable member for Northern Tablelands for raising this significant issue. Also, I commend the work of my colleague the honourable member for Bankstown for supporting his constituency on this important matter and for highlighting concerns about the issue throughout regional New South Wales. Disputes between repairers and insurers raise market power issues that are regulated by the Commonwealth under the Trade Practices Act. In its recently released report on the relationship between repairers and insurers, the Productivity Commission found that four large insurance companies dominate the insurance market, giving them significant power when negotiating with repairers. The Productivity Commission recommended to the Federal Government that a voluntary industry code be established to address the relationship between smash repairers and insurers. The Federal Government has acknowledged:

There are problems in the commercial relationship between the smash repair and insurance sectors. The Productivity Commission Report cites anecdotal evidence of persistent problems occurring between the two parties, particularly in relation to transparency, fair trading and the efficiency of operation of the market.

While the Commonwealth eventually agreed to facilitate work on a voluntary industry code, it set itself nine months in which to achieve this. This is far too long. I raised this matter at the Ministerial Council on Consumer Affairs in September and urged the Commonwealth to move quickly to facilitate the development of a voluntary industry code. I have been joined on this issue by Federal members of Parliament Bronwyn Bishop and Jackie Kelly. On 7 October 2005 the *Western Weekender* of Penrith quoted Ms Bishop as saying:

The idea of being forced to tender off the Internet is quite unconscionable in my view. They [the NRMA] say openly that there are too many people in the industry, but that is not their decision to make. This is a free enterprise country where if you want to use your talents you are entitled to set up business and compete for work.

Today I wrote again to the Australian Competition and Consumer Commission [ACCC] to urge it to examine the web-based repair management system and its effect on the market power held by insurance companies. The web-based repair management system, recently introduced into New South Wales, is the straw that broke the camel's back. The impact of this scheme is particularly telling in New South Wales, where IAG enjoys more than an estimated 60 per cent share of the market.

The web-based repair management system operates in conjunction with NRMA care and repair centres. Customers will drive their cars to a care and repair centre where an NRMA insurance assessor will take digital photos and develop a scope of works to be posted on an Internet site. Smash repairers who have signed a contract to join the scheme will be able to view the photos and scope of works, then put in a tender for the works. This system differs in that the photos and the scope of works are unilaterally determined by the insurance assessor. Previously, the repairer would submit photos and costs for the insurance company to approve. Under the web-based repair management scheme the repairer does not have the opportunity to physically inspect the vehicle. Tenders are based on two-dimensional images.

The NRMA contract also allows for so-called fair and reasonable variations in quotes but the repair industry has found that this process is extremely problematic. Proving that a variation is a genuine variation is highly contentious. A smash repairer on the Central Coast advises that he has spent over \$300,000 equipping his workshop to become an NRMA preferred repairer. He says the NRMA will pay \$28 per hour for repair work. The repairer pays his apprentices \$26 per hour and his qualified panel beaters \$35 per hour. How can a business operate in an environment which sees him being paid less than he is paying his workers?

My colleague the honourable member for Bankstown and I recently visited a number of smash repairers to listen to their concerns. One such concern is the ability of an insurance company assessor to accurately gauge the damage to a vehicle and develop a comprehensive scope of works. The change in the market resulting from the IAG web-based repair system has prompted me to seek advice about what mechanisms are in place to ensure insurance accident assessors are adequately qualified to provide a scope of works for smash repairers. I have received some advice on the efforts of the Institute of Accident Assessors, who aims to set professional standards for accident assessors. The institute provides certification to professionals who have been judged to be competent to expertly assess both accident and mechanical damage to motorcars. Given the change in the market, the Government is examining the appropriateness of this certification.

The Office of Fair Trading is continuing to examine anti-steering legislation which would benefit consumers who elect to send their cars to smash repairers of their choice. The ACCC has written back to me advising that while it does not consider the contract put forward by IAG to be in breach of the Trade Practices Act, it has considered and will continue to consider allegations that involve the smash repairer and insurance

industries. The Government will continue to examine these issues to seek the best outcome for consumers. At the same time Fair Trading will continue to investigate, at an individual level, any consumer complaints that may be raised over the conduct or performance of both IAG Insurance and smash repairers. I urge consumers who have not received satisfactory service to contact the Office of Fair Trading.

Pursuant to sessional orders business interrupted.

PRIVATE MEMBERS' STATEMENTS

WILLOUGHBY SYMPHONY ORCHESTRA AND CHOIR

Ms GLADYS BEREJIKLIAN (Willoughby) [5.15 p.m.]: I place on the record the outstanding contribution made to culture and the arts by the Willoughby Symphony Orchestra and Choir. As a great supporter of the arts I am proud that the community of Willoughby provides and fosters such world-class culture, which is accessible by everybody. The main sponsor of the Willoughby Symphony Orchestra and Choir is the Willoughby City Council. In August 2000, Willoughby City Council received the Orchestras of Australia Network inaugural national award for "enlightened and exceptional support to an orchestra" for its ongoing support of the symphony. Since 2000 the Willoughby symphony has evolved into Australia's finest community orchestra, presenting local artists alongside world-class talent in regular showcases of classical music.

I am proud to say that the opportunity to rehearse and perform with nationally and internationally recognised artists attracts local players, inspires their participation in community cultural activities and fosters their own musical development to the extent that Willoughby symphony is becoming widely recognised as a place for young or emerging artists to gain the experience needed to make the transition to Australia's professional orchestras. As a result, the community is able to benefit by witnessing literally some of the best talent around.

As further vindication of the prowess of the Willoughby symphony, this year in the Orchestras of Australia Network 2005 national orchestral awards the Willoughby Symphony Orchestra received the national community orchestral award. This prestigious award recognises the outstanding quality of the Willoughby Symphony Orchestra and its ability to extend the public's perception of orchestras. This award was achieved above other orchestras in Australia such as the runner-up, the Brisbane Philharmonic Orchestra. I am pleased to say that the local community across the lower North Shore of Sydney has long realised what an outstanding performing arts organisation exists within a stone's throw. Performances by the Willoughby Symphony Orchestra and Choir are always well attended and audiences are enthusiastic and respond to the performances.

Last Friday night I was fortunate to attend the Willoughby Symphony Orchestra and Choir's performance of the magnificent Verdi *Requiem*. It was wonderful to see community artists joined by professional soloists, which culminated in a truly wonderful performance. The guest conductor was Stephen Mould, who, amongst his many other achievements, in 2003 was appointed head of music at Opera Australia. The chief conductor of the orchestra is Nicholas Milton, and the principal guest conductor is Wilfred Lehmann. William Moxey has been the choirmaster of Willoughby Symphony Orchestra and Choir for over 10 years. The performance I attended on Friday night was the hundredth program he has prepared. What a great achievement!

The soloists who performed last Friday were soprano Theresa La Rocca, mezzo soprano Gaye MacFarlane, tenor Jamie Allen, and bass baritone Michael Saunders. I acknowledge the efforts of Tim Long, who is the performing arts units manager at Willoughby City Council and Noel Cislowski, the deputy chairman of the Willoughby Symphony Orchestra and Choir, who carries out his responsibilities with dedication, distinction and passion.

I also take this opportunity to acknowledge the efforts of the volunteers, both the performers and the tireless workers behind the scenes. It is through their combined efforts that the people of Willoughby and beyond are able to enjoy world-class performances of classical music in the midst of the Willoughby community. I again take this opportunity to congratulate the Willoughby Symphony Orchestra and Choir and all those associated with it and I commend Willoughby City Council for its continued sponsorship. I wish the symphony orchestra and choir well in their future endeavours and I hope to be able to attend more of their performances.

AUSTRALIA NEW ZEALAND COLLEGE OF MENTAL HEALTH NURSES CONFERENCE

Ms NOREEN HAY (Wollongong) [5.20 p.m.]: It gives me great pleasure, particularly during Mental Health Week, to speak about Australia New Zealand College of Mental Health Nurses Inc. I was honoured to be invited to launch the Australia New Zealand College of Mental Health Nurses fourth seaside jamboree, called "A Moveable Feast—Pushing the Boundaries of Mental Health Nursing". The conference was held at the magnificent North Beach Novotel in Wollongong. My colleagues will know that, as a former carer of a family member suffering mental illness, I experienced its effects first-hand, and thus mental health issues are a particular interest of mine.

The Australian and New Zealand College of Mental Health Nurses was established in 1975 and is currently the only professional body that represents the interests of mental health nurses. Members of the college work in a wide variety of settings throughout the public and private health care sectors. The majority of them work in clinical practice within specialist mental health services in hospitals and the community providing treatment, care, therapy, counselling, support, education, rehabilitation and health promotion to people experiencing mental illness and their families and carers. Members also work in education, research, management, and administration within health care services and the tertiary education sector. A small but growing number also work in private practice, consultancy, and private enterprise.

The college's philosophy encompasses the belief that mental health nursing is a unique interpersonal process that promotes and maintains behaviours that contribute to integrated functioning for individuals and communities. Nurses make up more than 60 per cent of the mental health work force, and the fourth annual seaside jamboree was an excellent opportunity for nurses and other mental health professionals to come together to share new and innovative ideas. The conference explored a wide variety of topics, from the use of medication to clinical supervision and the management of aggression. It also showcased the research and development that is occurring within local mental health services through collaboration between the University of Wollongong and the South East Sydney Illawarra Area Health Service.

During the day the 80 participants were addressed by a range of speakers, including the Deputy Director of Mental Health, Bernadette Wood; the President of the Illawarra sub-branch of the Australian and New Zealand College of Mental Health Nurses, Tim Coombs; the Acting Head of Nursing at the University of Wollongong, Dr Janette Curtis; the research and education co-ordinator of the Southern Sector Mental Health Service, Susan Daly; the Wollongong court liaison clinical nurse consultant, Richard Noort; and the clinical psychologist and lecturer at the Illawarra Institute for Mental Health, University of Wollongong, Dr Hamish McLeod. The conference also had keynote addresses from leading Australian nursing academics and policy advisors.

With one in five people suffering from a mental illness over the course of their lives, the provision of high-quality specialist mental health services is an essential component of meeting the needs of those affected. Our community is extremely honoured to have nurses, such as those who attended the conference, who are passionate and incredibly dedicated to bettering the lives of the mentally ill, improving the outcomes of people who have mental health issues, and supporting their families. Mental health nursing is central to the delivery of high-quality mental health care. The range of presentations at the fourth seaside jamboree conference demonstrated that. Mental health nursing embodies the concept of caring by supporting clients who are unable to maintain mental, social or physical health functions for themselves, and it empowers the client to take an active role in self-advocacy and self-care.

The feedback I received indicates that the conference was extremely successful, with 75 per cent of respondents saying they found the conference to be very informative and productive. A positive theme that seems to be emerging in mental health is that everyday folk are now prepared to enter the debate and contribute to discussions in an attempt to seek positive outcomes, more research, and better delivery of services. I take this opportunity to congratulate the conference organiser, Carol Martin, and her organising team on making the day most worthwhile and possible. I also congratulate everyone who has participated and contributed in any way, shape or form to the betterment of mental health.

ALSTONVILLE BYPASS

Mr DONALD PAGE (Ballina—Deputy Leader of The Nationals) [5.25 p.m.]: Last week the Minister for Roads announced that the construction of the Alstonville bypass would be delayed until 2010. This is the latest in a series of statements by the Labor Government dishonouring the written commitment given by former

Premier Carr in March 2003 that construction would commence on the Alstonville bypass late in 2003 and be completed by 2006. The former Premier, in a media release he handed out when in Alstonville on 18 March 2003, said:

This is a vital road project and we are making sure it happens.

He continued:

That's why we are putting \$24 million on the table.

He went on:

The State Government has given approval for the bypass. Construction would begin after detailed design work is completed—likely to be at the end of 2003.

All that has happened. The former Premier further said:

The bypass is due to be built by the end of 2006—subject to the Commonwealth Government making good its \$12 million commitment.

Again, that commitment has been given and the money is available. Half of it has been spent. The former Premier went on to say:

The State Government's contribution of \$24 million is a commitment which will be funded from the RTA's existing forward capital works program.

The then Premier of the State said in a media release that the necessary money is in the Road and Traffic Authority's forward capital works program. If the money was available for the bypass, as the former Premier said, where has it gone? If former Premier Carr was telling the truth and the money was there, it must have been diverted to other projects, presumably in Sydney. Although this project is a State responsibility, the Federal Government agreed to contribute \$12 million to help kickstart the bypass back in 2001. That money is still available to be drawn down, and approximately half of it has been already.

Since the former Premier's original commitment in March 2003 the State Labor Government has postponed not once but twice the commencement date, initially until 2008 and now until 2010. That is totally unacceptable and a complete abrogation of the State Government's responsibilities to the thousands of people in the area who desperately want the bypass built and who believed, as I did initially, the former Premier's written promise to have it finished by 2006. The State Government—after committing to the project in 2003 and saying the funding was in the budget program, and after the Federal Government made its money available—now tries to blame the Federal Government for its own lack of action. Last week the Minister for Roads said that the project would have to be delayed because of insufficient AusLink funding. This project was never dependent on AusLink funding. It was in the RTA's capital works program, as the former Premier stated in March 2003. In any event, New South Wales gets an increase of 46 per cent in its roads budget under the new AusLink funding arrangements. Funding for the Alstonville bypass should not be a problem.

The AusLink deal unlocked \$2.5 billion for big-ticket land transport projects in New South Wales over the next five years, a 46 percent increase on previous funding levels. The New South Wales Minister must stop trying to blame the Federal Government for his Government's lack of commitment to the Alstonville bypass. He must reverse his decision to delay the project, and accept his responsibilities and fund it so that this much-needed project can be completed. I stress that all the planning and design work has been done, the Minister for Planning has signed off on the project, and land acquisitions are close to completion, if not completed. There is no impediment to commencing construction. The only thing lacking is the will of this Government to commit the funding to the project, which the former Premier promised in March 2003.

I remind the House that at the time the promise was made the New South Wales Government was receiving record taxes, including record stamp duty revenues due to the property boom. A couple of days ago the shadow Minister for Roads—the Leader of The Nationals—and I committed a Coalition Government, if elected in March 2007, to commencing construction as soon as possible after the election. We would confidently expect construction to commence in 2007, if a Coalition Government is elected. Labor has no credibility on this issue, and the people in my electorate and beyond are very angry about the Government's delays and deception. Unfortunately, the Government's neglect of this project is mirrored by its lack of commitment to many other projects and to regional communities generally.

The Ballina bypass, which has been approved and is awaiting State funding, is not proceeding because of a lack of commitment by the State Government. The Federal Government has offered to fund half the cost of the Ballina bypass, yet still we have no commitment from the State Government for the other half. We also have a shortfall in funding for health services of approximately 7 per cent for the North Coast Area Health Service, according to the Government's allocation formula, and of course the closure of our Casino to Murwillumbah rail service was another example of this Government's contempt for the people of the far North Coast. However, the focus today is on the Alstonville bypass, a much-needed project. More than 15,000 vehicles per day go through that area, including B-doubles, and it is very important that the Government reverse its decision not to go ahead, and commence construction immediately.

BURWOOD GIRLS HIGH SCHOOL MUSIC ANNEXE

Ms VIRGINIA JUDGE (Strathfield) [5.30 p.m.]: I draw the attention of the House to the official opening, on Thursday 1st September, of the Music Annexe at Burwood Girls High School within my electorate of Strathfield. Burwood Girls High School is situated in Croydon and is attended by more than 1,000 students. The official opening of the Music Annexe at Burwood Girls High School began with the Burwood Girls High School band marching in and playing the delightful school song. I must say it is an absolutely fantastic band and if honourable members have an opportunity to hear it play, I would highly recommend it. The opening was well supported by our great local community. The Principal of Burwood Girls High School, Ms Mia Kumar, welcomed all and expressed her excitement about this fantastic project, which combines the efforts of the whole school community, including parents, students and staff.

The Burwood Girls High Senior Concert Band played a beautiful medley of music from *Chicago*. Ms Elaine Brown, the Secretary of the Burwood Instrumental and Ensemble Program [BIEP], told the audience that it had been an absolute privilege to work with the students of Burwood Girls High School. The BIEP has grown over 13 years to meet the music needs of students in the Burwood area. Patrons of BIEP include Burwood Girls High School Parents and Citizens Association, Larissa Treskin, Elaine Browne, Natalie Brookton, Mia Kumar and Patricia Amphlett. The program has involved many talented staff. Currently there are 26 part-time music tutors and secretarial staff, a supportive school executive and many parents willing to give their time and commitment to this program. Honourable members will see that it is a whole team effort.

The program involves many enthusiastic students, currently over 300 a week, and a school community that maintains its support. BIEP began as a 30-piece concert band and has grown to three school concert bands, a school stage band, two community concert bands—there will be a third in 2006—a percussion ensemble, a choir, and a string orchestra. They perform over 100 times a year, on occasions ranging from council functions to tours and school assemblies. The program is largely self-funded, about 80 per cent, including most salaries. The Senior Concert Band would be rated an A grade band in the United States of America. The appointment of professional music educators enables the program to run rehearsals and lessons during the school day for high school students and they offer all western instruments and voice. After school, they have introduced two unique programs for students who seek employment in music.

They have introduced primary school lessons in wind and percussion, using their senior students as tutors. What a fabulous idea! Through this program, Burwood High School girls start learning to teach and can earn a little pocket money on the side. There are about 100 primary school students in the program, and student teachers must be learning their instruments from a recognised teacher and taking theory lessons.

The second program is for those who might wish to learn conducting and ensemble direction. These girls take on the role of student teachers, as well as study analysis, conducting, orchestration, instrumentation and administration. The senior students in this program are outstanding and many hold positions as captains, prefects, Student Representative Council representatives and so on. Many leave school to become professional musicians or keep music as a hobby. They are starting their third community band because of pressure from the old girls. They want to keep playing and have not found a suitable band. One family is helping to fund the start of the band.

The BIEP program has many positives. It relies on the efforts of the students, parents and teachers. There is a lack of bullying and there is acceptance of others among the students. All the ensembles and the audition process are used for advancement. The visiting staff and teachers are treated as valued members of the school community. There is music and camaraderie combined with an enthusiasm and commitment by everyone involved in the program. The program extends beyond the school feeder and other primary schools, and interrelationships are fostered between the high school and primary school students. Finally, it gives the girls self confidence, responsibility, and the ability to budget their time and discipline.

Ms Elaine Brown thanked Alstom Power and Burwood Council for their donation of sheds, which the parents, students and staff have converted to a Music Annexe. The Music Annexe now consists of four music-teaching rooms and three music studios. I commend Geoff and Eileen Browne, who have voluntarily worked for the band program for the past 14 years, and have undertaken voluntary work in state education for the past 35 years. Congratulations to them both on a tremendous effort!

To conclude the formalities of the afternoon, cheques were presented to Burwood Girls High School, and the Senior Band played a medley of swing tunes. Many years ago I studied music at the Canberra School of Music, which is like the Sydney Conservatorium of Music. I did a double music major and for some time I actually taught music in high schools. I know how important it is that we foster a love of music among all our students. Music should be universally accessible, not only to students whose parents can afford for their children to have lessons. This is a wonderful example of what we are doing in a public education system and Burwood Girls High School is a supreme example of teamwork and how a school has fully endorsed the philosophy of an all-round education for our future citizens and leaders. I commend the school. It has a great reputation within the Strathfield electorate, due to the efforts of every teacher in the school and the great leadership of their principal.

HAWKESBURY SHOWGIRL BALL

Mr STEVEN PRINGLE (Hawkesbury) [5.35 p.m.]: A few weeks ago, on 24 September, I had the privilege of attending the annual Hawkesbury Showgirl Ball with the Federal member for Macquarie, Kerry Bartlett, and Christine Bartlett; the Mayor of Hawkesbury City Council, Councillor Bart Bassett, and his wife, Bronwyn; the former mayor, Councillor Rex Stubbs—who is also a patron of the association—and his wife, Linda; and the 2004 Showgirl, Jill Moxey. As usual, this was a terrific local event. The Hawkesbury District Agricultural Association, through its Secretary/Manager, Mary Aveyard, did a great job tastefully transforming one of the exhibitors' halls into a stylish ball venue.

The competition for the title of Miss Hawkesbury Showgirl was fierce, and each of the girls impressed the judges with their style, manners, commitment to the community, and get-up-and-go. I congratulate the winner, Lauren Duff, the runners-up, Nicole Ziedan and Jody Griffiths, and all the other entrants—Michelle Mahon, Nia Walter-Ritchie, Rebecca Taylor, Yana Douglass, Amanda Tuckwell, Charissa Mossop, Hayleigh Attard and Karen Cotter. At the ball I was reminded of how important the Hawkesbury Show is to the community of the north-west, and indeed Western Sydney in general. It attracts more than 50,000 visitors and 500 exhibitors each year. It is probably the third-largest show in New South Wales and is a source of great pride to our district, as well as having a vital role in promoting agricultural pursuits—which Sydney as a whole relies upon.

We need sustainable agriculture in the Sydney Basin and this is an issue that the Government purports to support. This year we celebrated the 119th Hawkesbury Show. Photographs in a centenary booklet depict the close relationship between the Hawkesbury District Agricultural Association and the Police Service, a relationship that is still strong today. For 118 of the 119 years of the show, the police presence has been provided free of charge, but now this out-of-touch Government is putting yet another tax on ordinary people. This is not a wealthy organisation; it is run by hundreds of volunteers who work very hard to provide appropriate facilities for the community.

Over the past 20 years more than \$2 million has been injected into the development of the grounds, but the society still has outstanding loans of more than \$119,000. Consequently, this hampers further much-needed improvements. The Government's latest charge is hitting the grassroots organisation and is plainly unfair. This is a Government that waives fees for a conference of wealthy business leaders in Sydney, but slugs country show societies. The honourable member for Ballina summed up Labor's approach:

While struggling country show societies and inventors of country community events are forced to pay massive fees for police under the Labor Party's user pays system, a gathering of the world's richest businessmen at the Sydney Opera House ... pay zilch.

It is a totally unacceptable situation. I commend all those involved in the Hawkesbury District Agricultural Association for their outstanding efforts: the President Garry Hudson, Philip Close, Bruce Pattinson, Brian Caterson, Peter Griffiths, Ian Haggart, Donald Humphrys, Ross Matheson, Colin Mitchell, Dick Paine, Basil Pittman, Roger Roberts, Keith Anderson, Lyle Anderson, David Baker, Jennifer Bebbington, Clive Brooks, Tegan Brooks, James Carrey, Dawn Case, Jennifer Caterson Sandra Cheetham, Amanda Coss, Andrew Coss, David Cupitt, Graeme Dickson, Robert Dreves, Ernest Dunstan, Michael Dwyer, Margaret Fennell, Nathalie Fox, Jodie Griffiths, Melissa Henry, Lynette Hudson, Bruce Kelly, Ronald Kemp, Jane Lees, Dorothy McCormick, Alastair McLaren, Karen McLaughlin and Christine Mitchell.

Next week the association will meet with Minister Scully to request him to revoke the ridiculous charges being placed on agricultural associations, which are inhibiting them from carrying out their duties and providing the sort of service that the people of Hawkesbury expect. All of us know how much volunteers put into our community, and these volunteers have worked extremely hard over many years to provide a show that is perhaps the third most attended show in the State and is vital to the Hawkesbury community. I call on Premier Iemma to show leadership by ceasing to charge agricultural associations for having a police presence, which is a basic community service that the Government should provide free of charge.

LAKE MACQUARIE ELECTORATE SCHOOLS FUNDING

Mr JEFF HUNTER (Lake Macquarie) [5.40 p.m.]: Today I raise the issue of funding for schools in the Lake Macquarie electorate, and ask the Minister for Education and Training to consider providing additional assistance to a number of those schools. Last month I had the pleasure of visiting three schools in the electorate—Biraban Public School, Blackalls Park Public School and Fennell Bay Public School. When I visited Biraban Public School I had the opportunity to meet with representatives of the local school community who outlined a number of issues of concern. They were very concerned about safety around the school, particularly with regard to the movement of traffic, parking, and the provision of a safe pedestrian crossing. I have agreed to raise those issues with Lake Macquarie City Council and organise an inspection at the school with council officers, also involving Lake Macquarie police.

The school community also raised with me maintenance at the school. I am glad to have received a follow-up letter from the school's parents and citizens association outlining a number of the issues of concern, which include worn carpets, the need for internal surfaces, walls and ceilings to be painted, and repairs to concrete slabs. I will organise with the Department of Education and Training to undertake an inspection at the school in the near future, together with representatives of the school's parents and citizens association, to have a look at those issues. I raise them today for the information of the Minister for Education and Training. I received a further letter from the school's parents and citizens association raising two other issues, one of them being the need for a government preschool to be located on the site. The letter reads:

A high proportion of our clientele are from low socioeconomic backgrounds and cannot afford to participate in quality pre-school or day care opportunities. The school is forced to undertake a wide number of support programs to raise literacy and numeracy levels in the early years as children coming into Kindergarten experience a serious delay in readiness for school across a number of academic and social areas. We know that money spent early on such children has a greater level of return than money spent later on catch up programs for students who are struggling in literacy and numeracy areas.

The school has spare classrooms and sufficient playground space to accommodate a pre-school group. Such a group would also assist the rising numbers of Aboriginal students who are attending the school now and into the future.

Whilst there is a pre-school on site it is a privately run unit and a high percentage of parents cannot afford the fees charged. At the moment no Aboriginal children are using the private service.

I ask the Minister for Education and Training to request that the department look into the issue. I would be very happy to meet with departmental officials to see whether there is an opportunity to provide a government preschool at Biraban Public School. The school also raised with me the need for security fencing, given the vandalism that has occurred at the school over the years. Biraban Public School was one of the schools at which the Government committed to installing security fencing prior to the State election in 2003. Last week I had the pleasure of advising the school that the Government had allocated funds for the installation of security fencing, and I know that the school community is very pleased about that. I look forward to the fence being installed over the coming months.

Blackalls Park Public School also raised with me a number of issues of concern, including the need for covered walkways to link classrooms. I advised the school that I would raise the issue in the Parliament and with the Minister, which I do today. The school also referred to the need for repairs to the floors in the school toilets and repairs to sewerage pipes. Over the years I have worked closely with the Blackalls Park school community, which is dedicated to improving the school's facilities. It has proved this on many occasions with the amount of money it has raised for improvements, and it has gained 50:50 funding for a number of projects.

Last month I was also pleased to attend Fennell Bay Public School for the official opening of the community eco garden. During my visit the school community raised with me the need for security fencing at the school, which I draw to the Minister's attention. Earlier this month the Government announced \$625,000 worth of new capital works improvements to schools in the Lake Macquarie electorate. I am pleased the Minister has approved such funding for upgrading local schools, but I ask her to consider the other issues I have raised today. [*Time expired.*]

BONVILLE BYPASS

Mr ANDREW FRASER (Coffs Harbour) [5.45 p.m.]: I wish to set the record straight with regard to the Bonville deviation and the comments made on the subject by the Minister for Roads in the House yesterday, today and on other occasions, and by way of media releases issued in my electorate. I wish to place on record, as the honourable member for Ballina did earlier today, the history of the Bonville deviation. The project was first budgeted for in 1997-98, when \$1.6 million was allocated to the project. Since then the project has appeared in the budget papers every year, initially at an estimated cost of \$85 million and rising in the 2003-04 budget to \$127 million. So far \$12.9 million has been spent on planning the project.

Recently yet another death occurred on that section of the Pacific Highway, bringing the total number of deaths on that section of road—which should have been completed in 2003—to 13. The people who were killed were not only from the Coffs Harbour electorate but from right across New South Wales. On 11 July 2004 three people from the Central Coast were killed on that section of the road. Shortly after that date the Premier visited Kempsey and was asked about the Bonville deviation. He indicated that it was a jointly funded program between the State and Federal governments. Subsequently, on 13 July 2004, the Roads and Traffic Authority web site was altered from saying that the Bonville deviation is "fully funded by the NSW State Government" to "planning for this project is funded by the NSW Government". A total of 13 people have been killed and 49 have been injured on that section of road in the past two years.

After the last death I hand delivered a letter to the Minister for Roads asking him to do something immediately. The Minister subsequently issued two media releases, dated 16 September and 19 September. The first was headed "Federal Government Playing Games with Bonville" and the second was headed "Prime Minister Must Act on Pacific Highway Funding". The only person playing games with the Bonville deviation is the Minister for Roads. I challenge the Minister not to play politics but to visit the area and to imagine an accident on that section of road. I challenge him to put himself in the place of police officers and emergency services personnel who have to attend accident scenes and literally scrape bodies out of cars. I challenge him to talk to the senior police officer who is now off on sick leave with an injured knee because he slipped on a piece of human brain at the accident.

Ms Reba Meagher: Ugh!

Mr ANDREW FRASER: The Minister says "Ugh!" and the Government wonders why I get upset about this piece of road. But that is the sort of thing that happens daily, and it is rot and nonsense for the Minister for Roads to play the blame game on this issue by saying today, "Look what the mayor of Coffs Harbour did!". The Minister has put \$800,000 into speed cameras and tried to convince the House today that speed cameras save lives, and that 70 per cent of people slow down after the installation of a speed camera. How the hell would anyone know? If there was not a speed camera there in the first place how could anybody tell that cars are slowing down? Speed cameras are revenue raisers. I am asking for a divider along this section of road, which, as I said, has claimed 13 lives and injured 49 people since 2003, when the road was supposed to be finished.

The Minister was given an opportunity yesterday to debate Pacific Highway funding, which includes the issue I have raised, and the matter of public importance was accepted by the Speaker and by the Government, knowing full well that it would not be debated. When an amendment was moved to the motion moved by the Leader of the House that would have allowed the matter of public importance to proceed, the amendment was defeated. The Minister sat on the other side of this Chamber and voted against the matter of public importance being debated. Yet he had the hide to put out a media release on the North Coast last week claiming that the Leader of The Nationals and I voted against debating an urgent motion on the Pacific Highway. That is a lie and he knows it. As I said earlier, I challenge him to come up to the North Coast and talk to the people who have to scrape these bodies out of cars. I challenge him to talk to George Negus, who has been severely affected by this issue as well. The Minister should pull his finger out, stop playing politics and put a divider on the road. [*Time expired.*]

TECHNICAL AID TO THE DISABLED, HUNTER BRANCH

Mr JOHN MILLS (Wallsend) [5.50 p.m.]: The Hunter branch of Technical Aid to the Disabled [TAD] is a switched-on group of retired and most generous volunteers from all walks of life. I want to bring their work to the attention of the House because they deserve great credit. TAD is a not-for-profit organisation that applies technology to assist people with disabilities to achieve greater independence, to realise their

potential and to enjoy their lives as fully as possible. The Hunter branch of TADNSW has 27 active members who have retired from their professions and who are all volunteers. They provide a vital service to people with disabilities in the Hunter through designing, constructing and modifying equipment and providing a computer loan service.

TAD recognises the contribution of their volunteers by awarding them certificates of appreciation after certain periods of service. This year the Hunter branch had special awards for two members who have reached 20 years and 25 years-of-service milestones as volunteers in this area. In special recognition of the contributions of those two members, I was invited to the August branch meeting of TAD to make the presentations. The secretary of Hunter TAD, Geoff Winsley, wrote:

Our members rarely seek public recognition for their work but the Executive feel that in particular Fred's and Bill's contributions deserve special recognition.

I presented certificates to Fred Clarke for 25 years service and to Bill Redoni for 20 years service. On the day I also presented certificates to Phil Rafter for eight years service and to Ken Prince and Bruce Gamack for four years service. As I said before, the TAD volunteers deserve great credit for their work, which brings enormous joy and great relief to people living with disabilities and to their carers and families. The chairman of the Hunter branch, John Simpson, is a just-retired schoolteacher. He was the sportsmaster at Lambton High School and I knew him in his former life. I have already mentioned Geoff Winsley, who is the Secretary and Publicity Officer. The Technical Co-ordinator, who has perhaps the most challenging job, is Paul Herring. The leadership of those people is obviously outstanding in the Hunter branch.

TAD co-ordinates the work of volunteers at the State level in designing and constructing devices that assist people with disabilities with everyday living. Those devices are called custom-designed aids. The other part of the service of TAD is the computer loan service, which refurbishes and delivers recycled computers. TAD also has an information service on disability aids and technology. In the Hunter region the volunteers work with local health professionals to produce custom-designed aids for local clients, and they assist the computer loan service clients when they can. Sometimes the Sydney branch is needed to help the computer people. Volunteers also receive training and support from TAD's head office.

The Hunter branch began in 1980 with 16 volunteers. I came across the organisation in a former life when I was a member of the board of the Royal Newcastle Hospital and the rehabilitation service at William Lyon Hospital had clients who were being well serviced by TAD in its early days. The organisation's volunteers include a mine manager, an information and technology technician, a builder and handyman, mechanical engineers, electrical engineers, tradesmen, a car body builder, fitters and turners, a carpenter, an auto mechanic, a graphic arts teacher and a telephone technician.

I want to take this opportunity to inform those who may have a friend or relative with a disability who needs an aid or a computer that the Hunter branch of TAD may well be able to assist them. I also call for volunteers. People who have retired and who have technical skills and access to a workshop may be able to help people with a disability in the Hunter region. TAD helps anyone with a disability, no matter how mild or severe, and there is no means test or a referral required, although most cases are referred by professionals. The occupational therapist at the spastic centre at Singleton referred a 13-year-old girl with cerebral palsy to TAD. She needed a head switch as she could not use her hands to switch her computer on and off, but she had good control of her head. The available aid was not strong enough for this girl and it needed constant adjustment. TAD stepped in and although the volunteer was in Cardiff and the girl was in Singleton they communicated through digital photographs and telephone calls and a robust new device was made that enabled that girl to have her own switch for the computer. What a great job TAD volunteers do.

AUSTRALIAN WOMEN'S LAND ARMY

Mr MALCOLM KERR (Cronulla) [5.55 p.m.]: Tonight I speak about an injustice that has occurred to a number of women in my electorate. Those women were members of the Australian Women's Land Army [AWLA]. On 27 July 1942 the Australian Women's Land Army was established as a national organisation, reporting to the Director General of Manpower. The aim of the AWLA was to replace the male farm workers who had either enlisted in the armed services or were working in other essential war work, such as munitions. The AWLA was not an enlisted service, but rather a voluntary group whose members were paid by the farmer rather than the Government or military forces.

Membership of the AWLA was open to women who were British subjects between the ages of 18 and 50 years. Housed in hospitals in farming areas, members were given formal farming instruction and initially supplied with all their needs, such as uniforms, bedding, et cetera. Members were not engaged in domestic work, rather they undertook most types of work involved with primary industries. The organisation was to be formally constituted under the national security regulations, but a final draft of the National Security (Australian Women's Land Army) Regulation was not completed until 1945, and did not reach the stage of proclamation due to the cessation of hostilities and the decision to demobilise the Land Army. A Land Army was established in each State and administered its own rural needs, although members were sent interstate when available. In September 1945 it was decided that complete demobilisation of the Australian Women's Land Army would take effect not later than 31 December 1945.

Few announcements in Australian history have provoked such spontaneous displays of emotion as Prime Minister Ben Chifley's announcement on 15 August 1945. On that day, Japan announced it would surrender to Allied forces. Victory in Europe had been achieved on 8 May 1945, and Japan's surrender ended World War II, which had raged for almost six years. Finally the war was over and for Australians at home and those serving abroad, it was a time to rejoice. Australians poured into the streets dancing, waving flags and enjoying the freedom for which they and their service men and women, including members of the Australian Women's Land Army, has sacrificed so much.

On the sixtieth anniversary it is appropriate that we should recognise those who served during the Second World War. I have been fortunate to be able to provide, through the New South Wales Government, certificates acknowledging wartime service. Honourable members can imagine the shock when my office was told by the protocol department of the Premier's office that members of the Australian Women's Land Army were not eligible, presumably because they were not formally enlisted. Proclamation of the regulations did not take effect until after the war. On 10 October I sent the Premier a fax which stated:

Dear Premier

My office has been advised by your Protocol Department that women who served in the Australian Women's Land Army are not eligible for a VP Day Appreciation Certificate.

I have subsequently been contacted by Peggy Williams, President of the Australian Women's Land Army Association who advised that you personally presented her with her VP Day Certificate of Appreciation at the Cenotaph on VP Day.

As the Australian Women's Land Army are extremely anxious to have this matter clarified, would you please confirm urgently whether women who served in the Australian Women's Land Army are eligible for a VP Day Appreciation Certificate.

I am still awaiting a reply to that fax. I am sure that all those who were members of the Australian Women's Land Army will be interested to learn about their entitlement.

BELMONT GOLF CLUB LTD DEVELOPMENT

Mr PAUL CRITTENDEN (Wyang) [6.00 p.m.]: I am pleased to report to the House that 75 per cent of the members of Belmont Golf Club who attended a meeting on the 26 September rejected a proposition to extend the time frame to acquire land and approvals under the contract between the developer, Terrace Tower, and Belmont Golf Club Ltd. The figures were 220 votes against Terrace Tower being given an extension of time and 73 votes in favour. Clearly, this is the first occasion on which members of the club have been given the opportunity to approve or otherwise all the contractual details between the club and Terrace Tower. The members overwhelmingly determined that it is not in the best interests of the club to pursue the development deal with Terrace Tower.

The Director General of the Department of Gaming and Racing, Ken Brown, claimed, under his alleged guidelines, that he will not take any action for a breach of section 41J of the Registered Clubs Act, which was passed in this place in December 2003, if the contract is generally for the benefit of members. I do not know what analysis Mr Brown and the Minister have undertaken, but we do know that members of Belmont Golf Club have stated clearly that the contract is not generally or specifically in their interests. Therefore, I suggest that the Minister and the director general carefully consider their position.

For 12 months ordinary members of Belmont Golf Club have undertaken a concerted campaign to try to lift the yoke of Terrace Tower from the club. Clearly, the director general should take action in the Supreme Court under section 41Q of the Registered Clubs Act to have the contract, which was executed after the section 41J provisions came into effect, set aside. It is certainly not in the best interests of members of Belmont Golf Club or people who like sport and want to ensure that the game of golf continues to be enjoyed in the Belmont area.

The option deed for the residential development site was obviously prepared by Landerer and Co. because its name, address, telephone number, fax number, DX and reference are on the front page of the document. Landerer and Co. is a big-time commercial law firm in Sydney. Under the definitions on page 4, the option deed states that an option fee of \$10 is payable on the execution of the deed. Clause 2.2 on page 7 of the aforementioned option deed states that the option fee—that is, the \$10—is non-refundable and becomes the property of the grantor—that is, the Belmont Golf Club Ltd—upon the execution of the deed. When the option is exercised, the option fee will form part of, and be credited towards, the purchase price.

An essential element of any contract is the consideration, and the consideration here is the peppercorn amount of \$10, representing the option fee. In relation to commercial property, I understand that a 1 per cent option fee for a six-month period would be considered the norm. In the \$10 deal that Terrace Tower negotiated, the option fee was exercisable up to two years down the track. A non-refundable fee of at least \$400,000 should have been paid to Belmont Golf Club without any strings. This is even more bizarre when one reads, in paragraph 5.5 of the purported development management agreement, that Terrace Tower has been given a five-year right of first refusal for the purchase of any part of the club's real property for the stated purpose to facilitate Kalayla, its subsidiary, to officially carry out its services under the engagement.

If the argument were made that Terrace Tower was carrying the risk of the incurred costs in the acquisition phase, that would only be the case if the option deed could not be exercised. At the information session on 12 September Mr Bernard O'Hara from Terrace Tower told me that around \$60,000 had been expended by Terrace Tower to date, so it is doing fairly well in not paying the right amount for the option fee. It paid a nominal option fee but still has the right of first refusal under the contract. I am surprised that someone with the business acumen and financial expertise of the former Secretary Manager of the Belmont Golf Club, Lucky Geoff Perkins, was seemingly unaware of the intricacies of appropriate option fees in development deals.

Terrace Tower has no moral basis for pursuing this contract with Belmont Golf Club Ltd. At this point the best thing it could do is to withdraw because part of the contractual material on page 4 of what is referred to as exhibit one states that Terrace Tower "is considered a leader in investment, development and management of commercial, retail, industrial and residential properties and is able to undertake varied and challenging projects." Terrace Tower knew it was double dipping, and probably triple dipping, under this deal. It is totally unfair and it should now do the right thing.

TAMWORTH RADIOLOGY SERVICES

Mr PETER DRAPER (Tamworth) [6.05 p.m.]: I detail the situation relating to radiology services in the Tamworth area. Like virtually every health sector in New South Wales, the provision of radiology services to the community is affected by a nationwide shortage of trained specialists. In Australia there are approximately 1,300 radiologists, with few located in regional centres. A decline in the number of radiologists in the Tamworth region has prompted BreastScreen New South Wales North West to allocate the reading of its screening mammograms to radiologists in Sydney. The service's all-important assessment clinics, provided to women who need follow-up appointments to investigate abnormal screening mammogram results, are also sustained by Sydney-based radiologists, who fly into Tamworth once a fortnight.

While this arrangement appears to be maintaining the BreastScreen service in Tamworth, the variety of breast diagnostic services in the public sector has experienced a gradual decline. The shortage of radiologists was highlighted last year at a women's seminar run by the National Breast Cancer Centre in Tamworth. At the time it was stated that BreastScreen New South Wales North West was experiencing difficulty in providing enough assessment clinics because of a lack of radiologists. The national standard for breast screening is to assess 90 per cent of women recommended for post-screening assessment within four weeks of their screening mammogram. BreastScreen New South Wales North West, which screens on average approximately 9,000 women annually in the New England and north-west, aims to provide an appointment for assessment within two weeks of a woman's initial screening. At present I believe the service is close to meeting that aim. The situation, however, is tenuous.

In the early 1990s there were five radiologists in Tamworth, who worked both in private practice and provided services to the Tamworth Base Hospital as visiting medical officers [VMOs]. Four of those radiologists participated in BreastScreen New South Wales North West and assisted the Tamworth Breast Clinic. The Minister for Health has advised me that since 2002 the radiologists available to Tamworth Base Hospital had to reduce the time available for both breast cancer screening and referred breast diagnostic imaging in the public sector due to an increasing amount of radiology work in both public and private sectors. Today

Castlereagh Radiology employs only two radiologists, both of whom live locally. Although these specialists have VMO status at Tamworth Base Hospital, due to their workload in the private sector they do not work at the hospital, at BreastScreen New South Wales North West or at the Tamworth Breast Clinic.

To improve public sector services, the former New England Area Health Service tendered for radiology services in late 2004. A private company was contracted to supply two radiologists to Tamworth Base Hospital, one of whom performs pre-operative hook wire localisations for the Tamworth Breast Clinic. However, due to the limited number of radiologists the clinic no longer offers a breast diagnostic imaging service. When a patient is referred by a general practitioner [GP] for breast diagnostic imaging testing she cannot have the procedure done in the public sector. Unless she has a concession card, she must pay for the procedure through a private service such as that provided by Castlereagh Imaging. I have received representations from women in the electorate who are very concerned about this situation. Whilst they accept that there is a private diagnostic imaging service available, meeting the costs of the procedures leaves some women considerably out of pocket.

Another advantage of running diagnostic and breast screening services in the public sector was that patients could move seamlessly between the services. Recently I received correspondence from the Minister for Health indicating that it is unlikely that public sector breast diagnostic imaging services will be made available again in Tamworth. Fifteen years ago, when Tamworth Base Hospital had ample VMO radiologists, the Tamworth Breast Clinic provided diagnostic mammograms, breast ultrasounds and needle biopsy services to public patients referred on by their GP. Today the only diagnostic service publicly available through the clinic is hook wire localisation, a procedure that assists surgeons in the removal of suspect breast tissue. The positive news for radiology services in Tamworth is the recently announced allocation of funding for specialised screening equipment.

A \$500,000 digital mammography unit is being installed at BreastScreen New South Wales North West which will lift service levels to international standards. The equipment will enable radiographers to capture images digitally, improving efficiency and accuracy and, importantly, providing faster and more effective X-ray guided needle biopsy of breast tissue. For the level of public sector radiology services to improve in Tamworth, however, there needs to be more VMO radiologists at the hospital and in the public sector generally. The community does not accept the lack of public sector breast diagnostic services. The Minister should be developing a strong plan and putting pressure on the Federal Government to open up more places to enable people to train in this important area of health service delivery.

MANLY EARLY CHILD CARE CENTRES

Mr DAVID BARR (Manly) [6.12 p.m.]: Two early childhood health care centres operate in the Manly local government area. The situation is similar to that of the two hospitals on the northern beaches. Both premises are outdated, in poor condition and in need of replacement. The mayor of Manly, Dr Peter Macdonald, recently convened a working party of which I am a member, together with representatives of Northern Sydney Central Coast Area Health Service and, most particularly and importantly, mothers. We have been working through this issue. I pay tribute to Cindy Read, Kylie Lynch and the other mothers for their contribution and the research they have done on this issue. Indeed, much of what I am saying is reliant on that research.

Last year Balgowlah early childhood centre dealt with 433 newborn babies, 3,700 occasions of service, 100 group sessions with 977 participants and records maintained for 2,200 individual children. Manly early childhood centre dealt with 321 newborn babies, 4,000 occasions of service, 84 group sessions with 842 participants and records maintained for 1,700 individual children. Overall, there are about 800 new clients in Manly per annum, and that number is growing. One critical community service that council and the area health service working together can provide is an early childhood centre. Nothing is more important to people than their babies. Often, mothers are having their first babies; they have no experience and they do not have much in the way of networks. The early childhood health care centres are critical in this.

Over the years the centres have evolved from simply being about mothercraft into all sorts of other things. They can be used for intervention in problems, establishment of support networks, parent education, identification of child abuse and postnatal depression. They are an important community resource. The current problem is that the facilities are shabby. Often the basic amenities, such as toilets, are unreliable. It is a poor working environment, and the facilities are not particularly pleasant. They do not necessarily give a good client experience. The issue is how to work through the problem and to provide something better for the mothers and parents in Manly. One issue is whether there should be one centre rather than two centres, and the committee is working through that now.

There may be opportunities to incorporate a centre in the new development. The current centre will not last, and a retail centre is an ideal place to have such a facility. There needs to be a purpose-built centre spacious enough for parents, toddlers, prams, feeding, consultations and group meetings. It must be safe and clean, and it needs to be able to offer the best possible service to the most parents. It looks as though the committee is heading down the road of recommending one service at one centre as opposed to two, because at the moment we have two half services.

Another issue is funding, which has long been a vexed issue for local councils and area health services. Different councils have different arrangements. Although all councils are involved, the matter has been dealt with ad hoc over the years. And it looks as though they will be ever more involved in the future. However, the State Government needs to provide support. I have written to the Minister for Community Services—I am pleased she is in the Chamber today—asking her what kind of funding is available for these centres, particularly in relation to vulnerable families. In the Manly area usually about 100 vulnerable families are being catered for, including home visits. So the service is not just clinic based; it includes home visits. As the local member I must try to assist in providing the necessary funding to enable the council and the area health service to provide these important facilities because, as I said, nothing is more important to a community than young babies.

Private members' statements noted.

[Mr Acting-Speaker (Mr Paul Lynch) left the chair at 6.16 p.m. The House resumed at 7.30 p.m.]

DISTINGUISHED VISITORS

Mr SPEAKER: I note the presence in the gallery of the former Prime Minister of Australia, the Hon. Gough Whitlam, and Mrs Margaret Whitlam.

INAUGURAL SPEECHES

Mr SPEAKER: Order! The honourable member for Macquarie Fields will now make his inaugural speech. I ask honourable members to extend the usual courtesies to him.

Mr STEVEN CHAYTOR (Macquarie Fields) [7.30 p.m.] (Inaugural speech): Yesterday I took an oath of allegiance as the new member for Macquarie Fields to be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, her heirs and successors according to law. I should have pledged loyalty to Australia and the people of New South Wales. The Constitution Amendment (Pledge of Loyalty) Bill, which would ensure this change, currently waits to be passed by the Legislative Council. I call on the council to pass the bill and ensure that members of this Parliament first pledge their loyalty, and second remain directly responsible, to the will of the people of New South Wales.

It is an honour to represent Macquarie Fields in Macquarie Street in a building established by Governor Macquarie, the most memorable and significant of New South Wales Governors. Macquarie Fields was named to honour Governor Macquarie by James Meehan, who in turn is honoured by the name of a prominent high school in the area. The legacy of Macquarie's period of increased law and order, public building infrastructure, town planning programs and the encouragement of civil rights across all of society against an influential and conservative elite, remains a priority in Macquarie Fields today. I thank the people of Macquarie Fields for their endorsement at the by-election on 17 September 2005 to represent them in this Parliament. I undertake to be a local resident who is always active and always listens.

I developed an interest in politics at a young age. I am the youngest member in the current Parliament. Growing up in Ingleburn and attending local schools, it became apparent to me that south-western Sydney, experiencing a tremendous residential period of growth, was a place where parents could start a family at an affordable price. You lived here because it was the place your parents could afford in Sydney. When government provided these new neighbourhoods with public schools and public health facilities of the highest standard in the world, the families—and in particular the children—could become anything in the world. As a new member of Parliament I am thankful for that opportunity. What began as streets with boundaries to opportunity finished as neighbourhoods with unlimited borders.

There was an inherent fairness about what government could do and what government should do. It was very much a Labor agenda of fairness. The antithesis of this sense of fairness, balance and equitable economic progress could not be more currently and blatantly displayed than by the Federal Government's

proposed changes to industrial relations laws. Like the rest of the country, I did not come to work today so I could pay for the Howard's Government's extensive advertising in today's newspapers. In Western Sydney, Labor governments are committed to infrastructure but are more importantly committed to providing services to an equitable standard. The cost of inequity in society will always far exceed the cost of providing services on an equitable basis. Western Sydney has become a place that no longer has a chip on its shoulder but is a community and region of opportunities and choices.

You enter politics and stand for public office because you want to make a difference in your community. Daily life in the electorate of Macquarie Fields provides plenty of opportunities for a member of Parliament to stand up and be effective. There is no issue more important to me than increasing the sense of community and government programs following the riots in Macquarie Fields earlier this year. I will always work hard to ensure that local police have the right level of resources to ensure that this failure in order does not happen again. I will always work hard to ensure we have the right built environment and the right social environment that leaves no-one behind. Macquarie Fields TAFE has the potential to play a pivotal role in this regard.

My area has residential subdivisions that were some of the fastest growing in Australia in the 1970s. It has some of the fastest growing suburbs today. It will continue this fast pace growth over the next decade in new suburbs. In the older subdivisions, infrastructure needs upgrading and maintaining. Glenfield station needs lifts for commuters interchanging CityRail lines. In the streets where people are now moving into, schools, health services and transport must provide equity and opportunity. The current upgrade of Camden Valley Way and Cowpasture Road needs to be completed and extended. The Labor tradition of neighbourhoods with unlimited borders must continue. With new subdivisions we must learn from mistakes over the past 30 years and demonstrate that government can finally move people into an area where infrastructure is not only planned but provided. New South Wales Labor will get this right. The place I grew up in south-western Sydney wasn't too bad; the place the next generation grows up in will be even better.

As a product of previous growth periods, I am optimistic about future growth in south-western Sydney. The thing that Western Sydney does best is provide new housing and new business opportunities. Matched with a commitment to local transport, local jobs, and protection of the local environment, I am positive about what we can achieve by working together. Transport is a big issue in my electorate. Indeed, in his inaugural speech in 1982 former local member Stan Knowles complained about the then Federal Treasurer, John Howard, short-changing New South Wales on transport funding. Some things never change in politics. Twenty-three years later as Prime Minister, John Howard is still short-changing New South Wales—on GST and AusLink funding.

Serving the people of the electorate of Macquarie Fields is my primary duty in this Parliament. I am representative of them and responsible to them. All voters are entitled to a professional, compassionate and diligent representative. Being selected to raise the concerns of my electorate in this Chamber is the most fundamental principle of democracy. This principle is matched with my commitment to the rule of law. My first function in this parliamentary building last week was at the Law and Justice Foundation's 2005 Justice Awards. A former Chief Justice of the High Court, Sir Anthony Mason, provided a wise voice to a new, young member of Parliament at a time when governments in Australia have a pressing role to provide a guarantee of security from actions of terrorism. Referring to an overseas judgement, Sir Anthony said:

... This is the fate of democracy, as not all means are acceptable to it, and not all methods employed by its enemies are open to it. Sometimes, a democracy must fight with one hand tied behind its back. Nonetheless, it has the upper hand. Preserving the rule of law and recognition of individual liberties constitute an important component of its understanding of democracy. At the end of the day, they strengthen its spirit and allow it to overcome its difficulties.

In Australia the protection of the rule of law and the safeguarding of individual rights in our society is what distinguishes and advances us from the thinking of terrorists. Terrorists should not force us to compromise on these principles. On the third anniversary of the first Bali bombing and 12 days after the second Bali bombing it is clear that Australia needs strong laws and strong safeguards to deal with terrorism. I am confident the Iemma Government will put them in place. Our community also needs strong systems in place to guarantee fundamental freedoms secured over centuries of struggle, at a time over the last quarter of a century when the principles of parliamentary sovereignty and ministerial responsibility have shifted.

Like the past two members for Macquarie Fields, I come from a background of first serving my community in local government. I have had the honour to represent residents on Campbelltown City Council since 1999. I would like to place on record my gratitude to the Labor councillors I have worked with: Meg Oates, Brenton Banfield, Rudi Kolkman, Aaron Rule, Anoulack Chanthivong and Mollie Thomas. We have

worked together to ensure local residents are put first. The issues represented at local government level ensure I come to this Chamber with a strong commitment against buck-passing between governments. No issue more distorts the community's confidence in the political process than buck-passing between different levels of government and different political persuasions.

One issue in local government that must be urgently addressed is the increasing component of local government budgets devoted to the salary of senior staff. Sydney councils compete strongly for senior staff doing the same job, resulting in spiralling salaries and fewer funds for local roads, parks and footpaths. I acknowledge that good staff deserve good pay, but salary bands or a salary cap are needed in local government. During my time on council the Campbelltown Arts Centre was opened. The project, part funded by the Carr Government, increased confidence and vitality in Campbelltown. The day the centre was opened by former Premier Carr the city took a new positive direction forward. As part of the Carr Government's commitment to the arts in Western Sydney, it provided similar funds to the Casula Powerhouse in the area I now represent. I look forward to working with Liverpool community groups to enhance local facilities.

In the time I serve in this Parliament I look forward to Sydney taking its place as a world city in the Asia-Pacific region. The lives of the residents I represent function better when Sydney functions best. Few issues would assist that better functioning than an integrated smart card for all transport and daily item purchases in Sydney. To become a leading world city, Sydney must adopt world's best practice. That means a multi-application smart card to assist the movement of people on public transport. The Hong Kong Octopus card is Australian technology by an Australian company. I could not think of a better place to use it than here.

I have been fortunate to establish a working and personal relationship with former Labor Prime Minister Gough Whitlam. Of all the principles and policies Gough Whitlam has enriched in the thoughts of others, he has always demonstrated to me that politics is an honourable profession. Gough Whitlam set the benchmark for political representation in Western Sydney: living locally, meeting local residents, attending local functions, and understanding and acting on the concerns of a growing region. Gough and Margaret Whitlam have a commitment to public service in its most fine and generous tradition. No corner of Australia is even now too small for them to provide both time and interest. Gough Whitlam sits in this Parliament tonight. It was through the funding of schools on the basis of need, abolishing fees for tertiary education, establishing universal health insurance, and setting new directions in urban renewal, transport and law reform that the Whitlam Government modernised Australia on the basis of advancing opportunity.

As a new member of Parliament it is right to pay tribute to the previous members of Parliament who have provided assistance and support to me over many years in the local area. Three very different members of Parliament fall into this category and have a proud record of achieving for Labor in south-western Sydney: Stan Knowles, Craig Knowles and Mark Latham. I am very much my own man and do things in my own style. However, I acknowledge and respect that next to my name on every ballot paper are five important letters—letters that spell "Labor".

Stan Knowles, the first member for Macquarie Fields, opened up south-western Sydney by making sure that bridges for rail and road were built over significant physical barriers and that a better quality of life was delivered. There is no greater example than the East Hills railway line. Today we can add examples of the M5 East tunnel and the M7—a great Christmas present for Western Sydney. It is an honour to be the successor to Craig Knowles in this Parliament. Those who live in my electorate know that Liverpool and Campbelltown hospitals are larger and better than they were ten years ago. They know that public housing estates have been refurbished and redesigned over the last 10 years. They know there is a greater green buffer around the Georges River than there was 10 years ago. They know that Labor and Craig Knowles did this. They are aware that Leacock Regional Park, the Casula Powerhouse, and industrial parks that promote local jobs and improve the quality of life in our area were all championed by Craig Knowles. It is a proud record of achievement, but, of course, more remains to be done. I am keen to get down to work.

I would like to thank my campaign team and all the volunteers who worked on my campaign, including the peak youth organisation in this country: Young Labor. Damian Kassabgi and Aaron Rule headed the campaign team. Damian has the skills, the spirit and the right temperament to be a leader in Labor. Aaron is a true friend and has a humility and humanity that is an example to others. I would like to thank Labor Party branch members for selecting me to be Labor's voice in our area. I am glad that many branch members have been able to come tonight. It is your commitment over many years that I bring to this Chamber.

I would like to thank Premier Iemma and his Ministers for the advice and encouragement provided throughout the campaign. The good result in the by-election was a tribute to the new ideas and fresh approach of

the new Premier. The Macquarie Fields by-election was the only election contested by the Liberal Party on 17 September. The Liberal Party campaign did not say one thing positive about Western Sydney or put forward one solid policy direction for Western Sydney. It was a negative campaign that received a negative response. During the campaign and now as member for Macquarie Fields I will stand up for Western Sydney because I am sick of people talking down our area. I congratulate the honourable members for Marrickville and Maroubra on their victories on the same day.

I would like to thank the honourable members for Camden and Campbelltown, and the current Federal member for Werriwa, for their assistance over the years and in my first days in this building. Finally, I would like to thank my family and my partner, Fee Fen Njoo. They are my greatest support and my greatest inspiration. All members would know that our families are very proud of us. I remain always very proud of them. I thank the people of the electorate of Macquarie Fields for the honour to represent them. It is an opportunity to get things done.

Mr SPEAKER: I note the presence in the gallery of the family and friends of the honourable member for Macquarie Fields. The honourable member for Maroubra will now make his inaugural speech. I again ask members to extend the usual courtesies to him.

Mr MICHAEL DALEY (Maroubra) [7.58 p.m.] (Inaugural speech): I would like to similarly begin by congratulating Steven Chaytor, the honourable member for Macquarie Fields, and Carmel Tebbutt, the honourable member for Marrickville, who were elected on the day I was elected. Having been elected on the same day, I believe we will always share a special bond. As a young legal student I read carefully about the development of democratic institutions in the early colony of New South Wales and I studied the social and legal history and traditions of this House, which, like many similar Chambers in the world, is the inheritor of over 700 years of history and tradition.

It is with a sense of awe and great pride that I address the House now for the first time. I do not for one moment fail to appreciate that the people of Maroubra have bestowed upon me what I consider to be the greatest privilege citizens can bestow upon another in a democracy—the opportunity to be their representative in a legislature. I thank the families of Maroubra, my fellow locals, for electing me on 17 September. I have lived every day of my life in the Maroubra electorate. I will not let them down.

There have been only three former members for Maroubra—and two of them have been Premiers—Robert James Heffron from the establishment of the seat in 1950 until 1968, William Henry Haig from 1968 until 1983, and Robert John Carr from 1983 until his departure earlier this year. Each of those men represented the people of the electoral district with distinction and set a high standard for me to maintain. They laid down also the tradition that the electorate is represented for long periods by members of the Australian Labor Party—18 years in Mr Heffron's case, 15 years in Mr Haig's case and 22 years in Mr Carr's case. It is a tradition I will be proud to continue.

At this point I would particularly like to thank my immediate predecessor, former Premier the Hon. Bob Carr. Along with Neville Wran, Bob Hawke and Paul Keating, huge characters in the Labor movement and on the Australian political landscape, Bob Carr is one of the people who inspired me to join the Labor Party and seek political office. Mr Carr was always there to provide advice and encouragement when required, but for an aspiring young politician he provided something far more valuable than counsel: more than any other person I have met in political life, he presented me with a clear and flawless example, a model of how to conduct oneself as a capable, diligent and, above all, dignified member of this Parliament.

Bob Carr is an icon of the Labor Party and a monumental character in the political history of New South Wales and Australia. For a time in the 1990s, the Carr Government was the sole Labor ship afloat. In dark times it was our beacon, and Labor's return to dominance at State and Territory level today is due in no small part to Bob Carr's capabilities. I thank Mr Carr for all that he has provided to me and for the fact that the seat of Maroubra, which I inherit from him, is in tremendous shape.

I am keen to place on record my enormous gratitude to the many people who assisted and supported me in the Maroubra by-election on 17 September this year. From a glance at the gallery, all of them are here tonight. Firstly I wish to thank the President of the Randwick Labor Club, Ken Murray, who was my campaign director. Ken has been the campaign director for many elections in Maroubra over decades. No stone is left unturned, and no opportunity is ignored to impart the Labor message. I thank Ken for his efforts and look forward to joining him in the trenches in 2007, as we will no doubt once again talk him out of a premature retirement.

The real strength of any political organisation is, of course, the people who work tirelessly behind the scenes. The branch members and supporters of the Labor Party in Maroubra are no exception. They are numerous and extraordinary. These are the people who, inspired by conviction and loyalty, are there for every campaign, eager to contribute and make a difference. And make a difference they do! They are too numerous to thank individually. They are the real strength of the Labor Party. I thank them all. At election times, and in between, they do not conduct themselves as if Maroubra is a safe Labor seat. Nor shall I.

I would like to thank three such people who have been my right-hand men over many years: Graham Waters, Chris Ryan, and the late Dennis O'Leary. I would also like to thank the many members of the Parliament who assisted me in the campaign and thereafter. I thank the following honourable Ministers and members: the Premier, Ministers Carmel Tebbutt, Joe Tripodi, Frank Sartor, David Campbell and John Hatzistergos, the Hon. Eddie Obeid, and my neighbour, the member for Heffron, Kristina Keneally. I also thank Mark Arbib, the General Secretary of the New South Wales branch of the Australian Labor Party, for his continued support.

Finally, with respect to my campaign I thank the many members of Young Labor and my campaign office staff, led by Sam Dastyari, Josh McIntosh and Rolly Smallacombe, who descended on Maroubra in great numbers during the campaign. The energy of youth! They are a great asset to the Labor Party. I have the immense privilege of being the local member in a truly wonderful seat. In geographical terms the seat is a wonderland. It extends from the south of Coogee Beach all the way to La Perouse. Along the way the coastline is blessed by unrivalled beaches, including the world-famous Maroubra Beach. There is beautiful windswept coastal heathland, some of it remnant, and green open spaces, including four premier golf courses.

On that topic, a most significant issue in relation to open space within the electorate is the Malabar headland. It is an amazing site with a unique history but an uncertain future. It is owned by the Commonwealth. Listed on the Register of the National Estate, it is Labor's position that it should be handed over to the people of New South Wales and Australia to become a national park and public open space. It is an issue far too important with which to play politics. I invite and urge every member of this House to visit that site. It is an area every bit as interesting and unique as North Head. Those who see it will understand.

I commit myself to pursuing the handing over and conversion of this land as vigorously as I can. Ideally I would like to work cooperatively with the Commonwealth Government to achieve those objectives, but if they cannot be achieved co-operatively they must be pursued by all other legal means. The stakes are too high to fail in this endeavour. I look forward to working with the Federal member for Kingsford Smith, Peter Garrett, on this and many other issues that are important to our respective electorates.

My electoral district is also blessed with many wonderful institutions, including one of the best health care precincts in Australia: the Prince of Wales Hospital, the Royal Hospital for Women and the Sydney Children's Hospital. The University of New South Wales also partly resides in the electorate. It is a matter of historical record that the first member for Maroubra, the Hon. Robert Heffron, as Premier and local member, played a major role in the establishment of that university, the second to be established in New South Wales, on the site of the old Kensington racecourse. The university consequently plays neighbour to another great institution in our area: the internationally recognised Royal Randwick Racecourse.

The story of the local area is also replete with episodes of significant history. At this juncture I wish to acknowledge the Dharawal Aboriginal people, who are the traditional owners of the land on which the seat of Maroubra and surrounds are now founded. Their ancient history in our locality is still there to see if one cares to look, and I am proud to say that the seat is still enriched by a significant Aboriginal presence, particularly at La Perouse. They are, pardon the pun, a colourful, vibrant and interesting community, full of character.

The local Aboriginal people have always been particularly gifted in athletic and sporting pursuits and that community has produced many sportspeople of note. The famous Ella brothers, who represented Australia in rugby union, are but one example. I very much look forward to working closely with the people of this community and enjoying their company in the coming years. I really enjoy having a laugh with them. And bridges can only be built from the bottom up.

The southern part of the electorate is also the foreshore to a significant part of Botany Bay—significant not only in terms of its Aboriginal heritage but also because of its role in European settlement. Captain Cook's diary records that he walked along the highest sand ridge in the area. Members of the expedition of the famous French navigator La Perouse camped on the beach at present-day Frenchmans Bay, which is aptly named. A

member of the expedition, a French priest, Father Receveur, died whilst camped in that bay. The first European to be buried on Australian soil, his grave at La Perouse is marked by a monument revered each year by the French Government and French community in Sydney.

History and institutions aside, as I have already alluded to, it is the people, the community of the electorate, who are the most remarkable. Bounded by water on, let's say, two and a half sides of the electorate, it is an area where everyone knows everyone else. There are no six degrees of separation in Maroubra. Maybe two. It is a small country town in the heart of Sydney. The word "community" might as well have been conceived for this area. There is a significant RSL presence, there are many registered clubs and hotels that provide terrific community support, there are surf clubs, sporting and social clubs of all persuasions, and there are charitable and volunteer organisations of every kind. The Randwick Netball Association, one of the largest netball associations in the State, also calls Maroubra home. Significantly, it is an area that has produced an abundance of representative sportspeople over the decades. It is a part of the heartland of Randwick rugby and of next year's National Rugby League premiers, the South Sydney Rabbitohs. The honourable member for Heffron agrees with me entirely.

Every new member of this House has an ambition to contribute to the betterment of public life in certain policy areas. I would briefly like to place on the record my interest and position on certain relevant issues. The environment is an area which greatly concerns me. Whilst time does not permit a general discourse on the subject, I nominate global warming as the most pressing environmental threat of our times. Global warming is a reality. Whilst the man on the street knows this, our Federal Government refuses to recognise that reality. It is therefore up to the States and Territories to take the lead. Failure to do so will be catastrophic. Education and training are other areas in which I should like to take an interest. The fact that I am standing here now is a testament to the educational opportunities provided to me whilst growing up.

I come from a typical suburban middle-class Australian family. Thanks to the hard work and sacrifice of my parents, I received a wonderful education from the Marist Brothers at Marcellin College, Randwick, a regional Catholic school. After I left school I worked for 13 years as a customs officer with the Australian Customs Service. I studied law at night, I paid my way through tertiary studies, and I succeeded. I was one of the fortunate ones who were given the opportunity. That opportunity is now being denied to thousands of young people in Australia because, sadly, we have a Federal Government that has been spectacularly successful at creating an American-style university system where increasingly only the well-off or the hopelessly in debt will be able to afford to complete a tertiary education.

Increasingly, student places are being sold to foreign students to subsidise underfunded universities. This, combined with the skills shortage in the country, is a sad indictment of failed policy at the Federal level. For over a decade the Federal Government has failed young Australians looking to become educated and skilled. Once again it is up to the State governments—the State Labor governments—to look after young Australians. Even though my seat is very much a metropolitan one, I have a great affinity with the people of rural and regional New South Wales. My forebears, having immigrated from Ireland, all came from the land: on my mother's side, from the Burragorang Valley before it was flooded to make way for Warragamba Dam, and on my father's side, dairy farmers scattered along the coast of the State, but principally in Kempsey.

In addition, as a councillor on Randwick City Council I have greatly benefited from a sister-city relationship between the City of Randwick and the Shire of Warren, in Western New South Wales, which, because of its wonderful racecourse, describes itself as "the Randwick of the west". The people of Warren are typical of people generally in regional Australia that I know: salt of the earth. Their Mayor, Rex Wilson, is one of nature's gentlemen. I value his friendship and that of his family. I look forward to joining with my Country Labor colleagues in supporting the interests of country people. As I stand here tonight I have never been more proud to be a member of the Australian Labor Party, the party that has for over a century fought with spectacular success to improve life for ordinary working people.

We are at a seminal moment in the history of Australian industrial relations, where an ideologically-bent Prime Minister is about to undo a century of careful evolution and is about to wreck an industrial relations system that has delivered balance, fairness and stability to the nation for a hundred years: a Prime Minister who is bent on taking us down the path where it becomes more difficult for ordinary people to succeed. He has done it to the university system and he is doing it slowly to the health system. Now he wants to do it to the industrial relations system. Throw a few scraps to the employees of the nation, call them minimum conditions and safety nets, and then let it rip, do your best, may the strongest survive! Australia was not founded on that concept and I am proud to be a part of this Government, the Lemma Labor Government, that only yesterday reiterated its

commitment to fighting the Prime Minister's plan with all means at its disposal. The Prime Minister will learn that with the working people of Australia on our side this fight is far from over.

All members of this House know that to be truly successful in public life one needs a loving and supporting family. I am truly blessed in that regard. I would like to place on the record the enormous contribution my family has made to all my endeavours in life. Their support has been absolute. To my little sister, Maree, my brothers Paul and Peter, to Lucinda Daley, Emma Stradling and little Finn Daley, likewise. I thank my wonderful fiancée, Christina Ithier, who will become my wife on 3 December this year, and our children Alison and Jake. Like others in public life I am frequently working until late at night. I always return to a warm and friendly family environment—a typical Aussie home with kids and dogs under your feet. God willing, there will be more to come—kids that is—not dogs.

I would like to dedicate my speech today to four people. Firstly, to my uncle, the late Brother Benedict (Bernard) Carlon, a Franciscan friar, my friend with a gentle heart. Also, to my grandfather, the late James Raywood (Ray) Daley, who was a dairy farmer from Kempsey and for many years the President of the North Coast Dairy Farmers' Association. But most particularly I would like to honour my mother and father, Mary and John Daley, to whom I owe everything. I thank honourable members for doing me the honour of listening to my first speech. I am honoured to join them in this place.

Mr SPEAKER: The Chair notes the presence in the public gallery of the large contingent of members of the family and friends of the honourable member for Maroubra.

STANDARD TIME AMENDMENT (DAYLIGHT SAVING) BILL

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

CRIMES AMENDMENT (ROAD ACCIDENTS) (BRENDAN'S LAW) BILL

Bill read a third time.

CIVIL LIABILITY AMENDMENT (OFFENDER DAMAGES TRUST FUND) BILL

Second Reading

Debate resumed from 15 September 2005.

Ms VIRGINIA JUDGE (Strathfield) [8.22 p.m.]: I support the Civil Liability Amendment (Offender Damages Trust Fund) Bill. The genesis for this bill is the New Zealand Prisoners and Victims Claim Bill, in particular, some aspects of part 2 (2). The New Zealand justice and litigation system differs from the New South Wales system in several very important respects. Most notably, New Zealand, unlike New South Wales, does not have a statutory victims compensation scheme for victims of crime, although it does have a statutory negligent compensation scheme. One of the features of the statutory victims compensation scheme is provision for restitution by offenders. If the victim of an act of violence is paid victims compensation, the perpetrator of the act of violence is required to pay the compensation as retribution. The New Zealand bill is designed, amongst other things, to introduce a scheme whereby offenders must pay restitution of compensation to their victims. The New Zealand bill establishes a new bureaucracy to manage the scheme established by the bill and many aspects of the New Zealand bill are superfluous to New South Wales, although some aspects can be applied to improve our system.

In New South Wales restitution provision can be found in division 8, part 2 of the Victim Support and Rehabilitation Act 1996. Victims Services, which is part of the Attorney General's Department, manages the New South Wales Victims Compensation Scheme. This bill, which I am pleased to support, introduces some provisions derived from the New Zealand bill to address the situation where an offender subsequently receives an award of damages from the State and consequently enjoys a much improved financial status than existed at the time of the offence. As the Parliamentary Secretary said in the second reading speech, its provisions are facilitative rather than administrative. No new bureaucracy is needed.

The Opposition regularly complains that the Government does not collect enough restitution from offenders but the simple fact is that most convicted offenders have very few assets and no incomes, or they cannot be located. After all, that was one of the reasons the Victims Compensation Scheme was established in

the first place. Victims of crime could always sue their assailants but first had to locate them and even then they were more likely to find him or her a "straw" person. Suing a criminal tended to be an expensive exercise in futility. The annual reports of the Victims Compensation Tribunal have repeatedly addressed restitution. For instance, in the 2003-04 annual report the chairperson said:

I have previously referred to the difficult and challenging reasons in pursuing restitution from convicted offenders—

- (a) most come from low socio-economic environments that generally preclude the accumulation of assets and most are unemployed and/or unemployable.
- (b) many receive prison sentences for the offence(s) that led to the award of statutory compensation and on release have little ability to make restitution and
- (c) in many circumstances the award has been made years after the commission of the underlying offence and the offender is difficult to locate.

In the 2003-04 annual report the chairperson stated that the amount recovered from offenders totalled \$3.18 million for that financial year. He also said:

A greater increase is expected in future years because of the introduction of new payment options—namely, direct debit from a financial institution account, deduction from Centrelink social security payments (Centrepay) and by direct payment where the offender may deposit the instalment directly into the Fund's account.

He reported that at 30 June 2004, approximately 770 defendants were using either direct debit or Centrepay and 316 were using the direct payment system to repay restitution by instalments. During the year 731 instalment arrangements totalling \$6.9 million were entered into. These are figures the Opposition should mention, but never does. Of course, statutory restitution under the Victims Support and Rehabilitation Act 1996 only covers compensation paid to the victim, which is set by the Act and subject to a maximum of \$50,000. In civil litigation for an intentional tort such as assault, the damages awarded are open-ended. Schedule 1 to the Victims Support and Rehabilitation Act 1996 contains a table of compensable injuries and the standard amount payable for each injury.

The scale of payments, with a maximum of \$50,000, is governed by public policy considerations. Open-ended compensation could bankrupt such a scheme. Limited statutory payments mean that a situation could conceivably arise where a victim was paid, say, \$20,000 in victims compensation for an injury suffered due to an act of violence and the perpetrator could suffer exactly the same injury if assaulted in gaol and receive a much higher amount in damages for negligence against the Government. Until now, the victim could do nothing about it. If he or she sued the assailant, the payment would be hidden or dissipated long before the case was finalised. To mix a metaphor, this is like rubbing salt into the victim's wounds—particularly if the victim did not sue the offender in the first place because of his or her impecunious state, and the statute of limitations means that the victim cannot sue the offender now.

Just because most perpetrators of acts of violence are impecunious, it does not follow that all such perpetrators are impecunious or that a particular offender will always be impecunious. Those with assets are pursued by the restitution division of Victims Services for payment of victims' compensation restitution, and many victims of crime pursue their assailants under civil law. This bill will assist victims of crime in an action against the offender by ensuring that damages received from a protected defendant are quarantined to give the victim first bite at the cherry. Section 34 of the Victims Support and Rehabilitation Act 1996 provides that if applicants for compensation receive money as compensation from any other source, such as the perpetrator or an insurance company, they are required to advise the Director of the Victims Compensation Fund of the receipt of such money and are legally obligated to repay their award to the fund.

Further, under section 34A the director has the statutory power to demand repayment, and in civil proceedings against the offender the claimant is subrogated to the director to the extent of the compensation awarded. That is section 43. In the 2003-04 annual report the Chairperson of the Victims Compensation Fund stated that approximately 150 solicitors for applicants were reminded of section 34 and the subrogation powers under section 43, and that a number of repayments were received. This would seem to indicate that approximately 150 victims have taken, or seriously considered taking, civil legal action against the small percentage of offenders who have assets and that a number of victims have succeeded in civil actions against offenders.

The bill will facilitate other victims taking civil legal action against criminals who have assaulted them, if and when those criminals themselves receive awards of damages from protected defendants, essentially

government custodial departments and agencies. The Government has a duty of care, of course, to offenders in its custody. That is a long-established legal principle, and it applies to all persons in custody, regardless of their crime. Regrettably, that duty is occasionally breached, and offenders sue the State in negligence. That is their right. If the State is found negligent or admits negligence, the remedy is monetary compensation, or damages. The State is subject to the civil law the same as any other citizen, so it pays damages when damages are awarded against it. But damages in negligence are not subject to the same statutory limitations as victims compensation.

Under the Civil Liability Act 2002 there are now limitations to limit some heads of damages, notably economic and non-economic loss, but even with those limitations damages in negligence are almost certain to be greater than payments of statutory victims compensation for identical injuries. But the offender who receives damages in negligence should not be treated more favourably than the victim of his crime. He should not be eligible for a higher scale of payment than his victim, simply because public policy considerations limit the compensation paid to the victim. Certainly, he is paying the price for his crime under the criminal law when he is incarcerated, but every person who commits a crime is also subject to the civil law. This bill facilitates the operation of the civil law against offenders who benefit from the civil law in suing the State, and I commend it to the House.

Mr ANTHONY ROBERTS (Lane Cove) [8.32 p.m.]: I support the Civil Liability Amendment (Offender Damages Trust Fund) Bill, which seeks to redress as much as possible the wrongs committed by offenders against victims by altering the balance from the offender's favour to the victim's favour. The basic premise of the amendment requires that damages awarded to an offender in custody against the Department of Corrective Services and other public sector defendants for injuries suffered while in custody be put into a victim trust fund, which would in turn be used to satisfy a claim for damages suffered by the victim of the offender. As the honourable member for Tweed rightly pointed out in the second reading speech:

The community is outraged when offenders receive large amounts of compensation for injuries received while in custody.

I pay tribute to the honourable member for Tweed. He is a remarkable individual and a good local member. He went on to say:

The community perceives such offenders to be using the law for their current purposes when it suits them, but disrespecting the law and the community in the commission of their crimes.

In relation to the bill, if the offender receives a payout it will be held in a trust fund. At this point the victim will be notified and will have six months to lodge a claim. Should they choose to pursue a civil action against the offender, any damages awarded will be paid from the trust fund. Any surplus funds remaining will then be paid to the offender. Victims have always had the right to sue. However, in most cases the offender rarely had sufficient assets with which to pay damages awarded. This scheme will redress as far as possible serious wrongs committed by offenders in the light of the changed financial standing of the offender. It is important to understand exactly how the scheme will work so I shall briefly restate the process, paraphrasing the honourable member for Tweed. However, before I do that I pay tribute to my colleague the honourable member for Willoughby, who is a fantastic local member. Tonight she has a number of guests in the gallery from Chatswood Rotary Club.

First, any award of offender damages will be placed into the offender trust fund and frozen for six months. The victim or victims of the offender are then to be notified within 28 days of the award date. At this time the victim or victims can choose whether to pursue civil action. If no action is taken the money in the offender trust fund is to be paid to the offender, with interest, after the six-month freeze. However, if one or more actions are taken, the money will remain in the trust fund until the matter is resolved. Any damages awarded will be paid from the trust fund, and if the amount exceeds the amount in the fund the victim will be awarded total damages and the court will order payment of moneys to the extent of the trust fund amount.

Any excess will be subject to normal civil procedures. When there are a number of litigants, the bill contains a mechanism to prevent other litigants exhausting the trust fund. Finally, in order for victims to be able to consider whether it is worthwhile pursuing a victim claim against the offender, victims may seek information from the protected defendant of any victim claims notified to the protected defendant. Victims may then consult other claimants in considering whether to pursue their own claim. For the most part, this scheme is viable. However, I believe that a number of problems may arise, especially when a number of victims are making a claim. The most prominent example is that a court hearing a victim's claim is to award total damages against an offender and specify how much of the total damages are to be awarded against the victim trust fund, having regard to the existence of other claims and the amounts likely to be awarded in respect of those claims.

If that is the case, the question must be asked: Does this mean that the legal action cannot proceed until the six-month period has expired, as other claimants have six months to lodge a claim? And what if a court incorrectly anticipates the likely amount to be awarded in respect of other claims? I pay tribute to my colleague the honourable member for Epping, who is a fine shadow Attorney General and a fantastic individual. After March 2007 he will be the new Attorney General of New South Wales, and he will do an absolutely magnificent job. He continually upholds standards in this House, and he must be congratulated for that. We certainly look forward to his continuing contribution to debates in the House, particularly bringing to light many of the Government's flaws in legislation. We support this bill, which is not a bad bill. Indeed, it is probably based on a Coalition bill. As usual, the Government has pinched our policy. Some changes may be made to the bill. Certainly, I believe that certain parts of the proposal need to be clarified, but it is with great pleasure that I commend the bill to the House.

Mr ALAN ASHTON (East Hills) [8.39 p.m.]: I thank the honourable member for Epping, who was lauded in this place by the honourable member for Lane Cove, for indicating that the Opposition will support the bill. I assure the Opposition that we did not steal its bill. In the 6½ years I have been a member of this place the Opposition has not put forward much that we would need to beg, borrow or steal. However, I appreciate its support. This is a creative and appropriate bill to deal with offender damages and I congratulate the Attorney General for its introduction.

It has been noted in the second reading speech and in the speeches by the honourable member for Strathfield and the honourable member for Lane Cove that the bill has many benefits for victims of crime. I am sure all members of this House have tremendous sympathy for victims and their families and for the daily challenges they face as a result of crimes committed against them. Those affected by crime are not only the direct victims. Many people who form part of their daily lives of victims of crime—for example, friends and relatives, work colleagues and others—share their distress. I am sure all members of Parliament have at times felt the agony, although not perhaps to the extreme level that sometimes appears in media beat-ups, when a crime has been committed and the victim has to endure the physical outcome or the financial penalty of that crime forever, whereas the offender is eventually set free and walks away.

The scheme created by this bill will be facilitative, not administrative. The Government will not be involved in victim-offender litigation, and it will not create a new State bureaucracy. That is because the Government has arranged for offender damages to be frozen in an offender trust fund administered by the Public Trustee. The Government does not and cannot assume that there is only one victim of each crime. We know that is not always the case. There are often many victims of the one criminal act. For that reason the Government has taken into consideration circumstances in which more than one civil action may be commenced against an offender. If more than one civil action is taken against an offender, the offender trust fund will continue until the resolution of all victim claims. When there is a single victim claim, the court hearing the claim may award damages to the victim from the victim trust fund.

If the amount of damages exceeds the amount of the trust fund the victim will be awarded total damages and the court will order payment of moneys to the extent of the trust fund amount. The victim will be entitled to enforce any shortfall as a judgement debt under normal civil enforcement procedures. When multiple victims are suing the offender, the scheme contains a mechanism to ensure that the first successful litigant does not exhaust the trust fund, leaving little or nothing for other victims. In such cases, each court hearing a victim's claim is to award total damages against an offender and specify how much of that total damages is to be awarded against the victim trust fund, having regard to the existence of other claims and the amounts likely to be awarded in those cases, with the remainder enforceable against the other assets of the offender under normal civil enforcement procedures.

There is provision in the bill for claims that would otherwise be statute-barred to be brought under the scheme. However, such claims may only be made against the victim trust fund. They will not be able to be enforced against the other assets of the defendant. It is worth noting that the scheme will apply to all awards of damages to offenders from the commencement of the Act. If no civil actions by any victim against an offender have been started and notified to the relevant protected defendant in the six-months freeze period, the money in the offender trust fund is to be paid to the offender, together with interest. I commend the bill to the House.

Mr PAUL CRITTENDEN (Wyang) [8.44]: There are certain points of departure between my contribution tonight and those of the honourable member for Strathfield, the honourable member for Lane Cove and the honourable member for East Hills. This legislation falls into the basket of what former Premier Carr was happy to call tort law reform. In this case we are talking about the tort of negligence and, in particular,

negligence on the part of prison authorities. There are a number of disturbing aspects to this legislation, the first of which is that it relieves to a large measure the burden on prison authorities in respect of their duty of care to prisoners under their control.

I refer to cases that were cited in the unanimous decision of the Court of Appeal in *Bujdoso v the State of New South Wales*. Sheller JA and McColl JA concurred with the written judgement of Ipp JA, who in his judgement referred to *Howard v Jarvis* (1958) 98 Commonwealth Law Reports 177 in which it was established that prison authorities owe a duty to exercise reasonable care for the safety of prisoners during their detention. That duty includes taking reasonable care to prevent harm from the unlawful activities of other prisoners and arose in the case of *The State of New South Wales v Napier* (2002) New South Wales Court of Appeal 402. The duty arises from the control exercised by prison authorities over prisoners and the vulnerability of the prisoners over whom they have control. That was also established in the case of *The State of New South Wales v Godfrey and Godfrey* 2004 NSW Court of Appeal 113. In *Ellis v Home Office* 1953 2 All England Reports 149, Singleton LJ stated:

The duty on those responsible for one of Her Majesty's prisons is to take reasonable care for the safety of those who are within, and that includes those who are within against their wish or will, of whom the plaintiff was one. If it is true that supervision is lacking and that accused persons have access to instruments and that an incident occurs of a kind such as might be anticipated, I think it might well be said that those who are responsible for the good government of the prison have failed to take reasonable care for the safety of those under their care.

I find it interesting that this bill is being sponsored by the Minister responsible for corrective services rather than the Attorney General, because I would greatly appreciate the Attorney's advice in respect of the bill. As the bill is under the auspices of the Minister responsible for corrective services, I suppose we are treating it as an administrative matter. In fact, the legislation is groundbreaking and in my view sets a dangerous precedent concerning the obligations of New South Wales Government agencies.

I advise the House that my solicitors, T. D. Kelly & Co., have written to me about what they believe is the trigger for this legislation, that is, the case of *Bujdoso v The State of New South Wales*. Mr Tim Kelly, who is no relation to the Minister responsible for corrective services, the Hon. Tony Kelly, believes that the consequence of this bill will be that certain prisoners can be bashed with impunity and prison authorities are unlikely ever to be called to account in the courts for their failure to protect such inmates. Not being a member of Cabinet—most of us here are not—we are not entitled to see the Cabinet minute that presumably prompted this legislation. But one of the items on a Cabinet minute is the cost implications arising from the legislation.

Under this legislation the New South Wales Government will be required, within 28 days of the award of damages being made, to notify any person who appears to have any claim against the prisoner of the existence of the funds held in trust and advise that a claim made within a six-month period may be eligible for a payment from the trust. A whole new bureaucracy will be required to comb through cases where an incarcerated person has been granted damages that will be held in trust arising from what may have previously been the tort of negligence on the part of prison authorities. I should also point out that members who spoke earlier mentioned victims. The implication is that the victim is the person who was the victim of the crime for which the prisoner was incarcerated. To say the least, the legislation is vague on that point. What appears in schedule 1 on page 3 of the bill heightens my concerns.

The legislation is so vague that any person who has in the past suffered an injury as a result of the conduct of a prisoner and that conduct, on the balance of probabilities, constitutes an offence can make a claim on damages held in trust. Claims are not confined to the offence for which the prisoner was incarcerated. Most members would have heard of the Jamie Partlic case. In the 1980s Jamie was incarcerated for fine defaulting and whilst in prison was given one hell of a bashing. Under this legislation, if Jamie Partlic had been involved in a pub brawl a couple of years prior to his incarceration, the other party in that brawl could take a crack at the damages awarded to him arising from the bashing in gaol. Under this legislation such funds will be held in trust and claims are not limited to victims of the crime for which the person was incarcerated.

A consequence of this bill will be that people who are bashed will not bother to apply for damages because they will not be the beneficiary of such damages. That may be one of the purposes of the bill. If we allow a law-of-the-jungle approach and bullying in gaols, we have not advanced very far, if at all, from the rationale that prevailed at the time of the first European settlement of this country. Some 30 years ago I read the Marcus Clarke classic *For the Term of His Natural Life*. It is the most depressing book I have ever read. I am concerned that with this legislation we are following the same route as depicted in the book. Rather than going forward, we are becoming regressive. The most sickening aspect to this whole sorry business is the involvement

yet again of the *Daily Telegraph*, the tabloid operation of Rupert Murdoch. The *Daily Telegraph* editorial on 24 September 2004 stated:

By all means it is unacceptable that prisoners should attack other inmates and the culprits should have been punished appropriately. But compensation for paedophiles? Most people would reason that those who commit such vile crimes can take their chances in prison.

If the *Daily Telegraph* wants to run a campaign to introduce corporal punishment for certain classes of prisoners, such as paedophiles, that is one thing. If the *Daily Telegraph* wants to run a campaign, as is occurring in France now, in favour of the chemical castration of sex offenders, that is another thing. But for Murdoch to have his so-called newspaper, in effect, advocating a law-of-the-jungle approach in New South Wales prisons is totally unacceptable. It might appeal to the baser instincts of some people and it might be 20 years since I have been to Long Bay gaol as part of the St Vincent de Paul Society visitation program, but I would hope that people who are inclined to encourage a law-of-the-jungle approach in gaols at least have the decency to investigate the situation first-hand.

Twenty years ago Long Bay prison was not a pleasant place. I do not believe it is any better today. This legislation will simply make Long Bay gaol and every other so-called corrective institution in this State more brutal and dehumanising. As a result, we too will be dehumanised. Let us not masquerade this legislation as other than what it is. It is designed to stop bureaucrats being made accountable for their obligations and duties and to further debase every person not only in this place but in society as a whole. The Cabinet Office advises government on policy. My fear is that the bureaucrats have got to the stage where frank and free advice is not given. We respond to *Daily Telegraph* editorials and the bureaucrats try to second-guess what the line will be. That is no substitute for good government in this State.

Mr DAVID CAMPBELL (Keira—Minister for Regional Development, Minister for the Illawarra, and Minister for Small Business) [8.53 p.m.], in reply: I thank all honourable members who have spoken in the debate on this bill for their contributions. I want to answer two questions that may be posed: Could a catastrophically injured offender lose all his compensation under this scheme, leaving him dependent on social security? What happens to damages awarded for future care? At present there is nothing to stop a creditor of a successful litigant enforcing a judgement debt against damages awarded to the litigant, notwithstanding that a substantial component of such damages is for the person's future care. Even where a trust fund for a catastrophically injured person is managed by the Public Guardian, the money is the person's money and could be seized by a judgement creditor of the person, notwithstanding that damages were awarded to provide for the person's future care. This scheme will not change anything in that regard. A successful victim claimant will be in the same position as an existing judgement creditor in enforcing a judgement debt.

I also want to comment on issues raised by my colleague and friend the honourable member for Wyong. Last week on 5 October the High Court heard an appeal by the State of New South Wales against the Court of Appeal decision in the Budjoso case. The High Court has reserved its judgement. I note that the Civil Liability Act is administered by the Attorney General, but part 2A provides powers to the Minister who administers the Crimes (Administration of Sentences) Act 1999. That is the Minister for Justice. As to the Partlic case, Jamie Partlic was a fine defaulter and no victims were involved. The comparison made by the honourable member for Wyong is a little spurious. Even if there had been a victim, the comments I made about the catastrophically injured in answer to the hypothetical questions I posed would apply.

I now turn to issues raised by the honourable member for Epping, which had been brought to his attention by the Law Society. Before addressing those matters, I note that in the drafting of this bill the Government consulted the Acting Chief Justice of the Supreme Court and the Chief Judge of the District Court, both of whom had no comments on the bill. There was also extensive consultation involving representatives of the Attorney General, the Attorney General's Department, victims services, the Cabinet Office, the Department of Corrective Services, a senior torts specialist from the Crown Solicitor's office and staff of the former Minister for Justice.

The honourable member for Epping raised proportionality in multiple claims and asked whether legal action can proceed within the six-month freeze or must be delayed until after the freeze period ends. The answer is that legal action can proceed within the freeze, but is unlikely to be finalised within that time. A court might enter judgement in favour of a victim and assess total damages but postpone the award of an amount of damages from the trust fund until after the freeze period expires. The honourable member for Epping said that the Law Society was concerned that proposed section 26R (1) is open-ended in that it does not provide a time frame for transfer of surplus funds after all claims have been met. Proposed section 26R (3) provides that the protected

defendant must pay that surplus to or at the direction of the offender concerned. Normal time frames for payment of civil damages will apply. There is no need for a time frame to be inserted in proposed section 26R (1).

A further safeguard ensuring prompt payment of the surplus amount is that while interest received by the Public Trustee in respect of the investment of a trust fund amount is payable to the trust fund, once there is a surplus in the trust fund after all claims have been finalised, interest will be payable by the protected defendant at court rates of interest, in the same way as normal post-judgement interest under civil claims rules. The honourable member for Epping also referred to Public Trustee fees. Fees, commissions and charges payable to the Public Trustee are governed by part 2 of the Public Trustee Regulation 2001 and can be estimated by claimants and their legal representatives. Public Trustee fees are simply one of the matters that need to be considered by a victim when deciding whether to pursue a claim against an offender. Any civil litigant has to weigh up whether a claim is worth pursuing, whether a defendant has any or sufficient assets, whether enforcing a judgement will be cost-effective and whether a defendant has other creditors who may be able to enforce their debt first. Further, a victim under this scheme would weigh up whether there are other victims whose claims and injuries may reduce the amount available below the cost of pursuing a claim.

The whole point of the requirement for notifications under proposed section 26N is so that victims may make an informed decision whether or not to bring a victim claim. Assessment of fees payable to the Public Trustee is an aspect of that decision. Just because a person has a right of action under the scheme does not mean that the Government has to ensure success of that action. As a number of speakers have said, the scheme is facilitative; it helps victims to take their own action against the offender if they wish to do so. It does not take that action for them.

The honourable member for Epping also expressed concern, raised by the Law Society, that proposed section 26T provides an exception for the recovery of party-party costs payable to the offender, which do not form part of the trust fund; and suggests that this exception should be extended to the offender's solicitor-client costs. The Government does not support this suggestion. Experience in the field of confiscation of criminal assets and proceeds of crime in at least one jurisdiction has shown that solicitor-client costs can be inflated, and sometimes extravagantly inflated, to remove money and diminish seizable assets. I commend this bill to the House

Motion agreed to.

Bill read a second time and passed through remaining stages.

DEFAMATION BILL

Second Reading

Debate resumed from 13 September 2005.

Mr ANDREW TINK (Epping) [9.01 p.m.]: The Coalition does not oppose this bill, the purpose of which is to attempt to bring some uniformity to defamation laws around the country in conjunction with other jurisdictions in recognition of the fact that so much broadcasting and print publication is done across State borders. Perhaps in our immediate area the most obvious example of this is the difference between New South Wales and the Australian Capital Territory. The Channel Seven or Channel Nine night-time news is prepared and packaged here in Sydney, but it is broadcast in the Australian Capital Territory without any editing or changes whatsoever. Yet there are quite significant differences between the law of defamation in New South Wales and the law relating to defamation in the Australian Capital Territory.

It has been noted that many plaintiffs who allege they have been defamed choose to sue in the Australian Capital Territory for reasons that they perceive relate to the advantage of that jurisdiction in some respects over New South Wales. I think that points to the need for uniformity wherever possible across State and Territory borders. The media markets within the boundaries of New South Wales, including the Australian Capital Territory, are really one and the same, but of course the laws in the legal jurisdictions are different. This bill is designed to try to deal with that issue.

The law of defamation is extremely complex, is of inordinate interest to members of Parliament personally and to other people with whom they come into contact, and is always likely to generate lively debate

arising often from self-interest. There is a long history of attempts to change the law of defamation. In November 2003 the Federal Attorney General, Mr Ruddock, urged the introduction of uniform defamation laws at the Standing Committee of Attorneys General and, on 19 March of the following year, released the first discussion paper on uniform defamation laws. On 29 July Mr Ruddock released a revised discussion paper and draft provisions taking into account the views of the stakeholders.

On 30 July, in response to Commonwealth efforts, the States released a discussion paper on defamation, to which Mr Ruddock responded. On 5 November the State Labor Attorneys General released model provisions together with a promise to enact them by 1 January 2006. This prompted a response from the Federal Attorney General highlighting some ongoing problems and some ongoing lengthy consultations with the legal profession and other interested stakeholders—including, of course, media and media representatives—culminating in an offer by the Federal Attorney General on 7 March this year to compromise with the States on the basis that the deadline of 1 January 2006 will be met. That is the reason this bill is before the House.

I have had some discussions with Steven Rares and Bruce McClintock of the New South Wales Bar, who practise in this area and have been putting together a lot of work and input into the bill and other proposals for change. I think it is fair to say that no one will ever be entirely happy with a defamation bill. Just about everyone who has an interest in this sort of thing will always see from their own perspective that something more or something different could be done. I believe, without verballing them, that that would be the case with both McClintock and Rares. Nevertheless, I think it is fair to say that they would regard the broad advances on these issues throughout the Commonwealth as sufficient to make the proposed changes worthwhile to proceed with. In that spirit, the Coalition does not oppose these proposals.

This also seems to be the view, to the extent that I have been able to speak of them, with Julie Flynn of Free TV Australia, representing as she does a number of media outlets, in both print and electronic broadcasting. There are a number of matters to be considered and a few points I think worth raising in particular. The goal is one defamation law across the Commonwealth, not eight. I suppose the issues about what has been put forward are: Will it be truly uniform and is it good law? There are some doubts on both counts, but not sufficient to warrant opposition to the bill based on the Rares-McClintock test, if I can put it that way. There is concern about lack of uniformity. The legislation in New South Wales, Victoria and Western Australia allows for juries, but the South Australian bill, I understand, does not.

This issue has apparently been the subject of some correspondence between the New South Wales Attorney General and the Federal Attorney General, and it appears to be a case of them agreeing to disagree. The New South Wales Attorney General wrote to his Commonwealth counterpart on 2 May and said, amongst other things, "I do not consider the absence of juries in South Australia will detract in any way from the uniformity of the scheme." Mr Ruddock replied on 12 May, "I believe that juries should be available in defamation and that they should be included in the process in a uniform way." I would have thought the issue of whether a jury should be involved in defamation cases would vary from one jurisdiction to another. To that extent, it could not be said that the law is uniform when one relatively large jurisdiction, such as New South Wales, does not have juries in defamation cases. In my opinion the law is not uniform in that regard and it is difficult to pretend otherwise.

A further major issue that has emerged is whether corporations should have the right to sue for defamation and whether they have other adequate remedies. It appears that the strongly held view in New South Wales is that corporations should not have the right to sue, and matters have proceeded on that basis. However, following discussions it appears that corporations now have a limited right to sue. I believe it is important that small businesses have the right to sue for their reputation. Indeed, I do not believe that other remedies are an adequate substitute. Two remedies that have been suggested are the Trade Practices Act and the Fair Trading Act. There are questions about whether those Acts apply to news organisations, and the tort of injurious falsehood is difficult to establish in any event. The significant issue relating to corporations leaves a very large question mark hanging over the issue of uniformity and adequacy.

There is real concern about New South Wales businesses losing rights that they have had in the past. Whilst we acknowledge that the bill will have some benefits, it certainly does not provide the uniform laws that others have suggested it provides. It is still a little too early to put forward the Commonwealth's ultimate position on this; the bills of the various jurisdictions are still being worked on. It will be interesting to see where things get to by the cut-off date of 1 January 2006. It may be that action will be taken on other fronts; time will tell. Applying the Rares-McClintock test, the bill provides for uniform steps in the right direction, and to that extent the Coalition will not oppose it.

Mr PAUL LYNCH (Liverpool) [9.13 p.m.]: I support the Defamation Bill. Traditionally defamation is a jurisdiction and field for the very few. Most legal practitioners would have but brief practical experience of it; it is mostly a province for experts. Litigants in defamation cases are likewise a very small group; people tend to need massive financial resources to seriously pursue defamation proceedings. Despite this, it is an important area of public policy and it is necessary to improve this area of law. I believe the bill does that.

At a technical level, the bill will repeal and replace the Defamation Act 1974. The replacement bill will implement the uniform model defamation provisions that have been endorsed by the State and Territory Ministers of the Standing Committee of Attorneys General. Bills to implement the model provisions have already been introduced into Parliament in South Australia, Western Australia and Victoria. The draft provisions result from a significant process of consultation. A draft framework for uniform laws was released for public comment in July 2004. Draft model provisions were endorsed by State and Territory Ministers in November 2004. They are proposed for implementation by 1 January 2006.

There are powerful reasons for having uniform laws in this field. In Australia, material can be published right across the country in every State or Territory at precisely the same time. Therefore it makes no sense at all to have different laws regulating such publication of identical material in different places. As the Attorney said in his second reading speech, it has taken 25 years to get a uniform model. It was restored to the Standing Committee of Attorneys General agenda by the New South Wales Attorney in July 2002. It makes sense, therefore, to have one defamation law for the whole country, rather than eight different laws for eight different jurisdictions.

The bill preserves the common law test for determining what is defamatory. The abolition of the distinction between libel and slander remains. One significant change that I think is likely to be welcomed is that it is the publication of defamatory material that gives rise to a claim. This moves from the current position whereby each separate defamatory imputation gives rise to a claim. In practical terms that presently gives rise to lengthy and complex arguments about how each imputation is drafted in the pleadings and whether that is the meaning carried by the matter complained to be defamatory. The Attorney's second reading speech refers to a quote from Justice Levine in which he bemoans the "excruciating and sterile technicalities" that this gives rise to. The focus actually moves away from the simple issue of what something means and whether it is defamatory. The current system also involves lots of interlocutory battles in the defamation judge's court list. This presumably makes defamation proceedings more lengthy and more expensive than they need to be.

The bill also largely rejects the Federal Government's obsession with allowing corporations to sue for defamation. The bill provides for a compromise position that allows small businesses with fewer than 10 employees to sue for defamation. Not-for-profit organisations such as charities will also have capacity to prosecute proceedings for defamation. I believe the Federal Government's position on this is wrong, both in principle and in practice. It is wrong in principle because defamation actions are aimed at restoring or protecting a person's reputation. Corporations are not human beings and simply cannot have reputations in sense that individuals do. It is nonsense to suggest otherwise, although I note that the Federal Attorney-General does not let plain logic stand in his way on this. In practical terms, there must be a real danger of large corporations using such legislation to harass and bankrupt activists who have difficulties with the ethical standards of corporations. There are other avenues, such as actions arising from injurious falsehood, that are far better designed to deal with any harm that needs to be addressed.

One illustrative example that demonstrates the danger of allowing corporations to sue for defamation is the infamous "McLibel" defamation trial. The trial was prosecuted by McDonald's in England. It was a case of defamation brought in London against a former postman, Dave Morris, and a gardener and part-time bar worker, Helen Steel. One of the comments I read was that this was the largest defamation trial in English legal history. I also noted another comment that London was the capital of the world—which is an interesting contrast to the claim sometimes made that that title rests in Sydney. The two defendants in that case were activists against McDonald's. They made claims concerning McDonald's in relation to rainforest destruction, packaging, food poisoning, starvation in the Third World, heart disease, cancer, and bad working conditions.

They also made claims that McDonald's exploit children with their advertising, falsely advertise their food as nutritious, risk the health of their long-term regular customers, are responsible for cruelty to animals reared for their products, are strongly antipathetic to unions, and pay their workers low wages. The two defendants were activists and were, obviously, campaigning against McDonald's. I can see no public policy rationale for these issues to be resolved in defamation courts. They are primarily, in a broad sense, political issues to be argued in the community. Changing our laws to allow McDonald's, or large multinational

corporations like them, to pursue this type of issue against citizens in defamation courts cannot be fair or reasonable. It cannot help the structure of our democratic societies.

The "McLibel" case is instructive. There were originally five proposed defendants. Three were intimidated into withdrawals simply by the threat of defamation proceedings. The material I have seen suggests that a long list of people and organisations were also intimidated into withdrawing comments about McDonald's. This was not an isolated instance. In this instance, defamation laws had nothing to do with protecting an individual's reputation but everything to do with silencing social dissent. The other issue is that McDonald's costs were estimated, according to the material I have seen, at about £10 million. The defendants had no substantial assets and were denied legal aid. This was a grossly unfair and disproportionate battle. Where corporations such as this are involved, they always will be. Moreover, the remedy for defamation in cases such as this is meant to be damages—that is, the payment of money. That was never going to happen: the defendants did not have assets to satisfy any verdict. In my view, this also could be regarded as misuse of the procedure of defamation.

Another argument for opposing the extension of defamation laws to allow companies to sue is that they already have lots of weapons. The law already allows corporations plenty of avenues to pursue people who they think are damaging them. Indeed, several weeks ago I heard Cameron Murphy from the New South Wales Council of Civil Liberties arguing for the introduction of a bill of rights because corporations are presently so extensively using litigation, including trade practices actions, as to stifle free speech.

Probably the most notorious case on this topic in Australia at the moment is the action being prosecuted by Gunns. Gunns have instituted proceedings against 20 environmentalists and environmental groups. Whatever else may be said about these proceedings, they demonstrate that a corporation's current legal avenues extend broadly beyond defamation law. In addition, of course, their costs in prosecuting those cases are largely tax deductible. In the United States these types of claims are called strategic lawsuits against public participation [SLAPP]. In that country it has now got to the stage where anti-SLAPP legislation is being moved in some of the jurisdictions there. In this context, increasing the legal options of corporations and allowing them to sue for defamation seems quite bad public policy. This bill's position is correct and the Federal Attorney-General is wrong.

Mechanisms to provide alternatives to full-blown litigation and pursue "offers of amends" are retained in this bill, with some changes to the present scheme. I apprehend that these changes are not substantial. One major change that is introduced is an alteration to the roles of the judge and jury. The role of juries is expanded. They will now decide whether material that is complained of is defamatory and whether defences have been established. This removes the role of judges in deciding whether the matter is reasonably capable of carrying the imputation claimed and whether it reasonably carries a defamatory meaning. I assume that this part of the change at least was inevitable once you moved from imputations to defamatory material being the basis of the action arising. The new regime continues to have judges deciding whether a situation is one of absolute or qualified privilege. The judge alone will continue to decide upon the amount of damages. One other change is to make truth alone a defence. I will resist the temptation to say that this is the Attorney-General's revenge, as an ex-journo, on the lawyers.

It will, however, bring us into line with a number of other jurisdictions in Australia, as well as the jurisdictions of England and New Zealand. It is pretty hard to argue against the legislation in principle. It does, however, raise the issue of whether actions for breach of privacy should be introduced or at least investigated. The only real case that one could think of where truth alone as a defence is not adequate is where there is some outrageous and unjustifiable breach of privacy. One other change to be welcomed is the introduction of a cap of \$250,000 for general damages. Granted that such caps have been introduced for personal injury claims, it is hard to argue that there should not be a cap for general damages in defamation cases. Whether this is justified in personal injury cases, of course, is another issue. I also note that the cap is indexed. I commend the bill to the House.

Mr MALCOLM KERR (Cronulla) [9.21 p.m.]: It is interesting that in relation to this Defamation Bill the Attorney General said there were basically three groups who find defamation exceptionally interesting and exciting: public figures, major broadcasters and publishers, and, of course, lawyers. To that group could now be added the people mentioned in Mark Latham's diary who might be reserving their rights. Nevertheless, despite what the honourable member for Liverpool has said about defamation law being an area of the law that few lawyers had knowledge or experience of, it is not, as the Attorney General quite rightly said, restricted to those three classes of people, nor is it something that is removed from the ordinary experience of ordinary people in our society.

To quote the Attorney General, anyone who writes a letter or uses an email, chats over the Internet or publishes a blog can potentially face an expensive lawsuit if they are careless with their comments. And that is quite correct. It is amazing the number of potentially defamatory situations that occur in everyday life. Given the technology that is available at the present time, there are, as the honourable member for Liverpool acknowledged, powerful arguments for uniformity in defamation law. As the Attorney General acknowledges, over a long period of time there has been the intention to attain that uniformity. It is unfortunate that the legislation does not achieve that uniformity. The honourable member for Epping mentioned some of the discrepancies that will continue to occur across Australia in the way States and Territories administer or enact defamation law. That is unfortunate.

I chaired a parliamentary committee on defamation and made a series of what were unanimous recommendations in relation to defamation law reform. That committee was greatly assisted by the generosity of the legal profession, who were prepared to give quite substantial submissions to the committee. I think all members of the committee found the assistance they gave us extremely useful. This is important legislation, and I am pleased that there has been a degree of co-operation between New South Wales and the Federal Government in relation to it. Whether it is advisable to allow corporations to have the right to sue for defamation was argued by the Federal Attorney-General and was canvassed by the honourable member for Epping in his contribution. Of course, it is possible for a business to be quite badly damaged because its reputation is trashed and as a result it suffers a loss of business. If that trashing of the reputation is unjustified, it is appropriate in the course of ordinary justice that that business has recourse to a remedy. The Opposition will not oppose this legislation. It is somewhat imperfect, but, nevertheless, it is a step forward.

Mr PAUL PEARCE (Coogee) [9.26 p.m.]: I support the Defamation Bill. The introduction of model defamation bills by the States and Territories resolves a 25-year impasse. Over that time there have been a number of failed efforts to reach agreement on nationally uniform defamation laws. However, with the leadership of the New South Wales Government, and in particular the Attorney General, the Standing Committee of Attorneys General has now reached a point where nationally consistent laws in this difficult area are about to become a reality.

The benefits of harmonised national defamation provisions are considerable. In this technological age where publication of a statement can occur simultaneously in a number of jurisdictions, it is of the utmost importance that a clear and consistent scheme of defamation law applies around Australia. Despite the considerable achievement of State and Territory Attorneys General in agreeing upon such a scheme, a major impediment has been the attitude of the Commonwealth Government and, in particular, its Attorney-General, Philip Ruddock. Last year the Commonwealth Attorney-General released his own national defamation proposals. In doing so he attempted to override the remarkably co-operative process that has taken place between the States and Territories to harmonise defamation laws.

Apart from the fact that a Commonwealth defamation law would simply add an additional layer to Australian defamation law on top of the laws of the eight States and Territories, Mr Ruddock's proposals also included a number of features that were unacceptable to the States and Territories. Until recently the Commonwealth Attorney-General has consistently said that he will only be willing to accept the State and Territory position if certain changes were made to the nature of the proposed model law. Chief among these was Mr Ruddock's insistence that new laws should allow corporations to sue in defamation.

There is simply no need to allow large corporations to sue for defamation. They have no personal reputations to protect, and the commercial reputations they enjoy in the community are largely the product of expensive advertising campaigns. There are other types of legal actions that corporations can take to protect their commercial interests, including actions for injurious falsehood and applications for relief under the Trade Practices Act. By giving corporations the right to take defamation action, the Commonwealth would be giving them carte blanche to abuse their relative economic strength to silence individuals and stifle free speech. It generally takes a lot of courage and a lot of money to defend a defamation action by a corporation. If a plaintiff corporation seeks damages and wins the case, it will also be able to claim legal costs.

A plaintiff corporation also receives tax breaks for litigation fees. An individual defendant, on the other hand, even if he or she wins the case, generally walks away with a large legal bill. The so-called "McLibel" case, which my colleague the honourable member for Liverpool referred to, provides an example of how corporations can misuse their legal rights. In that case, McDonald's used their corporate might in the courts in an attempt to silence criticism. This case was the longest running trial in English legal history.

The facts of this case may be known to a number of members of this House. In summary, the McDonald's Corporation in the United Kingdom pursued individuals for nearly 10 years through the courts. McDonald's were represented by an expensive legal team; the defendants were self-represented. Despite the massive inequality of resources, at the end of 313 days of trial and a further 23 days of appeal, McDonald's were unable to prevent a judgment in the first instance by Mr Justice Bell, which stated that McDonald's marketing has "pretended to a positive nutritional benefit which their food (high in fat and salt) did not match" and, further, "that McDonald's exploited children with their advertising strategy; are culpably responsible for animal cruelty and pay low wages, helping to depress wages in the catering trade". The Court of Appeal added:

If one eats enough McDonald's food, one's diet may well become high in fat etc with the very real risk of heart disease.

This was a damning series of findings. Notwithstanding this, however, the courts ruled that Steel and Morris had libelled McDonald's over some points and ordered them to pay £40,000 in damages. Fortunately, a subsequent appeal to the European Court of Human Rights in Strasbourg declared that the so-called "McLibel" finding—and thus the United Kingdom libel laws—was in breach of the right to a fair trial and right to freedom of expression, thus breaching Articles 6 and 10 of the European Convention on Human Rights. Yet this framework of defamation law, giving corporations the right to sue in defamation, was essentially what the Federal Attorney-General advocated. The combination of the law and the deep pockets of large corporations has given rise to the aptly called strategic lawsuits against public participation [SLAPP] suit. The purpose of a SLAPP suit is to slap critics into silence. The message it sends is: "Stop criticising this corporation or we will see you in court." Any person who has been sued for defamation by a large corporation has to think long and hard about mounting a defence.

A notorious local example of this iniquitous behaviour by a major corporation is the action of Gunns. Gunns commenced an action against a range of groups and individuals alleging, inter alia, corporate vilification. This action unfortunately introduces into Australia a practice common in the United States of America whereby corporate muscle is brought to bear by a series of lawsuits primarily designed to silence critics. A recent example in the United States was an action commenced, but subsequently dropped, by the Ford Motor Company against the environmental group Bluewater. It was alleged that part of the campaign by the group—which suggested that the chief executive of Ford had a resemblance to Pinocchio and discouraged consumers from buying his environmental rhetoric and his cars—was "gratuitous and offensive and that they had made malicious representations". This was correctly interpreted as an attempt to silence critics.

The use or threat of legal action by corporations to silence critics has been examined by Brian Walters, SC, in his publication *Slapping on the Writs*. Even if utterly convinced of the merits of their defence, how many are rich enough to take on a financial Goliath in the Supreme Court and brave enough to lose everything they own to legal fees? More recently, Mr Ruddock made statements that appear to accept that he will not intervene if the States and Territories pass the model laws. If the Commonwealth had proceeded with its threat to introduce a national defamation law, we could expect to see more and more corporations attempting to silence critics with defamation suits.

Although Mr Ruddock wanted to allow all corporations, large and small, to sue individuals for defamation, they have not been able to do that in New South Wales. Since 2002 only small corporations, that is those with fewer than 10 employees, can sue. New South Wales defamation law does not prevent individual members of corporations from suing, but it does stop large corporations from using their economic strength to stifle public criticism and freedom of expression. The bill preserves this position and also contains provisions to ensure that corporations cannot structure their businesses in such a way so as to fall within the fewer than 10 employees test by using subsidiaries or shelf companies.

Clause 9 of the bill provides that generally a corporation does not have a cause of action for defamation of the corporation or the relevant definitions contained in subclause (6). Corporations are not people; they do not have personal reputations to protect. Their interest is purely commercial. The Commonwealth Attorney-General's proposal, had it been implemented, would have had a catastrophic effect on free speech in this country. In closing, I again congratulate the States and Territories on developing defamation laws that not only are consistent but reject the interests of multinational corporations in favour of the democratic freedoms of all Australians. I commend the bill to the House.

Mr DAVID BARR (Manly) [9.35 p.m.]: The Defamation Bill is a significant improvement on the existing defamation law, and I welcome its introduction. When I initially heard the ideas of the Federal Attorney-General I was quite alarmed that New South Wales may be going down the path he suggested. Fortunately that is not the case, and I congratulate our Attorney General on being the main mover and shaker in

these changes. The amendments seek to have uniform laws of defamation to prevent forum shopping in different jurisdictions to suit litigants. I welcome that measure. There may be some individual differences between the States, but overall this is a sound measure.

The bill will abolish the distinction between libel and slander, about which I have some concern because people who go about their daily activities and gossip over the fence could be potentially liable for actions of defamation if the law were to be applied strictly. I am concerned that that might occur if slander and libel are fused in the one cause of action, that is, defamation. However, that law has existed in New South Wales for some time. Until now in New South Wales each imputation has given rise to separate causes of action and that has led to a convoluted and complicated system. That will be removed and replaced with defamation actions. The Attorney General quoted Justice David Levine's comments about the excruciating and sterile technicalities that result from making the imputation the cause of action. Indeed, I, too, quoted Justice Levine when I moved an amendment to a previous bill, which was not accepted.

Clause 9 deals with the right of corporations to sue for defamation and is very important in that corporations will not have the right to sue for defamation unless they are a small business with fewer than 10 employees. A number of speakers have referred to the "McLibel" and Gunns cases. Indeed, there have been many other cases. There is no question that corporations can use their financial muscle to intimidate community members, in particular, if the corporation is undertaking a local cause that is not popular with the community. There is nothing like a SLAPP writ to hush up opponents. Indeed, companies can use that as a tax deduction as well. The scales of justice are totally unbalanced towards those with the power to sue.

I believe that we are much too precious about reputation. As people become more affluent they have the ability to protect their so-called reputations. We have gone overboard and become litigation happy. Another measure relates to offers of amends, where publishers may get the benefit of a defence in any subsequent defamation action. Under this amendment an apology does not constitute an admission of liability but is designed to encourage defendants to apologise. A significant amendment is clause 22, which will put an end to separate section 7A trials. These were an abomination and had the effect of doubling costs because, in effect, two trials were conducted on the same matter. They involved a number of imputations, which became incredibly complicated. For example, the case of *Jones v Sutton*, in my neck of the woods, went for more than 11 days in a two-part trial. The damages awarded were \$5,000 but the costs amounted to well over \$1 million between the two parties.

Mr Bob Debus: It was the councillors for Warringah.

Mr DAVID BARR: That is correct. The costs were massively out of proportion to the damages. One of my pet issues in the whole defamation debate is costs. All the various royal commissions, inquiries and whatever in many jurisdictions have focused on the complexities of the law—what tests should apply and so on—but none has dealt with costs in any significant manner. I introduced the Defamation Amendment (Costs) Bill 2002 to restrict cost orders comparative with the amount of damages awarded, but the House did not support it. The view of the Government and the Opposition was that it was too prescriptive. My view was that it was one way of discouraging the rich and powerful from engaging in frivolous actions because they would not be able to get costs.

Subsequently I introduced the Defamation Amendment (Costs) Bill 2003, in respect of which I quoted George Reid, who made a speech in this House in 1886. He became Premier of New South Wales and was Australia's fourth Prime Minister. Basically, he introduced a bill, which became law, that provided that no costs would be awarded in cases in which the damages were less than 40 shillings. That became law in New South Wales many, many years ago. At that time George Reid was a private member of the Parliament, as I suppose all members were. In those days, unlike today, private members were expected to undertake a significant share of the legislative load. It would be good if there were more of that in this place. I was successful in moving an amendment to the Defamation Act 1974 that inserted section 48A, which states:

- (1) In awarding costs in respect to proceedings for defamation, the court may have regard to the following matters:
 - (a) the way in which the parties to the proceedings conducted their cases (including any misuse of a party's superior financial position to hinder the early resolution of the proceedings),
 - (b) whether the costs in the proceedings may exceed the quantum of damages to be awarded in the proceedings ...

The Supreme Court made mention of section 48A in the *Jones v Sutton* trial, although the section was inserted into the Act after the trial had begun. As the provision essentially reflected the common law, it was not a point

of contention. However, providing it in statute form reinforced that the court had discretion in relation to costs. I was pleased that the Supreme Court mentioned this, because I had hoped the courts would take it on board. It is one way of addressing the disproportionality between damages and costs. The issue is serious because it means that the law, as in so many other areas, is the domain of the wealthy, because even minor matters can involve high costs. That is especially the case now that the Supreme Court rules have been amended and even minor matters go straight to the Supreme Court. I opposed that proposal in this Chamber at that time, but once again I lost out.

The Government and the Attorney should monitor costs because it is one area in which the law clearly has not been working the way it should. Clause 26 is another important measure. It provides for the defence of contextual truth, to stop people from using statements or words out of context. Defamation actions in this jurisdiction have been replete with examples of that, so I welcome that measure. Another important measure is clause 29, which provides the defence of fair reporting of proceedings of public concern. That is important in terms of local council debates, committees and so on. That important measure relates to freedom of speech. One critical aspect of defamation is freedom of speech, and balancing freedom of speech against people's privacy and reputation. I think the dice has been loaded too far against freedom of speech overall. We have what is often called the chilling effect of defamation laws. This legislation brings back that balance to a fair degree. This is good legislation; it is a big step along the way. I simply ask the Attorney to keep an eye on costs. The bill is the biggest step forward in defamation law in many years, and the Attorney and the Government must be commended for it.

Mr BARRY COLLIER (Miranda) [9.46 p.m.]: I welcome and am pleased to support the Defamation Bill, which makes a number of significant changes to New South Wales defamation law. The most important of these is the adoption of "truth alone". "Truth" replaces "truth and the public interest" as the basic test. The term "public interest" is vague and is often the refuge of scoundrels when confronted by those in public life aggrieved by public lies being told about them. Nobody likes being defamed. Nobody likes lies being told about them, for whatever reason. Nobody likes having their good name and reputation besmirched or dragged through the mud, regardless of their occupation or status in the community.

There are no excuses for publicly telling lies about someone. The fact that a person is a politician and the common notion that he or she must have a thick skin provides no excuses for telling or publishing lies about them. Fair comment, fair criticism and fair debate are part and parcel of political life. Surely all of us here accept that. But telling lies about a person for perceived political gain is low. Gutlessly defaming someone for political gain via an unknown third person, using another person as a mouthpiece, is simply reprehensible. But that is what happened to me earlier this year: I was defamed for perceived political gain by another politician using a third party to distance himself from what were clearly untruths.

I draw this matter to the attention of the House both in the context of this bill and in the hope that we can reflect on behaviour that I believe brings discredit to all of us who seek to serve the community in public life. While ever we sweep this kind of behaviour under the carpet, while ever we do not put an end to it, we tend to bring discredit on ourselves. Towards the end of 2004—and I put it in context—Rocla Ltd announced a proposal to extract an additional 4.5 million tonnes of sand from Kurnell Peninsula. Kurnell is not in my electorate, but the Kurnell sandhills are close to the hearts of many of my constituents. Kurnell lies within the State seat of Cronulla and within the Federal seat of Cook, which is currently held by the Hon. Bruce Baird.

On 2 December 2004 I am on record in the *St George and Sutherland Shire Leader* newspaper calling for the rejection of the Rocla proposal. Subsequently I collected 8,500 signatures on a petition opposing the proposal. I presented the petition to then Minister Craig Knowles, who later refused Rocla's application. However, on 15 January this year I received a pamphlet in my letterbox entitled "Kurnell earmarked for destruction". This is the pamphlet that appeared in letterboxes throughout the Federal electorate of Cook, which encompasses the State electorates of Miranda and Cronulla. The State electorate of Cronulla has been held consistently by the Liberals for 20 years, and the Federal electorate of Cook has been held consistently by the Liberals for the past 30 years.

The pamphlet, exhibit 1, is authorised on the bottom by an A. McNichol of 196 Woollooware Road, Burraneer. Ms McNichol is not known to be involved in the anti-sandmining movement and is not known to any local environmentalists. Significantly, while the pamphlet appears to have been authorised by her, it does not bear a printer's name or address. Significantly too, my inquiries reveal that literally thousands of these pamphlets were distributed throughout the Sutherland shire. In December 2004, about the time the pamphlets began appearing in the shire, Bruce Baird's newsletter was also distributed throughout the Cook electorate. It

was printed by a firm in Kirrawee, which is also in my electorate. Interestingly, the paper is exactly the same glossy type, and what is even more interesting is that two of the photographs appearing on exhibit 1, the "Kurnell earmarked for destruction" pamphlet, also appear in Mr Baird's newsletter. They are identical. The pamphlet is significant because it refers to a web site www.savekurnell.com.au, which substantially repeats the material contained in the "Kurnell earmarked for destruction" pamphlet. It is most significant that having seen this and having read the material contained in the pamphlet and on the web site, I referred the matter to a Sydney Senior Counsel. In his written advice the Senior Counsel tells me that both the pamphlet and the web site material are defamatory of me under the existing law. In other words, they contain untruths designed to damage my reputation. When one receives these sorts of things one tends to make further inquiries, which I did.

First, a person well-acquainted with the technical nature of computers and web sites made some inquiries and discovered that the *savekurnell* web site is registered to the Liberal Party of New South Wales. Further, this person is more than 90 per cent sure that the material for that web site was provided by Bruce Baird's office. Second, this person phoned A. McNichol of 196 Woollooware Road, Burraneer, and asked her whether a political party was involved. She said no. He then asked why the web site was registered to the Liberal Party. Ms McNichol said that Bruce Baird, the Federal member for Cook, was giving her some help. Interestingly, both the Kurnell web site and Bruce Baird's own web site are powered by the same organisation, T Bone Productions. Obviously questions were starting to form in my mind, but the next piece of information is stunning. There came into my possession an instruction letter to letterboxers who were distributing pamphlets in the shire. The letterbox distributors themselves are located in Oyster Bay. The bottom of the pamphlet contains these instructions to the letterboxers:

Remember, no junk mail on a letterbox means no pamphlets.

The top of the instruction says this:

B Baird job is no junks as well.

In other words, the instruction to the letterboxer is to put the Bruce Baird pamphlets in every letterbox, including those marked "no junk mail." Clearly, the intention is to put them in every letterbox in the shire to make sure everyone receives this pamphlet. There is malice in that, specifically telling people to work against instructions and put them in every letterbox. If members do not think that is conclusive enough, in February I received a call from a well-known shire resident who tells me that the previous week he had a conversation with Mr Baird and Mr Baird's chief of staff, as he calls himself, Brendon Lyon, in Mr Baird's office at Caringbah. He described the "Kurnell earmarked for destruction" pamphlet to Mr Baird as being both scurrilous and actionable. I am informed by the resident, whom I regard as highly reliable, that Mr Baird replied with words to the effect, "I had to do something to get things moving"—clear, unequivocal evidence of Mr Baird's involvement in what I regard as defamation of my character.

If Mr Baird really wanted to get the public campaign against Rocla moving, all he had to do was pick up the phone. I had already expressed my opposition in the local paper. On 13 January, by letter published in the *St George and Sutherland Shire Leader*, I invited all local politicians to work together with me to stop sand mining in Kurnell. I even provided Mr Baird with a copy of my 12 objections to the Rocla proposal that I had lodged with the Department of Infrastructure, Planning and Natural Resources. Not only did Mr Baird not bother to lodge an objection to the Rocla proposal, he publicly and flatly refused my offer of a bipartisan campaign against Rocla. His rejection of my campaign is recorded in the *St George and Sutherland Shire Leader* of 22 February this year.

The case against Mr Baird and his staffer, Brendon Lyon, is strong. I believe there is no doubt that I have been defamed and that my character has been besmirched maliciously, merely for perceived political gain. Mr Baird thought he was clever in trying to do this via a third party. Sadly, he has involved the printers, the letterboxers, and everyone else in his defamatory exploits. The evidence of his own involvement is clear and irrefutable. At law he is just as liable as if he wrote the pamphlet and personally put the 70,000 copies of it in the letterboxes. He has been caught out. As I understand it, he has no defence under the present Act, and there is no truth in the pamphlet or the web site. It cannot be claimed that the material is in the public interest. Mr Baird has no defence under the proposed legislation. In my view, he cannot rely on truth alone; nor can he rely on any of the defences under the proposed Act. He certainly cannot rely on honest opinion.

So, why have I not taken legal action against him? There are a number of good reasons for that. First, the Rocla case against the State Government is now in the Land and Environment Court, a separate case to mine. Second, helping to stop the Rocla project is my prime concern, and always has been. The people of the

shire should not be distracted by legal action between local politicians. Third, I believe that our constituents want, and have the right to expect, better behaviour from their politicians than that being exhibited by Mr Baird. Fourth, the public has a right to expect that their elected representatives are working for them, not slugging it out in court battles. Fifth, taking the matter to court will involve everyone—

Mr Michael Richardson: Point of order: I have been listening to this debate for the past eight minutes and the honourable member for Miranda has not been speaking to the bill. There is not even the slightest reference to the legislation that has been framed by the Commonwealth to reform defamation laws. There has been absolutely no reference over the past eight minutes. I ask you to draw him back to the leave of the bill or sit him down.

Madam ACTING-SPEAKER (Ms Marie Andrews): Order! The remarks of the honourable member for Miranda are clearly related to the bill. He may continue.

Mr BARRY COLLIER: This involves everyone, however innocently, from the printer, Ms McNichol, the letterbox company, and even the letterboxers—people just doing their job to earn a few dollars, involving them if only as witnesses. That is not to say I have ruled out the prospect of litigation.

Mr Michael Richardson: Point of order: Madam Acting-Speaker, I listened to your learned ruling but since the honourable member for Miranda resumed his contribution he has not mentioned the legislation even in passing. I cannot see how anyone can suggest that the honourable member for Miranda is speaking to the legislation.

Madam ACTING-SPEAKER (Ms Marie Andrews): Order! I repeat the ruling I gave earlier. There is no point of order. The honourable member for Miranda is clearly speaking about defamation, and the House is dealing with the Defamation Bill. He may continue.

Mr BARRY COLLIER: The bill caps damages at \$250,000. That is a change from the existing situation, where there is no upper limit, subject to the Supreme Court rules. It is possible that damages in this particular case could be substantial. There is another way open for the Hon. Bruce Baird. Part 3 of the proposed new Act provides for the resolution of civil disputes without litigation and involves an offer to make amends by the publisher to the aggrieved person. The form and content of the offer to make amends are set out in part 3 and may involve, for example, an apology in the local newspaper.

Mr Baird might argue that the new bill will not apply to him. But there are means to avoid litigation under the existing legislation, and the provision for offers of amends in the proposed legislation provides some guidelines that he might follow. Whilst he should get some legal advice, I trust the Hon. Bruce Baird will do the honourable thing and make an offer of amends along the lines set out in the bill. Politicians are not as respected in our community as they should be. We need to raise our level of esteem and respect amongst members of the community. We do our job diligently with the best interests of our community at heart. One way we can help ourselves is by not unfairly and unnecessarily dragging each other's good name through the mud, either directly or indirectly through an unsuspecting third party. It is not a clever tactic and it should end. I commend the bill to the House.

Mr BOB DEBUS (Blue Mountains—Attorney General, Minister for the Environment, and Minister for the Arts) [10.00 p.m.], in reply: I thank honourable members for their support for this bill, which is based on the model defamation provisions endorsed by State and Territory Attorneys General. It represents the culmination of three years of exhaustive consultation and deliberation by the Ministers, and the fruit of many thoughtful and considered submissions received from interested academics, professional associations, various working parties and major publishers. It has been a long and arduous task. The development of the model defamation provisions was only possible with the goodwill and co-operation of all those groups.

It goes without saying that to have a national defamation scheme every jurisdiction had to be willing to make changes to its existing law. New South Wales was no exception. Our law necessarily had to change. I am satisfied that the changes we have made to the law are for the better. The changes include improvements to the drafting and structure of the law, the abandonment of the imputation as the cause of action, the abolition of the notorious section 7A trials, and the introduction of an index cap on general damages. At times the level of litigation in defamation is much exaggerated and overestimated by various sources in New South Wales. In 2004, 1.2 per cent of the civil filings in the Supreme Court and 0.2 per cent of the civil filings in the District Court were for defamation. I am sure those figures are much lower than people are led to believe; nevertheless they are significant.

As this is a national defamation scheme, I am pleased that the other Australian jurisdictions will also adopt some of the progressive elements that may already be found in the New South Wales law. These include the pre-litigation offer of amends procedure; the one-year limitation period, extendable to three years in some circumstances; the restriction on the right of corporate plaintiffs to sue; and cost penalties for those who unreasonably fail to make or accept a settlement offer or who misuse their superior financial position to hinder the early resolution of proceedings.

I will briefly reply to some of the observations of the honourable member for Epping. He and several other Opposition speakers seemed to suggest that the Federal Attorney-General drafted all this legislation. That is in no way true. The general principles for this framework were settled in 2003, before the present Commonwealth Attorney-General joined the Standing Committee of Attorneys General procedure. By July 2000 all the State and Territory Ministers had published, and were consulting widely on, a detailed blueprint for the new uniform law. That blueprint received widespread support. Philip Ruddock was very much a Johnny-come-lately to this exercise, even though he has sought many opportunities to claim credit for it.

With a task as difficult and ambitious as uniting eight different defamation laws, it is hardly surprising that some interest groups were not 100 per cent satisfied with the end product. Nevertheless, there has been strong and widespread support for the model law, with some issues of a technical or drafting nature remaining the subject of some debate. For example, the New South Wales Bar Association has raised a concern about the operation of clause 31 in relation to the defence of honest opinion. Its concern relates to circumstances where the defamatory matter that is published is not exclusively an opinion but also includes statements of fact. By way of clarification, I affirm that clause 31 is not intended to alter the position at common law in regard to the pleading of defences or the kinds of facts that can be relied on to support a defamatory opinion. The equivalent defence at common law is the defence of fair comment.

At common law, as I understand it, the defence of fair comment is available in respect of such defamatory imputations or defamatory meanings carried by the matter concerned that can be said to be opinions rather than a statement of fact. An imputation is basically an accusation or charge about someone, whether express or implied. At common law the opinion must be based on proper material, namely, statements of fact that are true or statements that are privileged. Statements of fact may be set out in the matter that expresses the opinion, but facts can be relied on even if they are not set out with the opinion if they are notorious or widely known. An opinion may be based on facts that are either defamatory or non-defamatory. However, where a publication of matter includes both defamatory statements of fact and a defamatory opinion, it is appropriate at common law for the plea to be limited to fair comment and not to include a plea of justification. This kind of pleading is conventionally called a rolled-up plea.

Nothing in clause 31 is intended to affect pleadings of this kind. It may be that some of the difficulty that clause 31 has occasioned for some time may be based on the use of the concept of "imputation" in early drafts of the model provisions. That term is absent in clause 31. There has been a lively debate as to whether the term "imputation" should be used instead of the term "meaning", or whether either term should be used at all. In particular, concern has been expressed in some quarters that the use of the term "imputation" might lead to the importation of the arcane system of pleading that prevails in New South Wales. I believe that this concern is misplaced. The system of pleading in New South Wales has developed as it has because in this State each defamatory imputation carried by a matter is the basis for a separate cause of action. Accordingly, it is necessary for each imputation to be identified and pleaded with great particularity.

That is not the position at common law, where the focus is the matter published rather than the number of defamatory imputations it carries. It should be noted that this common law position has been reaffirmed in clause 8 of the bill. The operation of the common law is also expressly preserved by clause 6. A number of other technical issues have been raised by interested parties. If we had waited until everyone was 100 per cent satisfied with every aspect of every provision of the model bill, we would never have achieved our primary objective, which has always been to bring all the States and Territories to the same starting blocks. Once the new laws are in place, our attention can be devoted to the more technical issues and even more far-reaching reforms.

I refer very briefly to two matters raised by the honourable member for Epping. He said that the absence of juries in defamation trials in South Australia would in some way represent a failure of the jurisdictions of Australia to achieve uniformity. In my view that is not a significant point. Juries have not been available in civil matters in South Australia for a long time. It has been so long that South Australian courts now lack the facilities to physically accommodate juries in civil cases. The absence of juries in South Australia will

not affect the uniformity of this scheme being established by the model provisions, because the substantive law of defamation will be the same in each jurisdiction. The causes of action, defences and remedies will be identical whether a person sues in Tasmania, South Australia or New South Wales. The issue of juries is essentially one of procedure and not of substantive law.

I refer also to the right of corporations to sue. The honourable member for Liverpool and the honourable member for Coogee spoke eloquently on this issue. I endorse their remarks concerning SLAPP writs, the consequences of "McLibel" legislation, and other issues they raised. However, I point out two matters of great significance. In its recent submission to the model defamation law the New South Wales Law Society supported the winding back of the power of corporations to sue for defamation. The model bill provides that small businesses with fewer than 10 employees may sue for defamation. In fact, a similar exemption has been in place in New South Wales for the past few years. Small businesses are able to sue if they have fewer than 10 employees. One must make an arbitrary limit to the number of employees, but that is a reasonable one, and the system has been working well in New South Wales for those past few years.

I also point out that an individual who is a member, officer or employee of a corporation, regardless of its size, is not prevented by the model provisions from suing for defamation if he or she has been personally defamed, and that was the case under the New South Wales Defamation Act. In other words, the provisions we have introduced concerning corporations were, and remain, entirely reasonable. As I said in my earlier speech, the model defamation provisions intergovernmental agreement will allow the operation of new laws to be monitored and reviewed on an ongoing basis. I have already undertaken to ensure that several issues raised by interested parties will be referred to the joint working party to be set up under the intergovernmental agreement and reported back to the Standing Committee of Attorneys General at the earliest opportunity.

The intergovernmental agreement will play a crucial role in maintaining uniformity among the States and Territories and providing a sound platform for future defamation law reform. The new model defamation scheme regime represents a major milestone in Australian legal history. The Defamation Bill will remove unnecessary impediments to freedom of expression and interstate communication without compromising the protection that defamation law provides to personal reputation. Once again I thank honourable members for their support for this important and historic bill and I commend it to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

LOCAL GOVERNMENT AMENDMENT (STORMWATER) BILL

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

SPECIAL ADJOURNMENT

Motion by Mr Bob Debus agreed to:

That the House at its rising this day do adjourn until Thursday 13 October 2005 at 10.00 a.m.

The House adjourned at 10.13 p.m. until Thursday 13 October 2005 at 10.00 a.m.
