

LEGISLATIVE COUNCIL

Wednesday 13 March 2002

The President (The Hon. Dr Meredith Burgmann) took the chair at 11.00 a.m.

The President offered the Prayers.

The PRESIDENT: I acknowledge that we are meeting on Eora land.

SYDNEY BETHEL UNION EXTENSION AMENDMENT BILL

Bill received and read a first time.

Motion by the Hon. John Della Bosca agreed to:

That standing orders be suspended to allow the passing of the bill through all its remaining stages during the present or any one sitting of the House.

JOINT SELECT COMMITTEE ON BUSHFIRES

The PRESIDENT: I report the receipt of the following message from the Legislative Assembly:

Madam PRESIDENT

The Legislative Assembly informs the Legislative Council that it has this day agreed to the following resolution—

- (1) That a Joint Select Committee be appointed to consider and report upon the recent bushfires with particular regard to the following matters:
 - (a) Hazard reduction and other fire prevention measures.
 - (b) The environmental impact of bushfire management and control on biodiversity and biophysical processes and the application of research, technology and management techniques to minimise the impacts.
 - (c) The causal factors of the bushfires including an investigation of land use decisions, development planning, and the responsibilities of property owners that will reduce bushfire risk and the environmental impact of bushfire management.
 - (d) The adequacy of equipment available to, and training of, Rural Fire Brigades.
 - (e) The adequacy or otherwise of building regulations currently in operation in New South Wales with particular emphasis on the Australian community bushfire safety standards for houses.
 - (f) The use of aircraft in firefighting.
 - (g) The adequacy of changes made to bushfire planning and fighting, development planning and other relevant matters since the 1994 bushfires.
- (2) That the Committee, where possible, shall not duplicate examination of the evidence currently before the Coroner's inquiry.
- (3) That the Committee shall consist of seven members, as follows:
 - (a) Three from the Government, two being Members of the Legislative Assembly and one a Member of the Legislative Council; and
 - (b) Two from the Opposition, one being a Member of the Legislative Assembly and one a Member of the Legislative Council; and
 - (c) Two Independent or cross-bench members, one being a Member of the Legislative Assembly and one a Member of the Legislative Council,

who shall be nominated in writing to the Clerk of the Legislative Assembly and Clerk of the Legislative Council by the relevant party leaders and the Independent and cross-bench members respectively by Monday 18 March 2002.

- (4) That at any meeting of the Committee four members shall constitute a quorum provided that the Committee meet as a joint committee at all times.
- (5) That such Committee have leave to sit during the sittings or any adjournment of both Houses; to adjourn from place to place; have leave to make visits of inspection within New South Wales; have power to take evidence and send for persons and papers.
- (6) That the Committee shall report by 28 June 2002.

The Legislative Assembly requests that the Legislative Council appoint 3 of its members to serve with the members of the Legislative Assembly on the Committee and name the time and place for the first meeting of the Committee.

Legislative Assembly
12 March 2002

JOHN MURRAY
Speaker

Consideration of message deferred.

BUSINESS OF THE HOUSE

Precedence of Business

Motion by the Hon. John Della Bosca agreed to:

That on Wednesday 13 March 2002 General Business take precedence of Government Business until 6.00 p.m.

SESSIONAL AND SELECT COMMITTEES

Motion, by leave, by the Hon. John Della Bosca agreed to:

(1) Standing Orders Committee

1. That the Standing Orders Committee for the present session consist of the following members: the President, Mr Egan, Mr Della Bosca, Mr Obeid, Ms Tebbutt, Mr Gallacher, Mr Gay, Revd Mr Nile and Mrs Sham-Ho.
2. That the committee have leave to sit during any adjournment of the House and have authority to confer with any similar committee appointed by the Legislative Assembly.

(2) Library Committee

1. That the Library Committee for the present session consist of the following members: the President, Ms Burnswoods, Mr Dyer, Mr Kelly, Mr Primrose, Ms Saffin, Mr Colless, Mr Harwin, Mr Corbett and Dr Wong.
2. That the committee have leave to sit during any adjournment of the House and have authority to confer with any similar committee appointed by the Legislative Assembly in accordance with the resolution of the House of 26 November 1968.

(3) House Committee

1. That the House Committee for the present session consist of the following members: the President, Mr Kelly, Mr Macdonald, Mr West, Ms Fazio, Mr Tsang, Mr Jobling, Mr Moppett, Mr Corbett and Mr Richard Jones.
2. That the committee have leave to sit during any adjournment of the House and have authority to confer with any similar committee appointed by the Legislative Assembly.

(4) Printing Committee

1. That the Printing Committee for the present session consist of the following members: Mr Hatzistergos, Ms Saffin, Mr West, Mr Pearce and Mr Corbett.
2. That all petitions presented to the House, and all papers laid upon the table, which are not ordered to be printed, be referred to the committee.
3. That the committee report from time to time which of the petitions and papers referred to them should be printed, whether in full or in abstract.
4. The committee has power to order petitions or papers, or abstracts, to be printed, unless the House otherwise orders.
5. The Clerk is to arrange for the printing of any petitions or papers ordered to be printed.

(5) Select Committee on Mental Health

1. That the select committee known as the Select Committee on Mental Health, appointed by resolution of the Legislative Council on 11 December 2001, be reappointed, with the same functions and powers.
2. That the minutes of proceedings, evidence, all papers, documents, reports and records of the Select Committee on Mental Health appointed on 11 December 2001 be referred to the committee.

**CRIMES (SENTENCING PROCEDURE) AMENDMENT
(GENERAL SENTENCING PRINCIPLES) BILL**

Message forwarded to the Legislative Assembly requesting that the bill transmitted for concurrence during the previous session of the present Parliament, not having been finally dealt with because of prorogation of the Legislature, be now proceeded with under the Assembly's standing order in that behalf.

BILLS UNPROCLAIMED

The Hon. Michael Costa tabled a list detailing all legislation unproclaimed 90 calendar days after assent as at 12 March 2002.

TABLING OF PAPERS

The Hon. Michael Costa tabled the following paper:

State Owned Corporations Act 1989—Report of New South Wales Lotteries Corporation for the six months ended 31 December 2001.

Ordered to be printed.

PETITIONS

Branch Line Above Rail Community Service

Petition asking that above rail community service obligations on branch lines be reinstated until branch line infrastructure is upgraded to a standard to ensure competitiveness with main lines, received from **the Hon. Duncan Gay**.

Freedom of Religion

Petitions praying that the House reject legislative proposals that would detract from the exercise of freedom of religion, and retain the existing exemptions in the Anti-Discrimination Act applying to religious bodies, received from **Reverend the Hon. Fred Nile** and **the Hon. Dr Brian Pezzutti**.

BUSINESS OF THE HOUSE

Postponement of Business

General Business Notice of Motion No. 2 postponed on motion by the Hon. Malcolm Jones.

ANTI-DISCRIMINATION (HETEROSEXUAL DISCRIMINATION) AMENDMENT BILL

Second Reading

Debate resumed from 29 November 2001.

Reverend the Hon. FRED NILE [11.12 a.m.]: I spoke to this bill before the Parliament was prorogued. I apologise for the absence of the Hon. Elaine Nile, who is ill with influenza and will not be able to give her speech in reply today. At the conclusion of my brief contribution I will adjourn the debate to allow other members an opportunity to participate on a future day. It has been reported that the President of the Anti-Discrimination Board, Mr Chris Puplick, is strongly opposed to this bill. His opposition seems contradictory as he has always sought to expand the board's jurisdiction. The board has power to consider complaints relating to sex, sexual harassment, pregnancy, disability, race, age, carers' responsibilities, homosexuality, marital status, racial vilification, transgender, victimisation, HIV-AIDS, homosexual vilification, HIV-AIDS vilification and transgender vilification. The board is seeking to add religious, non-religious and other forms of discrimination to its already extensive jurisdiction.

Chris Puplick knows that the board will still handle complaints if the legislation is passed. Complaints will not be handled by another outside body. The board has power to reject frivolous or vexatious complaints.

Genuine cases may arise of discrimination against males or females because they are heterosexual, but the number of complaints remains unknown. A complaint may be made by a heterosexual person who is employed in a small shop or business by a homosexual or transsexual person and is sacked because he or she is heterosexual. A complaint may be made by a heterosexual person who is discriminated against by an organisation's secretary or president who is homosexual or transsexual. In such cases the heterosexual person will have grounds on which to base a complaint to the Anti-Discrimination Board, which will have power to investigate and rectify the discriminatory behaviour.

Passage of this legislation will not bring a flood of complaints. However, this measure will enable heterosexual people who honestly believe that they have been discriminated against because of their heterosexuality to make a complaint to the Anti-Discrimination Board and to have the complaint investigated. The Anti-Discrimination Board has power to deal with complaints about matters already listed in the legislation and also about events. In a letter to the *Daily Telegraph* I praised the Premier, Mr Carr, for rejecting the request for a \$300,000 advance for the 2002 Gay Games. In my letter I made the observation that our highly successful Olympic Games had just been held and that any games specifically for homosexual people would be second rate.

I did not intend to criticise homosexuals as such, but I said that most Gay Games participants would not be able to match the speed and achievements of heterosexual or homosexual athletes chosen to represent their countries at the Olympic Games, and that the Olympic Games are not referred to as the heterosexual games. To my surprise, the *Daily Telegraph* editor and I were called before the Anti-Discrimination Board to answer a complaint about my Gay Games comments. Mr Puplick thinks he has power to protect people against discrimination at events such as the mardi gras and the Gay Games.

The view that discrimination against heterosexuals should not be added to the Anti-Discrimination Board's jurisdiction may seem contradictory. Let democracy operate. People should be able to take advantage of the law if they suffer discrimination. This legislation will create grounds on which a person may lodge a complaint with the board. I understand that the Government will be presenting its considered position when debate resumes on another day. The Opposition is in the process of finalising amendments to the bill. Passage of the bill at the second reading stage would enable honourable members to consider the amendments, and members who have reservations about them could vote against the bill at the third reading. Unless the measure is passed at the second reading we cannot consider and vote on the amendments. I have not seen the Opposition's amendments, and they may contain valuable improvements to the operation of the bill. If the amendments improve the bill, the mover of the bill, I, and other honourable members, will support them enthusiastically.

I am pleased that the Opposition has drafted amendments to this proposed legislation. I hope that in the meantime the Government will give further consideration to the bill. I do not know whether the Government is obliged to support and uphold Mr Puplick's stated position. However, Mr Puplick has his own agenda and has made his position clear. The Government should make up its own mind about the legislation. In the past the Government has been critical of Mr Puplick. It is correct that statutory officers who preside over boards and other organisations make decisions that should not be automatically endorsed by the Government. I call on the Government to give further consideration to the bill. Hopefully, the Committee will agree on the amendments and the House will pass the legislation. The legislation can be trialled and if it creates unanticipated problems it can be amended. If honourable members voted against this legislation they would be practising and demonstrating discrimination against heterosexuals.

Debate adjourned on motion by Reverend the Hon. Fred Nile.

BUSINESS OF THE HOUSE

Postponement of Business

Private Members' Business item No. 2 in the Order of Precedence postponed on motion by the Hon. Ian Macdonald, on behalf of the Hon. David Oldfield.

Discharge of Business

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [11.22 a.m.]: I move:

That Private Members' Business item No. 3 [Reference to General Purpose Standing Committee No. 3—Home Warranty Insurance Scheme] in the Order of Precedence be discharged from the Business Paper.

Honourable members are aware of the history of the reference and the reasons the Opposition moved the reference motion. Our concerns at that time have not substantially changed, but recent events must be considered. Honourable members are aware that the Minister for Fair Trading announced on 28 February that Victoria and New South Wales will jointly investigate the Home Warranty Insurance Scheme, and yesterday the Minister for Planning announced an inquiry into home building standards. Given the scope of those terms of reference, and the reporting date for the inquiries, I believe it would not be in the best interests of the people of New South Wales to have another inquiry that will investigate and make recommendations about many of those issues concurrently.

The reference motion was moved at a time when the home building industry was facing a significant crisis. HIH Insurance had just collapsed and took with it insurance coverage for a large number of the 153,000 commercial home builders in this State. The Government had failed to react appropriately to the crisis, although HIH was only one of three insurers offering insurance to builders. Until a few months ago the Minister had failed to attract one new insurer into the scheme. Home owners were left high and dry when HIH collapsed and those with outstanding claims against an insurer and those contracted with builders were no longer able to get insurance.

In deciding to seek to withdraw this motion, I had to give weight to the benefits of proceeding with the inquiry in its present form and allowing two inquiries announced by the State Government in recent weeks to report back to the Parliament their recommendations for changes to the home building industry. I believe it is in the best interests of the community and the home building industry to allow the industry participants to concentrate their energies on getting the best possible outcomes for these inquiries and the Federal inquiry into the Home Warranty Insurance Scheme. I thank those honourable members on the crossbench who have supported the Opposition by putting pressure on the Government to finally recognise that what the Opposition has been saying for some time about builders having access to insurance and home owners having access to quick and easy payment of insurance claims. I trust that honourable members will agree to the motion.

Motion agreed to.

Postponement of Business

Private Members' Business item No. 4 in the Order of Precedence postponed on motion by the Hon. Dr Arthur Chesterfield-Evans.

RIGHTS OF THE TERMINALLY ILL BILL

Second Reading

Debate adjourned from 29 November 2001.

Reverend the Hon. FRED NILE [11.26 a.m.]: The Christian Democratic Party strongly opposes the Rights of the Terminally Ill Bill, which was introduced by the Hon. Ian Cohen. The overview of the bill states:

The object of this Bill is to provide a legislative framework for the rights of the terminally ill persons to request and receive assistance to terminate their lives voluntarily. Under this framework, a terminally ill person may be assisted by a medical practitioner to administer a substance to himself or herself. If the terminally ill person is physically unable to administer the substance, the person can nominate a person to do this.

The Christian Democratic Party opposes this bill because we, and other honourable members, want to protect the people of New South Wales. I respect the sincerity of the Hon. Ian Cohen in introducing this bill, but I believe his sincerity is misguided. We need to protect the lives of all the citizens of New South Wales, especially the ill, the aged, those suffering pain, the poor, the uneducated, minorities, racial or religious groups, or those suffering from HIV-AIDS or other tragic illnesses. Voluntary consent may be given by a person, under coercion, by a doctor, by relatives or by other persons who may not be acting in good conscience. At such a time an ill person may think there is no other option but to allow someone to end their life.

The word "terminate" really means kill. Modern politically correct language often hides the significance of an act. For example, those killed in war are described as being part of a body count. This bill creates the jargon of "terminating" a person's life. I shall read a letter written by Montana hospice physician Ira Byock and published in the *New York Times Magazine* on 21 July 1996. She wrote:

There is a legacy that reverberates beyond a last breath, depending on how, one way or another, those last days were faced. I treated a young man with AIDS who begged for me to help him die. His religiously fundamentalist family was appalled with him. So much was unspoken, unsettled.

Gradually the hospice team was able to bring them together, and to see that father gently bathing his son was nothing short of a miracle. Just think about that for a moment. It's all right there, the moment of truth. This man died in peace, and his family will always know they had loved him, something that wouldn't have happened if I or some other doctor had listened to his request to die.

That is why I emphasise the need to protect people even from making a decision that they think is correct at the time but which, in retrospect, they could regret. Also, we must face the fact that we are talking about legislation that will allow the administration of a lethal injection—that is, a poisonous injection. This is not a medical act to assist life or extend it; it is an act to end a person's life by the injection of a lethal substance into the bloodstream. We cannot avoid the fact that such an administration is similar to the manner in which some States of the United States of America execute prisoners. We have all seen this on television. Even though it is said to be more humane than the electric chair or, prior to that, hanging, it is still a frightening event to watch even a convicted murderer be executed by lethal injection, with gaol officials manipulating the administration of various drugs from containers on the wall of an execution chamber. Those drugs flow into the body of the person, whose life thereby ends.

Most honourable members would know that this House and the other place have debated the principle of euthanasia. On 15 May 1997 a motion was moved in this House by the Hon. Elisabeth Kirby of the Australian Democrats. That motion sought leave to bring in a bill for an Act requiring a referendum in relation to voluntary euthanasia. There was a vote on the first reading of that bill. That would now be regarded as unusual. There was not a division on the first reading of the bill now before the House. In recent years honourable members have tended to adopt the position of allowing an individual member to introduce a bill even if they oppose it, simply to enable the bill to reach the second reading stage, where it can be debated, amended, passed or defeated.

On the occasion of the introduction of the bill by the Hon. Elisabeth Kirby there was such strong feeling against the bill that a vote was taken on its first reading. When the honourable member moved "That this bill be now read a first time", members of the Legislative Council divided on the question, and only four members voted in favour of the motion. They were the Hon. Alan Corbett, the Hon. Elisabeth Kirkby, the Hon. Ian Cohen and the Hon. Richard Jones. Thirty-four members voted against the motion. The opposing members included members of the Labor Party, the Liberal Party, the National Party, the Christian Democratic Party and so on. The vote—four for the motion and 34 against the motion—was a resounding defeat of the bill.

A similar vote was taken in the other place. The former member for Manly, Dr Macdonald, approached the euthanasia issue from another direction. His objective was to set up a euthanasia select committee. Obviously, he hoped that select committee would ultimately recommend the adoption of some form of voluntary euthanasia—or even euthanasia, because no-one knows what a committee may finally recommend. Obviously, that was the intention of the former member for Manly, who was a proponent of euthanasia. He fought valiantly, as honourable members must do in the other place. In this Chamber honourable members have greater freedom, for which we on the crossbenches are very grateful. But in the other place it is very difficult for Independents to have their matters debated.

The key vote on the motion moved by the former member for Manly was on a motion that might be regarded by this House as merely procedural. If that motion had been passed, Dr Macdonald would have moved on to move for the second reading of the bill and to a debate of the substance of the bill. However, if the motion for the first reading were resolved in the negative, that would be a way of defeating his bill. When the other place came to vote on the question of whether the matter should be debated by the House, only three members of that place voted in favour of the motion. They were Dr Macdonald, Ms Clover Moore and Mr Windsor. Because I know Mr Windsor does not support euthanasia, I asked him later why he voted with the other two Independents. He said that they looked so lonely sitting there that he went across and sat with them. So only two members of that place had real conviction in voting in favour of debating that bill. Of course, we respect the views of Dr Macdonald and Ms Clover Moore, with Mr Windsor being a fellow traveller, I suppose one could say.

The point I am making is that the matter of voluntary euthanasia has been ventilated and discussed in both Houses of the New South Wales Parliament, where the proponents have been resoundingly defeated in probably two of the strongest votes of this institution. That should be borne in mind by honourable members when this Chamber is called upon to vote on the second reading of this bill. Some may have forgotten that

history. But people do not change their positions overnight. These are issues to which all honourable members give a great deal of thought. We normally maintain the position that we hold. We listen to the views of others, but we do not overnight lurch from the left to the right or from the right to the left on an issue.

The Christian Democratic Party believes that this bill would change the historic role of doctors. The role and purpose of doctors is to save life, not to take it. It is not even to assist in the taking of life, or assisting a person to take his or her own life, to suicide. Once that delicate balance in our society is upset, no-one really knows what the result will be. Therefore, some who support the approach adopted by this bill may come to regret their support for it. I know that it is said that this legislation is necessary because media reports and surveys tell us that some doctors are in fact practising a form of voluntary euthanasia. To me, that is an argument against the bill. If we were to open the door in a legislative way, would that form of voluntary euthanasia diminish? No, there would be more of it. Not only would the present form of alleged voluntary euthanasia be legal, but there would be illegal practise of further forms of euthanasia, although the real motives or actions would be concealed.

The Hon. Ian Cohen: It is illegal now, but it is occurring.

Reverend the Hon. FRED NILE: The point I make is that the bill would encourage further such acts by doctors. They could feel that the Parliament has given them a green light to proceed further in that direction. I have indicated that both Houses of the New South Wales Parliament have expressed their opposition to the move towards euthanasia. A number of authoritative and reputable parliamentary committees have done likewise. I have a letter from the New South Wales Society of Palliative Medicine dated 5 December 2001 in which the society indicates its opposition to the bill. I will not read the whole of the letter, but towards the end of it the society says:

In addition, we wish to recommend that the House of Lords Report of the Select Committee on Medical Ethics 1994 be closely examined by parliamentarians, in particular noting the Opinion of the Committee, paragraph 237. Recently in a UK case, this House of Lords recommendation was invoked and was upheld in the judgement delivered.

After intensive investigations, hearings and evidence from witnesses the House of Lords committee adopted the following conclusion in recommendation 237:

237. Ultimately, however, we do not believe that these arguments are sufficient reason to weaken society's prohibition of intentional killing. That prohibition is the cornerstone of law and of social relationships. It protects each one of us impartially, embodying the belief that all are equal. We do not wish that protection to be diminished and we therefore recommend that there should be no change in the law to permit euthanasia. We acknowledge that there are individual cases in which euthanasia may be seen by some to be appropriate. But individual cases cannot reasonably establish the foundation of a policy which would have such serious and widespread repercussions. Moreover dying is not only a personal or individual affair. The death of the person affects the lives of others, often in ways and to an extent which cannot be foreseen. We believe that the issue of euthanasia is one in which the interest of the individual cannot be separated from the interest of society as a whole.

The text of the recommendation is also set out in the letter from the New South Wales Society of Palliative Medicine, to which I have referred. The letter concludes as follows:

On behalf of the Society, I wish to express that we agree with the seriousness and importance of this issue and strongly oppose the legalisation of euthanasia in Australia.

Yours sincerely,

Dr Ghauri Aggarwal ...
Consultant Physician in Palliative Medicine
Head of Department—Concord Hospital
President
NSW Society of Palliative Medicine

I am pleased that the society has adopted that position and has referred to the decision of the House of Lords. The Canadian Senate also undertook an inquiry into this issue. In a report entitled "Report of the Special Senate Committee on Euthanasia and Assisted Suicide", dated June 1995, the following recommendations are made:

The Committee recommends nonvoluntary euthanasia remain a criminal offence.

The report also states:

The majority recommends voluntary euthanasia remain a criminal offence.

Another inquiry was conducted by the New York State Task Force on Life and the Law. The report is entitled "When Death Is Sought: Assisted Suicide and Euthanasia in the Medical Context" and is dated May 1994. The report states:

The members of the Task Force hold different views about the ethical acceptability of assisted suicide and euthanasia. Despite these differences, the Task Force members unanimously recommend that existing law should not be changed to permit these practices.

Despite members of the task force seeing some value in considering assisted suicide and euthanasia, to which I alluded earlier, when it came to a final decision they were unanimous in reporting that the laws should not be changed. Under the heading "The Social Risks of Legalization", the report also states:

The Task Force members unanimously concluded that legalizing assisted suicide and euthanasia would pose profound risks to many patients. For purposes of public debate, one can describe cases of assisted suicide in which all the recommended safeguards would be satisfied. But positing an "ideal" or "good" case is not sufficient for public policy, if it bears little relation to prevalence social and medical practices.

No matter how carefully any guidelines are framed, assisted suicide and euthanasia will be practiced [sic] through the prism of social inequality—

a point I made earlier in my opening remarks—

and bias that characterizes the delivery of services in all segments of our society, including health care.

In relation to this point, I believe that even the Greens should give further consideration to the provisions of the bill. After all, the Greens are one of the active advocates who support the poor and members of minority groups. I emphasise the following statement:

The practices will pose the greatest risks to those who are poor, elderly, members of a minority group, or without access to good medical care.

The next point is a matter of concern when economic considerations are taken into account:

The growing concern about health care costs increases the risks presented by legalizing assisted suicide and euthanasia. This cost consciousness will not be diminished, and may well be exacerbated, by health care reform.

I ask honourable members to bear in mind that this report was produced in 1994. My view is reiterated in this report—namely, health officials may actively encourage voluntary euthanasia among aged people simply to free up hospital beds. We know that there is already great pressure in our hospitals system, as is evidenced by waiting lists, et cetera, and that there is an ongoing controversy surrounding what to do with sick or elderly people who, at this very moment, are being pushed to the edge of society through medical care and treatment they are receiving. This legislation opens up the possibility or the opportunity for pressure to be applied which in the long run could provide economic justification. I acknowledge that that would not be a view that the Hon. Ian Cohen or any of the Greens would promote; I am merely stating the dangers that the legislation may create at some time in the future. Other comments on this subject were produced by the Community Development Committee in report No. 6, entitled "Report on the Need for Legislation on Voluntary Euthanasia", a report of the Tasmanian Parliament dated 1998. The report states:

The Committee found that whilst individual cases may present a strong case for reform the obligation of the state to protect the right to life of all individuals equally could not be delivered by legislation that is based on subjective principles.

The committee went on to state that it did not consider the legalisation of voluntary euthanasia as an appropriate solution to abuses that may be occurring in the current system. In conclusion, based on those very well thought out reports that oppose voluntary euthanasia, the Christian Democratic Party opposes the bill before the House.

The Hon. HELEN SHAM-HO [11.46 a.m.]: I welcome the opportunity to express my views about the Rights of the Terminally Ill Bill 2001, which was introduced by the Hon. Ian Cohen in November 2001. I understand that the bill is well intentioned but I agree with Reverend the Hon. Fred Nile's comments that the bill could be misguided. This bill seeks to afford a terminally ill patient the right to obtain the assistance of a medical practitioner to end his or her life. The following object is set out in an overview produced in the first print of the bill:

The object of this Bill is to provide a legislative framework for the rights of terminally ill persons to request and receive assistance to terminate their lives voluntarily. Under this framework, a terminally ill person may be assisted by a medical practitioner to administer a substance to himself or herself. If the terminally ill person is physically unable to administer the substance, the person can nominate a person to do this.

The Bill provides protection for a person providing such assistance and sets up safeguards against possible abuse of the rights recognised by the Bill.

I understand that the bill is based on the Northern Territory's Rights of the Terminally Ill Act 1995, which was the first law of its kind anywhere in the world: it legalised voluntary euthanasia or mercy killing.

Reverend the Hon. Fred Nile: Why was it the first one? Where were all the other ones?

The Hon. HELEN SHAM-HO: It has been unsuccessful, and that is exactly the point. As honourable members would know, that law was rendered inoperative by the Commonwealth Parliament's Euthanasia Laws Act 1997. For reasons that I will go into shortly, I cannot support this bill. I agree that the alleviation of pain, suffering and distress for the terminally ill is one of the major challenges facing society today. I also agree that people who have a terminal illness have the right to die with dignity and comfort, and that they should be afforded justice and compassion in their death. I do not agree, however, that this bill will achieve any of these things. The debate about voluntary euthanasia is not a new one, nor is it any closer to reaching a solution. There are arguments on both sides and very little middle ground on which we all can agree. For what it is worth, my personal opinion is that euthanasia is morally wrong. It is a basic tenet of our society that we do not kill one another. To allow an innocent life to be taken, as this bill does, simply because terminally ill patients decide that available treatment is inaccessible to them is simply abhorrent to me. As I said earlier, that is just my opinion. I appreciate that there is another point of view.

Like many other members of this Chamber, my attitude towards euthanasia has been shaped partly by personal experience. Some years ago my mother died of emphysema in a Canadian hospital. As with other terminal illnesses, emphysema results in a slow and often painful death. During her final weeks my family took turns to care for her and to ensure that she was never alone, in particular, because she could not speak English. I admit that there were moments when my mother was heavily medicated and she was not really aware who was with her. However, I was also aware that there were moments of lucidity and of love and joy brought about by my mother's knowledge that she was surrounded by her family. I did not want my mother to die and, if she had had the choice, I know that she would not have wanted that either. No matter how hard those days were I look on her death as a time of peace and reconciliation rather than as a time of anguish and recrimination.

But today we are not debating personal opinions. As members of Parliament the task with which we are faced is to decide whether this bill should form part of the criminal law in New South Wales. The question is not whether euthanasia is good or bad; rather whether the Rights of the Terminally Ill Bill constitutes good law. In my opinion it does not. Honourable members would know that the purpose of the criminal law in this country is to provide equal justice for all citizens, in particular, those vulnerable members of our community. Under these laws, the intentional taking of an innocent life is seen as a grave act and one that is deserving of the most severe penalty. The Rights of the Terminally Ill Bill would offend that fundamental legal principle and overturn the very foundation of our criminal code. As a lawyer, I simply cannot condone this blatant disregard for the laws of this State. Perhaps more disturbing is the fact that this bill, if passed, would undermine international human rights law.

The preamble to the bill states that its purpose is to "establish and confirm the rights of a person who is terminally ill to request assistance from a medically qualified person to voluntarily terminate his or her life in a humane manner". The Hon. Ian Cohen, in his briefing note to honourable members, further states that the ability to take one's own life at a time of one's choosing is a "fundamental human right". I disagree with that statement. I do not believe that to be the case. There is no such human right to die. To the contrary, the fundamental, natural human right of every person is to the integrity of his or her life, as is clearly stated in the 1948 United Nations Declaration on Human Rights. That declaration, to which Australia is a signatory, provides that that right to life is equal, inherent, inviolable and inalienable, and should be protected by law.

From a practical point of view, I believe that this bill is unnecessary. As someone who used to practise social work in the medical field I know that many people are unaware of their right to refuse medical treatment. The 1993 New South Wales Department of Health guidelines entitled "Dying with Dignity" clearly indicate that people do not have to be kept alive by artificial means if they do not wish to be. People in this State can sign an advanced directive to ensure that these sorts of medical treatments are not provided to them. Those directives are legally binding at common law. For someone facing a terminal illness the choice is not between pain and suffering on the one hand and euthanasia on the other hand. There is an alternative option known as palliative care.

These days much can be done to relieve the pain and suffering of dying patients. Modern palliative care is aimed at improving the quality of life of patients with active, progressive and far advanced diseases. It takes an holistic approach, with care focused on relieving the symptoms of pain, alleviating psychological and

spiritual suffering, and supporting both the patient and the family in the patient's final stages of life. Palliative care is devised in consultation with the patient and the patient's family. It is not about rendering a patient unconscious or drugging that patient into a state of pharmacological oblivion—to use the words used by the Hon. Ian Cohen in his second reading speech. Rather, patients are given managed doses of pain relief so that they are still able to communicate with their loved ones.

While palliative medicine is improving all the time I appreciate that a small number of patients—I am told between 2 per cent and 3 per cent—cannot be helped by this form of care. Unfortunately, I do not believe that we can justify the introduction of voluntary euthanasia for such a small number of terminally ill patients. The shame of it is that many people in this State are not aware of the availability of palliative care. Dr Ghauri Aggarwal, President of the New South Wales Society of Palliative Medicine, Consultative Physician in Palliative Medicine and head of the department at Concord hospital, estimates that only one-third of terminally ill patients have access to palliative care services. I imagine that many of the people who say that they support voluntary euthanasia are not aware of the availability of palliative care services or the advances in palliative medicine in recent years.

There is a pressing need to provide increased funding for specialist palliative care units in New South Wales as well as to provide for a public education campaign about its availability. My fear is that if euthanasia were introduced the Government would be far less likely to invest in improved palliative care services. To put it bluntly, euthanasia is the much cheaper option. The Government is always trying to save money. The main problem I have with this bill is that it is inherently dangerous and open to abuse. I am aware that one of the arguments frequently advanced in support of euthanasia is that it is already occurring in Australia.

In his second reading speech the Hon. Ian Cohen cited a study published last year in the *Medical Journal of Australia* which found that euthanasia has been practised by more than one-third of Australian doctors. He therefore argued that this bill was necessary so as to control and regulate the existing practice of euthanasia and to prevent abuses from occurring. To this end the bill provides a number of safeguards that are directed at ensuring that life is taken only at the request of the patient. For instance, the patient must be terminally ill, be of sound mind, be informed of the diagnosis and prognosis of illness and the medical treatment, and be examined by two doctors, the second of which must be a psychiatrist. Unfortunately, I do not believe that these safeguards can ensure that voluntary euthanasia remains exactly that.

The fact is that terminally ill patients are particularly susceptible to coercion and may be manipulated or pressured to request the termination of their lives. There is no question that families suffer deeply when relatives or loved ones have a terminal illness. When I was a social worker I would at times hear relatives of terminally ill patients plead for an end to a loved one's illness. Families may consciously or unconsciously pressure patients so that they might begin to feel that their lives are not worth living. Of course, friends and family members may have more sinister motives for wanting terminally ill relatives to end their lives, such as the payment of an inheritance.

There is also the risk that terminally ill people may not want to be a burden to their families. They may feel pressured to die purely from a sense of guilt. The bill does not and cannot prevent these abuses. Over the past 10 years the reports of five government inquiries in London, New York, Canada, South Australia and Tasmania into the consequences of legalising euthanasia have all reached the same conclusion—that is, that euthanasia will always be unsafe because it can never be made free of the possibility that the lives of people who do not wish to die will be endangered. That was decided by three of the committees, even though each of them included members who supported the concept of euthanasia. That says it all.

In conclusion, in my view the Rights of the Terminally Ill Bill, if enacted, would be bad law. Not only does it offend the fundamental basis of our criminal laws and international human rights law; voluntary euthanasia is unnecessary and demonstrably open to abuse. To my mind, legalised euthanasia should not be a substitute for the extension of palliative care services and programs in the community. If anything, such services and programs should be expanded so that they are more easily accessible to terminally ill patients. For those reasons I do not support the bill.

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

WORKCOVER INJURED WORKERS RESEARCH PROJECT

The Hon. MICHAEL GALLACHER: My question without notice is to the Minister for Industrial Relations. On 7 March at Liverpool did the WorkCover Authority engage special agents to secretly eavesdrop and videotape, via one-way mirrors, injured workers who thought they were participating in a WorkCover research group?

The Hon. JOHN DELLA BOSCA: I am not aware of the series of events that the Leader of the Opposition raises. However, I will make myself aware of them and advise the honourable member accordingly.

UPPER HUNTER COMMUNITY DRUG ACTION STRATEGY

The Hon. AMANDA FAZIO: My question without notice is directed to the Special Minister of State, and Minister for Industrial Relations. Is the Minister aware of community initiatives to take action on drug issues in the Upper Hunter?

The Hon. JOHN DELLA BOSCA: The Upper Hunter has been one of the pioneers of community drug action. Immediately following the New South Wales Drug Summit, Muswellbrook Shire Council engaged the community to work on the outcomes of the summit. The Upper Hunter established its own drug action team and was successful in obtaining funding. Now, of course, there are more than 70 community drug action teams around the State.

I presented the Upper Hunter team with its endorsement certificate last Friday, when I launched the Upper Hunter drug action plan at Muswellbrook. Councillor Robyn Tozer from Muswellbrook Shire Council is the chair of the drug action team and has worked to bring together the neighbouring councils. The senior office holders of Muswellbrook, Murrurundi, Scone and Merriwa councils were present last Friday. Also present, I am very pleased to say, was the Leader of the National Party in the other place, George Souris, who spoke genuinely and generously about the plan and in praise of the local councils and their efforts in this field.

The Upper Hunter drug action plan is a collaborative effort involving the four councils, and with plenty of local consultation and input. The plan builds on strengths within the local communities and addresses the needs of the four shires. Each shire will establish its own community drug action team. The Upper Hunter community drug action team has centred its efforts on broadening awareness of the causes, incidence and impact of drugs; building constructive and co-ordinated action within the community; increasing participation, partnerships and co-operation in the Upper Hunter; developing specific and innovative responses that suit each community; and effective management, links and alignment of efforts at all levels of government, and community and non-voluntary organisations, on this complex issue.

I congratulate the team and the Upper Hunter community on working together co-operatively on this complex problem. Teams around New South Wales are developing local plans to address their particular local issues. I urge the residents of Muswellbrook, Merriwa, Murrurundi and Scone to get behind the team, invest in their community, and play a part in turning lives around.

WORKCOVER INJURED WORKERS RESEARCH PROJECT

The Hon. DUNCAN GAY: My question is to the Minister for Police. Will the Minister provide police assistance to investigate the alleged covert WorkCover operation to ascertain whether there has been a criminal breach of the Listening Devices Act, in light of the serious allegations raised today by the Leader of the Opposition about the secret videotaping of injured workers during a WorkCover research group?

The Hon. MICHAEL COSTA: I will take the honourable member's question on notice.

POLICE SERVICE EXAMINATION QUESTIONS

Ms LEE RHIANNON: I direct my question to the Minister for Police. Is it true that the first stage of the new police promotion system has been delayed as a consequence of a ministerial investigation into the unlawful and corrupt leaking of questions for the pre-qualifying assessment by a senior member of the Police

Service? What disciplinary measures will the Minister take against the officers associated with the leaking and distribution of this information? Do these problems indicate that the Police Service Amendment (Promotions and Integrity) Bill is ineffective in dealing with corruption or abuse of the police promotion process?

The Hon. MICHAEL COSTA: If the honourable member would provide the question in documentary form, I will certainly take it on notice. I am not aware of the details referred to in the question.

MINE SAFETY LAWS

The Hon. IAN WEST: My question without notice is to the Minister for Mineral Resources. What steps have been taken to protect the safety of the State's mineworkers?

The Hon. EDDIE OBEID: I commend my colleague the Hon. Ian West for his continued interest in the welfare of the State's mineworkers.

The Hon. Duncan Gay: Are you going to privatise the work they're doing?

The Hon. EDDIE OBEID: Does the Deputy Leader of the Opposition not want to listen to what we are doing to protect the safety of mineworkers? The New South Wales Government is committed to improving safety in the State's mines and in the minerals industry. We have provided \$14 million to improve the safety of mineworkers. An important part of mine safety is legislation. We need to ensure that our mine safety laws are modern, effective and easy to understand—and, most importantly, that they protect workers who daily go about their business in this vital industry.

As the next stage in better safety in our State's mines, the New South Wales Government is asking the community to have its say about protecting mineworkers. In February, the New South Wales Government released a position paper entitled *Safety Works—a Proposal for a Coal Mine Health and Safety Act*. We are asking industry, stakeholders and the community to have their say about changing our mine safety laws. The position paper outlines plans to update legislation currently in place to protect workers in this industry. We are asking the community to comment on our plans to replace the Coal Mines Regulation Act with new, more effective occupational health and safety legislation.

Safety Works is an important document that follows last year's release of the discussion paper entitled *Transforming Health and Safety Regulation in NSW Coal Mines*. Copies of *Safety Works* can be obtained from Department of Mineral Resources offices or on the web site. Our State's mineworkers have a right to a safe workplace and laws that protect them. *Safety Works* will assist in better protecting workers in this \$6.5 billion industry. Submissions close on 5 April.

ABORIGINAL FAMILY VIOLENCE

The Hon. HELEN SHAM-HO: My question without notice is directed to the Special Minister of State, representing the Attorney General. I refer to the recent report of the New South Wales Aboriginal Justice Advisory Council entitled *Holistic Community Justice, a Proposed Response to Aboriginal Family Violence*. What action will the Government take to implement the report's proposal to establish local community-controlled justice and healing centres to effectively deal with Aboriginal family violence? Given that the Bureau of Crime Statistics and Research has found that approximately 270 per 100,000 of alleged sexual assault offenders in New South Wales are Aboriginal and Torres Strait Islanders, compared with 90 per 100,000 in the general male population, and given that the New South Wales criminal justice system does not appear to be making an impact on these figures, how soon will the New South Wales Government support the implementation of an alternative holistic approach to Aboriginal family violence that involves the Aboriginal community?

The Hon. JOHN DELLA BOSCA: The honourable member's question is a very good one about an issue that concerns the House deeply. I undertake to get her an answer from the Attorney General as soon as practicable.

WORKCOVER INJURED WORKERS RESEARCH PROJECT

The Hon. PATRICIA FORSYTHE: My question without notice is to the Minister for Industrial Relations. As the Minister responsible for the Workplace Video Surveillance Act, what action will he take against Marketing and Research Associates in respect of allegations that they have breached that Act?

The Hon. JOHN DELLA BOSCA: The honourable member's question refers to the same incident and the same complaint referred to in the Leader of the Opposition's question. I am advised that WorkCover engaged PricewaterhouseCoopers [PWC] to undertake research on experiences, expectations and outcomes of claimants who receive statutory benefits, those whose claims are commuted and those who receive a common law settlement. The research plan of the long-term outcomes for injured workers project includes interviews and focus groups with individuals who receive workers compensation to collect information about their experiences with the system.

The individuals who have participated are chosen at random from WorkCover databases and are written to, advising them that they may be contacted to participate in the project. The individuals are informed that their participation and responses will be kept confidential and that their participation is voluntary and will not impact on their entitlements. The focus groups are being run by Marketing and Research Associates, who have been subcontracted by PWC to undertake this work. The focus group participants were advised that the group would be videoed and recorded—

The Hon. Michael Gallacher: No, they were not.

The Hon. JOHN DELLA BOSCA: My advice is that focus group participants were advised that the group would be videoed. I repeat my answer in case members of the House did not hear me. My advice is that focus group participants were advised that the group would be videoed and recorded for use in the research study. As a result of several participants being concerned about being videoed, the groups are only being audio recorded and a stenographer is keeping notes. These are standard focus group techniques. Participants are also paid \$80 to attend the focus groups. Advice on the privacy implications of this research project was received from the New South Wales Privacy Commissioner, Mr Chris Puplick, on 26 September 2001. The research processes devised are in line with the advice received from the Privacy Commissioner.

The Hon. PATRICIA FORSYTHE: I seek to ask a supplementary question. Does that mean that the Government allows the covert videotaping of injured workers without a court order?

The Hon. JOHN DELLA BOSCA: I think the honourable member may have misunderstood what I said in explaining the circumstances in which these complaints were made. I can only refer her to my previous answer.

CABRAMATTA POLICE VIETNAMESE LANGUAGE SKILLS

The Hon. RON DYER: My question without notice is addressed to the Minister for Police. Will the Minister update the House on improvements to policing in the Cabramatta area?

The Hon. MICHAEL COSTA: I am pleased to advise the House that 15 police officers from the Cabramatta local area command have become the first police officers in Sydney to be awarded a TAFE certificate in Vietnamese policing. Last year the Premier announced a number of measures designed to improve policing in Cabramatta. Among them was the allocation of better language and interpreter services to the area. As part of this commitment the police force sent 15 staff from the local area command to study basic language and cultural skills. All of these officers are now able to have a basic conversation in Vietnamese. They can take down the basic information for a crime report, including names, addresses and telephone numbers.

This course has provided police not only with basic language skills but also with an introduction to the Vietnamese community's history and culture. This will help the community to feel more comfortable with police, and over time we expect that more people will be more willing to provide better information on local crime. Police need to work side by side with the community to solve crime, and this initiative will help that process develop in Cabramatta. The Cabramatta local area command plans to put many more officers through this course. I congratulate all the officers who have completed their training. They have made a major step towards improving policing in the Cabramatta area.

NOOR AL HOUDA ISLAMIC COLLEGE CLOSURE

The Hon. Dr PETER WONG: My question without notice, which is directed to the Special Minister of State, representing the Minister for Education and Training, refers to the Noor Al Houda Islamic College at Condell Park, which is under threat of closure as the Federal Government land it is renting has been found to be contaminated. What is the New South Wales Government doing to ensure that this school of more than 700

students is not forced to close in a few weeks? Why was an alternative site in Guildford, at one stage committed by the Government, withdrawn by the Government? What are the New South Wales Government's plans for these students if no alternative location for this Islamic school can be found by the Government?

The Hon. JOHN DELLA BOSCA: I appreciate that the honourable member is asking a question of me in my capacity, today at least, representing the Minister for Education and Training, but I think the question would have been more appropriately directed to the Deputy Premier, and Minister for Planning, as this appears to be a planning issue. I am happy to refer the matter to the Minister for Planning as a matter of urgency and I will ask him to respond to the honourable member's question.

WORKCOVER INJURED WORKERS RESEARCH PROJECT

The Hon. JENNIFER GARDINER: My question is to the Minister for Industrial Relations. As the Minister with responsibility for the WorkCover Authority, when did he authorise the engagement of Marketing and Research Associates to carry out a specialist research project for WorkCover? Did he authorise the use of secret videotaping and surveillance through one-way mirrors or a one-way mirror as part of this research project?

The Hon. JOHN DELLA BOSCA: I have already answered the question the honourable member asks. I refer her to my previous answer.

OLYMPIC GAMES BUSINESS OPPORTUNITIES

The Hon. IAN WEST: My question without notice is to the Assistant Treasurer. Will the Assistant Treasurer please update the House on the ongoing business opportunities arising from our hosting of the 2000 Olympic Games?

The Hon. JOHN DELLA BOSCA: I do not need to remind the House that Australian business is continuing to reap the economic benefits of our hosting the best Olympic Games ever.

The Hon. Dr Brian Pezzutti: But the countryside isn't.

The Hon. JOHN DELLA BOSCA: The depths of the Hon. Dr Brian Pezzutti's ignorance on these matters will be exposed. He has made a nonsense interjection of which the House should take note.

The Hon. Duncan Gay: It was a sensible interjection.

The Hon. JOHN DELLA BOSCA: I note the claim of the Deputy Leader of the Opposition that the interjection of the Hon. Dr Brian Pezzutti was sensible. Earlier this month the organisers of the Beijing 2008 Olympics came to Sydney to learn about the information technology [IT] infrastructure that was so successful during the 2000 Games. After visiting Adelaide for the World Congress on Information Technology, the delegation visited Sydney to attend meetings with local businesspeople and government officials. The party also toured the Olympic site. This visit highlights the potential for New South Wales companies, those located not only in Sydney but also in the regions, to play a significant role in the construction and operation of facilities for the 2008 Games. Austrade, the Federal authority, has estimated that Beijing will spend approximately \$60 billion on the Games. There is no reason why several billion dollars of this investment should not go to Australian businesses. This means jobs for young Australians. The Beijing Games represent real opportunities for Australian businesses, and we are determined to see local companies secure as many contracts as possible.

After the Sydney Games the Premier and my colleague the Hon. Henry Tsang, the Government's special adviser on East Asian business, visited proposed Beijing Olympic sites. During their trip they formed relationships with officials and businesses that, in the future, will open doors for New South Wales companies seeking to do business in China. They also met with parties interested in purchasing technology to help develop China's burgeoning IT infrastructure. The fact that we now have the 2008 Games organisers visiting Sydney to learn how our Olympic success was achieved is a huge vote of confidence in the New South Wales economy and the capability of our local businesses.

In addition to Beijing, the State Government is now targeting host cities such as Athens and Turin, host of the next Winter Olympic Games. We are also making representations to bid cities including Washington, San Francisco, Houston, Vancouver, New York City and Salzburg. Of course, Beijing remains our immediate

priority, and to date some 450 New South Wales companies have attended seminars and briefings on opportunities arising from the Beijing 2008 Olympics alone. It is wonderful to see the Australian companies which helped deliver the best Games ever now helping the Chinese to host the Beijing Games.

NIMBIN CRIME

The Hon. PETER BREEN: My question without notice is addressed to the Minister for Police. Will the Minister inform the House whether he is aware of a serious rise in the level of street crime in Nimbin, in particular drug dealing, vandalism and assaults? Is the Minister further aware that the Nimbin Chamber of Commerce has accused the local police of inaction while shop windows are smashed and shopkeepers are terrorised by drug dealers? Will the Minister say why police in Nimbin have reneged on an agreement made last June to patrol the streets of Nimbin specifically to target antisocial behaviour, drug dealing and abuse of alcohol-free zones?

The Hon. MICHAEL COSTA: I am not aware of the specific details of Nimbin. I will seek advice on the matter and report back to the House.

WORKCOVER INJURED WORKERS RESEARCH PROJECT

The Hon. JAMES SAMIOS: My question is addressed to the Minister for Industrial Relations. Will the Minister give an undertaking to the House that he will table all documents and papers between the WorkCover Authority and Marketing and Research Associates in relation to the research project being conducted for WorkCover by Marketing and Research Associates?

The Hon. JOHN DELLA BOSCA: When the Opposition is in real trouble and does not know what to do next it calls on the Hon. James Samios to ask an intelligent question. I will consider the honourable member's representations, and I will advise him and the House later today of my intentions with regard to the disclosure of these matters.

CENTRAL COAST RIDING FOR THE DISABLED ASSOCIATION

The Hon. TONY KELLY: My question without notice is addressed to the Minister for Juvenile Justice. What is the involvement of the Department of Juvenile Justice in the development of facilities for the Riding for the Disabled Association on the Central Coast?

The Hon. Dr Brian Pezzutti: Why doesn't the Minister Assisting the Premier for the Central Coast answer this question?

The Hon. CARMEL TEBBUTT: The Riding for the Disabled Association is a volunteer-based group that runs horse riding programs for people with disabilities, particularly children and younger people. A unique feature of the Riding for the Disabled Association—it is known as RDA—on the Central Coast is its long and close association with the Department of Juvenile Justice's Frank Baxter Centre and, before that, the Mt Penang Centre. For the information of the Hon. Dr Brian Pezzutti, that is why I am answering the question rather than my colleague the Minister Assisting the Premier for the Central Coast.

The Hon. Dr Brian Pezzutti: Are you the new Minister?

The Hon. CARMEL TEBBUTT: No. I am the Minister for Juvenile Justice. The partnership has yielded strong benefits for both the Frank Baxter Centre and the RDA. I was pleased to attend the opening by the Governor, Dr Marie Bashir, of a magnificent new facility for the RDA at Kariong on land leased from the department. The Opposition spokesperson, Chris Hartcher, also attended the opening. The facility includes a large indoor arena with yard, stalls and pastures. It provides for both indoor and outdoor riding for scores of riders every week in a safe and supportive all-weather environment. The problem with the previous facilities is that they were not covered; therefore, riding had to be cancelled when it rained, and this caused immense disappointment to a number of young people.

Many experts recognise the great value of horse riding for young people with disabilities. Those benefits include a sense of achievement and reduced feelings of disability, freedom of movement that is often not possible in other activities, pleasurable exercise that aids co-ordination and balance, stimulation of mind and body that is often hard for people with disabilities to achieve, and the positive feelings that derive from close association with animals. However, the association between the RDA and the juvenile justice centre means that those with disabilities are not the only ones to gain valuable lessons and development.

For the past 22 years young offenders in detention have played a central role in the program, not only working on the facilities and caring for the horses but also helping to guide and teach the riders. The young offenders from the Baxter juvenile justice centre, formerly the Mt Penang detention centre, where the riding program began in 1980, are providing much-needed assistance to the program. In the new location, detainees from the centre will work full time on the riding program under the watchful eye of an experienced staff member from the detention centre. They will assist the volunteer staff in a range of duties. The skills and experience they gain in working with horses can advantage them in finding jobs when they return to their communities. In fact, the Baxter centre and TAFE are developing an accredited training course for the detainees.

Apart from this training, the program also allows detainees to contribute to the general community by helping those with a disability. It also enables them to work alongside volunteers who are positive role models, and it offers them the widely recognised therapy derived from working with animals. It is a good opportunity for detainees to learn new skills and, perhaps more importantly, to make reparation to the community for their offending behaviour and in doing so assist the young people with disabilities who gain enormous pleasure from being involved in the Riding for the Disabled program.

The new facility was built at a cost of more than \$200,000—a figure that would have been much bigger had it not been for volunteer work and contributions. In this regard I acknowledge the president of the Central Coast RDA, Vicki McGuinness, and her committee; Central Coast Radio 2GO; the Central Coast *Express Advocate*; and, again, the staff at the Baxter centre. The Government has also made a significant contribution, including \$80,000 from the Department of Sport and Recreation and \$15,000 from the Central Coast Festival Development Corporation.

REGIONAL ENVIRONMENT PLAN No. 33

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: My question is to the Special Minister of State, representing the Minister for Planning. Has the State Government, its agencies, departments or authorities, or any other State body, entered into legal agreements with Trafalgar Properties or any other Trafalgar companies involved with any of the land known as Cooks Cove or the Rockdale green corridor, which is all the land specified in draft regional environment plan No. 33? If so, what is the content of those agreements? Will the Minister agree to make the agreements available for public inspection?

The Hon. JOHN DELLA BOSCA: I thank the Hon. Dr Arthur Chesterfield-Evans for the courtesy of making his question available to me. I am sure the Minister for Planning will be able to provide the honourable member with an immediate answer, and I will ask him to do so as soon as practicable.

WORKCOVER INJURED WORKERS RESEARCH PROJECT

The Hon. JOHN JOBLING: My question without notice is to the Special Minister for State, and Minister for Industrial Relations. Is the Minister aware of a letter circulated by WorkCover to injured workers promising them complete anonymity at forums? If so, how does covert surveillance guarantee confidentiality? Does the Act still require a court order for surveillance?

The Hon. JOHN DELLA BOSCA: I have already answered the honourable member's question.

The Hon. John Jobling: No, you haven't.

The Hon. JOHN DELLA BOSCA: I affirmed my answer to the Hon. Jennifer Gardiner.

YOUTH ADVISORY COUNCIL

The Hon. HENRY TSANG: My question without notice is to the Minister for Juvenile Justice, and Minister Assisting the Premier on Youth. What is the composition of the Premier's Youth Advisory Council and what have been its activities?

The Hon. Duncan Gay: I think they are taking Amanda on the committee.

The Hon. CARMEL TEBBUTT: I do not think that is the case. The Hon. Henry Tsang will be particularly pleased that Maggie Mar, a young Chinese woman from Bankstown, has been included on the Youth Advisory Council. The honourable member is always keen to ensure that the diversity of the New South

Wales community is reflected on government boards and committees. I have reported to the House previously on some of the activities of the Youth Advisory Council [YAC], and it is time to do so again. People may well have seen a number of articles in the past few weeks as a result of a study that indicated a level of apathy amongst young people about their involvement in the political process.

While I do not necessarily disagree in any way with some of the findings of that study, it is important to put on the record the activities and involvement of a group of people who are far from apathetic and who show an extreme interest not just in the political process but in being able to make a difference for young people in terms of Government policy and decision-making processes. The Youth Advisory Council is the Government's statutory advisory body on youth affairs. When appointing young people to the council, the Premier and I seek a council that is broadly representative of young people in New South Wales.

The 2002 council comprises 12 young men and women aged between 17 and 26 years from metropolitan, regional and rural areas—young Aboriginal people, young people from non-English speaking backgrounds, and young people with experience in a range of youth and community settings and with diverse life experiences. The council has five continuing members from last year: Joey Le, Chair, from Bonnyrigg; Roshana Sultan, Deputy Chair, from the Illawarra; Maya Spannari; Glen Crump; and Tim Ireland. They are joined by Maggie Ma from Chester Hill; Angela Humphries from Blacktown; Adrian Henry from Coffs Harbour; Simon Davies from Deniliquin; Charlie Zoghaib from Granville; Janelle Barrett from Cronulla, and Stacey Jacobs from East Maitland. The council had its first meeting in February to plan its priorities for 2002. The 2002 council will be building upon the comprehensive consultations it undertook with young people in 2001.

As I have previously reported to the House, the YAC undertook a wide range of consultations with some 500 young people across 17 locations. The Government takes seriously the input from the YAC consultations. The findings of these consultations have significantly influenced the direction of the New South Wales youth policy, which is currently under development. The consultations found that young people throughout New South Wales have similar experiences, concerns and ambitions. In particular, they are excited about their future, study, work, relationships, where they will live and how they can reach their potential. They want to be part of the solution to issues, and are keen to be involved in finding creative ways to address issues. They view entertainment and recreation as a key to preventing social problems and isolation. They consider that friends and families are important in supporting young people, particularly through tough times. They are concerned for their peers who may have problems or less options, and they see transport as the key to engage in social, educational and recreational life.

I do not think that any of those matters would come as a surprise to members of this council, but I also report that one of the first public activities the council will be hosting is a forum with the Premier during Youth Week. The forum will invite young people from across New South Wales to come and find out how to be involved in politics through local, State and Federal governments, and also through community and other organisations. The Youth Advisory Council has a busy year ahead, and I will provide further updates on its progress during the year.

YOUTH PUBLIC TRANSPORT CONCESSIONS

The Hon. IAN COHEN: I ask a question of the Minister for Mineral Resources, representing the Minister for Transport. A recent independent review of breaches and penalties in the social security system recommended a major overhaul of transport concessions for unemployed people. In particular, the review found that the current penalty regime is excessively harsh and unfair, and that it is counterproductive and unduly diminishes many job seekers' prospects of finding employment. In other words, young people who have breached once by any minor infringement—perhaps by arriving late at an interview—lose their travel concession. Minister, how are young people supposed to job hunt? I ask the Minister to change this policy, as recommended by the independent review, and not withdraw travel concessions from vulnerable young people. This is a State responsibility.

The Hon. EDDIE OBEID: I am sure the Hon. Ian Cohen will get a satisfactory answer from my colleague in the other House. I am not aware of the report to which he has referred, but I am sure the Minister is looking at it. I will advise the Hon. Ian Cohen further in due course.

WORKCOVER INJURED WORKERS RESEARCH PROJECT

The Hon. DON HARWIN: My question is to the Special Minister of State. Is it normal practice for WorkCover to videotape injured workers at WorkCover-sanctioned forums? Is it normal practice to conduct that videotaping in a covert manner? What action will the Minister take against any WorkCover employee who has authorised this covert surveillance?

The Hon. JOHN DELLA BOSCA: Opposition members have demonstrated their obtuseness by asking the same question several times. I have already answered the question to the satisfaction of the House. I have indicated the circumstances in which Mr Todd's complaint occurred. I have indicated that the Privacy Commissioner has previously been consulted. I have indicated the extent to which I have been advised about the circumstances in which any videos were made or any audio taping was conducted. I am familiar in general terms with the process of qualitative research and the ethical issues involved. Nonetheless, the issues are matters for the contractors that WorkCover authorised. I refer honourable members in particular to my previous answer to the Hon. James Samios.

ANZAC DAY RETAIL TRADING

The Hon. AMANDA FAZIO: My question is to the Minister for Industrial Relations. Will the Minister explain the arrangements for shop trading on Anzac Day?

The Hon. JOHN DELLA BOSCA: Most Anzac Day services and commemorative activities are held on the morning of 25 April, and the restriction on commercial trading during this time has always had the full support of the New South Wales public. This year, general shops in New South Wales will be permitted to trade after 1.00 p.m. on Anzac Day. Shops that will be permitted to trade after 1.00 p.m. include department stores, supermarkets, and furniture, electrical, hardware, jewellery and clothing stores. Trading restrictions on Anzac Day do not affect the rights of small shops to trade during that period. Small shops are businesses that are usually family run and include take-away food outlets, chemists, newsagencies, and so on.

Any business that needs to clarify its situation can contact the Department of Industrial Relations [DIR] on 9243 8885. These arrangements are the same as last year. They have been in place for some time and have enjoyed general public support. There has been one odd exception. Last year, the Department of Industrial Relations successfully prosecuted a company in Paddington for trading before 1.00 p.m. on Anzac Day, and for advertising its intention to do so. That occurred despite DIR inspectors visiting the premises prior to Anzac Day and warning the trader about the consequences of breaching the law. Businesses that ignore shop trading laws this Anzac Day can face penalties of up to \$2,200.

SCHOOLS BUILDING MAINTENANCE PROCEDURES

The Hon. ALAN CORBETT: My question is addressed to the Minister for Police, representing the Minister for Education and Training. Minister, with regard to the announcement of \$70 million for building maintenance works such as painting, roofing and carpeting in New South Wales schools, what measures will be put in place to ensure that volatile organic compounds and other toxic chemicals, such as lead, will not pose a health risk to children and staff in schools as a result of building maintenance work?

The Hon. MICHAEL COSTA: I will take the question on notice and get advice from the appropriate Minister.

POLICE SERVICE EXAMINATION QUESTIONS

The Hon. JOHN RYAN: My question without notice is to the Minister for Police. Did the Minister consult the Police Integrity Commission before agreeing to make prequalifying assessment questions available to police officers seeking promotion? If the Minister did consult the Police Integrity Commission, what was its advice? If the Minister did not consult the Police Integrity Commission, why did the Minister fail to do so when he consulted the commission on last year's changes to the promotions system?

The Hon. MICHAEL COSTA: The Opposition is obviously desperate for questions. This is the same question that I was asked about 15 or 20 minutes ago. I gave an answer then, and I stand by that answer. However, the question does give me an opportunity—

The Hon. Duncan Gay: Point of order: The Minister is once again misleading the House. He is not listening to questions that he is being asked. The previous question asked of the Minister was about listening devices. The question asked by the Hon. John Ryan is clearly a different question. If the Minister does not listen to questions, there is no point in his being in this place.

The PRESIDENT: Order! There is no point of order.

The Hon. MICHAEL COSTA: Fifteen minutes ago I was asked a question by Ms Lee Rhiannon about the promotion scheme. This useless Opposition does not pay attention to what is going on in the House. No wonder Opposition members are confused. They have asked the Minister for Industrial Relations the same question 10 times. I will get advice on this particular matter and come back to the House.

FISHERIES ENVIRONMENTAL IMPACT ASSESSMENTS

The Hon. TONY KELLY: I ask a question of the Minister for Mineral Resources, and Minister for Fisheries. What steps have been taken to manage fisheries in New South Wales better?

The Hon. EDDIE OBEID: Country Labor always asks sensible questions. I thank my colleague for his continuing interest in both the mineral resources portfolio, about which he has asked a number of questions, and the fisheries portfolio. I know Graeme Hillyer has been acting as the Opposition spokesman on fisheries, but I think the House deserves an answer on particularly relevant fisheries issues. In December 2000 the Government strengthened the environmental assessment legislation relating to fisheries, and significant progress has been made since then. New South Wales Fisheries has already prepared environmental impact statements for the first three major commercial fisheries in New South Wales. This process involved extensive community consultation with stakeholders, including management advisory committees and the Fisheries Resource Conservation and Assessment Council, which have contributed to this process.

New South Wales Fisheries has worked also with Environment Australia to make sure Federal legislative requirements are met. It is important that our State laws protect the export of fish caught in New South Wales so that commercial fishers can continue to receive premium prices. The first draft environmental impact statement for the estuary general commercial fishery was released for community comment last November. The community had until January to make submissions about that important document. Submissions for the estuary general commercial fishery are currently being considered. Our community has until 18 March to respond to the draft EIS for the ocean haul fishery, and the community will have until mid April to comment on the draft plans for the estuary prawn trawl fishery.

The community can collect an executive summary or view each full EIS at any New South Wales Fisheries office. Those documents can also be obtained from local government council offices, the head office in Sydney or Cronulla and regional offices of Planning New South Wales and the Government Information Service. The documents can also be viewed and downloaded from the New South Wales Fisheries web site. New South Wales Fisheries is currently working through a staged release of further draft environmental impact statements for our other commercial fisheries and for the recreational fishery. New South Wales has been co-ordinating the National Recreational Fishing Survey, which will provide vital information for the recreational fishery environmental impact statement. This EIS process undoubtedly will result in better protection of our fisheries for the future.

Once finalised, the proposals will provide more protection for the aquatic environment. Further, they will provide a greater degree of security to the commercial fishing industry as 15-year leases will be issued to those fishers. Fishers also will have the comfort of knowing they are operating under a sustainable harvesting regime. Environmental assessments will also be prepared for fish stocking, the shark meshing program, recreational fishing and charter boat fishing activities. The Opposition and a small sector of the commercial industry have been making statements for a number of months. Commercial fishers uselessly spent their membership money, and money raised by levies of the Fish Marketing Corporation, on a court action. This Government does care about the environment, and it will continue to look after both sectors of the industry.

The Hon. Michael Egan: Point of order: I have been listening intently to the Minister's answer. I am very interested in it. But I cannot hear it for the noise that is coming from the Opposition benches. I have seldom seen such juvenile behaviour from an Opposition in the 25 years that I have been associated with this Parliament. Madam President, I would ask you to bring this rabble to order so that the House may transact its business with some decorum.

The PRESIDENT: Order! I remind all members that interjections are disorderly at all times.

PUBLIC LIABILITY INSURANCE

The Hon. MALCOLM JONES: My question is to the Treasurer, and Minister for State Development. Although the Federal Government's public liability summit is due to commence on 27 March and the agenda

undoubtedly will address long-term issues such as the roles of lawyers, trivial claims, and other matters—I am sure the Treasurer will recall that I was the first to alert the House to the pending problems of this issue in my adjournment speech of 13 November 2001—is the Treasurer prepared to take interim emergency action to alleviate the chronic problems created by the public liability insurance market in New South Wales, or is the Treasurer going to ensure that Bob Carr is permanently remembered as Premier Killjoy?

The Hon. MICHAEL EGAN: The Hon. Malcolm Jones asked a good question but it was spoiled by his silly comment at the end of it. The fact of the matter is that the problems currently confronting the insurance industry regarding a number of classes of insurance are very serious indeed. They include, of course, the problems being experienced with public liability insurance. Those difficulties include not only the enormous increases in premiums but the fact that very few insurance companies are now seriously engaging in that class of insurance at all. A number of things must be done to overcome the problems. Some things State governments must do, including tackling reforms to the common law.

That will involve very significant changes. I hope that when those matters are being considered by the Parliament they will have the support, or at least the goodwill or bona fides, of the Opposition. The Premier has already indicated some of the specifics of the measures that we will be taking, and before the national summit on 27 March we will be announcing more. But I want to make it quite clear that the States alone cannot solve this problem. There are things that the States must do and there are things that the Commonwealth Government must do.

The Hon. Duncan Gay: It is primarily your responsibility, though.

The Hon. MICHAEL EGAN: No.

The Hon. Duncan Gay: Yes it is, but you are happy to shift it.

The Hon. MICHAEL EGAN: Primarily, the constitutional responsibility is a Commonwealth one. The Commonwealth Constitution provides that the Commonwealth Parliament has legislative power to regulate insurance in this country. That is why we have the Australian Prudential Regulatory Authority [APRA] and that is why we have the Australian Competition and Consumer Commission [ACCC]. There are a number of things that the Commonwealth Government must do if this problem is to be tackled effectively. People can make whatever changes they like to the common law but at the end of the day that will not guarantee that people will be able to obtain public liability insurance. Let me give the House just one example. On 1 July this year the capital requirements that APRA demands of all providers of public liability insurance will double from approximately 50¢ per dollar in premium to over \$1 for each dollar in insurance premium. That simply means that for an insurance company to provide public liability cover, it will have to put aside as a capital requirement twice or three times as many dollars in capital as it has to put aside for other classes of insurance. What does that mean?

The Hon. Duncan Gay: What does it cover?

The Hon. MICHAEL EGAN: The Deputy Leader of the Opposition should just wait for a moment. That simply means that an insurance company which is trying to do the right thing by its shareholders is discouraged from offering public liability insurance at all. I understand that in this situation APRA is caught between a rock and a hard place. There is a need for adequate prudential requirements, but there are consequences, and the Commonwealth Government has not faced up to those consequences. That is the first area that the Commonwealth Government has to tackle, otherwise there will be no public liability insurance available in Australia. The Commonwealth Government will not acknowledge or recognise that. The other area in which the Commonwealth Government needs to take action—and needs to take action quickly—is in the taxation of structured settlements. The States have been raising that issue with the Commonwealth Government for a number of years. [*Time expired.*]

POLICE SERVICE EXAMINATION QUESTIONS

The Hon. DOUG MOPPETT: My question without notice is directed to the Minister for Police. If the investigation into claims that the pre-qualifying assessment questions for police promotion were improperly released found that the questions had simply been misplaced but recovered without any risk to the integrity of the process, why are the questions being released to all candidates? Why should the value of the promotion process be undermined by making this aspect of it an open-book test?

The Hon. MICHAEL COSTA: This is the third time I have been asked the same question and my response will be exactly the same. I have taken the question on notice and I will bring back a properly thought-out response.

[Interruption]

The PRESIDENT: Order! Standing Order 93 clearly states:

No Member shall converse aloud or make any noise or disturbance whilst any Member is debating or whilst any Bill, Order, or other matter is being read, opened or dealt with ...

I ask honourable members for less noise.

SENATOR HEFFERNAN CRIMINAL OFFENCES ALLEGATIONS

The Hon. PETER PRIMROSE: My question is to the Minister for Police. Has he received advice from the Police Ministry concerning information provided by Senator Heffernan to New South Wales police?

The Hon. MICHAEL COSTA: I am advised that police have previously investigated information provided to them by Senator Heffernan. I am advised that these investigations did not warrant the laying of any charges in connection with the matters recently raised by the senator. If the senator or any other person has allegations concerning serious criminal offences, they should put them to the New South Wales police. These matters will be investigated, irrespective of whom they concern. If any person has concerns about the impropriety or otherwise of the handling of any investigation by police, they should refer those matters to the Police Integrity Commission. These concerns will also be investigated.

M5 EAST AIR QUALITY

The Hon. RICHARD JONES: I ask the Minister for Mineral Resources, representing the Minister for Transport, and Minister for Roads: Is the M5 East tunnel now a health risk for motorists within the tunnel as concentrations of particulate matter in the tunnel have been as high as a 1,400 micrograms per cubic metre when the national environment protection measure [NEPM] goal for outside is 50 micrograms per cubic metre? Is visibility also affected by the particulate matter in the tunnel, and have some people reported breathing difficulties when travelling through the tunnel? Will the Minister now finally realise that he has to install electrostatic precipitation in the tunnel, not only for those nearby residents who have reported car fumes around their homes but also in the interests of the safety and health of those people who are actually using the tunnel? Will he immediately start the ball rolling on installing electrostatic precipitation in the tunnel? Will he also install electrostatic precipitation in other proposed tunnels in Sydney for similar reasons?

The Hon. John Ryan: You can hardly see through it from after about 10 o'clock.

The Hon. EDDIE OBEID: I thank the Hon. Richard Jones for his very important question. I will convey the question to my colleague in the other House and forward a detailed answer. It is surprising that the Hon. John Ryan should suggest there is some sort of issue about the extension of the M5 East, because he is probably its main user. In common with many others, I am sure that the M5 East is probably one of the best roadways that Sydney has ever had. It has helped so many people who use our roads to get into the city in a reasonable time and in an orderly fashion. I have used the roadway personally and as a matter of fact I know people who live on the North Shore who are using this extension.

The Hon. John Ryan: You put the three stacks together.

The Hon. EDDIE OBEID: That is another issue that I am sure my colleague in the other House will examine, but I do not think the Hon. John Ryan or anyone else can deny how important that roadway is.

The Hon. Michael Egan: Point of order: I am again having difficulty hearing the Minister's answer. As I said earlier in question time today, the behaviour of Opposition members is appalling. It shows that they are in complete and utter disarray. I ask you, Madam President, to call them to order so that honourable members can hear the answers.

The PRESIDENT: Order! I remind members of Standing Order 93, and ask members to reduce the level of chatter.

The Hon. EDDIE OBEID: I wish to reinforce what the Leader of the Government has said. I have never seen such a disorderly Opposition. Members opposite have no questions of any meaning. As my colleague the Minister for Police said—

The Hon. Dr Brian Pezzutti: Point of order: The answer to the question should be relevant. The Minister is obviously making no attempt to answer the question asked by the Hon. Richard Jones and instead has given a display of rhetoric. Is it any wonder that members of the Opposition are responding in kind? Madam President, why do you not direct the Minister to answer relevantly the question that was asked?

The PRESIDENT: Order! Certainly the new sessional orders provide that an answer to a question must be relevant. The Minister may continue.

The Hon. EDDIE OBEID: And also under the standing orders, members opposite should be orderly and quiet. When someone asks a question such as the one asked by the Hon. Richard Jones, a very important question—

The Hon. John Ryan: It is a waste of time.

The Hon. EDDIE OBEID: —the Hon. John Ryan should at least offer the courtesy of listening. As a matter of fact I think the question is a very important one. All honourable members know that the Opposition has no questions. Members opposite have asked eight questions about one issue, and a total of four questions on all the other issues. They are empty.

POLICE SERVICE EXAMINATION QUESTIONS

The Hon. RICK COLLESS: My question without notice is to the Minister for Police. If it was always the intention to release the pre-qualifying assessment questions for police promotions before the examination, why carry out the investigation in the first place? Why was the decision to release the questions left so late that it necessitated the deferral of the examination date?

The Hon. MICHAEL COSTA: This is the fifth occasion on which I have been asked the same question. My response is the same: I will take the question on notice and obtain advice on it.

POLICE AND COMMUNITY YOUTH CLUBS

The Hon. RON DYER: My question without notice is addressed to the Minister for Police. Will he advise the House of recent action taken by the Government to secure the future of the Police and Community Youth Club movement?

The Hon. MICHAEL COSTA: I am pleased to inform the House of some changes that the Government has made in relation to police and community youth clubs [PCYCs] in this State. The Government and I believe that PCYCs are critically important not only to the range of people that use them but also to communities due to their resources and the programs that target kids at risk. I am pleased to inform honourable members that the Government has provided substantial or record funding, taking into account the funding history of the PCYC movement. That funding has two components.

The Hon. Dr Brian Pezzutti: How much?

The Hon. MICHAEL COSTA: If the honourable member listens he will find out. That funding is in two tranches. The funding for one tranche—which is for the civilianisation of the PCYC administration and which is available immediately—is of the order of \$3.5 million per year. That funding will allow, first, a trial of 18 civilian managers in our PCYCs. That important step will free up police to do what they ought to be doing—that is, engaging in activities with kids that are at risk and ensuring that community values are transmitted to those kids. As I have travelled around the country I have seen some terrific programs being undertaken by PCYCs. As I said earlier, that significant step will free up police time and ensure better administration of our PCYCs. In addition, this Government is providing \$5 million immediately for renovations and upgrades of PCYCs.

It is pleasing to be able to provide those funds, which will be used to implement programs that target kids at risk—something for which the Government and I make no apologies. It is important that we provide and

target resources through our PCYCs to ensure that we reach kids at risk. In addition, this Government has undertaken innovative and entrepreneurial programs with the private sector which have enabled it to enter into a relationship with Macquarie Bank. As a result of that relationship 275 computers and 55 printers will be provided to our PCYCs. In addition, \$120,000 will be allocated to link that technology to the Internet. Clearly, that is a step in the right direction. It is one step towards fulfilling this Government's goal of achieving local solutions for local problems. From day one the Government said that crime-related issues require a broader response—an issue that Opposition members have failed to understand.

The Hon. Jennifer Gardiner: Which one?

The Hon. MICHAEL COSTA: I was surprised and amazed when the Opposition recently announced that it would be reshuffling and restructuring its front bench. I had expected the Leader of the Opposition in this Chamber to become the shadow Minister for Police. One would have thought that, given the announcements—

The Hon. John Ryan: Point of order: The question asked of the Minister had nothing to do with the Opposition front bench. The Minister is not adhering to the standing orders, which require Ministers' answers to be relevant. Comments about the Opposition front bench have nothing to do with police and community youth clubs.

The PRESIDENT: Order! I remind the Minister of the relevant sessional order and advise him that his time has expired.

The Hon. MICHAEL EGAN: If honourable members have any further questions, I suggest they place them on notice.

Questions without notice concluded.

[The President left the chair at 1.04 p.m. The House resumed at 2.30 p.m.]

STANDING COMMITTEE ON LAW AND JUSTICE

Report: Review of the Crimes (Forensic Procedures) Act 2000

Debate resumed from 12 March.

The Hon. RON DYER [2.30 p.m.]: When the Crimes (Forensic Procedures) Act 2000 was debated in this House an amendment was passed to require the Standing Committee on Law and Justice to review the Act 18 months after its proclamation. This report represents the results of that extensive consultative review, involving 26 submissions and nine public hearings throughout 2001. The focus of the inquiry was the reliability and effectiveness of DNA evidence, and the legal and social implications of its use in criminal investigations. The committee's report begins with a brief description of the process of DNA profiling. The committee heard that DNA analysis involves the creation of a profile of nine specific sites on the DNA molecule. It is important to note that it is not a profile of all of the 3.3 billion subunits of DNA. The DNA profile created by the analysis is a set of numbers which can be entered onto a database and compared with other profiles. A suspect's profile can thus be compared with a crime scene sample, and crime scene samples can be compared with each other.

The committee was asked in its terms of reference to assess the reliability of DNA matching. Clearly, the committee is not qualified to determine the accuracy of the science of DNA profiling, so its assessment was based on expert opinions as found in case law, journal articles, and submissions and evidence to the committee. It was apparent from the sources examined by the committee that the scientific community considered DNA matching and the profiler plus system in use in New South Wales to be accurate and reliable, and this was reflected in the admissibility of the technology as evidence in the courts.

However, the committee was made aware that DNA profiling has some limitations and is certainly not the infallible tool often presented in media reports. In particular, it is essential to note that a match between a suspect's DNA profile and a DNA profile from a crime scene stain does not lead to a conclusion that the suspect is the offender. Because of the possibility of laboratory errors, contamination and tampering, a DNA match does no more than indicate that the suspect could be the offender. Many witnesses and submissions expressed concern that fabrication of DNA evidence is relatively simple. The submission from the New South Wales Public Defenders Office, for example, quoted Terry O'Gorman, the President of the Australian Council for Civil Liberties, as follows:

Royal Commissions and ongoing controversies over police fabrication of evidence have dotted the criminal justice landscape in every state and territory as well as the Australian Federal Police and the National Crime Authority for the past two decades.

Are we seriously expected to believe that the sometimes significant minority of police who fabricate evidence won't do so with DNA samples?

The planting of DNA evidence is particularly concerning, given the weight ascribed to such evidence. Fear of corrupt police using DNA samples to frame individuals was a theme in submissions from prisoners. In response, the Police Service agreed that DNA evidence could be used to manufacture a case, but stated that procedures were in place in an attempt to prevent it from occurring. Such procedures include tamper-evident DNA bags, tamper-resistant database systems, and the use of secure laboratory access for the storage of evidence items and data.

Despite the high level of reliability of DNA technology, the committee considered that it would be risky for DNA evidence alone to be used to convict a defendant. DNA profiles are only one piece of evidence needed to make a case. When a profile match between a suspect and a crime scene is supported by other evidence—witnesses, motive, opportunity and so on—it can carry substantial weight. However, given the possibility of errors, chance matches, intentional tampering or innocent reasons for the presence of a defendant's profile at the crime scene, it is doubtful that the prosecution would meet the required standard of proof if it were based solely on a DNA match that is not corroborated by any other evidence. The committee expressed the opinion in the report that a conviction based solely on DNA evidence would be unsafe, and recommended that the Attorney General give consideration to requiring judges to warn juries of this risk.

The committee's report noted that there can be little doubt that DNA technology has the potential to be of enormous benefit in investigating and prosecuting crime. DNA testing can be used to identify or confirm suspects by comparing their DNA profiles with profiles found at crime scenes. The committee was told that matches between suspects and crime scenes occurred on 35 occasions between January and June 2001 in New South Wales. The committee also heard that DNA technology can play a crucial role in exonerating wrongly accused and convicted individuals, and that DNA evidence has been used more often to eliminate people from investigations than to implicate them. Many cases of post-conviction exoneration have occurred in the United States of America, and there have also been instances here in Australia.

The effectiveness of mass DNA testing was disputed by some witnesses. Mass testing involves requesting a DNA sample from every member of a given group, usually based on geography, such as citizens of a particular town. Mass testing is an option when conventional investigative tools have failed to identify a suspect. At present such testing can be performed only with informed consent. The testing of the male population of the small New South Wales town of Wee Waa in April 2000 is the only mass screening conducted in New South Wales to date. The Police Service told the committee that it considers Wee Waa to be a case study of a successful use of mass testing in an investigation, and argued that the case may not have been solved if the mass testing had not been performed.

Some witnesses, however, criticised the use of mass testing, claiming that it is an unnecessary intrusion that emphasises technology over traditional policing methods. In the case of Wee Waa, for example, witnesses questioned whether the mass screening was necessary, given that the man eventually charged and convicted was one of a small number of suspects at an early stage of the inquiry. People also questioned whether mass screenings are an efficient use of limited police resources. Witnesses were also concerned that mass screening could result in abuse or reprisals for non-consenting community members.

Recognising the reservations of many witnesses about the use of mass screening, the committee proposed that mass screening should be used only as a last resort and that such screening should be targeted as narrowly as possible. The committee recommended that the Attorney consider amending the Crimes (Forensic Procedures) Act 2000 so that a court order is required before police can undertake voluntary mass screening. The committee was unable to obtain satisfactory quantitative or qualitative data supporting claims about effectiveness of DNA in solving crime either for New South Wales or for other jurisdictions. As the report notes, the statistics available overwhelmingly relate to activity rather than outcomes.

If overseas experiences are repeated here, we can expect an exponential rise in the number of database matches. The committee heard that in the United Kingdom it was only after the third year of operation that sufficient samples were on the database to generate large numbers of hits. The committee noted the need for caution in considering DNA-matched statistics. A DNA match between a suspect and a crime scene indicates only that the suspect may have been, but not necessarily was, at the crime scene. It does not prove that the suspect is the offender.

The absence of relevant statistics limited the committee's ability to form conclusions about the effectiveness of DNA profiling in investigations. The committee considered it important for public policy purposes that the role of DNA technology be evaluated. The committee therefore recommended that the Bureau of Crime Statistics and Research be funded to conduct research on the role of DNA in law enforcement success and the impact of DNA evidence on criminal trials and crime rates. Without the result of such research it will not be possible to meaningfully assess the effectiveness of DNA profiling.

The authority to request or require a DNA sample from a suspect, offender or volunteer clearly represents a significant power of the State in relation to the individual. A number of social and legal implications arise, with DNA testing potentially affecting civil liberties such as the right to bodily integrity, the right to a fair trial and the right to privacy. As the committee's report details, the Act has attempted to protect these rights while still meeting society's law enforcement requirements. One concern raised by a number of participants in the inquiry was the potential breach of the individual's right to privacy. In particular, witnesses noted that privacy issues are far more significant in relation to DNA samples than to fingerprints because of information that can be obtained from DNA, including family relationships and the propensity to particular diseases.

The committee expressed concern about the impact of DNA evidence on the right to a fair trial. Witnesses pointed out that because of the complexity of DNA evidence a high level of knowledge is needed by judicial officers and lawyers. The committee heard that the difficulty in understanding complex forensic evidence, particularly relating to match probability statistics, could lead to a miscarriage of justice. It sought to address this with recommendations for Judicial Commission training of judicial officers and continuing legal education courses for solicitors and barristers. The training would focus on explaining the forensic use of DNA, its accuracy and the interpretation of DNA evidence.

Concerns were also raised about the ability of juries to cope with highly complicated and specialised evidence and the possibility that juries will not understand the limitations of DNA matches. The committee therefore recommended that the Attorney General seek to have guidelines for directions to juries about the interpretation of DNA evidence incorporated into the relevant judicial bench books. Directions should also include matters such as the potential for fabrication of DNA evidence, the possibility of match errors and the resultant need for corroboration.

Because of the civil liberties implications arising from the forensic use of DNA, strong safeguards against its misuse are essential. The committee examined the protections provided in the Act. In several areas the committee felt that the safeguards could be improved and made recommendations accordingly. One area of contention was the threshold for requesting or ordering a DNA test. Many witnesses noted that the New South Wales threshold differs from that of the model bill that was developed by the Model Criminal Code Officers Committee. The model bill allowed a test to be requested or ordered when there are reasonable grounds to believe that the forensic procedure is likely to produce evidence tending to confirm or disapprove that the suspect committed an offence, and the request or order is justified in all of the circumstances. By contrast, the New South Wales standard is that the forensic procedure might produce evidence tending to confirm or disapprove the offence.

The great majority of participants in the review considered the New South Wales threshold to be too low. This included the Privacy Commissioner, Mr Puplick, representatives from the Aboriginal Legal Service, the Law Society of New South Wales and Justice Action. The Police Service, however, supports the existing threshold. After carefully considering the opinions and evidence, the committee agreed that the higher threshold found in the model bill—which I note was adopted by the Federal Government—is preferable, and recommended that the Attorney General consider an amendment to raise the threshold. The committee considered that a higher threshold would better reflect the purpose of the Crimes (Forensic Procedures) Act, which is to authorise DNA profiling in cases where the benefits to society in obtaining the DNA outweigh the public interest in protecting a person's privacy and bodily integrity.

Volunteers may be requested to undergo a forensic procedure according to part 8 of the Crimes (Forensic Procedures) Act 2000. The provisions require the volunteer to give informed consent in writing in the presence of an independent person. However, the committee was concerned to hear that part 8 of the Act has not yet been proclaimed and, as a result, currently there is no statutory regulation of DNA testing of volunteers. According to legal academic Dr Jeremy Gans the non-proclamation of part 8 raises questions about the legality of the procedures already performed on volunteers. The committee found this to be a very serious concern and recommended that it be rectified as a matter of priority.

The committee noted that if part 8 were to be proclaimed the volunteer provisions would also, inappropriately, apply to victims of crime. As a result, victims would be read their rights as if they were suspects and complicated consent procedures that are not really necessary or appropriate for victims of crime would need to be applied. The committee therefore recommended amendments to incorporate specific provisions for forensic procedures on victims of crime. Problems were also raised with the informed consent provisions. Suspects, offenders and volunteers must first be requested to consent to a forensic procedure but must also be provided with information about the procedure for the consent to be valid.

Three particular difficulties were evident with the consent procedures. First, the consent information was overwhelmingly considered to be excessively complicated and unlikely to be widely understood. Police officers found the information to be unwieldy and complex, and witnesses argued that most suspects and offenders do not understand the language used. Some doubt was raised about whether consents given to date in these circumstances are valid, since they may be considered not to be informed consent if there was no understanding. The committee recommended that a plain English version of the consent information be developed.

Second, the consent by prisoners was a controversial issue. Each of them is given the opportunity to consent to a DNA test. However, if the offender does not consent a mandatory test is immediately ordered. The committee considered this to be a hollow consent process. The consent procedures for offenders also trigger additional problems. Prisoners report feeling coerced into consenting, fearing reprisals such as reclassification if they do not consent. This was denied by Corrective Services officers and the Police Service. However, the fact that prisoners feel pressure to consent—whether any such pressure exists—raises uncertainty about the legal validity of the consent, and it is possible that courts may overturn consent given by prisoners in such circumstances. As it is clearly the intention of the Police Service to obtain samples from every serious indictable offender, with or without consent, the committee determined that it would be preferable for the consent provisions for offenders—which, in any case, appear to be a mere procedural formality—to be removed. We have made recommendations accordingly.

The third key problem with the consent provisions relates to access to legal advice. Several witnesses identified as a concern their lack of access to legal advice. Although the legislation provides the right to legal advice in most circumstances, the costs can be prohibitive. The committee considered that legal advice is an important part of informed consent and that all suspects, offenders and volunteers should be able to seek advice when being asked to consent to a forensic procedure. Therefore, the committee recommended the establishment and funding of a 24-hour telephone legal advice hotline, run by the Legal Aid Commission, for access by persons requested to consent to a forensic procedure.

Another issue criticised by some witnesses were the provisions governing consent by child volunteers. The current rules in the unproclaimed part 8 do not allow a child to volunteer on his or her own behalf to give a sample; rather, the parent or guardian can volunteer the child. There is no requirement for the child to be consulted or to provide the child with information about the procedure. It is only by objecting or resisting that the child can prevent an unwanted voluntary procedure. The committee considered these child volunteer provisions to be unsatisfactory and out of step with current trends that recognise the rights of children to participate in decisions that impact on their lives. The committee believes that all children should be consulted about forensic procedures proposed to be performed on them.

The committee proposed amendments to the consent process that would reflect the different levels of maturity of children of different ages. This would enable children of 15 years and older to consent on their own behalf, while for children aged between 10 and 14 years consent should be required from both a parent and the child. The final issue I shall mention relates to the Act's prohibition on certain uses of DNA samples and profiles. The Act creates a number of offences relating to inappropriate collection, analysis and use of DNA samples and profiles. However, it was brought to the committee's attention that there may be significant loopholes as a result of poor drafting. For example, the way in which the database is defined in section 90 may inadvertently leave completely unregulated, but not prohibited, any database that does not meet the definition.

Other sources of concern raised with the committee include sections 114 and 115, which allow the taking, retention and use of forensic material as governed by other Acts. According to one witness, this could allow the otherwise prohibited collection and analysis of samples, for example, by picking up and analysing cigarette butts discarded by a suspect. The Police Service disagreed that loopholes exist. However, the committee considered that the conflicting evidence received about this matter suggests that there is some ambiguity about the provisions relating to the database and prohibited matching and analysis.

As these safeguards are essential to maintaining the protections of the Act, the committee recommended a more comprehensive approach to the regulation of database restrictions. The committee suggested a regulatory regime that would prohibit the collection of DNA samples other than pursuant to the Act, analysis of samples taken or retained in breach of the Act, profiling for non-database purposes, establishment of any database not fitting the definition in section 90, unauthorised access to the database, unauthorised matching and non-database matching, and non-database storage of profiles.

As an investigative tool, DNA profiling can be extremely useful both in prosecuting offenders and in exculpating the wrongly accused. The use of DNA technology in law enforcement necessarily involves some interference with individual rights and liberties and with society's interest in maintaining the privacy and bodily integrity of its citizens. The Crimes (Forensic Procedures) Act 2000 attempts to find a balance between these competing public interests. I hope that the committee's report, in identifying weaknesses in the Act and proposing solutions, can improve the safeguards and protections while ensuring the continued effective use of this valuable law enforcement tool. I thank my fellow committee members for their constructive, bipartisan and unanimous approach to the inquiry and the report. I thank also the witnesses and the authors of submissions to this inquiry. Finally, and most especially, I convey my sincere thanks to Tanya Bosch for her research and drafting assistance, Christine Lloyd for organising the hearings and Bayne McKissock for proofreading the report.

The Hon. JOHN RYAN [2.50 p.m.]: I suspect that many honourable members will find the Standing Committee on Law and Justice report on the review of the Crimes (Forensic Procedures) Act a rather dull read because it deals with a particularly complex legal matter and a technology that is not easy to understand or access. There is little doubt that the introduction of DNA evidence will make a dramatic difference to the way police investigate offences such as murders and assaults and in terms of court procedures. A little over 18 months ago the Government introduced the legislation enabling police to take DNA samples. The Standing Committee on Law and Justice review of the Crimes (Forensic Procedures) Act makes a strong case not only for the Government to introduce amendments to the Act, which has been in operation for some time, but also for legislation of this nature to be subject to parliamentary review routinely prior to its introduction and implementation.

The review of the Act demonstrates the failure of parliamentary processes. Although the committee chairman used measured language to describe the committee's findings, the committee examined the legislation shortly after its introduction and then made some 56 recommendations, some of which would make significant changes to whole sections of the Act. That demonstrates that there was a critical need to examine some matters even prior to the introduction of the legislation. Examination of the legislation by a committee before its passage through the Parliament would have corrected many of the errors that are now evident in this flawed Act.

Honourable members may be interested to know that the more colourful evidence given to the committee came from an academic, Dr Jeremy Gans, who said that he uses the Crimes (Forensic Procedures) Act as an exercise for students to find legislative flaws. He said that he remains forever intrigued by the fact that, no matter how many times he presents the Act to tutorial groups of law students, they seem to find more and more contradictions, difficulties and anomalies in the text of the legislation. So an urgent review of the Act is necessary.

The committee chairman conducted the committee in a thorough and proper manner. Frankly, he should be commended for his courage. To be honest, if I were a Government member assigned the task of conducting this inquiry, no doubt by the time the inquiry concluded I would have had the difficult task of telling the Government, "You will not like this report. Our review of this legislation is not a pretty picture." Nevertheless, in a reasoned and statesmanlike manner, the Hon. Ron Dyer completed the investigation and produced an outstanding report, of which the Government should take some notice. I am a little worried that the Government will not take notice of this report.

I do not wish to be partisan about this matter in any way, but members of a group that made a submission to the committee reported to me that as a result of a discussion with the Minister for Police about a week after the report was tabled they believed the Minister was not inclined to accept the committee's report—that the Minister believed the committee had received the wrong advice and interviewed the wrong people. It was reported to me that the Minister was of the view that few of the committee's recommendations should be implemented. I hope that report is incorrect because I believe virtually none of the committee's recommendations should not be implemented and seriously considered.

I do not wish to make a lengthy speech. However, I shall demonstrate to the House the sort of difficulties that already exist. I refer to the 2001 Supreme Court case of *Kerr v Commissioner of Police & Ors.*

This is an important case because it demonstrates how, because of the complexity of the legislation affecting the collection of DNA samples, it is possible to lose vital evidence that would have quickly and properly brought a criminal to justice. The case involved the review of a DNA sample taken from a suspected murderer. I do not think the person sought an order for the evidence to be disallowed but the evidence was, to some extent, lost because it was critical to the admissibility of the sample that it was taken within a particular time frame. The person from whom the evidence had been taken was being interviewed as a suspect in the stabbing murder of a woman. The person had been brought to the police station and was taken through the process as required under the Act prior to a DNA sample being taken.

A critical flaw occurred in the questioning of the person. The person was told, "If you don't consent to the taking of DNA samples and fingernail scrapings, and so on, we will seek an order from a magistrate and you will be forced to do it anyway." The very giving of that advice flawed the consent given by the person, who said, "Well, if that's the case, I'll agree." Presented in that fashion the consent was found to be flawed and the evidence was lost. The transcript of the judgment of the case provides interesting reading; the very difficulties that are currently inherent in the taking of DNA samples are referred to. I shall read to honourable members a part of the transcript of the conversation a police officer had with the suspect before the sample was taken. It will quickly make obvious the sorts of problems that are inherent in the Crimes (Forensic Procedures) Act. If I recall correctly, the suspect had a slight intellectual disability. The police officer said to the suspect:

Q79 The forensic material obtained from the procedure is to be used to derive your D.N.A. profile. Information obtained from analysis of the forensic material may be placed in the D.N.A. database system. Only a person authorised may access information in the D.N.A. database system for one or more of the following purposes: forensic matching, making information available to you, administering the D.N.A. database system, under arrangement between New South Wales and other state or territory or the Commonwealth to provide access to other law enforcements officers or other prescribed persons. Four: and in accordance with the Mutual Assistance in Criminal Matters Act 1987 or Extradition Act 1988. For review of or inquiry into a conviction or sentence under part 13A of the Crimes Act 1900, investigating complaints about police conduct under part 8A of the Police Services Act 1900, a coronial inquest or inquiry, investigation of the complaint by the Privacy Commissioner or any other purpose which has been prescribed in the regulations. Persons ... disclose information stored on the D.N.A. database for one or more of the following purposes: forensic comparison in the course of the criminal investigation by a police officer or other person prescribed by the regulations or to make it available to you, to administer the D.N.A. database system, under arrangements between New South Wales and other state or territory or the Commonwealth to provide access to other law enforcement officers or other prescribed persons, review of or inquiry into conviction or sentence under part 13A, of the Crimes Act 1900, investigation of a complaint by the privacy commissioner, any other person which has been prescribed by the regulations. A person may only disclose information revealed by the carrying out of the procedure on you to yourself, the information is already publicly known in accordance with any other provision of the Act in accord with the Mutual Assistance in Criminal Matters Act 1987, the Extradition Act 1988 to investigate any offence or offences generally, decide to institute proceedings for an offence or proceedings for any other offence or coronial inquest or inquiry, for civil proceedings relating to the way the procedure was carried out including part 9 of the Police Services Act 1990, your medical treatment, medical treatment of the victim of an offence that there are reasonable grounds to believe it was committed by you, if you consent in writing to disclosure, investigating complaints about the conduct of police officers under section part 8A, Police Services Act 1990, for scrutiny by the ombudsman under section 121 of the Act, for any other purpose which is prescribed in the regulations. If you do not consent to the procedure the consequences will be that an application may be made to a magistrate for an order authorising the taking of the sample by mucus swab or some other forensic procedure. That relates to the document that you were shown before that was granted by a magistrate, an order. Do you understand that?

The answer given by the suspect was "Mmm." I have read the advice that police are required to give suspects before taking a buccal swab, that is, a swab of the contents of a suspect's mouth. I could not imagine a person with an intellectual disability or a person with limited education having the capacity to understand what on earth all that guff meant. The overwhelming message of the committee is that the legislation is far too complex and that it requires police to do things that are of dubious legal value. I make it abundantly clear that it is highly likely that if the changes recommended by the committee are not implemented—and I give this warning because I believe the Minister for Police is not inclined to do anything about this report—samples will be lost. The chairman of the committee, who is a member of the Government, may not be able to make this point as clearly as a member of the Opposition can. I predict that if the Government does not review and simplify this Act, important DNA that is collected will be lost, as occurred in this case, and criminals may go free because evidence against them has been lost.

Not only is it important to address the very important civil libertarian issues that were raised with the committee—we have made some recommendations to the effect that they, too, need to be addressed—it is also important that the Act is cleaned up otherwise police will be in the position of giving unbelievably convoluted and complex legal advice that neither they nor suspects will understand. Suspects can then take the matter to the Supreme Court to argue that they gave consent without understanding what they were doing. If they are deemed not to have understood what they were doing, their consent will be deemed to be invalid, and samples may be lost and evidence gone. I cannot make the point any stronger: This Act must be cleaned up.

If, as has been rumoured, anyone in the Government is not inclined to read this report carefully and implement its findings, the result will not be that civil liberties will be comprised—although there is no doubt

that is happening; the very legitimate purpose to which DNA profiling can be put will be lost and police will lose cases. Without revealing any evidence that I should not, I will say that it was made very clear to the committee in evidence given by a very senior police officer that police are extremely concerned about the current status of the Act if it is not reviewed. Taking the hawk position with regard to law and order issues, among other things the committee was asked to make recommendations to simplify the testing of people held in gaol for serious indictable offences. At the moment people who are convicted and sent to gaol for a serious indictable offence can have a DNA sample taken from them. Police are required to go through a convoluted and difficult consent procedure which appears to have resulted in the making of compromises to get people to consent willingly to the taking of samples. However, if that consent is not obtained, a court order can be obtained. Why not make it simpler when people have been convicted, are in gaol and the community regard them as serious offenders?

I do not think anybody would be concerned about being sampled, merely because over a period of time, as a suspect, he or she would be sampled anyway. So to some extent this problem will not exist for a long time. There were reports to the committee that, for example, prisoners required physical constraint in order for samples to be taken. Another prisoner, who in my view gave very believable evidence, said that he had been penalised by a reclassification for not giving consent in the first place. Other information given to the committee was that the Department of Corrective Services produced a brochure to distribute to prisoners giving them information about procedures for the taking of DNA profiles. Evidence was given to the committee that the first version of the flyer given to prisoners inferred that if a prisoner did not consent to the procedure, he or she might in fact be subjected to a further 12 months imprisonment.

That flyer was withdrawn and changed, I believe. That goes to show the sorts of complexities that arise from the legislation and the types of mistakes that have been made. Those are the types of matters that will be taken before a court and tested judicially. It may well be that the Government will not get the answer that it wants. The review of the legislation by the committee was very thorough. I believe the committee asked the right people the right questions. It has not simply returned to the Parliament a report that asks that the legislation be watered down, except that the committee recommended one particular modification, which I believe is reasonable. Oddly enough, the House considered it and voted it down, with both the Government and the Opposition voting together.

The modification involves just a couple of provisions of the Act. It has been suggested that the test for taking a DNA profile from a suspect should be, as it currently is, one whereby police may use a forensic procedure to take a DNA profile if the procedure might produce evidence tending to confirm or disprove that the suspect committed a prescribed offence. I can think of no circumstance in which such a test would not be applicable. One cannot imagine that the taking of a test might not produce evidence. The committee has suggested using what is called the model bill, that of the Model Criminal Code Officers Committee. That is meant to be template legislation to ensure that DNA legislation is consistent throughout the Commonwealth. Instead of using the words "might produce" we should use the term "likely to produce". That is a more than reasonable test under which police should operate. It will not unduly constrain police in the carrying out of this procedure.

That is the only suggestion the committee has made that might enhance civil liberties. In fairness, it is a sensible reform. It will not inhibit police, but it will fairly protect people from undergoing unnecessary procedures. In most instances it is a matter of clarifying the procedure on the taking of DNA samples. The suggested amendments will result in this testing procedure serving the people of New South Wales well. The committee has not recommended, for example, that DNA profiling should be discontinued or that there is no role for DNA profiling in New South Wales. It would have been nonsense for the committee to have so recommended. The committee has endorsed DNA profiling as a procedure, but has suggested important changes to the Crimes (Forensic Procedures) Act that are necessary to protect such evidence and make it worthwhile.

I pay tribute to the chairman of the committee, who had a very difficult job to do. When reviews of legislation carried out by a committee are chaired by a Government member, it is usual for the chair to be in the position of having to defend the Government's position, almost to the death. In this instance the chairman has in fact defended the Government's position, I believe, in a very honourable way. Nevertheless, to his credit, he has had the courage to act as a parliamentarian, enabling the committee to give an accurate report, albeit not a provocative one. In no way is the report provocative. It is responsible and measured; it makes sensible suggestions. I do not want to make it the subject of partisan debate. I believe if the Government considers the report fairly and reasonably, New South Wales will have better procedures for DNA profiling, and not procedures that are likely to be subject to judicial examination, with a consequence that important evidence is lost.

I commend the report to the House. In particular, I commend the report to the Government. I thank the staff involved for their outstanding efforts in getting together the right witnesses and for preparing what might otherwise have been a difficult report to prepare for the consideration of the Parliament and the Government. The draft was prepared almost to the point where the committee needed to make almost no modification to it.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [3.10 p.m.]: I congratulate the Chair of the committee, the Hon. Ron Dyer, on the work he did on the committee. This is a good and thorough committee report; it has integrity. I must confess that I felt that the bill had been pushed through in bully-boy fashion, and too quickly. I was not alone in that opinion. Many of the amendments suggested by a large number of groups were voted down almost out of hand. On 11 May 2000 eight crossbench members wrote to the Premier stating that the New South Wales Law Society, the Ethnic Communities Council, Sydney Regional Aboriginal Corporation Legal Service, Positive Justice Centre, Youth Policy Action Association, Indigenous Social Justice Association, CRC Justice Support, New South Wales Council for Civil Liberties and Justice Action, as well as some individuals, wanted an investigation into this matter. The Government consented to that course. This report is the result of that investigation.

Far be it for me to say that things should have been put together a bit more carefully in the first instance, but I think that really is the fact. Now that the report has been prepared—and overall it is a good report—we have to hope that the Government will not be impervious to change. The Government was persuaded to have this necessary inquiry, which has now reported and suggested a number of changes. I hope that the Government will not be impervious to those changes and that it will not merely adopt the same bully-boy approach that it took when putting the legislation through.

One problem was that part 8, which relates to volunteers, had not been proclaimed. Evidence was given to the committee by Justice Action and others that the lack of clear guidelines for so-called volunteer sampling was a problem, and that at least part 8 dealt with that issue to some extent. The concept of volunteering, when there is a massive imbalance in the powers of those who want a subject to do something and the powers of the subject, presents a perennial problem. The suggestion was: If you do not give a sample we will get a court order to get a sample anyway, so you might as well volunteer. That, of course, certainly involves some duress; it does not involve volunteering to give consent to the taking of a sample. Evidence was also given that prisoners who had not volunteered to give samples were reclassified and sent to other places within the prison system, away from their families, or that they were given fewer privileges within the correction system.

The changes that have been recommended by the report take the procedure closer to the model bill. As was pointed out at the time by me and a number of other members, this bill took a much harder line than the model bill that had been suggested. The report acknowledges that even suggestions by Justice Action—which might previously have been thought of as a radical group in the sense that it represented prisoners—had been taken up and championed by the report. Obviously, the effect on prisoners has to be considered. It is nice that their voice is being heard. Recommendations like the training of judicial officers in order to obtain a realistic assessment of what DNA technology can do seem a good idea, as is the simplification of the Act, which seems to be very complex in regard to procedures and therefore more likely to lead to miscarriages of justice.

The key recommendation is the first one set out in the report—another matter mentioned by me at the second reading of the legislation—that is, that an independent group should do the testing. The idea of a State Institute of Forensic Sciences, which should be separate from the Police Service testing body, is a good start to justice being done by an independent body. There will obviously always be scope for tampering, or for submitting test samples that have been improperly obtained. Of course, no matter how expertly those samples were analysed, the result would be what the prosecution wanted. But at least an independent body would allow a defendant scope to have independent tests or an unbiased approach taken to testing. The lack of a protocol for the destruction of materials has been flagged as a problem by Justice Action in particular because the de-identification of material that is retained may be a problem.

A problem the committee did not discuss was the shortening of the time-out procedures, namely, two hours plus time out. My amendment suggested that the time allowed should be four hours so that any time out was limited to two hours. If a procedure for taking non-invasive DNA samples takes only a minute or two, the idea of providing a lengthy period during which suspects may be held needs to be addressed. Although the period is only two hours plus time out, the time out is a highly flexible benchmark. That matter has been referred to the Attorney General. Perhaps it would have been better if that matter had been the subject of a conclusion, but if evidence did not exist to support a conclusion, the committee was honest not to have gone beyond the evidence presented to it. Overall I think the report is good and that its recommendations are steps in the right direction. I concur with the sentiments expressed by my colleague the Hon. John Ryan and hope that the recommendations in the report are implemented.

The Hon. RON DYER [3.21 p.m.], in reply: I thank the Deputy Chair of the Standing Committee on Law and Justice, the Hon. John Ryan, and the Hon. Dr Arthur Chesterfield-Evans for their contributions to this take-note debate on the report of the Standing Committee on Law and Justice following its review of the Crimes (Forensic Procedures) Act 2000. I agree with the point made by the Hon. John Ryan that in the legislation reviewed by the committee there is a complexity of language that makes it difficult for street police, if I may use that expression, to apply the legislation in practice. I do not know the view of the Minister for Police regarding the committee's report because I have not had a conversation with him about it, but listening to what the Hon. John Ryan had to say I was reminded that the recommendations contained in the report do not flow entirely in one direction, that is, the civil liberties direction. They also flow in the other direction, that is, the law enforcement interests of the State. In particular the committee has recommended a review of the language used in the legislation and its manner of expression so that it can be simplified for use by police officers who are enforcing the legislation literally on the streets.

Chapter 7 of the committee's report, headed "Drafting Matters", deals with the issue of the manner in which the legislation is expressed. In particular the committee draws attention, among other things, to the drafting of sections 12, 20 and 25 of the Act. Time does not permit me to read the entirety of those provisions, but any honourable member who refers to those provisions may be quite stunned to see how lengthy and complex they are. I take the view that it is difficult enough for a lawyer such as I or for any other lawyer to understand what those provisions mean, let alone an ordinary police officer who is seeking to enforce these provisions on the street. That is hardly satisfactory. Police officers should be able to readily enforce and understand legislation. I make the point that in reviewing this legislation the committee certainly did not have as its objective some desire to frustrate the police. The committee wants to make sure that the legislation is there but equally wants to make sure that the legislation is clearly expressed in such a manner that it is easily understood by all those who have to use it, including the police. Particularly in that respect, the committee report goes in the direction and the interests of the Police Service of New South Wales.

A moment ago I said that I do not know what the attitude of the Minister for Police is to the committee's report, and that is true because I have not had a conversation with him concerning the report. The Minister for Police is not the only Minister who has an interest in the legislation and the outcome of the committee's report. It is true to say that the Minister responsible for this legislation—the Crimes (Forensic Procedures) Act 2000—and its administration is not the Minister for Police but the Attorney General. That being the case, there clearly has to be a detailed consideration of the committee's report by both the Minister for Police and the Attorney General, and for that matter by the Government as a whole in Cabinet. There has to be a consideration of what the Government regards as reasonable within the committee's report.

I regard the committee's report as being reasonable overall. I do not think that I or any other member of the committee has a history of taking extreme positions. Committee members listened to all of the witnesses and carefully assessed all the evidence, and arising out of a detailed treatment of the subject matter we have put forward what we regard as practical and reasonable suggestions for improvement of the legislation. Again I thank the Hon. John Ryan, with whom I have worked on many inquiries. He has always adopted a constructive approach and I thank him for his participation. I also thank my other committee members. Earlier I mentioned the staff but I would particularly like to thank Ms Tanya Bosch for the drafting of the report. Since Tanya has been the director of the Standing Committee on Law and Justice I have been absolutely delighted with the work that she has done. This report is a particularly good example of what that officer is capable of, and I look forward to continuing to work with her during the remainder of my parliamentary service in this House.

Report noted.

STANDING COMMITTEE ON LAW AND JUSTICE

Report: Review of the exercise of the functions of the Motor Accidents Authority and the Motor Accidents Council, Third Report

Debate resumed from 12 March.

The Hon. RON DYER [3.26 p.m.]: This is the third report of the Standing Committee on Law and Justice in relation to its role in supervising the exercise of the functions of the Motor Accidents Authority [MAA] and the Motor Accidents Council [MAC]. Section 210 of the Motor Accidents Compensation Act provides that a committee of the Legislative Council is to be charged with the responsibility of supervising the exercise of the functions of the MAA and the MAC.

In November 1999 the House appointed the Standing Committee on Law and Justice to undertake this task. The committee decided to exercise its review function by conducting an annual public hearing with the chair of the Motor Accidents Authority and the Motor Accidents Council and other senior staff. The third such hearing was conducted on 17 December 2001. The focus of the hearing centred on the MAA's 2000-2001 annual report and issues in general relating to the new scheme. As with the two previous hearings I wrote to a number of organisations and individuals and invited them to nominate questions that they would like the committee to raise with the MAA. Detailed responses were received, especially from the Law Society of New South Wales and the New South Wales Bar Association.

Stakeholder questions were then conveyed to the MAA for a written response. The questions and the MAA's written responses are included in the committee's report. As with previous reports, the third report largely presents the evidence and allows it to speak for itself. The committee has not sought to evaluate the evidence and to make conclusive comments, except for one recommendation raised by the Hon. John Ryan, deputy chair of the committee, relating to parents whose child dies as a result of a motor vehicle accident. In regard to that issue the committee is concerned that the MAA proposals for grief counselling and other support mechanisms may not be adequate to meet the needs of parents whose children are killed as a result of a motor vehicle accident. In such cases the committee recommends:

... the MAA should give further consideration as to how parents who lose children as a result of a motor vehicle accident might be compensated, particularly parents who would not qualify for non-economic loss according to current medical and psychological guidelines. The further consideration of this matter should include public consultation with interested parties.

Turning to the scheme in general, while the new scheme is nearing maturity, the committee understands that comparisons with the old scheme may not be useful until the new scheme is in the third and fourth years from the original underwriting year. An important driver for the Government's amendments to the legislation centred on the cost of green slips. At the end of June 2001 the average metropolitan premium had been reduced from \$441 to \$342, meeting the MAA's target of an average \$100 reduction. While the average decrease was \$99, some people, and people over the age of 55 in particular, received significantly higher decreases reflecting the lower risk at that level. It is clear from the evidence provided by the MAA that the new scheme is leading to more affordable premiums in New South Wales.

Another important issue arising from this report that has also been raised in previous reports is that of structured settlements. As did the previous Chair of the Standing Committee on Law and Justice, the Hon. Bryan Vaughan, I have supported structured settlements and previously expressed the hope that the Commonwealth Government would find it appropriate to introduce the necessary taxation changes to encourage their use. Representations on this matter have been made by the MAA and Injuries Australia as well as the very active personal efforts of Ms Judy Stephens. I was pleased to hear in September last year that the Federal Government had accepted the principle of structured settlements and set out the parameters—which were negotiated through the Structured Settlements Group—under which it would introduce legislation to amend the tax laws.

Amendments to State legislation and to State court rules will be required. Mr David Bowen, General Manager of the MAA, indicated he was hopeful that the legislation would be in place before the end of this year. In regard to the issues associated with long-term care for people with serious injuries such as brain injury and spinal cord injury, the committee notes that, while the MAA has not reconvened its previous working party, a working party has been established by Cabinet Office. The MAA indicated that once this process has been completed it would contract an actuary to cost the proposals developed.

Pursuant to resolution business interrupted.

RIGHTS OF THE TERMINALLY ILL BILL

Second Reading

Debate resumed from an earlier hour.

The Hon. Dr PETER WONG [3.35 p.m.]: Euthanasia is always an emotional issue. I accept and respect the views that have been expressed by honourable members on both sides of this Chamber. The euthanasia issue could also become a good dinner conversation topic. However, when an attempt is being made to legislate euthanasia or assisted suicide I believe that all honourable members and citizens in our society should take note of and carefully consider the rationale behind this bill and the validity of the arguments that

have been put forward. Oregon and the Netherlands are the only two jurisdictions in the world where laws specifically permit euthanasia or assisted suicide. Oregon permits assisted suicide and the Netherlands permits both euthanasia and assisted suicide. In the case of euthanasia a third party performs the act which causes death. In the case of assisted suicide the person who dies performs the last act.

At the conclusion of this act the result is the same—it involves the taking of one's life directly or indirectly. Some people might even argue that this is also a case of killing and not just suicide. It has been argued in debate on this issue that this is the right of an individual, especially when it applies to a terminally ill person. It was also argued that the legislation could be drafted in such a way that no mistake could be made. Pain, suffering, and the right to die in dignity are also being offered as logical arguments for such a seemingly compassionate and caring act, especially when it is carried out by a doctor on his or her patient. Individuals, responsible citizens, community leaders and fathers and mothers are often asked to make daily decisions on issues which may affect another individual or a group of people.

As legislators we sometimes support bills which subsequently prove to be not very good legislation. Fortunately we are sometimes able to reverse some of our mistakes, even if we make a mess of it the first time around. Unfortunately, however, there are some things that we cannot revisit. Some things cannot be undone. Taking away lives—which is the intention of this bill—is one of the things that cannot be undone. Some honourable members might still remember their university days. They would have had to sit for a multi-choice examination. Medical students were often taught the techniques of choosing the right answer from several possibilities. One of the golden rules of medicine is: nothing is always and nothing is never. If any statement contained such a word it would be the wrong answer.

We all like to practise evidence-based medicine. However, it is not always possible, especially when we are dealing with life and human suffering. Unlike mathematics, physics and chemistry, the terminology used in medicine psychology often cannot be clearly defined. Take, for example, the rights of the terminally ill. Can anyone define who is terminally ill? On the surface it might sound easy. The Hon. Ian Cohen might or might not have been referring to cancer and AIDS sufferers. However, he might well have intended the legislation to apply to cancer and AIDS sufferers as he said in his second reading speech that physical and mental disability were not grounds for requesting termination. What is the definition of a terminally ill patient—six months or a year? The Hon. Ian Cohen, when defining the term "terminally ill patient", said:

... an illness which, in reasonable medical judgment will, in the normal course, without the application of extraordinary measures or of treatment unacceptable to the patient, result in the death of the patient.

Almost any illness can lead to death. Some illnesses take years, so do we include heart disease, respiratory illness or even diabetes and senile dementia? The Hon. Ian Cohen began his second reading by stating:

This bill allows a terminally ill patient with no hope of recovery...

Was he really stating that there are recoverable terminal illnesses and non-recoverable terminal illnesses? How do we know which is which? On a more serious note, the Hon. Ian Cohen was not far from wrong. As doctors, we all have stories about patients who have recovered from incurable cancers and severe strokes. As a general practitioner, many of my seemingly end-stage respiratory disease or heart disease patients have lived as long as 20 years. However, that is almost wisdom in hindsight. So when is a terminal illness not terminal? If it is up to the doctors can we trust them not to make mistakes individually or collectively? The answer is obviously no. If it is up to the patients why are we bothering to define the words "terminally ill"? Indeed, perhaps following the same rationale, within two years after the passage of Oregon's assisted suicide law, a model law was drafted that gave doctors the right to provide assisted suicide if "the patient has a terminal illness or an intractable and unbearable illness".

Euthanasia and assisted suicide are not private acts. Rather, they involve one person or a group of people facilitating the death of another person. One can never exclude the possibility of abuse, exploitation and erosion of care for the most vulnerable people amongst us. Included amongst those people would be the elderly, the disabled, the underprivileged, and ethnic minorities who have poor English skills. These are the people whom the Greens are supposed to protect. Can anyone imagine the scenario of using an interpreter to determine whether to take away the life of a person? Furthermore, euthanasia and assisted suicide are not about giving rights to the person who dies but, rather, about giving rights to doctors and others to take away the lives of vulnerable people. Euthanasia and assisted suicide are not about the right to die; they are about the right to kill.

In his second reading speech the Hon. Ian Cohen said that the death of Norma Hall was the driving force behind his decision to introduce the bill. I stated the other side of the story in my adjournment speech on

11 December 2001. In summary, Mrs Hall did have an excellent palliative care team looking after her. She was not in great pain, and she was promised that she was not likely to die whilst feeling breathless but was most likely to become weaker and weaker and to sleep more, and that one day she would sleep and not wake up but would slowly fade away. She was promised that when the time came and she was actually dying, she would be sedated so she would not be aware she was dying. Instead, Mrs Hall was advised to accept euthanasia by the withholding of food and fluid, which is the most commonly practised method.

The average person can survive for about 10 days without water and about 40 days without food. When food and fluid are withheld, the person suffers miserably from thirst and a dry mouth, constipation, gastric symptoms such as abdominal cramps, nausea and vomiting. The person also has emotional symptoms such as depression, confusion and delusion, amongst others. After a week of intolerable suffering, Mrs Hall took an overdose of drugs to end her life. The question must be asked: Is this supposed to be evidence of support for palliative care as referred to by the Hon. Ian Cohen? In fact, in the case of Mrs Hall, Dr Nitschke and his supporters did little to help the palliative care team. In his speech the Hon. Ian Cohen said:

However, for around 3 per cent to 5 per cent of the population who have a terminal illness, palliative care is simply not appropriate. This is recognised by Palliative Care Australia, the peak palliative care body, in its position statement on euthanasia of 19 March 1999. That statement:

Acknowledges that while pain and other symptoms can be helped, complete relief of suffering is not always possible, even with optimal palliative care.

The Hon. Ian Cohen should know that "complete relief of suffering is not always possible" is not the same as "palliative care is simply not appropriate". This is amazing misinformation, given that earlier in his speech the Hon. Ian Cohen said:

We support anything that will make terminally ill patients' lives more comfortable and bearable.

So far I see little evidence of him doing that. As Dr Brian Pollard pointed out in his discussion with many members, there are times when doctors do not have answers to pain, but, on the other hand, euthanasia is not a good alternative. What alarms me most is that the Hon. Ian Cohen was so sure of his bill that he said:

The bill contains iron-clad safeguards so that only suffering terminally ill patients with a strong desire who are significantly motivated to endure the rigorous processes set out in the bill will be able to use them to terminate their lives.

However, earlier in his speech the Hon. Ian Cohen said:

Safeguards can always be added if a loophole in the law is found to exist.

What happens to those who tragically died wrongly as a result of the loophole? The Hon. Ian Cohen emphasised that the patient must have mental competency and soundness of mind in seeking euthanasia. Bearing in mind that the patient is suffering from a terminal illness and is seeking a kind of suicide, what can the current medical knowledge tell us?

We know that in most cases—some say in more than 90 per cent of cases—people who seek to commit suicide have mental health problems ranging from depressive disorder to panic disorder, and up to 15 per cent have recognisable but undiagnosed disorders. Indeed, some believe that a suicide attempt, or the seeking of assistance in suicide, may well be an attempt to see if anyone cares. Psychiatrists have long advanced the opinion that underlying a suicidal person's ostensible wish to die is actually a wish to be rescued, so that a suicide attempt may accurately be described not as a wish to "leave it all behind" but as a cry for help. Allowing or assisting in a suicide, therefore, does not necessarily fully respect a person's rights or honour an individual's wishes.

In fact, this is inconsistent with my experience of over 30 years as a general practitioner. Patients with a caring family and compassionate and supportive doctors do not often seek euthanasia. The patient with a terminal illness is an emotionally vulnerable person. The patient has stress, anxiety and depressive moods from time to time. Often the patient is exhausted from the illness, and often suffers tiredness and sleeplessness. Sometimes such a person lives in fear—fearful of the illness, fearful of the future and fearful of death.

It would be almost impossible for such a person to be entirely objective about his or her situation. The person's decision-making ability may be equally handicapped by the physical illness and mental exhaustion. In one study, all the 24 per cent of terminally ill patients who desired death had clinical depression. Depression is not always detectable and well defined. Medically speaking, how anyone can be absolutely certain that such a

person is totally of sound mind is beyond my comprehension. In fact, the accepted medical view and community opinion is that anyone who attempts suicide is usually sent to a hospital to be treated initially and to receive counselling subsequently. The success rate is high, and not many people attempt suicide a second time. Yet, in the case of the terminally ill, instead of offering support and counselling, which is what is needed most, we are being persuaded to take their lives away.

One of our major concerns about capital punishment is that we may have made a mistake and killed an innocent person. We need evidence beyond reasonable doubt to convict a person. Even then, we are still not sure whether he or she is guilty. Yet, with the Rights of the Terminally Ill Bill, we can throw all our principles to the wind. We do not mind using words such as "reasonable grounds" or "reasonable medical judgment". We do not even bother with evidence "beyond reasonable doubt", let alone with being absolutely sure. A 10 per cent error margin alone could have caused hundreds of deaths every year.

I was greatly concerned to hear the Hon. Ian Cohen refer to fears of voluntary euthanasia legislation as "an act of love and compassion of the highest order". In my view, only Almighty God can make such a claim. It is important to be aware that medical associations across the world refuse to support euthanasia legislation, including the American Medical Association and the Australian Medical Association, as well as the British Medical Association and the Royal College of Nursing. So far, not one palliative care centre is in support of it. In 1999 the then President of the Australian Medical Association, Dr Thomas Reardon, MD, said:

The AMA opposes physician-assisted suicide, as it is antithetical to the role of the physician as a healer. We are committed to providing the best possible end-of-life care.

The Select Committee of the House of Lords in England, in its final report in February 1994, unanimously ruled that there should be no change in the law. The chairman of the committee, Lord Walton, said:

We concluded that it was virtually impossible to ensure that all acts of euthanasia were truly voluntary and that any liberalisation of the law in the United Kingdom could not be abused. We were concerned that vulnerable people—the elderly, lonely, sick or distressed—would feel pressure, whether real or imagined, to request early death.

As a doctor, as a human being, as a welfare worker, as a Christian and as a parliamentarian, I totally reject this bill. No doubt many honourable members of this House will do likewise.

The Hon. MALCOLM JONES [3.49 p.m.]: Few issues are more worthy of our consideration than euthanasia. I have always grouped abortion, capital punishment and euthanasia together, because they are all about the taking of life. I find abortion for reasons of lifestyle or maintenance of lifestyle quite abhorrent. However, abortion to save the life of a mother is a different consideration. Capital punishment, where authority is given to one group of people to take the life of another, I also oppose and find abhorrent, but it is closely linked to this issue. So I come to euthanasia. I wish I could reach a decision so easily about euthanasia, because it necessitates a consideration of people who are in very dire straits and are requesting that their lives be taken away.

As an old man, my father—who is now deceased—discussed with me his feelings on euthanasia. He gave me a completely different insight into the problem from a point of view that I had not had the opportunity to consider before. I was very touched by it. While he would not have qualified under any of the pain, suffering or distress provisions of the Hon. Ian Cohen's bill, he was a man who for other reasons had grown tired of life. I have sympathy with his point of view and the point of view of many elderly people. However, when one requests one's life to be taken away it is not so much the point of them making the request but how society responds to that request.

This point was emphasised at the recent crossbench meeting with Dr Pollard. He made the effective point that to qualify for euthanasia under the bill a person would have to be terminally ill and suffering pain and distress. Palliative care can ease most conditions of pain but not all. I recognise that not all pain can be alleviated. Dr Pollard mentioned that 92 per cent of pain can be alleviated. Having suffered intense pain myself, I am not totally persuaded about that, because there are times when one can take only so much morphine and other pain suppressants and remain conscious. From a suffering point of view, what can be deemed to be extreme suffering for one party may not be extreme suffering to other parties, and it would be very difficult for the person considering the suffering to be objective. Similarly, it is very difficult to measure distress and, once again, the objectivity or the subjectivity, whatever way of one looks at it, is difficult to measure—if one can measure it at all. Similarly, psychiatric reports must be taken into consideration, and psychiatric reports are again largely an opinion.

Once a terminally ill person requests action to be taken, the doctor or the appointed person has to take that life—the life of an innocent person. Before society takes the life of a guilty person, the guilty person is entitled to be charged appropriately, tried in an appropriate court, and judged, and ultimately to have an appeal system to fall back on. In this instance those things would be denied a person seeking euthanasia, and I ask myself and therefore Parliament the question: Is that appropriate? When a person is found guilty of a crime—we all know that some countries employ capital punishment for specific crimes although many jurisdictions do not—all these safeguards are in place but the bill before the House restricts the process of examination of what is appropriate for the taking of the life of an innocent person. I reiterate that the pain, suffering, distress and psychiatric interpretations of a person are insufficient thresholds and provide insufficient safeguards to enable this euthanasia bill to do the job that I think the mover is trying to make it do.

Other honourable members have mentioned legal problems and reference has been made to the examining committees in New York, the House of Lords, Canada, South Australia and Tasmania. I mention them again because all have expressed dissatisfaction with the likely legal problems that a euthanasia bill will create. I have spoken with Dr Philip Nitschke. I believe that he has a definite point and that he is sincere. The Federal Government overrode the Northern Territory's social experiment in euthanasia, and this House has debated the Northern Territory's inability to appeal other issues at other times. However, the results of the social experiment are sadly too few from which to draw a conclusion. I have difficulty with the bill. I find myself unable to support it. Such are the unanswered issues at this time that I have to support the status quo. I hope and pray that I do not have any reason to regret opposing this bill.

The Hon. ALAN CORBETT [3.57 p.m.]: The Rights of the Terminally Ill Bill addresses an issue that is very contentious. As I see it, the issue is whether people have the right to choose when they will die if they already have a terminal illness and are in severe pain and suffering, and whether they can have assistance in ending their lives to ensure that their ending is not slow and does not contribute further to their level of pain or to any further loss of dignity. I know of people who would like to end their lives but who are scared that the way they could do it would leave them in a worse state than they are currently in.

People can choose to commit suicide. In many cases, people who do so are not suffering from fatal diseases but from some form of extreme depression or other mental illness that might have responded to treatment. On my way to work yesterday I talked to a taxidriver about the possibility of this bill being debated. He said that he knew of someone who had a terminal illness and who drove his car into the front of a semitrailer. I asked the taxidriver what happened to the driver of the truck. He said he was okay physically but was traumatised for life. Treatment for depression could have improved the quality of life of that person to the point where he had no desire to end his life prematurely. These cases are tragic to all: the person who has ended his life in such a sad and tragic way, those who loved him, and those who had any contact with him before the fatal decision. However, there are those who choose to end their life because they are suffering unbearable pain and misery, which has no prospect of finishing, despite the best of modern medical care available to them where they live.

For more than 95 per cent of patients with terminal diseases, palliative care can offer relief from severe pain. Unfortunately, a small percentage of patients—it is estimated to be between 2 per cent and 5 per cent—do not respond to current palliative pain relief and continue to suffer severe pain 24 hours a day. Added to this, they may also be suffering what to them is unbearable humiliation or loss of dignity in their day-to-day life that is a consequence of their worsening condition, whether it be due to failing body systems and functions or the dehumanising form that some medical treatments seem to have to the patients. I am sure all honourable members are aware of people who have been through so-called cancer treatments and have seen what happens to them. And their life is prolonged for perhaps six months at best. Some of these patients wish to die rather than prolong their agony; others do not and prefer to fight it out to the bitter end. Often we see media reports about people who died from cancer after a long fight. Nothing is said about the others who died rather than prolong the agony.

For those who wish to die, suicide may be an option, but for many the very illness that has caused the degradation to their life, health and bodily comfort has also removed their ability to commit suicide. For example, a person may be lying in bed paralysed, unable to do anything with their limbs. That person is no longer physically capable of performing the act. Even for many who are capable of committing suicide, the methods available are often slow or lead to further suffering before the relief of death. It is to these people whose life has ceased to hold any attraction but to whom it has rather become a revulsion because of the constant severe pain and suffering without any hope of improvement that this bill offers relief.

For a small number of people I believe that this bill offers a compassionate, caring alternative—medically assisted suicide to end the suffering. It removes the stigma and criminal offence from those who seek

to help such patients in their final moment of need. However, many view the thought of such compassionate acts with horror, whether on the ground of religion or on other grounds. This bill does not seek to make such assistance compulsory for the medical profession, health care agencies or persons within a health care agency. Despite my support for the concept that this bill represents, I have some concerns. Dr Brian Pollard, whom other members have quoted, has spent most of his professional life in palliative care. He has highlighted the need for absolute safety in such a law.

The Hon. Dr Brian Pezzutti: How do you make sure of that?

The Hon. ALAN CORBETT: There must be no avenue for the law to be used to cause people who are not ready or willing to die to be euthanised. There must be no way that an error can be made either accidentally or intentionally, resulting in a so-called mercy death which in reality is no mercy to the owner of that life—or, worse, murder. To pick up an interjection by the Hon. Dr Brian Pezzutti, I would question anyone who opposes the principle of this bill and supports capital punishment, because the same rule applies.

The Hon. Dr Brian Pezzutti: I don't.

The Hon. ALAN CORBETT: I am not saying that the honourable member does. I am saying that people in the community who are pro capital punishment should apply the same reason to their opposition to this bill. Dr Pollard has indicated a number of searching studies conducted overseas and in Australia which conclude that such laws are unlikely to be safe from such misuse. The studies occurred in the United Kingdom, New York, Canada, Tasmania and South Australia. Examining the bill, I have a number of concerns in the area of safety. I hope that some of my concerns will at least be considered.

The declaration of witnesses, as outlined in schedule 1, contains the declaration of the patient's medical practitioner which states that he "personally knows" the patient signing the request, while the second medical practitioner declares that he "knows" the patient. I am curious about the legal difference between "personally knows" and "knows". That should be spelt out. Schedule 1 also outlines the declaration of the interpreter. The legislation requires that the interpreter be a professional interpreter, but I believe that, as a safeguard, he or she should also have a background in medical language. After all, the interpreter must understand the medical nuances the doctor may be relating to the patient, who makes a life and death choice when signing form 1. The form, which is outlined in schedule 1, details stringent criteria as to the information that must be given to and accepted by the patient. The interpreter's opinion of whether the patient understands the meaning and nature of this certificate necessitates his having a background in medicine.

Pollard makes a valid comment about the possibility of the misuse of such legislation, such as coercion. Clause 7 (1) requires the doctor to witness the patient's signature, yet there is no requirement that the doctor be accompanied by an independent witness from the first moment the patient indicates a potential desire to use this legislation. It is necessary that such signatures and stated wishes be made in the presence of an independent witness to allay the danger of coercion or undue influence upon the patient by a practitioner. Likewise, there should be a witness to the destruction of a certificate, as referred to in clause 10 (2).

Clause 7 (1) (o) refers to the possibility of the medical practitioner receiving financial or other advantage related to the death of the patient. A further safeguard would be a requirement that legal representatives certify that the patient has made a will and that the will does not benefit any medical attendant involved in the request for death nor their close relatives or associates. Clause 8 (2) refers to palliative care which brings relief to the patient subsequent to the signing of the death request form. It is important that palliative care possibilities have been exhausted prior to such a certificate being signed. However, if there is a breakthrough in such care which gives relief to the patient, it must be incumbent on the palliative care practitioner to give written notification via the patient's bedside notes and under separate cover to each of the co-signatories or examining medical doctors and the interpreter. This would reduce any likelihood of error, whether wilful or accidental.

Clause 7 (1) (p) provides for a minimum 48-hour time lag between the signing of the certificate of request and the performance of the assisted euthanasia. Even house purchase contracts have a five-day cooling off period. I believe that the standard contract period of five days is far more appropriate to this bill. Clause 10 (1) refers to a change in the patient's intent and to rescinding the certificate. What if the patient has such a change of heart as the fatal dose is administered? It must be mandatory for an assisting doctor to carry an antidote to the substance to be used for death at the time it is administered in case the patient changes his or her mind, although I am not sure whether that is actually possible. What legal ramifications are there if the patient changes his or her mind as the dose is either administered by the doctor or after self-administration? This issue needs further exploration.

Surveys indicate that a sizeable majority of Australians favour assisted euthanasia for the small group of pain-racked terminally ill patients who desire to end their life but are incapable of doing so. I am one member of that majority. I am concerned about clause 19, which relates to insurance or annuity policies. Various life insurance policies provide for a cut-off date, for example, when a person reaches the age of 65. I simply suggest the possibility that a person may go through this process—if the bill is passed—so that his or her life ends perhaps one day before that cut-off date, so that his or her family could be entitled to the insurance policy due to them. Perhaps that matter needs to be examined.

Having spoken to the bill, I cannot in good conscience vote in favour of it at the moment. I am convinced that the law may well result in the death of some people who do not wish to die of unnatural causes through assisted death. On the other hand, I cannot vote against the bill outright as I support the concept. This bill is an important first step. As honourable members know, over the past 3½ years I have had some experience of drafting and redrafting bills. My bill went through a number of drafts, there were a number of consultations, and a committee examined the bill and reported on it.

The Hon. Dr Brian Pezzutti: Your idea was always a good one.

The Hon. ALAN CORBETT: Thank you. My bill was pruned to the point that I thought the community and the Government would accept it. The final bill was not exactly what I wanted, but it was a good bill in the end. I hope that this issue can be kept alive and under continued consideration. I fear that if the bill is defeated this issue will not see the light of day for a number of years. If the House divides on this matter I will abstain.

The Hon. JOHN TINGLE [4.10 p.m.]: To my recollection this is the second or third time that a bill of this kind has been proposed during my seven years in this Parliament, so obviously a body of opinion believes it to be worth trying. I say at the outset that I accept without reservation the sincerity of the motives of the Hon. Ian Cohen in introducing this bill. I know that he really believes that there is a case to be made for relieving people of the intense difficulties that can accompany them when they are facing a terminal illness and have very little chance of survival. I also say at the outset that a bill on a subject like this has to be seen as an intensely personal and intensely emotional matter. I believe that it needs to be decided on the basis of personal conscience by individuals, not by what one might call the whole cold outlines of legislation.

There is an underlying danger of setting down in a bill like this legal rules of thumb which set hard and fast guidelines about the very basic right to die. We must face the fact that without enabling law it is widely accepted in the medical profession that doctors have been "allowing" patients to die, probably for as long as medicine has been practised. I understand that the code words for this sort of thing is "heroic measures". I know personally of a discussion with a well-respected doctor as to whether any "heroic measures" should be taken to preserve the life of someone who, by all usual standards, would never be capable of any kind of quality of life again. As I said, the sorts of decisions that have to be made at times like this are intensely personal, deeply emotional, often psychologically scarring and, I believe, better left to personal conscience than to the rigid letter of the law. But there is a massive difference between an act of omission and an act of commission, and we should not overlook the fact that if this bill were to become law we would be asking a great deal of an individual doctor, whose personal, religious, cultural and professional philosophies and ethics may make it untenable for him to commit what he would see as legalised murder.

This bill seeks confirmation from a second doctor and what it calls a "qualified psychiatrist". Rather than affording protection against abuse, I believe the calling of a second opinion about killing someone would present a huge moral dilemma for all three health professionals involved. From my slight knowledge of psychiatrists and psychiatry, I believe they are usually very reluctant to predict likely outcomes with any certainty or definition, and they would be in a real bind if asked to make a diagnosis as far reaching as this. What of the patient? How are we to know the level of rationality in a person in deep pain asking to be killed? If we embrace this, are we also embracing a philosophy of despair? I have known a large number of people who have died in exceptionally distressing circumstances. I lost my father and mother to cancer, but I know they had no pain at the end. I have seen many other people who were friends or acquaintances die after accidents and disease, and one would have to have a heart of ice and no soul not to wish that something could be done to ease their departure.

I have thought long and hard about my personal attitude to these things, over many years, and I have taken part in many debates and arguments, and I feel that I cannot support the ideas behind the bill. To explain one of the most compelling reasons behind my feelings, I want to share with honourable members the soul-

wrenching moment when I came within an ace of committing an act of euthanasia myself. I had a much-loved aunt—the sister of my mother—an Irish woman, who had never married but enjoyed life immensely. She wrote wonderful, funny doggerel poetry, and was a verbal, active person, as many Irish are. In her mid-eighties, living alone, she suffered a massive stroke. She managed to ring me and call for help, but by the time I was able to reach her home she was in a very bad way. In the event, she ended up totally paralysed down her right side and incapable of much voluntary movement. She needed constant care and was wonderfully well looked after in two nursing homes in Sydney. With time she gradually lost the power of speech, her sight went and she descended into a condition where she was virtually comatose.

I went to see her one afternoon in June 1993. She was alone in the closed-in top verandah of the nursing home. It was one of those stunning golden Sundays that Sydney does so well in winter. The verandah was flooded with light, the trees outside were losing their last leaves. My aunt was curled up in the foetal position in a sort of bed that looked like an over-sized version of those car-capsules they have for babies. Her long grey hair was brushed back and tied with a ribbon. She was absolutely out of it. I held her hand—the hand, bear in mind, that was paralysed and that she had not been able to move for six or seven years. She grabbed my finger very tightly and that surprised me. I thought, "There is something here that I do not understand," because she was incapable of voluntary or involuntary movement with her hand. It took me a great deal of effort to get my hand back from the hand that had fastened itself around my wrist. I looked at her, somebody I had known all my life, lying on the pillow, unconscious and I thought that she would hate to be like this. She cannot see, she cannot hear, she cannot speak, but there must be some life in there somewhere for her to grab my hand. She was lying on a very large pillow.

I thought to myself that all I would have to do to stop her being in this terrible condition that she would hate to be in would be to fold the pillow over her face for a minute, and that would be it. I shudder when I think how close I came to doing exactly that. I actually put my hand on the pillow and I thought, "No, I don't have the right to do this." That was at 3 o'clock on a Sunday afternoon in June 1993 and the next day at 3 o'clock she died. Do I have to paint a picture of what went through my mind when the home rang to say she had just died? The momentous action I almost took, which—although I never would have known it—would have turned out to be unnecessary in the end. So while acknowledging the deep and sincere motivation of the Hon. Ian Cohen in moving this bill, I must oppose it because, amongst other reasons, the sort of decision I almost made should properly be left to a much higher authority: an authority much more knowing and much more clever than I will ever be.

The Hon. PETER BREEN [4.16 p.m.]: Honourable members will be aware that I hosted a forum in Parliament House earlier this week to oppose the Rights of the Terminally Ill Bill. I did so with the assistance of Dr Brian Pollard, now retired—whom other honourable members have mentioned during debate—and Dr Megan Best, both of whom are palliative care specialists, and Dr Roberta Leary, a general practitioner with experience with the sick and the dying. Since then I have been variously described as cruel, heartless and callous—all because of my alleged lack of compassion for people suffering intolerable pain caused by a terminal illness. In one letter the author, a woman in her late thirties, said:

Do I sound angry to you Mr. Breen? You bet I am. Who do you think you are – that because of your beliefs you think you have some right to decide that I should suffer Get your facts straight Mr. Breen this is not killing, this is the end of suffering.

The author, who wishes to remain anonymous, related to me the existing and prospective symptoms of her illness. I am deeply moved by her predicament and the difficult choices that she faces. In fact, the Hon. Ian Cohen has offered to introduce me to this woman, and I am happy to say that I would like to meet her at the earliest opportunity. Of course I have no wish to add to her suffering, but nothing I say will console her so long as I maintain my opposition to the Rights of the Terminally Ill Bill. I want to make a point in the context of this letter concerning religious beliefs and the notion of suffering. It is a bit esoteric, so I ask honourable members to bear with me for a moment.

Nothing in the Book of Job, the Gospels, the Koran or the Bhagavad-gita explains why we have so much suffering in the world or why suffering so often precedes death. Religion does not explain suffering in any rational sense but the ideal of all mainstream religions is to help relieve suffering. Nowhere is this principle better illustrated than in the Buddhist teaching about the bodhisattva who gives up her own enlightenment so long as others need to be relieved of suffering. I am not opposed to this bill because of my religious beliefs. Indeed, I could make out a good religious argument that the bill ought to be supported if it were simply about the issue of relieving suffering.

I am opposed to this bill because of the widespread anxiety and suffering it would cause to the overwhelming majority of people in New South Wales facing terminal illness and death, who know that they

have the benefit of proper palliative care and the protection of the existing law. The sick and the dying are the most vulnerable people in our community. They are easily influenced in subtle and unsubtle ways to do the right thing, particularly after a long and rewarding life. I cannot imagine how devastating it would be if I were part of that unfortunate 2 to 4 per cent of the population who do not respond to good palliative care. But I have no trouble imagining, as I grow older, what it would be like to belong to the other 96 per cent who have nothing to fear when faced with the prospect of death because of the privileged position we enjoy with the best medical and hospital care in the world, not to mention legal protection against abuse and exploitation.

The bill before the House, like its predecessor in the Northern Territory, seeks to overturn the existing legal and medical safeguards that protect the vast majority of the population from anxiety, distress and suffering at the most critical stage of their life, when they are dying. It does so in the name of human rights—the so-called right to die—even though human rights by definition involve the rights of the individual and the protection of those rights against the power of the State. Euthanasia requires at least two people acting in concert with the common intention that one of them will extinguish the life of the other. At present we call that act assisted suicide or some other form of homicide depending upon the circumstances of the death.

To ask the State to turn the law of homicide on its head and sanction a new form of killing of human beings is a radical development in human rights law by any standard. Earlier in the week at my open forum I could hardly believe my ears when I heard Dr Philip Nitschke proudly boasting that he had been responsible for the first four cases of this new kind of killing in human history during the short life of the Rights of the Terminally Ill Bill in the Northern Territory. I acknowledge Dr Nitschke's presence in the gallery today and his presence at my forum. I commend him for making himself available for the benefit of those who do not share his arguments. Dr Nitschke was asked a question at the forum by Greg Smith of the Right to Life Association about another euthanasia milestone—lethal cocktails available on the Internet. Mr Smith wanted to know how Dr Nitschke intended preventing young people who were chronically depressed from gaining access to these lethal cocktails on the Internet. Of course, Dr Nitschke had no answer to the question. All the pin numbers and firewalls in the world are not going to prevent access to anything on the Internet.

No adequate safeguards can be put in place in the general law to protect the most vulnerable people in the community—and this is the nub of the argument—the sick and the dying. They need protection from lethal injections and lethal cocktails. It is for this reason that voluntary euthanasia has been considered and rejected virtually everywhere in the world. Dr Pollard informed us recently that five government-sponsored inquiries in four countries over the past decade have all concluded that euthanasia laws could never be made safe from the possibility, if not the likelihood, that the lives of others who did not want to die would be endangered. In his second reading speech to the bill the Hon. Ian Cohen said:

The right of individuals to choose is the main reason why voluntary euthanasia should be supported.

He went on to say:

The bill allows mercy and choice.

This notion of choice in the context of the bill is misconceived in my opinion since it is the doctors and not the patients who decide about life and death. In effect we are talking about abdication of personal freedom by the patient in favour of a decision by doctors as to whether the patient has a worthwhile existence. And yet the Australian Medical Association code of practice provides that doctors should not be involved in interventions that have as their primary goal the ending of a person's life. The bill is unworkable since the patient is unable to make a choice without the doctors and the doctors are constrained by their Hippocratic oath from ending the life of a patient. The notion of mercy in the context of euthanasia is as old as the Third Reich, to quote Dr Pollard. In his book *The Challenge of Euthanasia*, he says that by 1939 mercy killing was so widely abused in Nazi Germany that it had an easy transition to an instrument of genocide. Mercy killing is an oxymoron in my opinion since mercy should be understood as loving care. As Dr Pollard says in his book, it cannot be claimed that destroying a person is caring for them. He says:

We may have shown pity, but not mercy.

My own experience of mercy in the context of people who are elderly and frail suggests it is these people who are at the mercy of dysfunctional families and sick individuals who may be drug addicts or otherwise suffering the effects of life's misfortunes. I would not normally subscribe to the slippery slope arguments in the euthanasia debate, but I have witnessed first-hand the lies and deception involved in using an elderly parent's cheque book, and subsequently an ATM card, and the pressure this kind of activity puts on the parent. The

rewards for the parent cannot be understated—attention, affection from grandchildren and the simple pleasure of being able to help out. But where do we draw the line in this kind of co-dependent relationship between elderly parents and their children without the big stick of the law to say enough is enough?

Perhaps the most convincing argument in support of the bill is the one that says a majority of the population supports lethal injections in the case of a person with a terminal illness suffering intolerable pain. I am not disputing the validity of surveys; they have been carried out by reputable pollsters. I think Morgans carried one out, and so did Gallop. Like all surveys, however, it is difficult to cover a complex issue like voluntary euthanasia with a single sentence question and a yes or no answer. The fact is, three-quarters of the population believe euthanasia is about turning off life support machines. I myself have conducted a straw poll about that. I am constantly amazed at the number of people who think that the turning off of a machine is euthanasia.

I would like to see a deliberative poll taken after people are properly informed about the implications of voluntary euthanasia so far as the existing legal and medical safeguards are concerned. In any case, a majority of the population is also said to support capital punishment. The Hon. Alan Corbett pointed out earlier that there is a very similar line between the two arguments. If we were to abandon the protections we have in place to prevent innocent people going to the gallows, is that a reason for allowing capital punishment? Is populism the sole benchmark for how we define ourselves and what constitutes a civilised society? In my own experience, if the public knew how many innocent people go to gaol, we would see a vastly different attitude to capital punishment.

Turning off a life support machine is not euthanasia because the intention is not to kill the person. Intention is critical to this debate. If a person continues to live after a life support machine is turned off, we care for them. When the debate took place in the Northern Territory a classic example was given of a doctor who was a member of the Parliament. He said that one of his patients, who had agreed to be an organ donor, was wheeled into his surgery having been taken off a life-support machine. Six weeks later that person walked out of the hospital. So people do recover after being taken off a life-support machine. What we do then is care for them. If a lethal injection fails to work we do not care for them; we increase the dosage or we put a pillow over the person's head. The intention behind euthanasia is to cause death. If a person is given pain relief which has the effect of bringing on early death, this is not euthanasia because the intention is to relieve pain. If the person responds to treatment and pain subsides, the palliative care doctor will allow the person to rest comfortably. The doctor will increase the dosage only when it is needed to relieve pain. Again, the question of intention is critical.

Perhaps the last argument that needs to be addressed is whether we should allow voluntary euthanasia since it is happening anyway and therefore it should be regulated. This is a valid argument in many ways, particularly on the basis that a law everybody ignores is likely to be a bad law. I am indebted to Tony Burke, who is also present in the gallery today, who responded to this argument when the question of euthanasia was before the Lower House of this Parliament in 1996. So far as I know, Tony Burke and Dr Peter Baume, who presented their arguments about euthanasia to the Parliament on that day, were the first private citizens to speak in a debate before any Parliament in Australia. On that day Tony Burke said that the existing law offered the best protection for the people of New South Wales. He stated:

Just as the law against automatic weapons will not stop all possession of automatic weapons, just as the law against burglary will not stop all burglaries, so too the laws against homicide will not stop a minority of doctors from practising euthanasia. But the laws do send a message, they do set a standard, and in the case of some people, including some within this Chamber now, they do save lives.

There were people in the gallery that day who had been saved. They had gone down the euthanasia track and had a change of heart and were able to relate those incidents to the people representing each side of the debate. The experience of Dr Roger Magnusson, the director of the health-law program at the University of Sydney, suggests that many underground practitioners want euthanasia legalised, but not regulated. In other words they want the State to rubber stamp what they do on the one hand while on the other hand they go about their business without being accountable for what they do. Speaking on the *Law Report* on Radio National last week, Dr Magnusson said:

So there's an interesting sort of paradox here in that the moral conservatives agree with certain activist doctors, they both don't want euthanasia legalised. One of them because they think euthanasia is wrong and the other because they resent the law's interference with their clinical discretion.

Dr Magnusson's findings are dealt with in his book *Angels of Death—Exploring the Euthanasia Underground*. I do not remember the last time I was described as a moral conservative, but on Dr Magnusson's definition, I am a moral conservative. Perhaps it is the first time. On the Senator Bill Heffernan scale of acceptable conduct, I would not be a moral conservative.

The Hon. John Jobling: What would you be?

The Hon. PETER BREEN: I will tell the honourable member later. Mostly I am judged to be progressive, whatever that means. It is not often that I disagree with the Hon. Ian Cohen for whom I have the highest regard. The Hon. Ian Cohen brings this bill to the House with the best will in the world, namely, to put an end to distress and suffering for people in the throes of dying. The letter I quoted from at the beginning of my contribution was handed to me by the Hon. Ian Cohen during last Monday's forum. The Hon. Ian Cohen read the text of the letter to loud applause during his launch of the bill on Monday afternoon. I know that only because he told me this afternoon.

The Hon. Ian Cohen: I did not say "loud applause".

The Hon. PETER BREEN: I must have misunderstood him. In any case, what he did not say is that on my reading of his bill the unfortunate author of the letter would fail to qualify for euthanasia because the worst of her symptoms appear to be prospective. He also failed to acknowledge that his bill would bring a whole new meaning to the expression "living in the shadow of death" for the vast majority of New South Wales citizens if it were to become law. All the existing medical and legal safeguards surrounding illness and death would be overturned by this bill.

I conclude with the citing of another letter I received last Thursday. I do not want to compare it with the letter delivered by the Hon. Ian Cohen because death is a unique and profound experience and not an appropriate subject on which to make value judgments. But this other letter sends a message of hope about death that I want to relate. I do not know the author of the letter but perhaps other people will know who it is. The author describes herself as Shan Newell of Byron Bay and her letter states:

Dear Mr Breen

A short message of support from a 45yo cancer-surviving atheistic female. I lost a lung, my marriage and my generally robust health 11 years ago. I was in quite a lot of pain and distress at the time, but I'm SO glad that no-one actually "pulled the plug".

We should be putting a lot more effort into more and better palliative care beds and home hospice services. Terminally ill people don't usually wish to die, but we are afraid of pain, and don't want to overburden others. If more and better facilities were available, we would be able to die naturally in our own good time.
Good luck to you.

Shan Newell
Byron Bay

I urge honourable members to oppose the bill.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [4.34 p.m.]: A bill of this nature will always give rise to a great deal of controversy. In a sense it is about the transfer of power, a transfer of power from the doctor to the patient. It is perhaps also about a transfer of power from the doctor to the legal system, perhaps a transfer of what is not codified to what is codified, and it may be a transfer of what is illegal to what is legal. A bill of this nature obviously will have a large bearing on the practice of medicine and the method of people dying, and that may be sufficient to change medical priorities, medical practices and medical resources allocation. Indeed, this is a very considerable bill.

Honourable members have spoken about the bill in a number of different ways. Some have told anecdotes. In this House I have always been in favour of what I refer to as evidence-based legislation, which is still a radical and new concept. However, an examination of methodological surveys on this subject reveals that there are not many of them. Moreover, the methodology, such as who asked the question, in what circumstances and how people were classified would make the subject matter an extremely difficult area. Of course semantics also play a part when people attempt to clarify words to clearly convey what they mean.

In a metalinguistic context, although a semantics exercise will sometimes make the meaning clear, a message sometimes translates poorly into the real world and gives rise to rhetoric. "Living in the shadow of death" was a phrase used by the Hon. Peter Breen and earlier in this debate today other honourable members referred to a doctor's job "to preserve life" and suggested that if that touchstone were damaged, people would find themselves on the "slippery slope". Some correspondents referred to the Nazis and suggested that once euthanasia is accepted, people would soon find themselves on the slippery slope of death camps. I would have thought that a doctor's job is to "do the best for the patient", and the question is how that is defined. Professor Simon Chapman, who wrote a book with Stephen Leeder, commented in an article on 11 September 1995:

"Unfortunately debate has been largely confined within the church and to the medical profession which has left little space for ordinary men and women to voice their opinions.

Our own mortality and the mortality of our friends and family give us all a stake in how our communities deal with life and death."

Prof Chapman said there were basic views on the two sides of the debate, considering that euthanasia was already practised in many New South Wales and Australian hospitals.

"Some people are saying we have a right to suicide, so we have a right to assisted suicide", he said.

"People from the other side say it is fundamentally wrong to kill people, because it becomes open to all sorts of abuses especially elderly people who have no frames or family to care for them.

The argument is there are many people who claim they cannot find a doctor who will give them voluntary euthanasia.

But those who advocate the current system say there are doctors around who will do it."

I think that is a pretty good summation of the situation. The Australian Democrats dealt with the issue of euthanasia in a number of ways. Principally my predecessor Elisabeth Kirkby wanted a referendum on the subject, as did Sandra Kanck in South Australia and Norm Kelly in Western Australia in 1987. Elisabeth Kirkby travelled to the Netherlands in 1985 and looked at this issue as part of a Commonwealth Parliamentary Association's study tour. Her report states:

I discussed this contentious moral issue in the Netherlands and in Great Britain.

It became clear to me, meeting Ms J H W Kits Nieuwenkamp and Drs T M Cornelisse-Claassen in Amsterdam that euthanasia has NOT been legalised in the Netherlands.

In fact, the proposal to legalise euthanasia was turned down by Parliament in 1986.

The bill was confused with a TAX MATTER; the Government lost power on the TAX BILL and the bill to legalise euthanasia was left in limbo...

In the Netherlands, doctors must certify the cause of death. Suicide and euthanasia are considered an 'UNNATURAL DEATH'.

The certificates certifying an 'unnatural death' are then scrutinised by a Municipal Medical Examiner. If the doctor's decision to terminate life is considered inappropriate, the doctor can still be charged with an illegal act.

The Rummelink Report was based on the work of the committee taking evidence from thousands of doctors and prove that a large number of doctors co-operated with patients to end life when the patients signified their desire for this to occur.

Further research undertaken after the report was published confirmed the findings of the Rummelink Committee and the work of the committee has been further validated by other academic research.

The report confirmed that there were 2,300 cases of voluntary euthanasia every year and 400 cases of assisted suicide.

The population of the Netherlands equates with the population of Australia so with a total death rate of 130,000 per annum, 1.8% of these deaths were as a result of voluntary euthanasia; 400 (0.4%) were the result of assisted suicide and there were 1,000 cases (0.08%) of termination of life without request.

That situation applied until 1 January this year, at which time legislation was enacted in the Netherlands. One thing that has given rise to the euthanasia question is the fact that Australia has an ageing population. Medical technology and the support systems in place afford patients a halfway state between life and death. Historically, humans were nomads and they required a certain level of function to live. They had to be healthy if they were to walk with their group and not be left behind. One famous poet wrote a poem about a woman who imagined she had been left behind because she was not able to keep up with her group; she then thought about her life as she prepared to die.

With the highly supportive treatment now available to us all, people who are relatively helpless or in a vegetative state can stay alive for years. That could be said about patients who are suffering from cancer, AIDS and some wasting diseases such as muscular dystrophy and multiple sclerosis. It could also be said about patients with poor cardiac output and about patients with spinal injuries such as quadriplegia or respiration dependent quadriplegia. I have a patient in Summer Hill who had a stroke and has no ability to communicate orally. He has not been able to communicate for some years. He is unable to swallow because of reflux and he is fed through a tube inserted into his anterior abdominal wall. He gets bedsores if he is not properly nursed. He gets pneumonia if his head is lower than his body and fluid runs into his lungs. One can only wonder about his quality of life.

We should ask the questions: What should be done for someone existing in this slightly unnatural state? What level of suffering should be endured? People can endure suffering if, at the end of that suffering, there is

some hope. If there is no hope a valid option is to consider terminating the life of such a patient. I must confess that, when I hear the rhetoric, I do not know which way I am going to go. I was in two minds on the issue of abortion. Honourable members would be aware of the pro-abortion slogan, "Women demand the right to control their bodies." However, it could be said that, had the body been controlled, it would not have become pregnant. Anti-abortionists want to protect a few cells as they are developing as opposed to the gametes being lost once they have combined. They see that as potential human life and believe it should not be aborted.

A pregnant girl came to see me—she had a boyfriend who was not exactly suitable—and she told me she needed an abortion. I thought she required an abortion if she were to prevent her life from becoming grossly disadvantaged and disordered. I arranged an abortion for her and I took her to the clinic. Those at the clinic assumed that I was the father of the baby. In a sense, that incident clarified the issue for me at an anecdotal level and all the semantics paled into insignificance. Those who tell anecdotes are basically trying to illustrate that point. That girl has gone on to lead a brilliant life. She now has two children and she is a professor. She reached her potential, which she might not have been able to achieve had she not had an abortion.

I have personal and professional experience in relation to euthanasia. My sister-in-law contracted cancer about seven years before she died. Her disease was not well-managed. Initially she lost her ability to play badminton, at which she had been extremely good. However, that loss of ability was not attributed to a brain tumour until she got a headache a couple of years later. It was not diagnosed at the time as a brain tumour; it was thought that she had only a stiff neck. Another 18 months were lost and finally she was diagnosed as having a large brain tumour. It turned out that the tumour had not originated in her brain but in her hip. She got hip pain after her head surgery and suffered a lot of complications.

Finally, she was diagnosed as having a tumour in her back. She had the tumour for about nine years, but was only diagnosed as having the tumour four years later. She then went into hospital to die. At the time her general practitioner was away. She said that she wanted to die at home and she had her family around her. She was quite concerned that she was going to go into hospital, where she had been previously misdiagnosed, and she did not have great faith in the doctor, who was not known for his talent in the palliative care area. When I visited my sister-in-law she made her position pretty clear. She said to me, "If things go bad, mate, I am counting on you." As it was, things did go fairly badly. The palliative care she was getting was not sufficient, the drip was not sufficient to cure her pain and I tried to turn it up. I was then threatened with deregulation. I would have been deregulated had I been a doctor in New Zealand. I was threatened that I would be charged with murder for increasing the pain dose.

I have professional experience of a similar incident while working as a general practitioner in another jurisdiction. While filling in for another doctor I was told that I would have to do a home visit on Wednesday at 7.00 p.m. and I said that was fine. I was told I would have to give a chap a needle. I said that was also fine. I was told that he had come home from the hospice for the dying and that he wanted to die at home. I again said that was fine. It did not occur to me that that chap wanted to die at home and that my needle was expected to assist in that process. I was reminded on a number of occasions of my appointment on Wednesday night and I thanked those people for reminding me because I am sometimes a little vague.

When I arrived at the home of this Dutchman late on Wednesday night I discovered that he had a somewhat stubborn disposition. His daughter, who was also Dutch, was aware of what was happening. His son, who lived a long way from there, had not yet arrived. This fellow, who was clearly terminally ill, was on oxygen and he had about a three-hour supply. He also had lung cancer and was sweating and had a great deal of phlegm. Eventually the old chap realised that his son would not arrive in time. He decided to get on with it and he walked, with some considerable difficulty, into the bedroom and lay on the bed. I prepared the needle with 30 milligrams of morphine and thought to myself, "This is not an unusually high dose. This is a normal dose for post-operative pain."

The Hon. Dr Brian Pezzutti: That is a huge dose. Fifteen milligrams is the standard.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Fair enough. I approached this man whom I believed was going to die. He had decided to die at that time and that is what he then proceeded to do. I told this story to a politician who was a doctor and he said he had experienced something similar. When he had arrived with his syringe, after being persuaded somewhat nervously to go along that path, 15 family members were present at the home and they were singing in celebration of his act. He was somewhat worried about that. In a sense, the people to whom I have referred are people who wanted to die. Pressure was placed on the doctors who had to perform those acts.

I do not ask the Legislature to solve the problems we face, but I think it should at least be made aware of them. However, awareness is not much use unless it translates into some sort of action. Obviously, it is worrying if there is danger of people dying for venal reasons—for example, a lack of desire to spend the family fortune on several years accommodation in a nursing home, or the taking of the life of a person who does not wish to die. Certainly there are people who wish to die, and I believe the issue of them not being able to legally do so is a serious problem that needs to be addressed.

Euthanasia is a modality that no-one questions if it is used for the family pet, but if it is used for a human being it becomes defined as murder or potential murder. The notion is that if there is potential murder for anyone, no-one may be helped in this way. In a sense, it is saying one size fits all. I believe there is a real danger of people being persuaded or bullied into dying, and that problem must be addressed. The deaths that occur under any sort of euthanasia regime would have to be monitored to ensure that such a state of affairs does not occur. By the same token, there are hopeless situations in which the patient, through either an advance directive or living will, or the expression of a wish at the time at which they face the situation, actually wants to die. I believe that such a patient should be allowed, and indeed assisted, to die. The method of achieving this outcome is the challenge for this Parliament—not the taking of an absolute disposition in a one-size-fits-all situation.

The empowerment of the patient in terms of what he or she wants is a part of advance directives and living will, and the end point of that is the patient's ability to determine the time and the manner of his or her death. It is, of course, always risky to empower patients, in the sense that they may be depressed, they may not be aware of their options, they may be in pain that is relievable, and so on. On the other hand, the patient's relatives may be venal, they may not properly consider the issue, and the doctors may be mistaken or even malevolent. These are all possibilities. However, we do not live in a perfect world and there is no certainty.

We must make decisions that we believe will provide the best outcome in the largest number of cases. That is a position that people often do not understand with regard to population health. The stress on the individual that is endemic in western thinking—that we are all about the potential of the individual—is sometimes to the detriment of the group as a whole, and we take absolutist positions that are justified by semantics or dogma when we should be looking at providing people with individual choices and providing the best outcomes for a greater number of people.

For those reasons I support the bill. With regard to possible amendments to the bill, the need for a psychiatrist is something of a problem. I believe that competent physicians and even competent justices of the peace can decide whether people are of sane mind and not under duress. I do not think such a diagnosis needs to be made by a psychiatrist. However, as I believe the passage of the bill does not have a great chance of success, I will not go to the trouble of having an appropriate amendment drafted. I support the bill because I believe it is a necessary option.

The Hon. Dr BRIAN PEZZUTTI [4.54 p.m.]: I have prepared for debate on this bill on three occasions over the years. In fact, I keep going back to a report I wrote entitled *The Slippery Slope of Euthanasia*, which I prepared for the consideration of our parties. A major one-day national seminar titled "Ethics and Law—The Dying Patient" was conducted in 1994. The seminar was put together by Brendan Nelson, the President of the Australian Medical Association at the time, because euthanasia was a topical issue then. Professor Malcolm Fisher addressed the seminar, and his comments were germane to this bill. He said:

My friend, Leigh Thompson, writes a lot about this and says that after the Second World War there was a major period of affluence, an increase in health insurance and a lot of thoughtless progress on the application of technology. This led us to a situation where "can" plus "rights" = "must" which meant we could do it; everyone had a right to it; and therefore there was a priority to do it.

The real problem with the Rights of the Terminally Ill Bill is that, first, we can do it, and second, it becomes a right and therefore it becomes a must. Hitler did not invent killing thousands of people who were Jewish. The good Germans, the Norwegians and the Swedes did this years before with the lettuce of life—the useless people. They started to say: People have a right to life, and if they do not have a good life they have a right not to live. They could do it, and they did, and it became a must. That thinking infected Australia: it was called the eugenic society. It has now become the Family Planning Association of New South Wales. It has changed the basis on which it acts, but it started as the eugenic society of New South Wales in the 1920s.

Ms Lee Rhiannon: Brian's fairy stories.

The Hon. Dr BRIAN PEZZUTTI: I remind the honourable member that in the 1930s, right throughout the length and breadth of Europe and in the United States, millions of mentally ill people who had no other form of illness were bumped off. I attended the Hon. Ian Cohen's presentation on the bill in the Parliamentary Theatre. I heard Dr Nitschke's address, and I was astonished—

The Hon. Ian Cohen: You fell asleep!

The Hon. Dr BRIAN PEZZUTTI: I did; I slept through some of it. But I heard Dr Nitschke in full—and he was the star turn. Dr Nitschke said, "Yes, Madam, I can make you sleepy, and you can sleep until you die." To my knowledge, Dr Nitschke has never claimed in any of his writings to be an expert on palliative care. Yet, here he was telling a large and relatively uninformed audience that the only option he could give people was to make them sleepy until they died. There is a lot more to palliative care than that—and Dr Nitschke knows it, and the Hon. Ian Cohen knows it as well. I believe that people have a right to be treated as human beings and in a humane manner. What does Professor Fisher say about this? He says that his treatment is rational, it is redeeming and it is respectful. Dr Fisher also said:

We're talking about a form of alternative treatment, that is not directed at cure but is directed at comfort, dignity, pain relief, time, encouraging relatives to be with the patient and touch the patient; looking after the patient's appearance by getting rid of some of the lines and tubes and trying to help families with any unfinished business they may have over this period.

Palliative care is an all-embracing approach to a very important part of what we are. We are born with a terminal illness. Every single one of us is going to die. Every human, with one exception, who came to this earth has died.

The Hon. Ian Cohen: Who's the exception?

The Hon. Dr BRIAN PEZZUTTI: Jesus Christ.

The Hon. Ian Cohen: Thank you. That is your belief and you are welcome to it, but it is not shared by a vast number of people in this community.

The Hon. Dr BRIAN PEZZUTTI: Okay. I commend to anyone who wants to read it a very interesting paper published in August-September 1992 by Hiram Caton. It states in part:

And then there is Dr Jack Kevorkian, dubbed "Dr Death" by the American press. Dr Kevorkian was recently indicted for the murder of Susan Williams.

Remember this was published in 1992. It goes on:

At his trial for the death of Janet Adkins, the prosecution established that he did not medically examine her or another woman who, rescued from his attention, was found to be suffering from treatable migraines.

In an assessment of Kevorkian written two years ago, bioethicist Colleen Clements noted that he made contact with Adkins through advertisements for persons willing to be experimental subjects for the use of his killing machine (having failed in his attempt to recruit prisoners on death row).

That indicates that Dr Kevorkian thought he had a device that could be used and he wanted to use it. It is like having a hammer in your hand and trying to find a nail. Professor Malcolm Fisher said that "can" plus "rights" equals "must". Who experimented with this equation after the Second World War? Our good friends the Dutch. The Dutch euthanasia survey report published in 1991 shows just how out of hand the will to kill went in less than a decade. There were 25,306 physician-assisted deaths between 1989 and 1991—that is, 20 per cent of the total deaths in Holland. The breakdown is even more concerning: 2,300 were on request; 400 were assisted suicides; 1,000 were lethal injections without explicit request; 4,756 deaths were after requests for non-treatment; and 8,750 were deaths in which treatment was withdrawn or withheld without the request of the patient with the intention of killing. It is not surprising that 70 per cent of the Dutch population are in favour of one form of euthanasia or another but 90 per cent of people in nursing homes are vehemently opposed to it.

I should like to bring to the attention of honourable members, however, how quickly things change. I am pleased that Stevie Clayton, the Chief Executive of the AIDS Council of New South Wales [ACON], is in the gallery today. I wish to refer to a letter that was sent to all New South Wales members of Parliament in June 1995 from Bruce Meagher, the then President of ACON. In the letter he drew attention to the proposed bill that ACON developed. In 1994-95 large numbers of people had been infected by the HIV virus and were developing AIDS, which results in a terrible death: people wasting away from 95 kilograms of beautiful manhood to something like 35 or 40 kilograms, suffering severe diarrhoea, pain and agony. Parliamentarians was asked to approve a bill that would assist their death.

In 1998 I met a person who was suffering from AIDS. He had been through this process when Carmen Lawrence refused to fund quadruple therapy for HIV. When there was a change of government federally, one of

the first acts of Dr Wooldridge was to restore such funding. All of a sudden, people who were suffering from AIDS were back to 95 kilograms and bouncing around in good health. The treatment that was made available by the Commonwealth through the States cost a few dollars, but some people who thought their lives were ended had to go through the trauma of getting their lives back together again, buying houses again, getting jobs again, and so on. We do not hear much from ACON on this occasion asking us for carte blanche to kill people with HIV-AIDS. Large numbers of people with AIDS are now leading very meaningful lives. Many creative people, people in the gay and lesbian community and others who are not gay and lesbian, are alive and well and booming because we did not give in on that occasion, and we are not going to give in this time either.

There is a long history to this issue, on which I have compiled probably the pick of the articles, for and against, since 1988 when I became a member of Parliament. The issue raised its head in 1999 and in 1994-95, it has raised its head again now, and it will do so again. I am pleased that many honourable members have spoken out against this bill. How do you determine what people should have as a right? If something is deemed to be a right in Australia, would it be a right everywhere else? How does one provide the necessary resources, and so on? A fantastic article *healthcover* talks about all the arguments can be reduced to one of money. It talks about quality adjusted life years and how new treatments will produce so many QALYs. But what is problematic is the "Q" in QALYs. Judged objectively, what is the quality of life?

Once we get an objective judgment we will be in business. But of course it is very much a subjective judgment. If one runs out of QALYs, the best thing the Government can do is to say "You have no QALYs left. It is time you pulled the plug on yourself." The imperative put upon people is that they have become nuisances, they are a burden and a cost to their relatives. Do we say, "Instead of treating this person who has no QALYs left, we can perform an operation on a child who has a hole in the heart or this person with leukaemia can have this fantastic therapy." These are not judgments we can make by legislation. What does Malcolm Fisher say about that in his speech? He said:

And then there's the law.

The law has an appropriate place in this. The law has to look after the rights of citizens, protect them from doctors. The law has to define what happens to the body as property. We have no problem with that. Perhaps the law ought to protect doctors, nurses and patients, doctors and nurses from the theoretical charge of murder for the withdrawal of life support (which has never happened in this country). But my problem with the law is that when we're talking about things like expectations, hope, peace, dignity, suffering and love, the law is not good at dealing with it. People had tried in NSW to write laws governing this and it really is very difficult. We prefer to believe that we are going to act ethically and maybe someone will enable the law to catch us up.

The other issue people will raise is that of the living will. I have come across such people. They become hysterical: No matter what happens I do not want to be resuscitated! Often such people get an allergic reaction to an antibiotic, for which they are given treatment, and they say, "I would not have wanted to die from an allergic reaction to penicillin". Or they may choke while eating an apple, and when given a bash on the back to dislodge the piece of apple in their throat they will say, "I would not have wanted to die by choking to death on an apple." That is the real problem. I hope honourable members will listen to what people out there are saying. They are not saying they want to die. They are saying they want adequate care while they are dying. That means proper use of and proper access to quality palliative care and hospice care in the home, which was spoken about by the Hon. Dr Peter Wong, the Hon. Dr Arthur Chesterfield-Evans, the Hon. Peter Breen and many others. These matters should be considered when allocating the health budget. We should be looking at people's rights and treatment, not saying to someone who has pain, "We will treat your pain or we will give you something to get rid of you and stop your pain absolutely." That is not what palliative care is about.

Do not forget that many, many people are suffering in pain today. I see the Hon. Johnno Johnson walking around this place with his two walking sticks. I bet he has pain all the time, but he does not want to bump himself off. I can relieve a lot of pain by explaining to people what I think is causing their pain. People come to me with incredible pain and when I explain what is causing the pain, often the pain lessens or becomes less important. Narcotics are not used to get rid of pain; they simply get rid of the perception of pain. Local anaesthetics get rid of pain, but there are many other ways of getting rid of pain which are not sedative.

There are many pain experts in this State, including Brian Pollard. Professor Michael Cousins is a world authority on pain. His clinic on the North Shore is probably one of the best pain clinics in the country. Professor Cousins has saved many people from committing suicide because he has relieved their pain, not with heroic efforts but by the use of drugs. Some drugs are new and some drugs have been around for years, but the use of drugs is a proper approach. However, getting a diagnosis and bothering to explain carefully the implications of that diagnosis are probably the most important issues. Even if the implications are bad, people come to realise that that is what it is. Then a doctor can, with the co-operation of the patient's family, manage the patient's pain with treatment.

When I was working as an intensive care specialist—I was the director of intensive care in Lismore for 10 years before I entered the Parliament—I was asked by almost everybody who went on a ventilator, "Please let me die." They even wrote it down. Or they pulled out the tubes! But I assure honourable members that very few of those who walked out of hospital came back to me and said, "Why didn't you let me die?" Now some people are litigating in the courts, saying, "Why did you let me get born? How dare you! I am five years old. I am suing you because I have a disability which will limit my life." In the case of one patient I was treating I got to the stage of saying, "Okay, Charlie, we will do this treatment for one more day. Then I will remove the ventilator and we will help you comfortably to go." I pulled the patient's tube out. He was black as black for three or four days; then he got better and left hospital. He then came back to the hospital and it was the same story. We removed his tube because we did not think anything would happen. We carefully managed him, and eight years later he is still doing advertisements for airconditioning, because he had chronic obstructive airways disease. Although he wanted to die, I treated him compassionately and carefully but I took no active steps to knock him off. He survived. There are many people like him. Such stories are innumerable and I know honourable members do not need to hear more of them.

The Hon. Richard Jones: Did your terminally ill patients get better?

The Hon. Dr BRIAN PEZZUTTI: I did not say that. But many people who think they are terminally ill are not. Sometimes there is a misdiagnosis, sometimes the advice is wrong and sometimes a treatment becomes available. Many people have that experience. I sat with my mother while she died. I hope that it was a beautiful experience for her because it was a most beautiful and liberating experience for me. I knew that lots could be done for her but I knew that she did not want us to do anything. We certainly did not actively intervene, because she had made that decision.

The Hon. Richard Jones: She made the decision; you didn't make the decision.

The Hon. Dr BRIAN PEZZUTTI: We could have intervened. With many patients health care professionals get to the stage of knowing that they are very sick. They want to do something but patients say, "No, I'm not going to have that because the anaesthetics will kill me." Health care professionals wait until the patient is unconscious and then get a decision from a family member. They then go ahead with treatment and the patient lives. And 20 years later they are still working on polling booths. [*Time expired.*]

The Hon. RICHARD JONES [5.14 p.m.]: The important point about the Hon. Dr Brian Pezzutti's long and passionate speech is that his mother was able to make the decision herself. She was the one who decided, and that is what the bill is basically about. Those who are in favour of the bill and those who are against the bill are all coming from a position of compassion for the suffering and the dying. Neither side is right or wrong. There is no great nobility with either position. Whether or not we support euthanasia, these people will eventually die either by their own hand, by the doctor's hand or simply through natural causes. As has been said, death is 100 per cent, unfortunately, and we must get used to that idea. Hopefully, we will not die in pain.

Many honourable members have seen people who are dying or very close to death, as I have. I have seen three good friends die. One of them was euthanised at her request. She went into Lismore palliative care the day before Christmas. Hospital staff did not find out what dose of morphine she was on; they reduced the morphine dose and she was in terrible pain over Christmas. On Christmas Day she was smoking marijuana on the balcony to relieve her pain. The doctor came in and said, "No, we can't have that. We can't have you smoking marijuana." He then turned on his heel and walked out; he did not even say, "Happy Christmas". The following day she discharged herself. She lived for three more months, and she was barely bones and skin by the time she died. She said, "Please, I really have to go." I will not say how it happened but she died, and the doctor said it is the best death he has ever seen. She died happy. She died at the time of her choosing. She made the choice, as the Hon. Dr Brian Pezzutti's mother made the choice. People have the right to choose when they will die. We have the right to choose.

Reverend the Hon. Fred Nile: They can choose treatment. They can choose or reject treatment.

The Hon. RICHARD JONES: My friend had no treatment. She was terminal. She lived probably three months longer than she would have if she had stayed in Lismore hospital. We supported her decision from the beginning to the end. This bill would ensure that those who want to make choices can make their choices in the proper way. It is watertight in terms of allowing people to make those choices. It states that the person making the request for assistance must be a competent person, and must be terminally ill. Surely the Hon. Dr Brian Pezzutti knows when a person is terminally ill. Indeed, he knew that his mother was terminally ill.

My three friends who died when I was close to them at the time of death were certainly terminally ill, and they knew that they were terminally ill. They lived for no more than a few days, but they certainly knew they were dying. One was dying for 5½ years but he lived the very best life he could until the very end. The doctors in hospital assisted him by giving him more and more morphine until he finally went. Even at the end he did not know he was going to die. Although there was a little party before he went, he did not know he was going to die that night, but the doctors knew.

The same thing happens to other people all the time. People are assisted without their knowledge. At least with this bill they will have the knowledge and the request, and they know that they will be given assistance. It is true to say that nearly 5 per cent—it may be 15 per cent, 3 per cent or 4 per cent; we do not know the exact figure—of people die a very painful death. If they are going to die, why do they have to suffer during their last few days or weeks? Why do we force them to suffer if they do not choose to? We should allow them to make that choice. The safeguards provided in the legislation are extensive. The person must be over 18 years, be mentally competent, be informed of the diagnosis and prognosis of their illness, be informed of any counselling and psychiatric support, and be examined by two doctors, one of whom must be a psychiatrist. I believe that there will be plenty of safeguards.

The bill will not result in doctors killing people. People are already being killed by doctors. How many people are euthanased without their knowledge or the knowledge of their friends and family? The answer is many people. People do not know how much morphine they are getting in a dose. The dose is gradually pumped up. When people are asked, "Would you like more morphine?", they say, "Yes please." Sometimes it is in a hospital's interests to discharge patients so that they have clear beds for more patients.

Reverend the Hon. Fred Nile: That's why we oppose the bill.

The Hon. RICHARD JONES: The point is that that would not happen under this bill. That happens clandestinely all the time. In a survey referred to in a New South Wales Parliamentary Library research paper entitled "Euthanasia", for which I thank Gareth Griffith and Marie Swain, about 14 per cent of doctors have admitted practising euthanasia more than once, and some doctors do it all the time. Some 2,000 Victorian doctors were surveyed in 1987; 869 doctors returned the survey, which is a 46 per cent response rate. Some 60 per cent of those doctors said that the law should be changed to allow doctors to take active steps to end a patient's life in some circumstances, 59 per cent favoured the Netherlands approach, 40 per cent said they had been asked to hasten death, 12 per cent claimed that they had taken active steps in response, and many more doctors than those who took active steps to euthanase patients at the request of a patient have done so clandestinely by increasing the dose of medication to relieve pain to the point that they knew the patient would die. They did not withhold the morphine and allow the patient to suffer while he or she was dying; they increased the morphine to relieve the pain, knowing the patient was going to die. Is that not exactly the same thing?

The Hon. Dr Peter Wong: That is what the Hon. Peter Breen said. You should have listened to his speech. It is a different thing.

The Hon. RICHARD JONES: When I am dying, which may be next week or next year, in five or 10 years, or more than that if I am lucky, I hope that if I have lost control of my functions and feel very humiliated I will have the opportunity to call a doctor of my choice to help me die. I have already organised that with two doctors, at my request, when my time has come and if I am suffering. I will choose when I go. I can choose right now and commit suicide by walking into the traffic. If I am on my feet and I know I am dying, I can kill myself. People do it all the time. The figures show how many people kill themselves in quite disgusting circumstances because they have no other recourse than to commit suicide. The figures from the Voluntary Euthanasia Society show that people died in the following ways: 93 used drugs, hopefully a reasonable way to die; 17 swallowed agricultural chemicals—maybe it was 1080—which would be appalling and a painful way to die but quicker than dying slowly, being humiliated and losing all your functions; two took corrosive or caustic substances, which is also a painful way to die but much quicker than lying suffering week after week; 78 used carbon monoxide poisoning—maybe in a car—a fairly easy way to die; 171 hanged themselves, an undignified way to die, because they could not get enough palliative care to relieve pain when dying; 46 suffocated by using plastic bags; 40 drowned themselves, and 130 shot themselves. I knew a person who shot himself because he thought he had cancer: but he did not.

Fourteen people used cutting or piercing instruments; 34 jumped from high places, a messy way to die, on their own when they should have been dying in front of their loved ones at a time of their choosing. Fifteen

people jumped or lay in front of a moving object, as I could do now by walking outside and jumping in front of a car, if I chose. Ten people burnt themselves to death at the very last moment. I can hardly imagine the death of those people. Could they not have chosen euthanasia by a doctor of their choice when they knew they were going to die? They died, so why could they not have chosen a dignified way to die? Why did they burn themselves to death? Ten people electrocuted themselves. Most of those methods are horrendous ways to die. I understand that carbon monoxide poisoning is quite a reasonable way to die, although I have not talked to anyone who has survived.

A doctor who gives an excessive dose to a patient knowing that the person is going to die can be charged with murder, but it happens all the time. Fourteen per cent of our doctors are therefore, supposedly, murderers. However, we know they are not murderers but doctors who helped relieve a patient's pain until death. People are not prosecuted. Recently, a prosecution in Western Australia was thrown out of court because of lack of evidence. The courts know that those who assist patients to die on request, which is not legal, will not be successfully charged with murder. In some places euthanasia legally occurs, for example, in Oregon where legislation allows a physician to assist in suicide. We all know that voluntary euthanasia is legal in the Netherlands and that Belgium passed similar legislation late last year.

Switzerland has not had a law forbidding assisted suicide since its criminal code was revised in 1937. For the past 65 years there has been a possibility of assisted suicide in Switzerland but no-one hears about it: it happens very quietly and people are able to make choices at the last moment. How many members want to suffer appallingly in the last few days or weeks of their lives when they could have the option to end it all with the consent and knowledge of their families and doctors? Who would choose a painful and agonising death? About 5 to 10 per cent of people die like that, unnecessarily. Fortunately some doctors do flout the law. Thank God they do. Those doctors are angels who help out people in their last suffering moments, but they should be able to do it legally and above board after going through various procedures to ensure mistakes are not made. Some years ago the Hon. Dr Brian Pezzutti in this Chamber spoke about patients who thought they were going to die in intensive care who were surprised when they recovered. I am sure that happens, but they had not gone through these various procedures and evidently they were not terminally ill. Justice Kirby wrote in his book *Angels of Death: Exploring the Euthanasia Underground*:

It is one thing to talk about great principles, whether found in holy texts or in modern statements of fundamental human rights. It is quite another to explore, in dialogue with doctors, nurses, patients, lovers and families, the largely unhidden world in which patients in extremis are sometimes helped to die with dignity ...

Many readers will agree with the opinion of Justice Brennan of the Supreme Court of the United States in the Cruzan case, quoted in the closing chapter:

Dying is personal. And it is profound. For many the thought of an ignoble end, steeped in decay, is abhorrent.

It is abhorrent to me too. I will choose euthanasia in the end, by whatever means. As I said, two doctors have already agreed to assist me. The doctors will probably outlive me because they are much younger than I am, and I suspect I lead a much more reckless life than they do. Those who oppose this legislation should ask themselves whether they support passive euthanasia, which is currently commonly practised without legal liability. I wonder whether the doctors in this Chamber who oppose the legislation support passive euthanasia? The distinction between active and passive euthanasia is that the former is a direct act of rendering a life-shortening agent to a patient, and the latter is a withdrawal of life-sustaining treatment. There is a very fine difference between the two. It is hypocrisy for those who argue against this legislation to support essentially the same thing, that is, passive euthanasia by withdrawing a life-sustaining treatment.

We should at least concede that these definitions possess a semantic element and that a sophisticated response is needed to soften the severity of the current law. The laws of homicide and suicide were not written to deal with the voluntary or knowing ending of fruitless suffering and agony. There are no appropriate legal mechanisms for dealing with it. Respect for individual choice and self-determination, combined with advances in medical technology, and the desire of health care professionals and their patients to abide by the law has brought us to a crossroads in the realm of medical practice and ethics. The need to make decisions about dying processes and the failure to manage technological answers more wisely has adversely effected the most vulnerable—those who are dying. Within the next 10 or 20 years many people in this Chamber will die. That will happen to us all one day. When I first entered this Chamber there were 45 members, of whom four have died—one in the most terrible circumstances. In the next 10 or 14 years another four or five of us will die and eventually we will all die. We stand here for a minute's silence almost every week for people who have died. We have to remember that.

Every honourable member of this Chamber and every member of the community have the right not to die suffering appallingly when that suffering can be relieved by their choice, whether by good palliative care for

95 per cent of patients, or in other ways for 5 per cent of patients who do not respond to palliative care and who still suffer. That suffering often includes the emotional turmoil of having lost control of their bodily functions before their undignified death. I went to a retirement home about four or five years ago and talked individually to a number of people aged 83, 86, 91 and 94 about death and dying. They were very responsive and each one said, very quietly, "I want to die." One year later I went back and each one I had talked to had died in that time. I do not know what kind of death they had. I hope it was peaceful and without suffering. It does not happen for all people: some deaths are appallingly painful, with combined physical and emotional pain.

There is no palliative for emotional pain, which can be just as appalling as physical pain. The Hon. Dr Brian Pezzutti knows that, unfortunately. People who have lost control of their bodily functions, who are totally helpless, unable to do anything and hardly able to move, are told, "You have got to live on, mate, we are not going to help you," even when they choose to die. The practitioner says, "You'll have to suffer because we are not going to help you die because it is illegal. But, if you are in pain, we can increase the dose of morphine. Do you want me to increase your morphine?" The patient says, "Oh, yes, please, just increase the morphine." The doctor says, "Right, we will increase your morphine. Are you sure you are in pain?" The patient responds, "Yes, I am in terrible pain."

The fact is that honourable members of this House who are opposed to some form of euthanasia, whether it be under this legislation or another version of it, are not in accord with public opinion on this issue. In 1997 there was a survey of the Northern Territory's Rights of the Terminally Ill Act in which nurses and members of the public were asked the question, "To what extent do you approve of the law that was recently passed in the Northern Territory which allows a terminally ill person to request physician-assisted suicide or euthanasia?" The result was that 79.3 per cent of the public strongly approved or approved of the law, and 65.4 per cent of nurses strongly approved or approved of the law.

In addition, since 1983 the Morgan poll has been asking the community the question, "If a hopelessly ill patient in great pain, with absolutely no chance of recovering, asks for a lethal dose, so as not to wake up again, should a doctor be allowed to give a lethal dose or not?" Since 1983 it has found that support for such measures has risen from 67 per cent to 78 per cent. Opposition has declined from 21 per cent to 14 per cent. For whom do we legislate—for the 14 per cent or the 78 per cent? Do we legislate for the minority—those who do not mind if people die in awful pain—or for the majority, who do not want people to die in appalling pain? If some people choose to suffer, that is their choice. But what about those who do not choose to suffer? Must they suffer because of the ideology of a handful of members of Parliament?

In Britain, the leading publication for British pensioners reported that 92 per cent of pensioners, when asked, thought "doctors should be permitted to assist in ending my life should I wish them to" and 89 per cent were unhappy that euthanasia is illegal. That is, 92 per cent said that doctors should be permitted to assist in ending their lives—not 60 per cent, not 51 per cent, but 92 per cent. It is quite clear then that the community as a whole shows greater respect for human life by granting a suffering and incurably ill person's request for a hastened death, not by denying it. The measures contained in the bill will not lead to an acceptance of non-voluntary euthanasia, a pressure on the aged to request euthanasia, a relaxation of the safeguards, a loss of confidence in doctors or a reduced effort to find new cures. The principle that voluntary euthanasia is an option of the last resort in medical practice is a sound one, and our community will be much better for it, and supports it. That is what we seem to forget.

I now turn to the question of living wills, which I understand is a proposal that may well be passed by the Parliament in the not too distant future—probably in the next Parliament. Research published in the *British Medical Journal* reveals that 74 per cent of elderly patients questioned expressed interest in making a living will. The Australian Democrats will be presenting legislation on that issue shortly, or maybe after I have left this Chamber. The majority of participants had very clear views about the kind of medical treatment they would or would not accept in certain circumstances. At the end stage of a terminal disease, 94 per cent would refuse surgery, and so would I; 93 per cent would refuse artificial feeding, and so would I; 94 per cent would refuse cardiopulmonary resuscitation; and 82 per cent would refuse antibiotics, and so would I.

The most common reason reported for patients wanting to make a living will was that it would allow them to make their views known and ensure those views were respected. The question is about respect for those people—not respect for the medical profession, not respect for opinion in the churches, and not respect for the opinions of the members of this House, but respect for the people who want to make those choices. Professor of jurisprudence at Oxford University and professor of law at New York University, Ronald Dworkin, says:

"Making someone die in a way that others approve, but the dying person believes is a horrifying contradiction of his life, is a devastating, odious form of tyranny."

According to Socrates, suicide is justified in cases of great suffering in illness, and Plato recollects that even the Greek god of healing, Asclepius, did not attempt to prolong a pointless life. Thomas More defends euthanasia in his book *Utopia*, in which he idealises the functions of hospitals which should care for and try to cure patients. But when a patient has an incurable illness, he or she should be given the option to die. Francis Bacon wrote that physicians are:... not only to restore the health, but to mitigate pain and dolours; and not only when such mitigation may conduce to recovery, but when it may serve to make a fair and easy passage.

John Donne was critical of "torturing physicians" who attempted to prolong life and favoured suicide to end suffering. It is ironic that a large number of those absolutely opposed to voluntary euthanasia on the grounds of "sanctity of life" are the same people who would like our judiciary to take into its hands the power of life or death for convicted criminals. It seems it is all right to hang people, but not to allow them to die a painless death. It is time to allow people to make choices legally. Those choices are being made now anyway—people are making them all the time, with 14 per cent of doctors willing to help. It is time to legalise voluntary euthanasia.

The Hon. DOUG MOPPETT [5.34 p.m.]: I would like to think that I could constrain myself to make a more dispassionate contribution than those of some of my colleagues. But, at the same time, I would like to stress that it certainly is not because I am indifferent to the issues that have been raised. I would like to compliment all honourable members who have spoken more passionately than I set out to do. We ought to stop for a moment and think how wonderful it is that this Parliament can debate so openly an issue that is so sensitive to many people and that is the subject of much public debate and anguish. I do not think that sort of freedom would be exercised in another place in this State, nor would it be in any Parliament where election depended on one's immediate constituency being a local constituency. We ought to take pride in the way honourable members have contributed to this debate. I do not think anyone could be accused of having improper motives, even if they are arguing from diametrically opposed positions.

I first expressed some sympathy for this general movement when the Hon. Paul O'Grady raised the matter. It became apparent very quickly that I was coming from a much narrower and different point of view than that from which he was coming, and I was unable at that time to lend support to his aims and aspirations. It is inevitable that in these debates people will tell their most cherished anecdotes to lend weight, in their opinion, to the arguments that they bring forward. I am anxious that we are not overly swayed by extreme examples, many of which are unlikely to bring any persuasive weight to bear on the very difficult questions that we face in this modern age of medicine in which life can be prolonged notwithstanding great discomfort and pain.

However, there is another dimension to this debate with which I cannot associate myself. Any attempt to structure a legal framework in which people can seek assistance to terminate their life creates a great dilemma. It is so difficult for a person to eliminate anxiety and doubt about a prognosis and make a decision well in advance of onset of suffering, when rational decision may not be possible. At the time I spoke to the Hon. Paul O'Grady about his aspirations I was reminded of the term "necromancy", which was coined in the late 19th century. People seemed to be drawn towards the idea that the experience of death could transcend and edify their earthly life.

I think the ABC put together a presentation, or perhaps an enactment. Certainly the people who participated in it were quite genuine in advancing the case of the right to die and spoke about the preparations that they would make. I must say I found that rather chilling. Others disagree entirely with me; they believe it is a decision to be made with friends, celebrating the strength of that decision. Changing circumstances could affect the making of a decision that would end the life of a fit and healthy person who is apprehensive about uncertain progression of an illness. I guess I would have great difficulty in supporting the bill in its present form because it sets out to do exactly what the Hon. Paul O'Grady set out to do.

The Hon. Dr Brian Pezzutti: He is still alive and very healthy.

The Hon. DOUG MOPPETT: He is very much alive, and I suppose he would be one of those examples cited by some. I have to say, in common with everybody else, that my opinions have been framed by my own beliefs and by the mores that I believe guide our society, as well as by my experiences with family and friends. I have to cite the examples of some people referred to in written material and during the debate who were judged to be absolutely terminally ill, beyond all redemption but were so thankful six years later that no decision had been made to terminate their life, or that their request was declined. I must say that among the experiences that I have encountered in my life, none of the people recovered. I think the position would be more like 999,999 examples to one, but it is the one example that is so often quoted.

Neither argument in this debate is totally exclusive. The position that I come from is a belief that conditions in our society create circumstances whereby many people who are in the final stages of managing

their condition are administered morphine and in the very closing stages of life are floating in and out of a coma. So often the experience of their loved ones is that of being advised that the closing stages could take a little while and to go home for a couple of hours or go and have a cup of coffee, only to be told when they come back that their loved one passed away during their absence. I think all honourable members would recognise in the examples cited by the Hon. Richard Jones that a dose of morphine is seen by some people as appropriate and adequate palliative care because the terms used to indicate a deliberate act are not used. I think the distinction that is drawn is a very fine one indeed.

From the moral point of view, taking complete shelter in the idea that because it is someone's right to choose we should not make heroic gestures to save them is okay, but on the other hand we criminally prosecute someone who increases the morphine dose given to a person who is stricken and in extremis. It is a very fine distinction. I am unhappy that those sorts of experiences could be seen to be the subject of criminal prosecution because that is not a proper response in our society in this day and age. I have listened carefully to the contributions of those of our colleagues from the medical profession who believe that they do not see any similarity in that example. I think that the Hon. Peter Breen tried to suggest that the critical factor is intention in the sense that if the intention is to relieve suffering, then the administration of morphine in close-to-lethal doses is okay and if the patient happens to pass on because they were already so weakened by their condition, then we can just pass over that. To my mind that is a worry, but it is not within the compass of this bill.

I do not think that that situation is relieved by the bill that is before this House. The bill goes way beyond that and seeks to accommodate people at a much earlier stage of their distress. As I have said, I have concerns that people may be able to convince practitioners. I know that safeguards have been designed to be stringent but that in my view is not an appropriate response to those people's concerns and need for care at that time. I think it is far too early to make such a final judgment while they are totally in a sound mind. I know that others would argue that there is a window in the area I have described whereby people are convinced, and all those around them are convinced, that they are not only terminally ill but very much in the closing stages of a terminal illness, yet there is a period of lucid consciousness where an expression can be made. To that extent I think that it would be necessary to consult other experts such as psychiatrists to make an assessment. If someone is never really conscious it would be more of a practical barrier to what is proposed at the present time than of assistance to those who need care in the final stages of their lives.

How parliamentarians should deal with this rising tide of public opinion is a dilemma. To say that people who are responding to public opinion polls are misinformed and that they are unaware of the help and care that is available is to underestimate the understanding and knowledge of people in our community. I think the matter that people are most concerned about is an extended period not necessarily of pain but of a loss of faculties and being rendered simply inert in every way other than in relation to the vital function of breathing. Technically, such people are alive. I am concerned about some cases in which we transpose on the loved ones of people who are suffering the feeling that it is terrible to see a mother or a father, a husband or a wife, a brother or a sister in a deteriorating state. The vital test is to determine the suffering of a person in the final stages of life. If they are reduced to such a degree that they no longer have cognitive functions, we cannot argue that they are suffering. I am not sure about that, but my observations of those people, even those who suffer dementia and are in a pitiful and agitated state, are that they may be perceived as we knew them when they were well whereas I think they are driven by involuntary reaction to the circumstances in which they find themselves.

I am also not sure about people who are responding to surveys and indicating support for the extension of the lives of people who have absolutely no quality of life. I do not subscribe to people answering in that way. I am not sure whether they really envisage how those people's needs will be met. The Hon. Richard Jones has confined himself to people who face the endurance of agony more than anything else. He spoke about living wills and people who, in the expectation of their being rendered suddenly and traumatically incapacitated, direct that efforts to maintain their life should be curtailed if there is no hope of their recovering any quality of life. I can understand what he is talking about and I sympathise, but I think that the vast majority of people are very concerned about the lot of those whose lives have been prolonged by modern medicine. They may have reached, at a rather sad stage at the end of their lives, a point where they are restricted to only the most vital bodily functions but remain alive although they are in no way able to fend for themselves.

This bill has challenged the consciences of all honourable members. Whatever way we will vote on the bill, I think that honourable members should thank the Hon. Ian Cohen for making the effort to again raise this issue at the parliamentary level. I do not think we should shrink from confronting this issue, or from examining our previous opinions, or from reinforcing them if we wish to hold fast to that which is good, or from being prepared to look at the issue again, if appropriate, with a fresh perspective. We must remember that, though our religious beliefs may be deeply held, if that is the imperative that we are following we should be cautious. We live in a secular society and we should respect the beliefs of other people, even in matters such as this.

Reverend the Hon. Fred Nile: It is a conscience vote.

The Hon. DOUG MOPPETT: It is a conscience vote. I reiterate that my principal concern is over the threatened position of those who, in the pursuit of what they believe is proper palliative care, are prepared to administer doses of pain killers which, in the end, could well be judged to be the cause of death. I believe that the families of those people would certainly not wish them to be placed in the invidious position of defending prosecution. We often use the expression "blessed relief"—not only in these sorts of circumstances but in many others. There are times when the end of a particular life is a blessed relief. It is worth listening to those in the medical practice who are constantly confronted by the terminally ill. Some of us tend to have one experience of it and we then relapse into our preconceived notions and think, "I am healthy now. I do not want these things to happen."

This is not something that we should see as being a step towards legalised murder. There have been some lurid examples of what has happened in other ages and in other countries. We must remember that doctors have always assisted people who are hopelessly stricken to die. It is not some new invention; it occurred in the 1920s and 1930s in central Europe. We must not be stampeded into any decision by extreme examples. What are the accepted moral precepts of people today? How do we deal with the increasing number of people who are advancing into years almost beyond those that have been prescribed for them and their biological functions?

The Hon. AMANDA FAZIO [5.53 p.m.]: I listened carefully to the comments made by other honourable members during debate on the Rights of the Terminally Ill Bill. I support the concerns that have been expressed that led the Hon. Ian Cohen to introduce this bill, but I cannot support it. I support generally the concept of individual freedoms which I think include people having the right to die with dignity. The terminally ill should have the right to determine when they die. However, I do not think this legislation is the best way to achieve that at present. The concerns that I have about this bill are similar to the concerns expressed by a number of other honourable members. I am concerned about the lack of safeguards in this bill and there are some definitional problems.

I still think there is a potential for the exploitation of people who are vulnerable—either physically or emotionally—and that some people have some benefit to gain from others no longer being alive. We must also look at better solutions for those who are seriously ill—and I include in that equation people who are physically or mentally ill. Today we heard a lot of colourful examples about people who have resorted to quite dreadful means in order to end their lives. People simply should not have to resort to those sorts of measures. They should not have to jump under trains, throw themselves under a bus, or do something else. As a society we have a responsibility to those people. We should not let them end their lives in that way. By doing that they do not just have an impact on themselves and their families; they have an impact on other innocent people—the bus and train drivers who have to deal with the fact that there has been another fatality when they have been in control.

Overall we must find solutions to these severe problems—problems which will become worse as we have an ageing population in Australia. Medical intervention now prolongs peoples' lives. In some cases—for example in the case of those suffering terminal illnesses—there is far too much medical intervention. We waste too much time giving cancer patients radiotherapy or chemotherapy. Often the systems of older people cannot sustain that sort of attack—a so-called solution to their medical problems. I can understand why the parents of a young child with leukaemia would want to undergo every measure to give their child an opportunity in life. However, if my mother, when she is in her eighties, had a form of cancer and it was being suggested that she should have radiotherapy, chemotherapy and invasive surgery, I would be discussing it with her and with her medical practitioners to ensure that she was not subjected to more suffering than was necessary.

The aims behind the introduction of this bill are fine. I am sure that Hon. Ian Cohen believes that everybody supports his bill but that no-one will vote for it. I understand his concerns. When we are dealing with the issue of voluntary euthanasia or assisted death we cannot have a review in 12 months time and undo what has happened—a particularly compelling argument. We must not just look at the issue of voluntary euthanasia; we must look at a raft of issues that impact on people who are terminally ill—people who are suffering a great deal. We must not just look at this problem and say, "Fine, one solution is to bring in voluntary euthanasia." Some people will never accept that because of their religious or moral beliefs. Other people would say, "Why make assisted suicide illegal? Why not make assisted suicide an option for these people?" If it appears that a criminal act has taken place the police can investigate the case, as they would with any other wrongful death.

The real key to this issue is that we must have a raft of measures that will give different people, according to their beliefs, ideologies, religions and everything else, a solution or options to which they can turn.

We must look at improving palliative care. That does not mean that we should just increase funding; we must ensure that it is more readily available across this State. It is no good having palliative care beds in Sydney if they are not available. That is the case at the moment for friends of mine in the Illawarra. The palliative care beds in the Illawarra are full. People who are on a waiting list for palliative care may not be alive at the end of next week. That is not a solution to this problem. Voluntary euthanasia would not be acceptable to my friends because of their religious beliefs.

We cannot just say that we will pick out a solution for a certain sector of the community. We must look at this issue across the board. I accept that it has been identified as a problem. I understand the desire of some people to try to replicate what happened in the Northern Territory before the intervention of the Federal Government. However, I believe that the solution must be broader than that. Some doctors believe that if they give someone some strong pain killers it is coming out of their own pockets. That is awful. A friend of mine was working in the coronary care unit at one of the major Sydney hospitals. Doctors in that unit would say, "We will not give that patient any more codeine or morphine tonight. He can wait until the morning." That is just not good enough.

Patients have rights. They have rights whether they are in hospital or at home. They have the right to receive adequate pain killers. They have the right to be treated in a decent manner. They have the right to be fully informed and their families have the right to have a range of options. I do not support this legislation. This House should be considering a raft of measures to improve the range of options available for people who are terminally or seriously ill. Those options should include things such as improved palliative care, improved access to pain killers and the ability to self-medicate so that patients can decide for themselves rather than stating, as did the little kid in *Oliver Twist*, "Please can I have some more?" That is not good enough. They are adults and they deserve more. If that were presented as a package to this House I would certainly consider it. However, at present I have such major concerns with the bill that, even though I support people's right to determine when they die, I cannot support it.

Pursuant to resolution business interrupted.

GOVERNOR'S SPEECH: ADDRESS-IN-REPLY

Second Day's Debate

Debate resumed from 12 March.

The Hon. TONY KELLY [6.00 p.m.]: I am delighted to respond to the Speech of the Governor, Her Excellency Professor Marie Bashir. I congratulate the Governor on her Speech, which sets out the excellent record of our Government since 1995 and the key objectives that lie ahead. I was pleased to note that, after extending the gratitude of the entire State to our firefighters, and noting the centenary of women's suffrage, the Governor immediately turned to our rural and regional communities. It reflects our Government's commitment to country communities. It is worthwhile acknowledging once again what the Carr Government and Country Labor are achieving for country New South Wales. We are leading the way in the process of decentralisation—getting the public service out where it can best serve the people.

In contrast, the previous Coalition Government either slashed country jobs or locked them up in Sydney. The Carr Government has been leading the way, creating more than 2,000 new jobs in rural and regional New South Wales and relocating more than 1,000 more. The list of relocations is staggering, including 132 State Debt Recovery jobs to Lithgow; 100 Land and Water jobs to Dubbo; 24 sustainable systems farming jobs to Wellington; 150 Police Infringement Processing Bureau jobs and 160 Mineral Resources jobs to Maitland; and 58 Department of Local Government jobs to Nowra. These relocations mean hundreds more pay packets being spent locally, families setting up home in country towns, and a wealth of skills and expertise directly injected into local communities. In many cases, the relocations also simply amount to commonsense.

The Hon. Dr Brian Pezzutti: What a lot of rubbish!

The Hon. TONY KELLY: It is not rubbish. Why have a State Debt Recovery Office based in Sydney, with its higher rents and other costs, when it could function just as well in a town such as Lithgow? Again, why not move sections of departments such as Land and Water Conservation out into the front line, into the bush, where efforts to tackle issues such as land and water degradation, salinity, and sustainable farming are at their most critical?

[Interruption]

I acknowledge the relocation of the Department of Agriculture to Orange many years ago, as referred to by the Hon. Patricia Forsythe. That relocation was most successful. The Carr Government is not resting on its laurels either. Over the next three years it will add to this already impressive list a further 1,500 or more government jobs. The Carr Government also values the economic, cultural and social value of smaller country towns. This is why we have responded in often innovative ways to ensure the long-term future of country communities. Whereas, the economic rationalists of the Coalition are willing to stand back and see many country towns simply wither on the vine. The Carr Government is in there lending a hand to help maintain the unique qualities of smaller country communities.

We continue to roll out our \$30 million Community Technology Centres program to enable smaller towns—from Boggabilla in the north to Khancoban in the south—access to computers, information technology and information technology training, which most of us simply take for granted. Government access centres, or one-stop shops as they are often referred to, are another way of maintaining government services which are both cost effective to run and easy to access. The Carr Government continues to deliver a fair go and equitable access to our country communities. The Governor spoke of the Government's commitment to the State's infrastructure.

The Hon. Dr Brian Pezzutti: Tell us about country roads.

The Hon. TONY KELLY: I will; I am just about to come to that. After the years of neglect under the Greiner and Fahey governments, the Carr Labor Government continues to consolidate the State's rail infrastructure, opening branch lines—two new branch lines have been opened—making tracks safer and reducing travel times, from Blayney to Cowra and Kandos to Mudgee. We have backed our commitment with an increase in annual investment on country track of \$80 million over the next six years, bringing annual expenditure to a quarter of a billion, or \$250 million, per year. In addition to spending on track, a further \$135 million will be spent on new grain handling facilities at Werris Creek and Stockinbingal; new and upgraded sets of grain wagons; and the refurbishment and maintenance of some 800 wagons. The Government's commitment to better and safer country roads is also as strong as ever.

[Interruption]

What is your view on the Sydney Harbour Bridge toll? Are you going to cut back the \$65 million that is going to country roads? I recently had the pleasure of announcing the commencement of upgrades to several key country routes: \$9.5 million for the Kamilaroi Highway between Narrabri and Wee Waa; \$5 million for the Mitchell Highway west of Narromine; \$950,000 for the Olympic Highway south of Culcairn; and \$520,000 for Fossickers Way south of Barraba. All of these vital upgrades have been accelerated and enhanced, in part through the increase in the Sydney Harbour Bridge toll. On another occasion I will speak further about that issue.

The Hon. Dr Brian Pezzutti: You've run out.

The Hon. TONY KELLY: I want to spend a full five minutes on that issue in an adjournment debate on another occasion. The Governor also touched on the record commitment of the Government to our schools and hospitals, a commitment backed up by record expenditure: \$7.6 billion for education this year and \$8.1 billion for the health system, which is more than the little over \$5 billion of expenditure on health when the Government came to office. This record expenditure is making substantial progress regarding the key goals of better health care and academic excellence throughout the State.

The Hon. Dr Brian Pezzutti: Where's the \$8 billion?

The Hon. TONY KELLY: It is in this budget. The Carr Government is leading the way in attracting and retraining health and education professionals to rural and remote areas of New South Wales. Indeed, an article in today's *Sydney Morning Herald* confirms that. Through scholarships, training and retraining, and other targeted programs, we are getting the skills of these professionals where they are most needed. For example, in 1999 the Minister for Health, in response to the urgent representations of Country Labor, simplified the "area of need" scheme for health professionals. Since these changes were agreed to, more than 216 doctors and other health professionals have been approved to practise in areas of need throughout the State. To support our health and education professionals, we are backing up this commitment to human resources with a remarkable capital expenditure program and modern, state-of-the-art facilities and upgrades, together with the latest potentials offered through information technology.

Other key areas to be finalised over the next year are our wide-ranging programs and strategies to address what is probably the greatest challenge in the long-term sustainability of rural New South Wales: the environment. Over the past few years the Carr Government has been consulting with key stakeholders and the wider community to devise key natural resource management strategies to ensure the long-term viability of the State's primary producers and their communities. This process has not been without its difficulties and challenges but it is a reform process essential to balancing the needs of production and economic growth with the goals of conservation and sustainability.

One of the myths truly shattered by this Government, as well as by the Hawke and Keating governments before it, is that Labor is not up to the challenges of managing the economy. The Carr Government has shown that Labor is the only party to be trusted with the responsibility of the public purse. In a week when we saw the Federal Treasurer struggle to explain a \$4.6 billion loss of taxpayers' money through foreign currency speculation, Standard and Poor's released its report maintaining New South Wales' triple-A status. Again I congratulate the Treasurer on his fine economic leadership of the State. New South Wales' superior economic performance has not been gained on the back of cutting expenditure on health or education or on those who can least afford it. On the contrary, the Carr Labor Government, while reducing the debt left to us by the Greiner and Fahey governments—the amount has been reduced by some \$10 million now—has increased government spending. The Treasurer is very clever. He has increased government spending on our hospitals, schools, police and other essential services to record levels.

The prudent economic course charted by the Carr Labor Government makes the Commonwealth debacle look like amateur hour. The waste and extravagance of Howard and Costello, coupled with the meanness and squandered opportunities, reminds me of two four-year-olds let loose in a lolly shop. To put it simply, you cannot trust the Libs with taxpayers' money. Besides the waste and lost opportunities, the Coalition will never understand that good government is government for all. Since coming to office the Howard Government has unravelled all the good work done by the Hawke and Keating governments. It has governed with the main purpose of ripping money out of those sectors most in need—our schools, universities, hospitals, and aged and disability services. In the past few days it has come to light that the Federal Government ripped \$5 million out of asthma treatment and rural health one week before the election while, at the same time, creating and subsidising some sort of Club Med for the rich.

Extravagant and inefficient with the public purse, the Federal Government is also one of the laziest governments we have seen for some time. This laziness is perfectly illustrated in the underwhelming Federal response to the public liability problem. Public liability is a growing national crisis, demanding a national response. Many of our cultural, sporting, community and other non-profit organisations are being crippled by spiralling insurance premiums. Only last week I attended the Wellington Vintage Fair. Some 10,000 people attend the fair each year. Its public liability insurance cost was \$550 this year, and it is expected to be \$5,000 next year. The Premier wrote to the Prime Minister last November urgently seeking a national summit on the insurance market. Months of indecision, internal bickering and general incompetence followed. The Premier, increasingly concerned, again wrote to the Prime Minister reminding him of the growing problem of public liability. New South Wales and other Labor States finally coaxed a summit out of the Commonwealth in late March, some four months after the Premier's initial letter urging a national solution to the problem.

A farce has been played out in Canberra compared with the good government enjoyed by New South Wales over the same period. It is a telling contrast. A remarkable achievement of the Carr Labor Government is made all the more remarkable when one considers it took place with a hostile Coalition Government in Canberra—a Federal government that has consistently showed its responsibilities for public education and health and in doing so placed pressure on our Government's budgetary commitments. Approximately 35 per cent of the GST share is collected from New South Wales yet only a bit over 30 per cent is returned to this State. In the past few weeks we saw the Federal Government turn the screws by taking another \$200 million from New South Wales' share in the current round of negotiations.

For the past seven years New South Wales has witnessed a remarkable Labor Government in office. The Governor alluded to this in her speech, acknowledging achievements and future plans for modernising the State infrastructure; promoting investment and jobs; creating safer communities; consolidating our world-class schools and hospitals; and protecting our unique environment. We have achieved a lot, but we realise that there is still so much more to be done. Yet it is this willingness and ability of Labor governments to understand and address the needs of the State and its people, together with our unwavering commitment to economic growth, social justice and a secure and sustainable environment, that places New South Wales in a position of strength to embrace the opportunities and confront the challenges of the new century.

Debate adjourned on motion by the Hon. Ian Macdonald.

MOTOR ACCIDENTS COMPENSATION AMENDMENT (TERRORISM) BILL**CHILDREN (DETENTION CENTRES) AMENDMENT BILL****Bills received.**

Leave granted for procedural matters to be dealt with on one motion without formality.

Motion by the Hon. Ian Macdonald agreed to:

That these bills be read a first time, and printed, standing orders be suspended on contingent notice for remaining stages, and the second reading of the bills be set down as orders of the day for a later hour of the sitting.

Bills read a first time.

[The Deputy-President (The Hon. Henry Tsang) left the chair at 6.17 p.m. The House resumed at 8.00 p.m.]

GOVERNOR'S SPEECH: ADDRESS-IN-REPLY**Second Day's Debate****Debate resumed from an earlier hour.**

Reverend the Hon. FRED NILE [8.00 p.m.]: I am pleased to take part in this Address-in-Reply to the Speech of the Governor, Her Excellency Professor Marie Bashir, AC, which she gave in this House on 26 February 2002. Like other members, I congratulate Her Excellency on successfully carrying out her role in these early days of office. I congratulate the Premier, who nominated Professor Bashir to the position, on making an excellent choice, and I congratulate the Queen on appointing Professor Bashir as Governor of New South Wales. The Governor has our enthusiastic and prayerful support as she carries out her duties. Galatians 6:7 states:

Do not be deceived: God cannot be mocked. A man reaps what he sows. The one who sows to please his sinful nature, from that nature will reap destruction; the one who sows to please the Spirit—

that is, God's holy spirit—

from the Spirit will reap eternal life. Let us not become weary in doing good, for at the proper time we will reap a harvest if we do not give up. Therefore, as we have the opportunity, let us do good to all people ...

It is important to remember that a man will reap what he sows—in this debate I extend the analogy to include what society sows, what a government sows and what members of Parliament sow. As I was preparing my contribution to this debate I could not get out of my mind an important fact that we need to remember: a government, whether local, State or Federal, will never be as strong as its foundations and values, moral and ethical. The same applies to individuals and nations. Our nation, our laws and our justice system were founded on the Judean Christian ethics or value system, although I must admit that our laws have been watered down, particularly in the past 25 years.

Remnants of that foundation exist to a large degree in terms of strong laws on our statutes. Those laws are not always enforced enthusiastically. I do not criticise the police for that; it is just the way society operates. The laws may not be enforced as originally intended but they are still on the books. I refer to laws to protect the unborn from abortion; laws that protect the aged from euthanasia—which we have been debating today; laws that protect vulnerable or morally weak persons from the influence of gambling, alcohol, drugs, et cetera; laws to protect children from paedophile activity; laws to protect teenagers from homosexuality, including unnatural acts of buggery—that law has been changed; laws to protect our homes and streets from violence and crime; laws to protect the God-given institution of marriage; laws to protect the God-given basic and natural unit of the family so as to provide a loving, caring and secure place of nurture for children; laws to protect children from pornography; and laws to protect females from exploitation, particularly in prostitution.

Some of those foundation laws are still on our law books. However, we must acknowledge, unfortunately, that some of them have changed; some laws have been repealed at either the State or Commonwealth level. Indeed, we could say that some foundation laws have been watered down. For example, we now have 100,162 poker machines in New South Wales, from which the Government received \$734 million

in revenue in the 2000-01 financial year. Even the Premier has described gambling and the Government's reliance on it as a "sickness". That is why the Government has introduced major reforms and certain restrictions with regard to gambling. Unfortunately, though, some of the announced proposals have already been watered down, I assume as a result of pressure from the club and hotel industries, arguing that such reforms would go too far. I do not think the reforms would have gone too far. The matter is still not clear—and I am referring only to newspaper reports that some of the proposals announced by the Government have been watered down. I hope the proposals will not be watered down.

No doubt there has been dramatic change in our State. If people were able to come back from the dead, they would be greatly shocked to see the proliferation of poker machines, the promotion of Lotto, TAB and so on, and the many pages of attractive colour advertisements promoting alcohol in newspapers every day. In my observation the amount of advertising seems to expand almost weekly to form the major part of newspapers such as the *Daily Telegraph*. Such advertisements provide newspapers with a great revenue source, but they indicate a change in society's attitudes.

Honourable members know from the debate about brothels that repeal of the law to control or restrict brothels in this State has resulted in a large number of so-called legal brothels, although councils in Sydney suburbs and country towns often oppose them. However, the number of illegal brothels has also increased in what could be regarded as open season for prostitution. As I said, prostitution leads to the exploitation of women and teenage girls. Indeed, we know that girls are brought from overseas for that purpose. Society's attitude about the impact of drugs has also changed. We now have a legal heroin shooting gallery in Kings Cross—the first in Australia. There are tens of thousands of drug addicts in our State and nation. I could detail the high incidence of divorce and family breakdown—which is another tragedy. Earlier I referred to the abortion laws. More than 100,000 abortions take place in Australia annually, with probably at least 40,000 carried out in New South Wales, despite the fact that there is a law prohibiting abortion.

An increasing number of child physical and sexual abuse cases are being reported. Many people are living in fear, especially aged persons who have turned their homes into prisons with security doors and bars on windows. That is another tragedy. I am sure the majority of citizens of this State and city are concerned about the obscene, indecent and blasphemous Mardi Gras parade down the streets of Sydney—and I emphasise the word "blasphemous". Honourable members may not know but in that parade a full-scale attack was made on the Christian church, particularly the Catholic Church. The largest float in the parade, which was a representation of St Marys Cathedral, carried half-naked homosexual men engaging in a variety of actions. One of the men was meant to be Archbishop Pell sitting on an Archbishop's throne.

That float ridiculed the Catholic Church, and therefore ridiculed all churches. A large number of men, including men from America and Europe here to celebrate this so-called anniversary, were dressed as nuns. About 30 men carrying mitres and wearing bishops' gowns and little else—with the possible exception of a G-string—were dancing down the street, throwing their gowns about. That was an attack on the Anglican and Catholic churches, which have bishops in this State. Not long ago we would never have dreamt that we would see such things happening on the streets of Sydney—but it occurred on 2 March 2002. Uniformed police officers marched as a unit in the midst of the floats. I realise that these were volunteers, but I cannot separate the two—by their participation the Police Service has become identified with the activity. Police are not in a vacuum: they are part of the event.

Sadly, other changes have taken place in our society mainly as a result of Federal classification laws that have been adopted by the States. An increasing number of pornographic magazines, protected by their R-rated classification, are being displayed and sold in suburban newsagencies. Pornographic films, also protected by the R-rated classification, are being shown in suburban theatres. These changes in our society must be of concern to all honourable members. Recently we have heard about functions organised by inmates in prisons. There is the increasing influence of organised crime, which results in the corruption of police officers, public servants and possibly even members of Parliament. We will never forget the brutal murder of a member of this Parliament, John Newman, in recent years.

I am contrasting what society wanted in the past and what we now see today. I call on all members of this Chamber and members of the Legislative Assembly to give serious consideration to the direction in which this State is going. Often the focus of government is on matters of finance, economics and balancing the budget. Such matters are not unimportant but we also must examine what is happening morally and ethically in our State and society. If we do not deal with these matters, they will become unresolvable. No matter which party assumes office, the problems will be out of control and members of Parliament will throw up their hands in

despair and the Government of the day will say that nothing can be done. Well, in my view something can be done. The elected government, whether Coalition or Labor, should strike a balance between focussing on economic necessities and the important moral, ethical and spiritual issues in this State.

When the Governor opened this session of Parliament I and I am sure the Hon. James Samios and others were reminded of the role of the Governor and the problems associated with the use of Government House. Salt was rubbed into the wound when the program of the homosexual Mardi Gras indicated that a function organised by lesbians was to take place in Government House. The function would have been approved by the Heritage Council or some such organisation, not necessarily the Government. A function organised by lesbians being conducted in Government House is a far cry from the Governor living in Government House—I am sure all honourable members would agree with that, even the Republicans among us. During the official opening I thought about the controversy surrounding the Governor-General of Australia, particularly when he was Archbishop of Brisbane, and about references to the sexual abuse of children. I agree with Prime Minister John Howard: if he were to yield to the cries in the media and other organisations and tried to sack the Governor-General, there would be a constitutional earthquake.

I agree that it was a disgrace the way in which the church, in the past, dealt with such complaints internally and secretly. People outside the church would call such behaviour a cover-up. In years past if a question were asked about a parson of a church, "Where has so and so gone?", there would be hushed whispers that "so and so" had been moved—but no-one would say the reason for that move. It may have been because of a drinking problem. In my opinion that happened far too often. I do not criticise Archbishop Hollingworth and I do not believe that he should be dismissed, but sadly he reflected the policy or attitude within the church at the time. Such matters should not have been covered up; they should have been dealt with properly and openly and reported to the authorities.

The Hon. Doug Moppett: All hindsight is 20:20.

Reverend the Hon. FRED NILE: That is right. The church, under pressure from legislation in this Parliament and other State parliaments, has introduced thorough and detailed sexual abuse protocols, which I hope will prevent further cover-ups and ensure that cases are dealt with openly and are reported to the authorities: the police, the Department of Community Services and so on. I am a Minister of the Uniting Church who is without a parish. I preach every weekend in different churches, by invitation. I was given a sexual abuse protocol form to complete. The form asked, "Have you ever been charged? Have allegations been made against you?" I thought I would not bother returning the form as I do not have a parish of the Uniting Church. However, it was sent straight back to me with the advice, "Anyone who is on the list has to complete the form." Consequently, I completed the form and returned it. I am pleased that the Uniting Church, the Anglican Church and the Catholic Church have now set down proper protocols to deal with this issue. That is a positive move. Such protocols were not in place a few years ago, and that was the cause of some vagueness within the church—a vagueness that will clear in the future.

An article in the *Weekend Australian* of 2 March carried the headline "Paying for sins of the fathers: Christianity is in crisis as a raft of sexual abuse cases threatens to bankrupt the established churches." The article deals with claims that have been made not only in Queensland but in other States of Australia. Thankfully, there do not seem to be a great number in New South Wales, but they may still arise. The article points out that the Canadian Government estimates the claims to be worth \$1 billion Canadian. The claims are so massive that they could send the churches in Canada bankrupt, and the Canadian Government proposes to bail out the churches by paying 70 per cent of the settlement amount to enable the established churches to continue to operate. I gather that even the Anglican Church in Brisbane has financial problems as a result of just one such award made against it. Given that there may be a number of such awards in the future, one can understand how serious is the matter now facing the Christian churches of Australia.

I am very pleased that the Governor's Speech acknowledged that this is the Year of the Outback. I completely support the 200 events that have been organised by more than 50 New South Wales rural communities to showcase to Australia and the world the outback's unique achievements and great natural beauty. The Governor spoke also of the 1,500 or more government jobs being established in country areas. I would like to see more private industry being established in the country. I would challenge the Government not only to look at moving government positions to country areas—such as transferring 400 WorkCover jobs to Gosford—but also to see what can be done to encourage private industry to establish factories and plants in country areas, providing jobs in the country and hopefully attracting more people to move to and stay in the country.

Such an initiative would involve various tax incentives and rebates for country industry in order to promote a real program of decentralisation. The Year of the Outback presents a golden opportunity for such an initiative. I noted that the Governor said in her Speech that more than \$1.7 billion will be invested in school capital works, upgrades and maintenance over the next four years. But I am concerned, as are many people in the community, about school closures and particularly the closure of Hunters Hill High School. I can find no rational reason for the closure of that school. It has the required number of students and staff and has a good reputation. There seems to be some justification for community suspicion that the only reason for the closure is the high value of the property on which the school is situated—right on the river.

If the school ultimately closes, I can visualise the development of luxurious townhouses on the site as happened at the Gladesville psychiatric site. That is not good government or good education policy. The Government must find other ways of raising the funds it needs to meet its budget. The Treasurer often boasts that his budget is the best and that it is always in surplus, but governments should not achieve a surplus by the unnecessary closure of schools such as the Hunters Hill High School. I have an interest in that school; our children attended it so we have had a great deal to do with it.

I am concerned also about the closing down of TAFE establishments without any consultation with the community. As honourable members know, I introduced a bill relating to school closures that was passed by this House. I now have to work out ways of reviving it in the other place. Hopefully, the Government will agree to pass that bill into law so that some of the rules that apply to proposed school closures will apply also to the closure of TAFE establishments. I do not mean by that the closure of a class or a room; I mean the closure of an entire TAFE establishment, as happened at Seaforth. Of course, it is in the Government's interest to engage in such consultation in order to obviate backlash that can occur in a community when action is taken that upsets many people—whether that be the public and/or the teachers—as occurred at Seaforth.

I would also make the point that many statements have been made recently about the need for male teachers in our school system, particularly in primary schools. There seems to have been a great expansion in the number of female teachers—I do not say deliberately—and an accompanying decrease in the number of male teachers. It is important to have males as teachers, particularly so that children from single-mother families and so on have role models that boys can relate to. I urge the Government to focus its mind on that matter.

In regard to health, I note that this year there will be record recurrent funding of \$8 billion. The Government is to be commended for that, because health is a major concern in our community. As part of the largest capital works program in the State's history, new hospitals and facilities are near completion at Royal Prince Alfred Hospital, St Vincent's Hospital, and hospitals in the Illawarra, Camden and Campbelltown. The Government also has a program to recruit and retain nurses in our hospital system. One matter raised in discussions with former and current nurses is that many of them feel—and this is a problem that the Government has picked up in regard to police—that there may have been too dramatic a swing to academic qualifications for nurses through university courses and the attainment of university standards of training. Young women who would make good nurses have been discouraged from taking up nursing as a career, or alternatively have been forced out of the system.

Also, there has been a lack of what might be called the in-house training that used to occur. In my opinion, previous nurse training programs were very successful in attracting young women to the nursing profession. At that time there seemed to be plenty of nurses, and those nurses were well-trained and very efficient. Governments changed policies, and that led to the idea of nurses obtaining university degrees and so on. Maybe now nurses who have been overtrained are moving on from hospitals to other professions. For whatever reason, nurses are leaving the hospital system and young women are not being recruited as nurses. Therefore we have a real problem. The Premier said recently in the other place that the Government is doing all it can to deal with the problem of closure of hospital wards, but in many cases the closures were caused by a lack of nurses. It is a simple fact that there were insufficient people to staff the wards.

Another matter that concerns me and the community is that currently many major Sydney hospital emergency departments are closing their doors to ambulances carrying all but the most critically ill patients for up to five hours a day. This fact has been made public by figures disclosed by the Department of Health. Apparently, unless a patient's condition is life-threatening, these closures are forcing ambulance drivers to drive around looking for a hospital with a vacancy. That should not happen in these modern times in New South Wales.

The problem with regard to policing in New South Wales does not lie simply in police numbers. I know that the Government has announced as an emergency measure the opening of another training college. I support

that move, because police numbers need to be increased. But there is something more seriously wrong with the police force, and it has more to do with just numbers. In my opinion, it has to do with police morale, which in this State is at its lowest. More must be done to address this problem. It is not simply a question of money or economics. Something must be done to restore morale in the police force. Police have been a political football for so long and this has begun to have a serious effect on members of the police force of this State.

For that reason, I suggest that the name "New South Wales Police Force" should be restored. I know that the Minister for Police said he would do so, but he seems to have changed his mind. Matters of that type may seem to be minor, but the name I have suggested serves to clarify the role of the police force. It is a police force; it is not a community service and it is not a club. The role of police officers is to fight crime and to protect the citizens of this State. Police need to be encouraged to accept that that is their role and we should back them up 100 per cent.

The Government, through the Minister for Police, should also examine complaints against police and do all that can be done to evaluate the merits of that scheme. I acknowledge that it could be said that we have moved too far in dealing with complaints by referring them to myriad tribunals including the Police Integrity Commission, the Independent Commission Against Corruption, and the Ombudsman's Office. Phony complaints, anonymous complaints and even complaints by criminals are made to set up honest and decent police officers. Even if a complaint against a police officer is demonstrably false, the complaint remains on that police officer's record. A police officer may have three complaints or 10 complaints on his or her record even after those matters have been resolved. Perhaps the record of those complaints cannot be removed because the record of the event must stand, but resolved complaints should not be used to prevent a police officer from obtaining promotion. All things being equal, a police officer with a record of no complaints would be preferred to a police officer who has been the subject of 10 resolved complaints or complaints that were lodged vexatiously, perhaps as a result of carrying out duties overly enthusiastically but not unlawfully, which upset the subject of a speeding fine.

A recent court case illustrates the need for more clearly designated police officers dealing with certain criminal matters. When a crime occurs involving a gang of men violently fighting, a call is made for "police units" to attend. A "police unit" could be constituted by four policewomen in two cars. There should be some way of indicating that violent activity is involved and for a classification to be added to a police officer's identification which would prevent four female police officers being sent to sort out a very bloody brawl that is occurring in a pub or similar premises. If female police officers suffer broken noses and other injuries, I would say that they would very smartly consider leaving the police force, and the people of New South Wales would lose the benefits of further service by those officers.

I note that the Government has not responded to criticism from the United Nations International Narcotics Control Board, which condemned the opening of the medically supervised Kings Cross injecting room. The organisation repeated its criticism in its 2001 annual report. The board's president, Mohammad Ghodse, stated that the board had gone public because behind-the-scenes diplomatic efforts had failed to convince New South Wales authorities to close the room. He said that he had definitely exhausted quiet diplomacy and that the board considered injecting rooms, wherever they may be, to be a violation of the United Nation's conventions. He went on to state that if a government provides an outlet for drug trafficking, it is doing exactly the opposite of what the convention asks it to do, namely, stop illicit drug use.

Mohammed Ghodse is a professor. He expressed the view that an injecting room is not only for heroin use but is basically a place where people can use ecstasy and inject amphetamines and cocaine. He stated that an injecting room is used by people who wish to come and use their drugs. The Special Minister of State rejected those criticisms but I believe that they are justified. The criticisms will not go away and the Government should act on them by closing down the injecting room as quickly as possible. The Government also knows—because this matter was made public by the New South Wales Opposition Leader—that the original budget of \$1.8 million that had been set aside for the injecting room trial has been increased to \$5.6 million because of indirect costs associated with the operation of the centre.

The Hon. Richard Jones: How many lives has it saved?

Reverend the Hon. FRED NILE: The point is that that \$5.6 million could have provided 650 rehabilitation beds for people who are desperate to get off drugs. People cannot get a bed and the whole point is that closing the injecting room would save lives because the \$5.6 million could be used to get people off drugs. Young people are unable to get into treatment programs because there are insufficient vacancies. I commend the

Government on its Families First program which operates in 11 areas throughout New South Wales, including the North Coast, the Central West, the Hunter, the Central Coast, the Southern Highlands, and western and south-western Sydney. The program supports 50,000 babies and their parents each year through the provision of antenatal care, home-based health care, supported playgroups and school-based family centres which prepare children for school.

As the Governor stated, a new program, the Better Futures program, has been launched and a key part of that program will be primary contact which will link children and families to services such as mentoring, homework support, parental education and sporting activities. Those programs ought to be commended. During question time today the Hon. Richard Jones referred to a matter that I had intended to discuss. I will not deal with the matter in detail but merely mention that the problem concerns the M5 tunnel. I use that tunnel regularly as I travel back and forth from the South Coast. Sometimes I can actually see the pollution, not just smell it. I have to close down all the vents in the car and the airconditioning because the pollution comes into the car. For people such as my wife and I who suffer asthma, the pollution causes an asthmatic reaction. I have mentioned this to other people who have been using the M5 and they have said that they have had exactly the same reaction. The Hon. Dr Peter Wong, who also has an asthmatic condition, felt that the fumes were causing a reaction in him as well.

The Hon. Richard Jones: I have had the same.

Reverend the Hon. FRED NILE: The Hon. Richard Jones has experienced the same reaction. It is quite serious. The pollution in the M5 tunnel is a health problem. I hope that I am wrong, but the suggestion has been made that there is an attempt to restrict the quantity of pollution being emitted from the M5 stack because the pollution is being measured with the result that there is a greater quantity of pollution in the tunnel. That may save the residents but it simultaneously causes pollution and poses health risks to drivers and passengers in motor vehicles. I recognise this as a possibility because the tunnel is very long—approximately three kilometres—and is apparently one of the largest tunnels that has ever been built by a government in Australia. Special precautions may need to be taken in relation to the tunnel. Sometimes problems are not envisaged before a tunnel is built. For example, I have noticed that the tunnel also has a number of dips in it, which may cause pockets of pollution to remain. I urge the Government to take a very close look at the operation of the M5 tunnel.

I am pleased to note that the Government has been doing more, and continues to do more, to protect consumers and businesses. I note that there will be amendments made to the Property, Stock and Business Agents Act which will represent the first major overhaul of the State's property services industry in 60 years. I am looking forward to those bills coming forward in due course. I am pleased to have taken part in the Address-in-Reply debate. I remind honourable members of my opening remarks—that whatever a Government sows and whatever a society sows, so shall they reap.

The Hon. JAN BURNSWOODS [8.38 p.m.]: I take great pleasure in participating in the Address-in-Reply debate and I commence by congratulating the Governor on the fantastic job she is doing as the Governor of New South Wales. The other day I had the pleasure of attending a reception at Government House to mark International Women's Day. I was impressed by speeches made by the Premier, the Minister for Juvenile Justice, Carmel Tebbutt, and others. I was once again struck by the warmth and graciousness of Governor Marie Bashir and by how she is able to circulate and speak to so many different people at such a function. A week or so ago I met someone who had been walking along Elizabeth Street and who thought, "That looks like the Governor." That person went up to the Governor and said, "Excuse me, are you the Governor?" Thereafter that person and the Governor stopped on the footpath outside David Jones and had a chat. I do not know that there are too many Governors like Marie Bashir. I think she is doing the State of New South Wales and the people of New South Wales proud. In particular, I am proud that we in New South Wales have our first woman Governor.

In her Speech on the opening of Parliament, the Governor had pleasure in noting that this year marks a significant anniversary in the political history of New South Wales and Australia. This year is the centenary of women's suffrage in the Commonwealth and New South Wales parliaments. We do not have the honour of being the first Parliament to have given women the right to vote. South Australia and Western Australia gave votes to women during the 1890s. However, 1902 marks the year in which both the New South Wales Parliament and the Commonwealth Parliament passed legislation to extend the vote to women. Women were able to vote in elections the following year. It has taken women a long time to celebrate the equality of voting with the equality of representation in Parliament. We are getting there.

I was certainly delighted to see women candidates from the New South Wales Labor Party reaching the 35 per cent mark in the Federal election. We have known for some time that we have good representation in this House, although recently that representation dropped slightly. At the election next year I am looking forward to all parties increasing the number of women candidates—both in this House and in the lower House. Many functions will be held this year to mark that event. I want to talk about some of the aspects referred to by the Governor in her Speech. The Government's substantial legislative and administrative reform program deals with those broad areas of modernising the State's infrastructure, promoting investments and jobs, creating safe communities, creating world-class schools and hospitals, and protecting our unique environment. That represents quite a list. However, the area I want to speak about tonight is education—a longstanding professional interest of mine.

I am glad that recent moves have been made in education. My colleague the Hon. John Watkins is doing a fine job as Minister for Education and Training. He did a fine job this morning when he launched the issues paper produced by the Standing Committee on Social Issues on early intervention for children with learning difficulties. The Treasurer has been able to make extra money available in particular for school maintenance. Over the last few years the assets and infrastructure of our public schools have declined quite markedly. Money was tight for the most basic maintenance upgrades and new capital works. This year general spending on education is increasing to a record level of \$7.6 billion, but over the next four years more than \$1.7 billion is being invested in school capital works, upgrades and maintenance.

An additional \$70 million—a large sum of money—has been allocated by the Treasurer for maintenance, security upgrades and many of those small things that make a school much more pleasant for teachers and students, such as painting, improved staff rooms, repairing carpets, fixing up potholes in the playground and on the driveways, fixing school toilets, providing shelters, and all the rest of it. It is good that the basic fabric of our schools is being improved. Ever since 1995 this Government has had a particular focus on literacy. We now have the best literacy results in Australia and some of the best literacy results in the world—in reading, writing and spelling. This year about 2,000 teachers will be involved specifically in literacy and numeracy initiatives for students in the vital transition period of year 5 to year 8.

I again refer to the issues paper produced by the Standing Committee on Social Issues which was launched this morning. So far as schools are concerned we are focusing on the years kindergarten to year 2. As the inquiry developed, committee members, including the deputy chairman, the Hon. Doug Moppett, who is sitting in the Chamber, were made aware of the existence of different kinds of specialist teachers and special programs in the early years of school. The Reading Recovery program in particular has been considerably resourced and expanded. That program is the most widespread and fundamental tool that is used to identify and assist children who identified early in kindergarten or year 1 as having reading problems.

In many cases that one program, properly run to assist children who have been withdrawn for one-on-one help, can overcome reading problems and ensure that children and their peers obtain the best schooling. I refer also to the Support Teachers Learning Difficulties program. A number of regional and district based teachers and specialists provide help in that area. As our committee issues paper suggests—not yet being a report it, does not recommend—more needs to be done in this area. More always needs to be done. It was good to see the expansion of programs in this area. The work that is beginning to be done in the basic area of numeracy is quite overdue. This year, the Count Me In Too and Counting On numeracy strategies are being expanded in both primary and secondary schools.

I have an interest in another area, partly because of my membership of the Joint Committee on Children and Young People. Work is being done to deal with behavioural problems and to ensure that students with behavioural problems that stem from a variety of causes receive the help they need. New special schools, tutorial centres and specialist staff have been provided to help children with disruptive behaviour. One disruptive child can effectively destroy a class of 25 or 30 pupils, prevent them from learning and make life hell for the teacher. A lot of important work must be done in that area. The Joint Committee on Children and Young People has identified a number of the steps that are being taken and that need to be taken in that area.

I was particularly pleased to see a reference in the Governor's Speech to a range of strategies designed to enhance the standard of the teaching profession. There is no doubt that, over the last few years, the status of teachers in New South Wales—and perhaps in most places—has decreased. It has done so for a variety of reasons. Twenty years ago teachers' salaries were much higher in proportion to other professions. Teachers have slipped back in that area. When facing students with behavioural difficulties the work of teachers is much harder. Perhaps the ageing of people in our teaching service has resulted in less recognition being given to their

work. Sometimes it is hard to persuade young people to go into university courses and so on. The provision of scholarships, the work being done to address the Ramsey inquiry into teacher education and the examination of things such as professional development are important to ensure that teachers, as the educators of our young people, have the status they deserve. That, in turn, helps to give us a healthy, popular and successful public education system.

Before I conclude my remarks on education I should like to pay tribute to Mary McPherson, who retired a couple of weeks ago from the Department of Education and Training, where she had worked for many years in the history unit. The education department has always put a lot of effort into celebrating its history. Members would be aware how much schools, parents and students value the history of schools. A school centenary is often the biggest event in the decade for local communities. It is often the event that brings people who may have left the district back to that district; it is also often the event that is the impetus for producing a full-scale community history. Schools are important to communities, and an event such as a school centenary brings them together.

Like one of her predecessors, Jim Fletcher, and others, Mary McPherson has played a valuable role in ensuring that the history of the New South Wales public education system, dating from 1848, is properly recorded. I have always been delighted to share in that, both in my previous life in the education department and also most recently in my role representing the Parliament on the board of the State Records Authority, where we have recently been doing some work on making sure that school records are properly protected so that they will be available to everyone in the future.

I would like to congratulate John Aquilina on his recent work as Minister for Fair Trading in ensuring that something is done about the growing number of complaints about what can only be described as shonky home tutors and coaching colleges. I was delighted that at the end of January action was taken against two companies, Sydney Home Tutors and Coaching Australia. More than 100 complaints had been made against those organisations. The complaints came from parents who, often with the best of intentions, were desperate to see their children succeed, and were persuaded to part with large sums of money for tutoring or coaching which was often of dubious worth. In the case of the companies I have referred to, the tutors often simply did not show up, many of them were totally unqualified for what they were meant to be teaching, and eventually the Supreme Court issued an order that the two outfits cease to operate.

I have been concerned about this issue for some time; indeed, I have raised it in this House on other occasions. I recall that some years ago the Parents and Citizens Federation also raised the issue. It is very difficult for action to be taken on the matter, because private coaching colleges and tutoring organisations are not covered by education legislation. Parents make private arrangements with tutoring outfits, and therefore, in effect, they are only covered by companies legislation and fair trading legislation. In most cases, it is impossible to do anything about the fringe areas of this growing industry without complaints by parents or staff, and any such complaints need to be well substantiated and specific. It is not easy to take such action when the problem may well be the quality of the so-called education being offered. However, action needs to be taken under company law or fair trading law. I am very hopeful that the action taken against the two companies I have referred to will serve to encourage other tutoring companies, and that a careful watch may be kept on some of these outfits.

There are some terrible stories about the amount of money that parents of children are spending on tutoring. It seems to be a problem particularly in country areas. One of the companies effectively has a monopoly in the local area. It seems that by way of word of mouth parents are often persuaded that if another child in the class is receiving coaching, their child must also receive coaching, otherwise he or she will fall behind in some competitive battle. As teachers and others associated with schools would say, this perception is often totally unfounded. I suppose an analogy can be drawn with the old days, when parents were often persuaded to spend money they could not afford on buying huge quantities of volumes of *Encyclopaedia Britannica*. There is often a compulsion for parents to do anything they can to improve their child's school results and outcomes, but, unfortunately, sometimes people are taken advantage of.

I was pleased to note in the Governor's Speech various details about the Government's Families First strategy. Families First is now operating in 11 areas across New South Wales, including the North Coast, the Central West, the Hunter, the Central Coast, the Southern Highlands, and western and south-western Sydney. The program is gradually being implemented across the State, and in areas where it is already operating the program is being further expanded. The Families First program has been extremely successful. Currently the program supports about 50,000 babies and their parents each year through antenatal care, home-based health care, supported playgroups and school-based family centres that prepare children for school.

The social issues committee inquiry has focused on the lack of co-ordination that sometimes exists between the State departments of health and community services, and disability and education. There is often a lack of co-ordination between Federal and State governments, local government and non-government and private organisations with regard to funding for such programs. Families First is doing a great deal to overcome the fragmentation that exists, and to target families and children who need assistance and support. I am pleased that the program continues to be expanded.

I wish to make a couple of remarks about the bushfires, which I note is featured early in the Governor's Speech. We witnessed the Guard of Honour and the procession in Macquarie Street by many of the services who so successfully fought the bushfires in December and January. I am pleased that the Government has established a committee to inquire into certain aspects of the way in which we handle bushfires and the threat of them in New South Wales. A lot of absolute nonsense has been spoken about the so-called need for hazard reduction. I live in the seat of Epping. The Lane Cove River National Park extends from the seat of Ku-ring-gai to the seats of Epping, Ryde and Lane Cove. The recent bushfires were very serious in the upper areas; they came down as far as Marsfield. Fortunately, they were nowhere near as serious as the 1994 bushfires, which burnt something like 90 per cent of the national park.

Members such as the honourable member for Epping and the honourable member for Ku-ring-gai have made a lot of unnecessary, and indeed mischievous, statements about the recent bushfires. They have made totally erroneous statements about the amount of fire in the current park boundaries. They have totally ignored the additions to the boundaries that have taken place. They have also made absolutely stupid statements about the so-called lack of hazard reduction. I was pleased to see the National Parks and Wildlife Service carefully defending itself with regard to the hazard reduction that has taken place and people's utter stupidity in thinking that when most of the park had been burnt out in 1994 all the protocols called for hazard reduction between 7 and 12 years after a major fire.

The service has drawn attention to all the holes in this mischief-making and quite dangerous set of arguments. They are not only coming from the honourable member for Epping and the honourable member for Ku-ring-gai, but from many people who should know better in the Liberal Party, the National Party and perhaps a few minor party members. The Government's record over the past six or seven years in the reform of the management of the fire services and increases in expenditure on equipment and systems has been first class. The joint committee will certainly make that point. The Hon. Richard Jones is making a few comments behind me. The Hon. Richard Jones chairs one of our committees, which a couple of years ago inquired into the Rural Fire Service. That inquiry proved conclusively that a lot of nonsense is talked about by people who have an axe to grind.

I look forward to the Joint Select Committee on Bushfires getting rid of all this nonsense and this playing of politics. The issues are too important to people's lives and property, whether in city areas such as those that encompass the Lane Cove River National Park or in rural areas, for people to try to score political points with them. I congratulate the Government and the Governor on a fine Governor's Speech to open this session of Parliament. I look forward to the delivery of the legislative and administrative program throughout this session.

The Hon. GREG PEARCE [9.01 p.m.]: I respond to the Governor's Speech, which sets out the Government's program for the coming parliamentary year. This is my first opportunity to speak in this House in an Address-in-Reply debate and I am grateful for the opportunity to do so on behalf of the people of New South Wales. It is a privilege and a responsibility I am proud to accept. First, I congratulate the Governor on her Speech and on her performance of her duties. I concur with other honourable members' comments about the Governor, and I am happy to see her perform her duties as she is.

Before I comment about several areas of Her Excellency's Speech, I would like to comment on the involvement of a group of volunteers who were representing rural firefighters, fire brigades, SES, ambulance officers and other volunteers involved in fighting the recent bushfires. As many honourable members are aware, these brave men and women were part of a guard of honour for Her Excellency and it was tremendous that these individuals were part of the celebrations. I take this opportunity to pay tribute to them and all the other volunteers and emergency personnel they represent for the courage and spirit they displayed during the recent bushfire crisis. Without their hard work and dedication in fighting what were up to 100 separate fires blazing across the State the damage would have been far more significant. It was with great expectation that I listened to the opening of the Governor's Speech when the Governor stated the Government's intention to:

... present to Parliament a substantial program of legislation which intends to advance the Government's key objectives of modernising the State infrastructure, promote investment and jobs, create safer communities, world-class schools and hospitals, and protect our unique environment in New South Wales.

While I am delighted to hear that the Government intends to achieve all these positive outcomes for the people of New South Wales, I am bemused as to exactly why they were not undertaken during the seven years Premier Carr has been in office. The question must be asked: What has stirred this sudden desire amongst the Carr Government members to advance these supposed key priorities? I have been thinking about the reasoning behind this new-found vision by the Carr Government and I may be able to shed some light on the possible reasons for other confused honourable members.

Perhaps the need to create safer communities has been the result of the staggering increase in crime rates under the Government's leadership. According to statistics produced by the New South Wales Bureau of Crime Statistics and Research, since 1995—when the Carr Government came to office—assaults have increased by a staggering 56 per cent. There were 3,660 robberies with a weapon other than a firearm in 2000, compared to just 1,465 in 1995—a massive increase of 149.8 per cent. Last year 80,843 dwellings were broken into, compared to 61,336 in 1995—an increase of 31.8 per cent. Stealing from a motor vehicle is up 60.3 per cent on 1995, with 89,576 reports last year compared to 55,896 in 1995. Today the Minister for Police tried to evade answering questions about the increase in motor vehicle thefts that was revealed in the past couple of weeks.

Under the Carr Government New South Wales has the highest level of violent crime in Australia because there are not enough police on the street. I concur with the comments of Reverend the Hon. Fred Nile about the morale of the Police Service. The morale of the Police Service is understandably at a very deep low, because of the mismanagement and lack of commitment of the Government and the lack of resources being applied to the Police Service. It is with the evidence I have just mentioned in mind that I can understand why the Premier has decided it is time to finally do something about it.

The goal of building world-class schools is also a noble aim of the current Government and something the Coalition fully supports. However, it strikes me as odd that this is the case when the Premier and his henchman the Minister for Education and Training are so eager to sell off schools. Last year the Government announced its plans to sell off Hunters Hill High School, Vaucluse High School, Marrickville High School and Dulwich Hill High School. This fire sale of public education does not add up, especially when matched with the Government's supposed goal of building new schools. It seems that the Premier has been on the road to Damascus in the area of health as well. After seven years the Carr Government is now committed to building hospitals of world-class standard. This is lucky for the people of New South Wales, since the Government's record has been patchy at best.

Take, for instance, figures released this month for the Royal Newcastle Hospital which showed that of 2,074 people waiting for elective surgery at the hospital 274 have waited more than 12 months. Similarly, Nepean, Bankstown-Lidcombe and Gosford hospitals also recorded more than 2,000 people on their elective surgery waiting lists in January. In fact, 50,462 patients were waiting for elective surgery in New South Wales. If one compares those figures to the waiting lists in 1995—the year the Labor Government came to office, stating that it would halve waiting lists—it is clear that through the Labor Government's total mismanagement of the hospital system it is now necessary to build new hospitals. For example, the waiting list at John Hunter Hospital increased from 1,171 to 1,269, while Maitland hospital's list more than doubled from 224 people to 472 over the same period.

Under this Government the State's hospitals have deteriorated to a disgraceful state. Not only are waiting lists too high but hospitals are run down and waiting times are too long. Recent figures show 7,120 patients throughout the State were forced to wait more than eight hours in New South Wales hospital emergency departments in October because of a shortage of beds, despite the Minister's own hospital guidelines, which state that 81 per cent of emergency cases should be seen within 10 minutes. This is shameful, but certainly illustrates why the Government has suddenly decided to do something about the state of our hospital system.

It is also interesting to see that the Government has suddenly become interested in protecting the unique environment in New South Wales. This is the same Government which, since gaining office in 1995, has pillaged the suburban Sydney environment through its failure to curb overdevelopment that is occurring in residential areas under the guise of State environmental planning policy 5 and State environment planning policy 53. I have seen first-hand the effects that these policies are having on our suburbs, causing loss of neighbourhood character and amenity, destruction of the natural environment in those areas and the loss of wildlife.

Is Premier Carr saying that he is prepared to do something to stop this degradation and the plundering of the environment? He has let overdevelopment run unchecked for the past seven years of his arrogant and

contemptuous reign on New South Wales. It is clear that this is just more rhetoric from the master spin doctor himself. Of great interest to me in my work on State development and infrastructure was the promise of modernising the State's infrastructure and promoting investment and jobs. It would be of great relief to the future generations of this State should the Carr Government actually decide that it is time to invest in infrastructure. In the seven years the Carr Government has been in office public spending on infrastructure has actually declined as a percentage of the State's budget. This can be seen after a quick scan of the New South Wales budget papers, which reveal that since 1995-96 the percentage of the total budget spent on infrastructure has plummeted from 14.6 per cent to approximately 8 per cent.

With this in mind, is it any wonder that Government-provided services in areas such as health, education, public safety and the environment have deteriorated so significantly, especially considering that this Government has continued to reduce the funds available for the maintenance of facilities and the construction of new schools, hospitals and police stations since it has held office? I concur with the comments of the Hon. Jan Burnswoods, who was deploring the decline of the State's schools.

The Hon. Jan Burnswoods: I was not.

The Hon. GREG PEARCE: I agree with the honourable member that we have reached the stage that something must be done.

The Hon. Jan Burnswoods: Point of order: The Hon. Greg Pearce is misleading the House about what I said. I said that I was delighted that more money was being spent on maintenance and upgrading our schools. At no stage did I deplore the state of our schools. I ask the honourable member to speak the truth.

The Hon. John Jobling: To the point of order: If the Hon. Jan Burnswoods feels that she has been misrepresented she can correct that at the end of the address. There is no point of order in what she is claiming now. If she believes that she has been misrepresented she can correct that by way of a personal explanation.

The DEPUTY-PRESIDENT (Reverend the Hon. Fred Nile): Order! The Hon. Greg Pearce may resume his speech but he should take note of the comment of the Hon. Jan Burnswoods that he speak the truth.

The Hon. GREG PEARCE: I always take note of the comments of the Hon. Jan Burnswoods. We will both have to read *Hansard* tomorrow; perhaps I will come into the Chamber tomorrow night and quote what the honourable member said. Initially I was excited to hear that the Government would reach major planning milestones on a range of significant transport projects, including the cross-city tunnel, the western Sydney orbital, the Liverpool to Parramatta bus-only transitway and the Lane Cove tunnel.

The Hon. John Jobling: What about the millennium trains?

The Hon. GREG PEARCE: I will come to them. However, it then occurred to me that I, along with the people of New South Wales, have been waiting for these milestones to be met for some time now. In fact, it was in 1995, when the Carr Government came to office, that many of these projects were announced in the so-called visionary document "Beyond 2000"—a document in which the Government outlined plans for the western Sydney orbital, the cross-city tunnel and the Liverpool to Parramatta bus-only transitway. Sounds familiar, does it not? I must point out to the Premier that these projects have already been made public and announced and announced and announced. For instance, the cross-city tunnel was announced in 1995 in the "Beyond 2000" document. It was meant to have begun in 2000 and be completed by 2004. However, that stands in stark contrast to what has actually happened. Today, in March 2002, nothing has happened. This is another example of Mr Carr talking the talk but being unable to walk the walk.

The Hon. Richard Jones: There's a new plan.

The Hon. GREG PEARCE: There is a new plan. This promise, like the Premier's commitment to bring into service new train carriages—the millennium trains referred to by the Hon. John Jobling—will be greeted with disbelief by those commuters who were first promised these new carriages in 1997.

The Hon. Richard Jones: Which millennium?

The Hon. GREG PEARCE: Mr Carr, we are still waiting. And the question remains: Which millennium? For all those people living in Sydney's north-west, the promise of the Lane Cove tunnel is a God-

send to hundreds of commuters who must endure the daily peak hour crawl. Also, they have been waiting several years for a solution to their traffic woes. However, I am sure it will surprise no-one to hear that it looks like they are destined to wait much longer. I refer to a report published in the *Sydney Morning Herald* of 8 November 2001 which claims that the cost of building the tunnel has blown out by \$265 million and that completion has been delayed by two years. However, these commuters should not lose all hope of this road being completed. The Carr Government would love to have another road constructed so that it can impose yet another tax!

That is right—this Government, the highest taxing Government in Australia, would love to have another revenue-raising mechanism by slugging the commuters of Sydney's north. But was this not the same Government which declared in 1995 that it would not increase taxes and charges? This promise has been broken again and again during Mr Carr's term in office. The most recent example has been seen in the slugging of families from Sydney's North Shore, northern beaches, Central Coast and north west who choose to use the harbour bridge and tunnel with its 36 per cent toll increase. This clumsy imposition of a tax on one section of the community further highlights that the Carr Government is not committed to governing for all but simply for a small minority of supporters.

The Governor in her speech also mentioned that this year will see the start of stage one of the Parramatta to Chatswood railway link. Stage one is the Chatswood to Epping rail link, which is now due to be completed by 2008. But this project, according to "Beyond 2000"—the document praised by the Premier—was meant to have started in 2000 and to have been completed in its entirety by 2006. This Government has been characterised by bureaucratic bungling and unnecessary delays. In fact, nearly 60 per cent of the projects outlined in "Beyond 2000" are not yet approved or are still in the pre-planning or development stage. Where is the honesty? Where is the transparency? This Government has made many commitments to the people of New South Wales, yet in most instances they have been mere promises which are not actioned.

These hollow promises by the Carr Government are simply a case of "We'll believe it when we see it!" People have been listening to the Premier's rhetoric for the seven years he has been in office. This Government has promised the world yet delivered little. It has suddenly acknowledged its mismanagement of our public health system and has offered a bandaid solution of better hospitals. In promising to build safe communities, the Carr Government is finally acknowledging that crime has blown out of control while it has been in office. The shutting down of our schools and the destruction of our suburban environment has caused the Government finally to make a commitment to try to improve these important areas of our State. And why? Not because the Premier and his cronies are committed to improving this State for the betterment of all; rather, to enable the Government to win another term in office so that Government members can continue to live comfortable and wonderful lifestyles and Ministers are able to transport their poodles around the State in chauffeur-driven limousines.

The Hon. Richard Jones: Was it a poodle?

The Hon. GREG PEARCE: I do not know whether it was a poodle, but poodle sounded good enough. The Governor's speech was little more than a collection of reannouncements, many of which have been already promised yet not been delivered. Once again this highlights that there is a vacuum of ideas in the Carr Government.

[Interruption]

I understand that the poor dog had a bit of a problem.

The Hon. Richard Jones: On the carpet in the limousine.

The Hon. GREG PEARCE: Yes.

The Hon. Duncan Gay: It was a seat problem.

The Hon. GREG PEARCE: It was a seat problem, was it? This Government has been successful at public relations and spin doctoring, but public relations and spin will not improve the way we live in New South Wales. This spin simply has no traction. It is vision accompanied by action that is needed, and only a Coalition government in New South Wales can deliver these two objectives. After seven years in office what has this Labor Government achieved? It has managed to break promises while ensuring that crime rates rise, police

numbers stagnate, hospital waiting lists escalate and transport and road systems deteriorate to an absolutely disgraceful degree. The grab bag of solutions announced in the Governor's Speech are too little too late and a last ditch attempt to save the Government from an angry electorate in March next year. I am sorry, Premier Carr, time is up. The people of New South Wales will no longer be duped by your hollow rhetoric!

The Hon. RICHARD JONES [9.20 p.m.]: I congratulate the Governor, Her Excellency Marie Bashir, AC, on her first opening of Parliament. She is arguably the best choice of Governor ever made in this State. She has a rare compassion and humour, and a wide-ranging knowledge of a multitude of issues. Whilst some profess to have been bored by the Speech she was obliged to make, I was not. A number of excellent initiatives were announced—not all new, but I hope we will see some action 12 months before the election. I am pleased that at last the Far West of the State is receiving attention for conservation purposes. The coast, where so many ardent conservationists and indeed most of the population live, has been well studied and many vitally important and beautiful areas have already been conserved for our grandchildren and great-grandchildren. The west has been suffering for many years from over-exploitation and degradation. Disgracefully, some 60,000 hectares are still being cleared each year. Many more species are moving inexorably towards the brink of extinction.

There is supposed to be a policy in place, in agreement with the Federal Government, to have no net loss of native vegetation as of 1 July last year. I have asked the Minister for Agriculture a number of times when this policy will be in place. He has now lost the Land and Water Conservation portfolio to John Aquilina, and I hope that the new Minister will ensure that this agreed policy is in place. Loss of species, salination and degradation of the natural environment will continue to increase unless this vital policy is in place. A number of important areas need total protection in national parks, and some have been acquired during the past two or three years. In order to catch up with the percentage protected in coastal regions, a great deal more work needs to be done to protect and manage more areas. The western national parks will provide refuge for vast numbers of species that will otherwise be lost at the present rate of clearing. The largest red kangaroos in New South Wales are found in the Sturt National Park, and in the areas exploited by the kangaroo industry they are mostly the small ones and predominantly females.

Peter Absalom, the kangaroo shooter interviewed on *60 Minutes* a couple of weeks ago, told Juliet Gellatley that he is now shooting 70 per cent females. The ratio used to be 85 per cent males and 15 per cent females. He said that he shot whatever was there. He pointed out to Juliet that the oldest kangaroo he shot was four years old. He assured her that he knew his kangaroos, having shot 250,000. Research recently released indicates that the average age of red kangaroos in New South Wales is two years. That is extraordinarily low: surely it should be eight or nine years. That statistic gives an indication of the shooting pressure on red kangaroos. Also recent research indicates that the average recruitment rate of red kangaroos is between 6 and 8 per cent a year on average, yet quotas recently have been double that or more. Interestingly, I read some years ago where Peter's father, Jack, had to sell a kangaroo business near Broken Hill because he had shot out all the kangaroos. Let us hope that history does not repeat itself.

Because there are millions of kangaroos in Australia we imagine that there will always be millions of kangaroos, but that may not be so. There were commercial kangaroo industries in Victoria and the Northern Territory until there were not enough kangaroos and wallabies for the industries to continue. I predict that South Australia will be the next State to go, with the possible exception of one property. In the latter part of the nineteenth century there were literally billions of passenger pigeons in the United States of America, but the last one died in captivity in 1914. An extract from *The Story of the Passenger Pigeon* by Clive Ponting, which I downloaded from Google this morning on the eco-action web site, states:

Probably the most terrible example of mass slaughter in the history of wildlife was not the bison but the passenger pigeon—a story that almost defies belief.

He talks about the huge populations of birds throughout the years. He continues:

As late as 1854 in Wayne County, New York, a local resident wrote:

There would be days and days when the air was alive with them, hardly a break occurring in the flocks for half a day at a time. Flocks stretched as far as a person could see, one tier above another.

On 8 April 1873 at Saginaw in Michigan there was a continuous stream of passenger pigeons overhead between 7.30 in the morning and 4 o'clock in the afternoon. Other reports describe flocks a mile wide flying overhead for four or five hours at a time during their migration in the early spring from the south to their breeding areas in New England, New York, Ohio and the southern Great Lakes area.

It is estimated that there were five billion passenger pigeons in North America when the Europeans arrived—about one-third of all birds in North America at the time, and the total number of birds found there today. The article continues:

The population ... by the middle of the nineteenth century was still several billions strong. The real onslaught began with the onset of large-scale commercial hunting carried out by well-organised trappers and shippers.

The numbers fell rapidly and by 1914 the last survivor of a species that had numbered five billion died in captivity. That is an absolute outrage. Another example of gross mismanagement of wildlife was the Newfoundland cod industry. Just 20 years ago there seemed to be an endless supply of cod, as there had been for 500 years. Today the cod is close to extinction, and it is said that it is best viewed in an aquarium. For years the warnings of scientists were ignored in the interests of jobs. In 1986 it was discovered that the stock had been overestimated by 100 per cent. That was the year that the Fund for Animals won a court case in the Administrative Appeals Tribunal against the Queensland kangaroo management program on the basis, amongst others, that the red kangaroo populations had been overestimated by 100 per cent. Even today they are still being overestimated. In Canada the Department of Fisheries ignored the warnings on the east coast until it was too late. The northern cod fishery collapsed in 1992 and the southern cod fishery collapsed in 1993, and 40,000 people were put out of work—the largest lay-off in Canadian history. Therefore, an abundant species can be reduced to virtually zero within a handful of years. Koalas are another case in point. In the 1900s there were millions of koalas in Australia. Tarren Wagener, Conservation Science Manager at Fort Worth Zoo, said in an article:

Until the 1900s, millions of koalas existed throughout southeastern Australia. Precise historical numbers are hard to come by, but in 1924, more than two million pelts were sold in the fur trade ... By the end of 1924, the species ... [had] been exterminated in South Australia and nearly wiped out in both Victoria and New South Wales. In 1927, the [Queensland] state government allowed for an open hunting season and nearly 600,000 more koalas were shot and their pelts exported.

Honourable members will recall that President Hoover signed a koala import ban in 1926. Today roughly 40,000 or 50,000 koalas are left in Australia. Again, their numbers have dropped from millions to tens of thousands in just two or three years. When 70 per cent of the kangaroos in eastern Australia died in a massive drought in 1983 the quota was not reduced. Now the quotas are much higher. The population of red kangaroos is under great stress from overshooting. No scientific research has been undertaken to determine how many red kangaroos can be shot without it having an effect on the population. Insufficient research has been conducted to determine what effect the shooting of the largest animals will have in the long term. Logically, if the largest animals are shot all the time it will eventually lead to a dwarf species.

I bred goats several years ago. We did not cull the largest and best breeding animals, nor would any breeder—that would be total madness. It is claimed that the kangaroo industry is growing at 5 per cent a year. If the industry continues to grow and if there is another serious drought, as occurred in 1982-83, we can be certain that the quota will not be reduced. A potential 70 per cent die off, and combined with a large commercial kill, plus road deaths and illegal killing, the red kangaroo population could be reduced to a remnant in 12 months, as happened with koalas and Newfoundland cod.

The DEPUTY-PRESIDENT (Reverend the Hon. Fred Nile): Order! I welcome visitors in the gallery from the Warringah and Brookvale Rotary Clubs.

The Hon. RICHARD JONES: Will the National Parks and Wildlife Service be able to resist the pressure to stop the killings when so many jobs are at stake? They have not resisted the pressure to kill flying foxes, even when they are threatened, and the populations have dropped 30 per cent in 10 years. Jobs come first and biodiversity comes second with this Government. Violence is increasing in our society, as was announced on the radio this morning. The statistics show that there has been a significant increase in recent years.

I have the latest figures available from the Bureau of Crime Statistics and Research, obtained from the *lawlink* web site. The bureau speaks about various increases in crimes over the years. For example, robbery with a firearm increased by 33.4 per cent in 1996-97, with a subsequent decrease. Other assaults increased by 22.5 per cent in 1995-96, 8.7 per cent in 1996-97 and 6.2 per cent in 1997-98, with no significant trends since then. The figures show a significant increase in some crimes. As the Hon. Greg Pearce said, there is no doubt that there is an increase in crimes in our society.

Yesterday I saw a very violent video here in my room in Parliament House. It is R-rated for its high level of violence and its viewing is restricted to adults 18 years and over. The video is titled *Hunters Home Video, Vol. 1*, starring Col Allison. It has received an R-rating because it depicts gratuitous violence and men

revelling in cruelty to animals. For example, it shows a pig dogger in action. The video shows some dogs holding a squealing pig by the ears and other dogs biting various parts of the besieged animal while a hunter gets on the pig's back and stabs it in the stomach. There is another scene where a hunter has shot and injured a pig. The hunter approaches as the pig writhes in agony on the ground. As the hunter gets closer the pig gets up and tries to charge the hunter. The hunter falls backwards and then gets up and shoots the pig in the head. All the while the hunters are laughing.

Another scene shows what is claimed on the cover to be the "fastest-paced fox shoot ever filmed". It is extraordinary how bad is the aim of the shooters. They have to shoot three, four, five or even six times before they kill the foxes. There is scene after scene of foxes trying to race away as the shooters blast away at them. Many get away, as they say in the film, and many get away injured. What is interesting is the obvious relish with which the hunters shoot the animals. There are slow-motion replays showing a fox cartwheeling head over heels or sliding into a heap. The shooters lay all their dead foxes in a row and comment that, whilst they killed some, many got away—leaving some for seed, as they termed it.

These are the same people who are benefiting from the game bill. These are not professional cullers who attempt to reduce feral animal populations in a co-ordinated program to protect stock and wildlife. These people get intense pleasure from killing animals—a fact that is obvious from their excited laughter and comments throughout this R-rated video. There is no doubt that a small segment of our society get pleasure from killing. The hunters in the film, and no doubt their hunter friends, actually enjoy seeing animals catapulting in the air with blood spurting from them. I find it very disturbing that this kind of activity is supported and indeed promoted by the Carr Government. It is quite one thing to have to euthanase animals that are suffering; many of us have had to take a favourite cat or dog to the vet to have it put down to prevent it from suffering further. Many no doubt have had to assist an animal to die when it has been run over.

Many farmers, regrettably, have had to shoot large numbers of sheep that were on the point of starving. They do not do that with a smile on their faces. They do not take pleasure in seeing their animals die. Many who shoot their sheep do so in tears. It is one thing to kill an animal out of compassion; it is another thing to kill an animal dispassionately. Professional kangaroo shooters kill kangaroos because it is their living. Largely, they are dispassionate about what they are doing. Many are troubled about having to kill the joeys, and say so. Indeed, many take young joeys home and raise them. It is quite another thing again, and way beyond the pale, to kill an animal for the sheer pleasure of doing so. This is exactly what recreational shooters do. William James, who lived from 1842 to 1910, referred in his book *The Principles of Psychology* to the hunting instinct in the following terms:

The hunting and the fighting instinct combine in many manifestations. They both support the emotion of anger; they combine in the fascination which stories of atrocity have for most minds; and the utterly blind excitement of giving the rein to our fury when our blood is up (an excitement whose intensity is greater than that of any other human passion save one)...

I imagine one can guess what that is. Further on in the book he says:

It is just because human bloodthirstiness is such a primitive part of us that it is so hard to eradicate, especially where a fight or a hunt is promised as part of the fun.

In the footnote he says:

It is not surprising, in view of the facts of animal history and evolution, that the very special object blood should have become the stimulus for a very special interest and excitement.

D. Hack Tuke, MD, in his article *The Journal of Mental Science*, published in London in 1886, talks about what he called *mania sanguinis*. Interestingly, this is the first time that *mania sanguinis* is mentioned. In this article Dr Tuke talks about the question of bloodlust and how some individuals are peculiarly excited by bloodlust. He talks about a person who had been a patient in an asylum, as it was called in those days, and said:

He killed many small animals and birds, such as dogs, cats, doves, fowls, &c... he is a great coward, and was never one to attack any person or thing that would be likely to offer resistance.

The very sight of blood, as we have seen, had a strange effect on this man, and worked a wonderful transformation. His countenance assumed a pallid hue, he became nervous and restless, and unless he was where he could be watched, he, so he stated, lost control of himself, and indulged in the proclivities for which he was notorious.

Dr Tuke speaks about how this man killed a horse for the excitement of seeing blood coming from the animal. This sounds a bit extreme, but it is in keeping with other research I have done on the matter. It is quite clear that there is such a thing as bloodlust, and I believe that these hunters are actually indulging in it. In a very

interesting article entitled "Washington Diarist: Loaded", which was published in *The New Republic*, Michelle Cottle referred to her own bloodlust and stated:

As a Southern woman, I have loved my share of armed men. My high school beau favoured duck hunting. In late autumn, he liked nothing better than to rise at the crack of dawn and take his Labrador retriever down to the lake for a little pre-breakfast shoot. My college sweetheart preferred dove hunting, which involved rising at the crack of dawn to go crouch in a wheat field all day. Then there's my father. If it moves and is not registered to vote Republican, Dad will take a shot at it. Ducks, doves, deer, quail, elk, raccoons, boar—you name it, he's stalked it.

Then, interestingly, she says:

Though far from a reliable shot, I have blown a handful of God's creatures into the great beyond—the largest being a wild hog I took down with a .44 Magnum carbine. I have, in a rush of adrenaline and blood lust, blasted a nondescript, but shockingly fast-moving, tweety bird out of the air by mistake.

She said further:

I may not live to hunt, but I understand the appeal.

I talked to duck shooters on Lake Cowal and Barren Box Swamp. Several times I went down there to try to rescue injured ducks and to frighten ducks away so that they would escape the hunters. The shooters said, "You don't understand. It's just like Christmas for us." Does anyone actually believe that they were just shooting the ducks to eat? The army gear they were wearing, their equipment, their guns and vehicles cost many thousands of dollars. It would have been far cheaper for them to go down to a butcher shop in Melbourne—that is where most of the hunters came from—and buy a duck or two. No, the real excitement is in the killing, the bloodlust. I have an interesting article by Gary Yourofsky published in the *Detroit News* entitled "Hunters are terrorists of animal world". In the article he quotes Ted Nugent, the world's most outspoken hunter, who said:

I contribute to the dead of winter and the moans of silence. Blood trails are music to my ears. I'm a gut-pile addict. The pig didn't know I was there. It's my kick. I love shafting animals.

Gary Yourofsky says:

Hunters hunt for the thrill of the kill. They receive a heroin-like rush to the senses. Hunting is blood lust and dominance. Hunting is hatred and violence. Hunting is murder. And it's obscene.

He quotes Pythagoras, who said many, many years ago:

As long as humanity continues to be the ruthless destroyer of other beings, we will never know health or peace. For as long as people massacre animals, they will kill each other. Indeed those who sow the seed of murder and pain will never reap joy and love.

Again trolling the Internet, I found on *netscapeonline*, a United Kingdom web site, an article by Henry Salt called "The Bleeding of Children". He wrote in this article nearly 100 years ago:

Of all practices connected with "sport" none are more loathsome than those known as "bleeding", whether it be the "bleeding" of children, which consists in a sort of gruesome parody of the rite of baptism, or the "bleeding" of hounds—viz., the turning out of some decrepit animal to be pulled down by the pack, by way of stimulating their blood-lust. Here are a few examples:

On January 4, 1910, the *Daily Mirror* published an account of the "bleeding" of the Marquis of Worcester, the ten-year-old son of the Duke of Beaufort. In a front-page illustration the child was shown with blood-bedaubed cheeks, holding up a dead hare for the hounds, while a number of ladies and gentlemen were smiling approval in the rear.

He refers to an extract from an article in the *Cheltenham Examiner* dated 25 March 1909 and goes on to state:

Captain Elwe's two children being present at the death of a fox on their father's preserves, the old hunting custom of 'bleeding' was duly performed by Charlie Beacham, who, after dipping the brush of the fox in [its] own blood, sprinkled the foreheads of both children, hoping they would be aspirants to the 'sport of kings'.

There are many other articles by Henry Salt dealing with blood lust that are actually quite interesting to read. I refer now to a thesis submitted by Dr Cathy Schuller, BVSc, entitled "Killing for Sport: A Critical Analysis of Recreational Hunting in Australia". A case is before the courts relating to Dr Schuller having been forced out of the University of Sydney by the hunting lobby because of this thesis. As that matter will be litigated shortly, I will not dwell on it. The 280-page analysis of killing for sport is amazing and I will send it to any honourable member who is interested in reading it. I will refer to two or three short extracts from the thesis but in particular to her reference to a person named Jose Ortega Y Gasset, who was one of Spain's leading philosophers in the twentieth century. The thesis refers to those instincts with which the modern hunter is equipped and Ortega

offers several possibilities. We are told that the hunter has an instinct to pursue and that this is elicited by sight of a prey animal. The thesis states:

To illustrate this point Ortega relates the story of a group of hunters travelling in a car to a game ranch. While they are driving along the highway they suddenly happen upon a couple of wolves crossing the road. The animals stop motionless as the car pulls to an abrupt halt. The occupants are in a tumult, shouting for their guns, their bullets, some jumping out through the windows, others squeezing out through a small door to get to the animals. Ortega observes,

Let us call things by their proper names; all that sudden uproar shows the automatic discharge of the predatory instinct which survives in modern man as a rudiment. In this case since the men are hunters, it means that the archaic and suffering instinct, nourished by exercise, has notably been rehabilitated in them.

But the reaction is typical, and it deserves close attention, because it constitutes the essential means without which hunting would not exist today and which was established in the organism of man hundreds and thousands of years before history began... (in fact) to not react with a predatory intention would be anti-natural.

That theory is refuted in the thesis. Blood lust, which is referred to in passing in the thesis, is mentioned over and over again in literature on killing for sport. The author of the thesis points out the possibility of empirical support for the theory that hunting has a special appeal to young males. The author states:

A study conducted in the United States in 1973 (a time when access to hunting areas for the young was probably easier and cheaper than today) showed that of thirty thousand hunters the greatest age representation occurred in the 15-19 year old bracket. In general most hunters fell within the 15-30 year old group and thereafter there was a gradual decline... In another study which delved into the motivations of hunting it was found that young hunters, in particular, seem to experience a 'high' or adrenaline 'rush' just after the kill. This elation or heightened sense of arousal was particularly evident amongst young hunters who often slept little the night before hunting and lost all interest in food... Once more, in a popular commentary on the American hunting scene called *Bitter Harvest*, John Mitchell says:

There is no denying the dark and scabrous bloodlust of the adolescent male in his earliest seasons of the hunt. He is insatiable... And some burdened by a defect of mind or character, remain adolescent through the rest of their years.

Essentially it is being suggested that while young people have a blood lust and experience the high of killing, in most people this feeling goes away when they become adults. Because some people never actually grow up and never get over their adolescent blood lust, they remain that way for the rest of their lives. It is obvious from the video to which I referred earlier that although the people depicted were adults, they still had their adolescent blood lust for killing, despite being fully grown adults. The thesis also states:

In order to kill, man must have developed the necessary physical as well as the emotional equipment to do so (Caras 1970, p.162). As an alternative to a simple bloodlust this may have included the capacity for the hunter to dissociate his feelings from the object of the chase. Put another way, 'The human killer can no more afford to be sorry for the game than a cat for its intended victim' (Washburn and Lancaster 1987, p.299). If the prey were not invested with any human-like qualities the hunter need not identify or empathise. This capacity became known as the 'hunting factor' and was believed to be favoured in our hunting ancestry... Furthermore, killing humans might be possible by the same rationale. If the enemy ceased to be regarded as human then under the right circumstances, this would account for the phenomenon of war. Rather than an innate lust for killing, a hunting past therefore endowed man with an innate 'objectifying' stance.

I will deal in more detail at a later stage with the subject of how in many cases that has become a reality. Dr Schuller also states:

Where subsistence is the motive the aim is to kill **or capture** the animal as quickly as possible. However, where there is a desire for 'sport', and enjoyment lies in the challenge of the chase, as 'true' hunters remind us, the kill is best protracted. As we are also reminded the kill is essential in order to have an 'authentic' hunting experience. I conclude that there are very few similarities between subsistence and recreational hunting.

Dr Schuller also deals with the proportion of hunters who are men or women. She stated that when she checked out 500 photographs chosen randomly from magazines including the *Sporting Shooter*, just over 97 per cent depicted men hunting. Of the 14 photographs in which women appeared, 13 were obviously family groups. She also states that 99.3 per cent of respondents to a deer hunter survey were male and that 0.7 per cent were female. The results of a Roy Morgan Gallup poll on duck shooting in New South Wales in 1993 indicated that nearly 80 per cent of women disapprove of that form of hunting. That shows that hunting is a peculiarly primitive male response. Another point to be made on the subject of blood lust is dealt with in an article published in *Humane Religion*, a bimonthly magazine, entitled "Jews, Christians, and Hunting". The article, which makes a comparison between the attitudes of Christians and Jews towards hunting, states:

Esau, like Nimrod, is considered a contemptible character. The Encyclopaedia Judaica reports that "The two famous hunters in the Bible, Nimrod and Esau, were regarded in a derogatory light, as rebels against God and the very antithesis of the spirit of Judaism." The Encyclopaedia also reports that "the rabbinical attitude toward hunting is entirely negative. Harsh things are said about those who hunt even for a living.

Interestingly, many hunters called themselves Nimrods after the character in the Bible, but the character in the Bible was essentially an evil character. The article cites a reference from the *Corpus Juris Canonici*, Rome, 1582, which states:

Esau was a hunter because he was a sinner; and in the Holy Scriptures we do not find a single holy man being a hunter.

The difference between killing an animal to prevent it from suffering and killing an animal for sheer pleasure and excitement is akin to the difference between a doctor euthanasing a person who is suffering from a terminal illness and a murderer killing a person in an orgy of blood lust. Unfortunately there are clear links between cruelty to animals and violence to humans. A few days ago I received correspondence from Dr Eleonora Gullone, Associate Professor of the Department of Psychology at Monash University, which contained some very interesting information. Her letter states:

In recent years it is becoming increasingly accepted that the mistreatment of animals can be an indicator of many other forms of family violence and ongoing abuse and neglect, including domestic violence and child abuse. In the United States and Canada, and to a lesser extent the United Kingdom, domestic violence professionals, child welfare agencies, law enforcement agencies, and animal welfare organisations have come to regard cruelty to animals as a serious human problem closely linked to domestic violence, child abuse, and other violent crimes. Recent studies have suggested that more than one half of all abused women have companion animals. The research conducted to date has also revealed that many of these companion animals are abused by the perpetrators. This is usually a tool used by them as a means of hurting and/or controlling the women or their children. The research has also shown that concerns for the safety of their companion animals keep many women from leaving or staying separated from their abusers.

I have some other interesting and, as a matter of fact, quite horrifying information. The next article from which I wish to quote is entitled "Shooting Ourselves In The Foot—The Sanitising of Violence in Our Society". The article is written by Frank L. Hoffman from the Mary T. and Frank L. Hoffman Family Foundation, a Christian organisation. Mr Hoffman states:

Hunting, in my opinion, is a sanitised and socially acceptable way of expressing one's inner violent nature. It's an outlet, but it only reinforces such inner violence; it does nothing to arrest or eliminate it. Hunters make all kinds of excuses about why they hunt, such as, "I enjoy the outdoors", or "I hunt for food". Neither of these excuses really have any merit. We can all enjoy the outdoors without resorting to killing; and we can buy more food for the dollar in our markets than is spent on the so-called sport of hunting.

We as a society, and particularly our religious communities, need to address hunting as being a violent activity that is counter to the peace of God. We need to show the connection between all "acceptable" and "unacceptable" violent activities and domestic violence.

He then goes on to state:

The very expression "avid hunter" means that... loved to kill.

He refers to someone in the article. He continues:

He apparently saw killing as an acceptable way of expressing himself. He apparently could not differentiate between a "sport" in the woods and fields, and acting out of such aggression in the domestic arena.

Mr Hoffman then states:

The Biblical command, "Thou shalt not kill..." is usually seen only as referring to such acts as the killing of this woman, and it is seldom associated with the "sport" of hunting. However, to take pleasure in the death of another being is MURDER even if that being is non-human. If a person is killing for food, and there is no other way of obtaining any food, and he or she is truly sorry about having to kill, then Biblically and ethically such an act is not considered to be murder.

There is said to be a link between animal cruelty, animal abuse and murder. I have a list of serial murderers in the United States of America. Every single person on that list abused animals before becoming a murderer. The serial killer Jeffrey Dahmer killed and cannibalised 17 men and boys. As a child he impaled frogs, decapitated dogs and staked cats to trees in his backyard. Ted Bundy, another well-known serial killer and rapist suspected of murdering over 40 females, witnessed his father's brutality towards animals. He also tortured animals. Richard Alan Davis is another well-known and horrible killer and rapist. As a 14-year-old he set cats on fire and used dogs as a target to practise knife-throwing.

Many other serial killers are referred to in this document—27 in all. In every case these horrifying murderers were involved in animal cruelty. I would not even want to put on the record some of the horrifying things that they did. Every one was brutal to animals. There is a close link between cruelty to animals and violence to humans. There is a small step between such behaviour and being violent towards humans.

Reverend the Hon. Fred Nile: They are also stimulated by violent films.

The Hon. RICHARD JONES: The honourable member is quite right. We should be aware of that and not encourage such behaviour. It is wrong for the Carr Government to encourage cruelty to animals, which is what it is doing with its Game Bill. Everyone listed on the list of serial murders I referred to earlier killed for pleasure.

The Hon. Duncan Gay: Are you misleading the House again?

The Hon. RICHARD JONES: No, I am not. The honourable member should learn the facts about killing for pleasure. I will show the honourable member a video about killing for pleasure—it is an R-rated video and it is in my office right now. It is a video put together by hunters for hunters, showing what they actually do. Anyone who sees that video will be horrified. That hunters' video was put together by Col Allison. This R-rated video—which should be viewed only by people aged 18 and over—shows a series of hunts. I referred to this video earlier in my speech. I invite Opposition members to view this horrifying video. It is a disturbing fact that the killing of animals for pleasure is being encouraged by this Government. The Game Bill is being supported by what the Minister's adviser calls the flatheads in the National Party.

[Interruption]

The Minister's adviser said that the flatheads in the National Party will support this bill. Of course they will! They think that it is about feral animal control. They think that the object of this Game Bill is to control feral animals. It has nothing to do with feral animal control; it has everything to do with the video that I have in my room and it has everything to do with the pleasure that hunters get from killing pigs and wild foxes in the most grotesque way. One segment of the video depicts pig dogging, which is still legal. It shows dogs on either side of a pig which is being mounted by a hunter who is stabbing the pig in the stomach. The hunters in the video are laughing. They think it is a great joke. I do not think that killing animals for pleasure is a joke. Feral animal control that is properly carried out is a necessity, but killing animals for pleasure should not be encouraged in our society as it leads to other gross acts against humans.

The Hon. Duncan Gay: I do not think anyone would disagree with you.

The Hon. RICHARD JONES: We are finally getting somewhere. Although a number of people have been fooled by the number one object of the Game Bill, which is feral animal control—and we know that the bill has nothing to do with feral animal control—27 environment, animal welfare, conservation and gun control groups have not been fooled by it. They have seen through this bill. The funny thing is that the bill is actually referred to on the Hon. John Tingle's web site. He has clearly enunciated what the Game Bill is all about. I invite honourable members to go to that web site and to read a statement that is available to everybody by Robert Brown, Chairman of the Federation of Hunting Clubs—

Reverend the Hon. Fred Nile: He is in the Shooters Party.

The Hon. RICHARD JONES: He is on the committee of the Shooters Party. Robert Brown claims that he and the Hon. John Tingle are the architects of the bill. Robert Brown, a member of the Shooters Party, states:

Anyway, the important thing for us, is that the Game Bill is a State endorsement of hunting. If any of you still have doubts, just look at the incredible, hysterical reaction of the ALs—the Humane Society International, the RSPCA, Animal Liberation etc. They've vowed to stop the bill, and anything that gets these extremist bigots foaming at the mouth, just has to be good for us.

So, according to Robert Brown, a member of the Shooters Party, members of the RSPCA are "extremist bigots foaming at the mouth". I point out that Kerry Chikarovski is a patron of the RSPCA and so is Robert Carr.

The Hon. Doug Moppett: They are both supporting the bill.

The Hon. RICHARD JONES: They are supporting the bill. Apparently, they are extremist bigots foaming at the mouth as they are also supporting the RSPCA. General Purpose Standing Committee No. 5 is presently conducting an inquiry into feral animal control.

The Hon. Michael Egan: Have you seen the bill?

The Hon. RICHARD JONES: Of course! I have read it three times.

The Hon. John Jobling: You didn't understand it.

The Hon. RICHARD JONES: Unfortunately, I understood it very well. The more I read it and the more I read about it, the more I understand it. The bill is misleading in every way. Members, of course, take it at face value. When they read the bill they think it is good as it will control feral animals. Actually, it has nothing to do with feral animal control. We have already heard evidence from hunters about the fact that they want to seed the bush with future stock for shooting. That is what is reflected on the video to which I referred earlier. One hunter told the committee, "We are leaving some for seed."

The Hon. Duncan Gay: Some of the very bad hunters try to do that.

The Hon. RICHARD JONES: Of course, they do. They want to have future stock for shooting. They do not want the pigs and foxes wiped out; they want them there so they can continue to shoot them. Indeed, they like the animals to have a chance to get away. In the film they said, "And we left some for seed." They do not want to get rid of them. The bill is antithetical to feral animal control. It is basically a con job, and I am afraid that some members have actually fallen for it. I believe it is wrong to encourage violence in our society. I hope members will realise that and will ensure that if the Government goes ahead with the legislation it receives a gigantic reaction. I acknowledge that the National Party supports it, but I believe it should consider it more carefully.

Debate adjourned on motion by the Hon. Ian West.

CONVEYANCING LEGISLATION AMENDMENT (e-PLAN) BILL

Bill received and read a first time.

Motion by the Hon. Michael Egan agreed to:

That standing orders be suspended to allow the passage of the bill through all its remaining stages during the present or any one sitting of the House.

ADJOURNMENT

The Hon. MICHAEL EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [10.02 p.m.]: I move:

That this House do now adjourn.

CAMDEN PROPERTY MARKETING PTY LTD

The Hon. CHARLIE LYNN [10.02 p.m.]: I raise an issue of corruption in the process of an investigation conducted by the Department of Fair Trading. The investigation concerns an issue I raised in this House on 4 December last year when I called on the Minister to urgently review the conduct of an investigation by his department into an alleged misappropriation of trust account moneys by a staff member under Mr John Leach's supervision as licensee of L. J. Hooker in Camden. I advised the House that I knew Mr Leach personally and that I could vouch for his personal and professional integrity. This counted for nought with the Minister, who is obviously ignorant of the devastating human impact of bureaucratic incompetence within his own department. Mr Leach commenced his new L. J. Hooker franchise on 1 July last year.

Two months later, on Friday 7 September, Mr Leach discovered that an employee, Mr Alexander Cameron, had misappropriated substantial amounts of trust account moneys belonging to Camden Property Marketing. This account had nothing to do with Mr Leach as it was part of a transitional arrangement in purchasing the L. J. Hooker franchise. On discovering the anomaly, Mr Leach convened an urgent meeting with Mr McTavish, the franchise manager of L. J. Hooker (New South Wales), his co-director Mr Brendan Powers, and Mr Cameron. At that meeting Mr Cameron gave an undertaking to replace all missing funds on Monday 10 September; however, he failed to do so.

Mr Leach then telephoned the Department of Fair Trading and reported Cameron's thefts to Mr Henry Ngui of the Real Estate Services Investigation Branch. He also contacted detectives at Camden Police Station to report the irregularities he had discovered. He then met the investigation officers from the Department of Fair Trading and produced all available trust account records and sales files when they called at his office. I should mention that at no stage has Mr Leach misappropriated any trust moneys, nor any other moneys, and nor has the Department of Fair Trading ever alleged he did so.

Since reporting the misappropriation of trust moneys, Mr Leach has assisted the Camden detectives who are investigating the matter and given them all the necessary information together with copies of all available documents and records. The Camden detectives are supposedly investigating Cameron's acts and omissions with a view to laying criminal charges. However, six months have now passed and they have not yet contacted Mr Leach for a formal interview. I can only assume that either they do not have the resources to conduct the investigation or they are incompetent. I have written to the Minister for Police to find out which of these statements is correct.

It is interesting to note that Mr Leach's books were audited by the Department of Fair Trading in August last year and found to be in order. It is also interesting that his licenses as a real estate agent and stock and station agent were renewed by the department without objection in late December 2001 to expire on 11 January 2005. On Tuesday 8 January 2002 Mr Leach attended the offices of the Department of Fair Trading—accompanied by his solicitor—and was interviewed by the departmental officers involved in the investigation under the provisions of the Fair Trading Act.

Incredibly, the very next day the director-general of the department, Mr David O'Connor, signed a notice of suspension of Mr Leach's licence. In the notice Mr O'Connor declared that Mr Leach was no longer a fit and proper person to hold licences under the Property, Stock and Business Agents Act. Mr Leach was given no warning or notice of this suspension and was given no opportunity to make a submission to the department opposing the submission before it was issued. As a result of this arbitrary notice, Mr Leach had to immediately close his business and lay off his employees. He is now unemployed, has no income, is prohibited from continuing to work in his chosen profession, and is unable to clear his good name and reputation because the Department of Fair Trading will not file a complaint under section 29 in the Licensing Court of New South Wales.

This is an intolerable state of affairs and is more reminiscent of the subversive processes that used to occur in East Germany or Russia under the disgraced socialist regimes behind the Iron Curtain. If there is sufficient evidence to issue a notice of suspension based on grounds of alleged unfitness, there should be no delay whatsoever in the department filing a complaint and summons under section 29 in the New South Wales Licensing Court. If, on the other hand, there is still insufficient evidence, or the six months investigation is allegedly "still in progress", it is manifestly unfair for any notice of suspension to ever have been issued.

The situation as of today is that the alleged criminal is still walking the streets six months after he allegedly committed this serious fraud; the person who took all the proper steps to report and rectify the situation as soon as he discovered the anomaly and a well-respected businessman in the local Camden community has been treated as a criminal and has had his hard-earned business reputation destroyed. He is personally devastated and is virtually confined to his house with nothing to do but ponder over the injustice of the system.

I believe that any system in which a faceless bureaucrat can destroy an innocent citizen's business and personal reputation without any recourse to the legal courts of this State is frightening. And when Ministers abandon their responsibilities to ensure honest citizens are given a fair go before the courts, we are drifting into dangerous political waters. I therefore call on the Minister for Fair Trading to instruct his director-general to immediately lift the suspension notice he has issued to Mr Leach and to further instruct him to refer the case to the Licensing Court of New South Wales for determination by a magistrate.

I also call on the Minister for Police to instruct the Camden detectives to immediately interview Mr Leach over the matter and to take immediate action to apprehend Mr Cameron with a view to having him charged before a court for the fraudulent misappropriation of trust account moneys. Mr Leach deserves a fair go. He deserves to have his day in court to clear his name. And the Minister for Fair Trading deserves to be condemned for allowing this disgraceful situation to occur in what is supposed to be a fair and democratic State with proper legal processes and conventions to protect ordinary citizens from such appalling bureaucratic vilification.

CANNABIS MEDICAL USE

The Hon. RICHARD JONES [10.07 p.m.]: An article appeared in the *London Observer* on Sunday 4 November 2001 stating that cannabis is a wonder drug. The article read as follows:

Cannabis is a "wonder drug" capable of radically transforming the lives of very sick people, according to the results of the first clinical trials of the drug.

Tests sanctioned by the Government are proving far more successful than doctors, patients and cannabis campaigners ever dared hope. Some of the patients are simply calling it a "miracle".

Taking the drug—which it is still illegal for doctors to prescribe—has allowed a man previously so crippled with pain that he was impotent to become a father; a woman paralysed by multiple sclerosis to ride a horse for the first time in years; and a man who could not sit up in a chair on his own to live without a carer.

Until now claims of the benefits of the drug for certain conditions have been anecdotal. But the preliminary results of the UK Government trial, started last year, suggest that 80 per cent of those taking part have derived more benefit from cannabis than from any other drug, with many describing it as "miraculous".

The results make it almost inevitable that the Government will bow to public pressure and legalise the cultivation of cannabis for medical purposes by 2002. Scientists now predict that cannabis—first used for medicinal reasons 5,000 years ago—will follow aspirin and penicillin and become a "wonder drug" prescribed for a wide range of conditions.

Bowing to pressure for a less hard-line attitude, the Home Office started the first major cannabis trials in the world to see whether there was any scientific basis for its use as medicine. A licence was granted to a specially formed drug company to grow the plants under controlled conditions in a secret location in southern England. Twenty-three patients, suffering from multiple sclerosis and arthritis, were recruited on to the first trial, and given daily doses of cannabis by spraying it under the tongue, before wider trials were started.

The remarkable stories of the patients were revealed on the BBC program *Panorama*, which was granted access to them. Alex Ure, a former paratrooper, suffers from a severe spinal condition. The pain was so bad he considered suicide; he found legal painkillers turned him into a zombie and he could not have sex with his wife, Wendy, for five years. But after starting the trial he became a father. He said:

I couldn't even bend down and play with a child before—I could do anything now.

His doctor, Willy Notcutt of James Paget Hospital in Great Yarmouth, was sure the cannabis was responsible. He said:

His pain has been sufficiently controlled to engage in sex again.

Tyrone Castle, a former publican, started suffering from multiple sclerosis when he was 21 and became so incapacitated he needed two helpers to winch him out of bed. He also suffered from uncontrollable spasms. Cannabis has transformed his life. He said:

It has really helped sort out my spasms. It helps me sleep because I don't spend the night jumping about. The difference in my legs is unbelievable—they are no longer stiff as a board.

Jo, the wife of a school chaplain, suffered so badly from multiple sclerosis she would struggle to lift her legs up in the air six times. After she started the trial, she could lift her legs 25 times. She stated:

Its miraculous, really extraordinary. I've never had any sort of relief of this kind, and I've tried pretty well everything.

Notcutt said the trial was a success and stated:

The results have exceeded what I dared hope for. We're getting 80 per cent of patients good-quality benefit from the cannabis. For some we are getting almost total relief from their pain, with pain scores going down to zero.

Doctors believe cannabis could eventually prove useful in conditions such as osteoporosis, cancer, HIV-AIDS, arthritis, spinal injury and certain forms of mental illness. I strongly urge the Carr Government to get on with the job and ensure that those people who can benefit, like those suffering from multiple sclerosis and others, like those in England who have benefited from it, can also benefit. The Government should at least start some legal trials to prove the benefit of what has been a wonder drug for 5,000 years, proving once again that it should be legal, particularly for people who suffer and for other purposes. Bring it back where it should be—in the pharmacopoeia.

OLYMPIC STADIUM CONSTRUCTION ART EXHIBITION

The Hon. JAN BURNSWOODS [10.11 p.m.]: On 28 February I had the pleasure of hosting a display I am sure most honourable members would have seen of 10 oil paintings by the artist Ingrid Skirka. The exhibition was opened on that day by the Premier, and I thank him for doing that. The paintings commemorate the construction of the Sydney Olympic Stadium and honour the dedication of workers who made the Olympics possible. They are the only painted record of the 2½-years work on that site and, as far as I am aware, on any of the Homebush Olympic sites. Ingrid Skirka should be congratulated for her original idea and for the

determination with which she carried it through. Often the bureaucrats, with their fear of a young woman wanting to spend that 2½-year period on and off the site—often a quite dangerous site—were a bit worried, but Ingrid won through and the results can be seen in those paintings.

It was appropriate that the exhibition was sponsored by the Construction, Forestry, Mining and Energy Union, Construction Division, obviously the union that covered the majority of the workers on the site. It was an agreement between the Government, the Labor Council and the unions that saw a fully unionised workforce build the Olympic Stadium on time, within budget, with no industrial disputes and with an impressive safety record. Tragically, one worker, Thomas Pascoe, lost his life in the building of the Olympic Village. While it is obviously a tragedy that never should have occurred, compared to the safety record of other Olympic sites and other projects of this size, it is a record we should be proud of. The overall safety record of the Sydney Olympics construction was certainly way better than the Olympic constructions in Barcelona or Atlanta where dozens of workers were killed. This is partly the result of the major effort put into occupational health and safety by the Government, the unions and everyone involved and comes back to the agreement that saw the stadium and other facilities built on time, within budget, with no disputes and with that great safety record.

The exhibition in the fountain court gave a lot of pleasure to a lot of people. It also attracted a great deal of attention, not only because of the striking paintings but also because of what Ingrid described as the modular display unit. The modular display unit took the form of genuine scaffolding from building sites. Not only did Ingrid bring that scaffolding here—a rather unusual sight in the fountain court area—but she also went to a couple of building sites and borrowed a few pieces of concrete, some workers' steel-capped boots, some "safety helmet must be worn" signs, some brightly coloured jackets, and so on. The whole display was very different from most displays held there. It was striking and it got the message across very effectively.

As the Premier said when he opened the exhibition, it is unfortunate that there are very few artworks of workers. It is most unusual for artists throughout history to have painted pictures of workers or for workers to feature in novels and other works. Usually our art celebrates the aristocracy, the middle classes, the church, royalty or whatever.

The Hon. James Samios: There are some Latin murals.

The Hon. JAN BURNSWOODS: That is true. As the Hon. James Samios says, there are some Latin ones, and the Premier mentioned a couple of examples from the French impressionists, and in literature one can think of Emile Zola and so on. There are a few others, and it is good that honourable members are thinking about them. It is certainly true that art has normally been high art and the kinds of people who built the Olympic facilities have not been celebrated. Ingrid Skirka committed more than 2½ years of her life to this project. She got to know a lot of workers, she observed their work and recorded this history. The exhibition is next moving to Canberra. It has been a great experience to have it here. I wish her well in her career and hope that many more people will have the pleasure of seeing these paintings and thinking about their meaning and what they tell us.

TAFE RECRUITMENT PROCEDURES

The Hon. PATRICIA FORSYTHE [10.16 p.m.]: As the Opposition releases its policies this year and early next year I predict that the Government retort will be to ask "Where is the money coming from?" In part it will come from addressing the waste and mismanagement that we know to be occurring under this Government. Recently the Northern Sydney Institute of TAFE advertised for full-time teachers in business administration. I understand that six appointments were made. The issue is whether the best people were appointed, whether the applicants most qualified were appointed and, if not, why not.

A condition of the offer and acceptance of the position was that if candidates did not hold a Bachelor of Education (Adult Education) degree they must agree to complete a Bachelor of Education at the University of Technology, Sydney or another university approved by TAFE. Some of the applicants did hold such a degree. No-one who had these qualifications was offered one of the positions. The holding of the degree was not considered to be relevant at recruitment and therefore not considered to be part of the selection criteria. I am advised that TAFE will now release these newly appointed full-time teachers from half their teaching load, pay their university tuition and union fees and half their salary.

It has been put to me that this is at a cost over two years of \$100,000, based on university and union fees of \$7,700; loss of teaching time, \$50,000; compulsory superannuation on that lost time of \$4,000; the cost of a part-time substitute teacher, \$32,000; plus superannuation for that teacher of \$2,500; and administration and related costs of \$4,000. I am told that it is possible that within the TAFE system up to 40 teachers could be benefiting from the scheme. Where no-one is available with appropriate qualifications such generosity may be

explainable but, as I said at the beginning, teachers with appropriate qualifications did apply. It seems to make no sense to exclude from the criteria for the job a degree that is so relevant that TAFE immediately releases its teachers to undertake it.

A possible consequence is that some of the applicants who failed to be appointed are then offered part-time teaching positions and for those part-time teachers in the system to be offered increased teaching hours while the new teachers can be released to go to university. If the degree was not part of the selection criteria, some of the unsuccessful candidates are questioning just what was included. There is a view that they may be on thin ice on discrimination grounds since none of the older applicants were offered positions. Clearly, the system is absurd. How can holding a particular degree not be deemed important enough to be part of the selection criteria but important enough to cost taxpayers \$100,000 over two years? I urge the Minister to investigate this wasteful scheme and, in the process, overhaul the recruitment procedures of his department.

SENATOR HEFFERNAN CRIMINAL OFFENCES ALLEGATIONS

The Hon. PETER BREEN [10.19 p.m.]: This morning on ABC radio Steve Crittenden said that this is a sad day for Australia, a day on which politicians have sunk to a new low in the eyes of the people they are supposed to represent. He was referring to the disgraceful and cowardly statements made under parliamentary privilege in the Federal Parliament by Senator Bill Heffernan about High Court Judge Michael Kirby. As Kate Legge and Richard Yallop reported in the *Australian* on 2 March, Senator Heffernan has a history of verbally abusing people and acting like an attack dog. The same article quotes the Senator as saying, "The boil is about to be lanced." If the extraordinary attack on Justice Michael Kirby is Heffernan's idea of lancing the boil, we have one very sick Senator on our hands.

Today in Federal Parliament the Prime Minister defended his Cabinet Secretary with the observation that Senator Heffernan raised certain matters with the police as far back as 1998 and again as a result of the Wood royal commission. Does that mean that the Senator is entitled to take matters into his own hands with the benefit of parliamentary privilege simply because the police have failed to act, presumably because of a lack of evidence? Let me examine for a moment the Senator's allegations during last night's infamous contribution to the Address-in-Reply in the Senate.

To begin with, the Senator expressed concern about certain judicial appointments prior to May 1984 when certain homosexual activity was against the law. This civic concern of the Senator is not new and hardly surprising. Today I received an email from my friend Gary Knight, a Sydney media adviser, who happens to be homosexual. Mr Knight reminded me that one of Senator Heffernan's favourite lines when talking with gay men is to say, "You blokes were illegal before 1984." The Senator cannot be taken seriously on this issue. Mr Knight had other things to say about the Senator, but I cannot repeat them without doing to Senator Heffernan what he has done to Justice Michael Kirby.

The next complaint by the Senator in his speech concerns the boy brothel Costellos and the question of whether its patrons included lawyers and judges. Certainly, I am aware that two former judges and two former lawyers were patrons of Costellos. If I know who they were, then presumably the Senator does too. After all, the police consorting squad kept records of who attended Costellos, so it is no State secret. This is a disingenuous complaint by Senator Heffernan. Then the Senator had a remarkable flashback to the code of silence and conspiracy theories so publicly ventilated in this Parliament by Mrs Franca Arena. These allegations were investigated to death by the police, a judicial inquiry and ultimately the Wood royal commission.

Boxes of so-called evidence produced by Franca Arena remain in the custody of the Clerk of the Parliaments even as I speak. Senator Heffernan can inspect the material any time he wishes, and he would be forced to draw the same conclusion as everybody else who has examined it. There are no codes of silence, conspiracies or cover-ups. Finally, the Senator, in his privileged allegations, slides from this apocryphal material to an unprecedented attack on Justice Michael Kirby, alleging that the judge has misused his Commonwealth car to pick up a young male and transport him to the judge's residence. This is a serious allegation. But I must confess that my immediate response was to wonder whether Senator Heffernan was aware of the complaints against the Minister for Transport, Carl Scully, for using his ministerial car to transport his dog to the vet. For all the seriousness of the allegation against Justice Michael Kirby, the parallel with the ministerial pooch is impossible to avoid.

At the heart of the Senator's allegations is an extremely serious attack on the integrity of the judge and defamation, if the allegations are untrue, which no amount of bullying and foul-mouthing by Senator Heffernan could justify. The Senator referred to a statement made by the judge in the course of an exchange with counsel during a special leave application to the High Court in November 1999. The statement itself demonstrates that the judge is an intellectual giant who was simply asking questions of counsel from the bench, which is what judges are supposed to do. On the other hand, Senator Heffernan has demonstrated only that he is a dunce.

AMERICAN PUBLIC SAFETY WORKERS COLLECTIVE BARGAINING RIGHTS

The Hon. PETER PRIMROSE [10.23 p.m.]: It is six months since the tragic and dreadful events that occurred in the United States of America on September 11. Tonight I shall talk about one aspect of the tragedy that has been overlooked. The whole world recognised the heroic efforts of public safety officers in New York and Washington on September 11 and afterwards. Two days after that disaster a bill giving police officers and firefighters employed by States and municipalities the right to form and join unions was introduced in the American Senate Health, Education, Labor and Pensions Committee. In addition to the right to collective bargaining over wages, hours and terms and conditions of employment, the bill would require employers to recognise their public safety workers unions and set up a system for arbitration and mediation. While many American States give public safety workers the right to organise, 18 States do not and some States limit bargaining authority.

On 6 November Republicans in the Senate blocked the Democratic Party effort to guarantee collective bargaining rights to firefighters, police and other public safety workers. In a sometimes emotional debate, the Democrats argued that public safety workers had earned the right to form unions and to bargain for better pay following their heroic activities after the terrorist attacks. Republicans countered that this would tilt the scale in favour of unionisation, jeopardise the future of volunteer fire organisations and erode the longstanding rights of State and local governments to set their own rules for public safety workers. The vote was 56 to 44 to proceed with the proposal, but that was four votes short of the 60 needed to approve the measure. As a result, the proposal was withdrawn. So heroes in the United States of America are entitled to parades and plaudits but they have no right to bargaining collectively through trade unions. In America, as in Australia, the right to collective bargaining is always under attack from conservative politicians.

SAVE SANDON POINT SURFING FESTIVAL

The Hon. IAN COHEN [10.26 p.m.]: I draw the attention of the House to a rather interesting and entertaining cultural surfing experience that I had recently. On 2 and 3 March the second annual Save Sandon Point Surfing Festival was held.

The Hon. Michael Egan: Are you still surfing?

The Hon. IAN COHEN: I certainly am.

The Hon. Jennifer Gardiner: So am I.

The Hon. IAN COHEN: I have been surfing with the Hon. Jennifer Gardiner, and it was a fantastic experience.

The Hon. Michael Egan: You have never been surfing with me.

The Hon. IAN COHEN: No, you probably would not be up to it. The event's theme was "Surfers caring for the environment". Participation was paramount and winning was secondary; the cause was bigger than any one individual. Sandon Point is a unique area north of Wollongong that has long held a fierce reputation for localism—I do not understate this point—from the days when cars were pushed off the cliff and fights were a regular occurrence, both in and out of the water. The locals now look after the area. They participate in beach clean-ups, tree planting with the local Coastcare mob and take a stand against injustices that may be perpetrated by those seeking to develop the area.

This information was provided by Jason Gava, the organiser of the Save Sandon Point Surfing Festival. It came about after years of great injustices and the surfers, who were once very localised and did their own thing, are now custodians of the area. They are doing a fantastic job. They are still fiercely local, but they are now fiercely local environmentalists and social justice activists. The area under dispute is located to the north of Sandon Point and was rezoned by the Australian Labor Party-controlled Wollongong City Council some five years ago. Locals are extremely upset about that. Stocklands wants to build 348 lots, with more than half zoned medium density so that townhouses or villas can be built on them. That will amount to something in the vicinity of 1,000 dwellings. Jason Gava writes:

We as surfers and members of the public are outraged. We are not against appropriate development, we are against OVER-DEVELOPMENT! This scammed its way through local council with a one-vote majority.

Other MAJOR issues are that of the aboriginal burial sites, flora and fauna, flooding, traffic, policing, schools and hospitals, shops and doctors facilities, etc. Like one councillor said, "It is the size of a country town".

With a pathetic representation from Wollongong council in the land and development court—

I tend to agree with his description of that court—

the multimillion dollar company with more lawyers than you could poke a stick at won the court case to proceed with their destruction of the area. The locals felt helpless, and angry would be a major understatement.

Stocklands knew that an injunction application was before the court at the very moment it attempted to break through the picket line. Close to 200 protesters, representing a wide cross-section of the community, formed a tripod. People chained themselves to cars blocking the entrance and linked arms before 60 police, with police rescue vehicles and paddy wagons, started to take people to the nearby Bulli police station, which had been reopened especially for the occasion. That police station was not open for general policing and protecting the locals, but it was opened for this event. Jason Gava continued:

After the Tactical Response Group (TRG) had penetrated our picket line and the scab workers were inside starting to erect their fence, the court decision came through in the locals favour and the scab workers had to get off the land. What a victory for the people! Especially the Sandon Point Aboriginal Tent Embassy (SPATE), who lodged the appeal over some other non-local aboriginal permission that was given in regard to section 90 of the National Parks and Wildlife Foundation.

I was there that day, and Ms Lee Rhiannon was also present in the morning. It was an absolutely fantastic day of people's power and real action. The work was eventually stopped by an injunction, but it proved that a community of surfers could get together, take on the system and win. I was very glad to be part of that action.

I ask the Minister for Planning and the Government to examine developments along the coast, such as the one at Sandon Point and further to the south at Seven Mile Beach near Kiama. Sandon Point should be a surfing reserve and the Aboriginal sacred sites and artefacts in that area should be respected. It should be preserved, not massively overdeveloped. It is in a green-belt area that is rapidly being built out and, like so many other regions along the New South Wales coastline, will be destroyed and lost forever. We will end up with a bland coastline and will lose our wonderful wetlands and sacred sites forever.

PINE CREEK FOREST LOGGING

Ms LEE RHIANNON [10.31 p.m.]: Today the Greens called on the Minister for Forestry, to immediately suspend any plans to log the Pine Creek Forest on the mid north coast of New South Wales until a thorough and independent investigation of the ecological, scenic, tourist and recreational values has been conducted with a view to the area's ongoing protection as a national park or regional reserve. Pine Creek Forest hosts a high level of diverse vegetation. It serves as an important ecological transition gradient, connecting the New England Tableland and the coastal region. The forest is also home to one of the largest koala populations in the world. Logging Pine Creek Forest would reduce or eliminate all the values that we hold dear and would further erode the small amount of coastal wilderness in New South Wales. We strongly urge the Minister to suspend all plans to log Pine Creek Forest and congratulate the Friends of Pine Creek Forest on the campaign they are conducting to save this area.

Motion agreed to.

The House adjourned at 10.32 p.m.
