LEGISLATIVE COUNCIL

Thursday 13 June 2002

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

The President offered the Prayers.

PETITIONS

Local Government Boundary Changes

Petition praying that the House conduct a public inquiry into the proposed local government boundary changes and ensure that a plebiscite takes place before any boundary changes are made, received from **the Hon. Duncan Gay**.

Family Impact Commission Bill

Petition praying that the integrity of the family unit be encouraged, that the Family Impact Commission Bill be supported in its current form and that all proposals to amend the definition of the family as defined in the bill be rejected, received from **Reverend the Hon. Fred Nile**.

ANTI-DISCRIMINATION (HETEROSEXUAL DISCRIMINATION) AMENDMENT BILL

Second Reading

Debate called on, and adjourned on motion by Reverend the Hon. Fred Nile.

PUBLIC HEALTH AMENDMENT (JUVENILE SMOKING) BILL

Second Reading

Debate resumed from 9 May.

Reverend the Hon. FRED NILE [11.14 a.m.]: The Public Health Amendment (Juvenile Smoking) Bill introduced by the Hon. David Oldfield is an important bill as it deals with the inconsistency between laws relating to the sale, use and possession of tobacco, and the sale, use and possession of liquor. This bill seeks to bring about uniformity in our laws regarding the possession and use of tobacco products. As the Hon. David Oldfield is still consulting with the Government on the exact wording of the bill, I move:

That this debate be now adjourned until the next sitting day.

Motion for adjournment agreed to.

GOVERNMENT (OPEN MARKET COMPETITION) BILL

Second Reading

Debate resumed from 9 May.

The Hon. JAMES SAMIOS [11.15 a.m.]: The aim of this bill is to increase government accountability and transparency by ensuring that all government contracts and associated tendering documents are publicly available, and to ensure that persons and organisations who receive government grants are subject to audit by the Auditor-General. This bill is the Democrats' response to the increasing problem of a Government perceived as being shrouded in secrecy and having a lack of transparency. The Democrats cite a speech given by Kerry Chikarovski entitled "Open Government: A Coalition Response" as reason to support this bill. However, the Coalition's policy on open and accountable government, as outlined in the private member 's bill introduced by Kerry Chikarovski, is a far better approach to the need for greater government transparency in New South Wales than the response proposed by the Democrats bill.

Our proposals include reversing the presumption to ensure that there is favour in granting an application made under freedom of information [FOI] provisions; creating a new position of freedom of information commissioner; ensuring that costs for determining FOI applications are not used as a backdoor alternative to refusing information; and requiring State-owned corporations to allow public access to board meetings. The Opposition does not oppose the legislation. These proposals are covered largely by existing FOI legislation and the Coalition's bill currently before the Legislative Assembly.

The Hon. IAN COHEN [11.17 a.m.]: The Greens support the Government (Open Market Competition) Bill introduced by the Hon. Dr Arthur Chesterfield-Evans. I commend him on the thorough way he has researched this issue before introducing this bill. In December last year the honourable member held an open government forum in the parliamentary precincts. Many high-profile individuals with expertise in freedom of information and privacy issues attended the forum, including the Chief Ombudsman of New Zealand, the New South Wales Privacy Commissioner and the New South Wales Deputy Ombudsman. The Chief Ombudsman of New Zealand specified that similar legislation operated in New Zealand and was characterised by the principle of availability of official information. Section 5 specifies that there is a principle "that the information shall be made available unless there is good reason for withholding it". On that legislation the New Zealand Ombudsman said:

> There have been no disasters in balancing the competing public policy objectives: the giving of access to official information whilst providing grounds to withhold such information when good reason to do so is established.
>
> In the NZ context, I am not aware of any case where release, after review by an Ombudsman, of information which a public sector agency deemed initially to be commercially sensitive has been shown to have affected adversely the business operations of the organizations or persons concerned.

On the issue of privacy, Chris Puplick, the New South Wales Privacy Commissioner, had no problems with the bill. He said:

> It is important to recognise that privacy legislation, in New South Wales in particular, relates to personal information. As far as I am concerned, as the Privacy Commissioner, non-natural bodies, companies, governments, organisations, do not have privacy. Privacy belongs to individuals.

The bill will lead to greater government accountability and transparency, which the Greens strongly support. As honourable members know, over the past few weeks I have made attempts—to a great degree successfully—to obtain information from various government departments. That information included government agreements relevant to the Mogo charcoal plant. That is a case in point. This House had to debate a number of motions to get information that should have been publicly available.

I am grateful for Sir Laurence Street's detailed legal advice that that information should be made public. As a result this House was able to vote on a motion I put before it to make public the documentation dealt with in Sir Laurence Street's advice. That process took quite a bit of parliamentary time and considerable effort by me and others. That process should be streamlined so that the public has greater opportunity to access such documentation. This private member's bill, put forward by the Hon. Dr Arthur Chesterfield-Evans, will facilitate that transparency process. This is timely legislation, and it will be of benefit to the community as a whole. So much of the information deemed to be commercial in confidence really belongs in the public domain.

I will have more to say soon about a number of wood supply agreements that honourable members have been able to investigate as a result of motions that I have put to the House. That information is very important. It will enable the public to assess whether bureaucracies such as State Forests, when dealing with a public resource such as State forests, act in accordance with their brief and in accordance with the aims and aspirations of the community. Many other issues are raised by this bill, but I will not labour the point. The Greens are pleased to support this bill. We believe it is a significant step in the right direction for any government that regards itself as being open and accountable to the public.

The Hon. GREG PEARCE [11.22 a.m.]: The Opposition is very much in favour of open and accountable government. Our experience with this Government has been one of denial of transparency in relation to documentation affecting a whole host of government activities, ranging from infrastructure construction. One issue that comes to mind is the M5 East and the great level of disputation necessary to obtain documentation in relation to that roadway and in particular the air filter issues surrounding it. The process implemented by the Government really has been one of abuse and secrecy. It is becoming common for members of this House to be forced to move motions for the production of documents. Having disputed the production of documents, the Government claims privilege. This then forces the House to debate those issues again and to set in motion a further process of engaging counsel, retired judges and so on to determine claims of privilege. This approach by the Government is not in the interests of transparency.

The Hon. Jan Burnswoods: Point of order: I am trying to work out how calls for papers and other issues mentioned by the honourable member are relevant to the Government (Open Market Competition) Bill.

The Hon. Richard Jones: To the point of order: I was listening to the debate with some interest, and it was quite inappropriate to interrupt it because, as far as I could see, the Hon. Greg Pearce's remarks were directed precisely to the bill. I feel sure the honourable member will deal shortly with other provisions of the legislation.

The Hon. Greg Pearce: To the point of order: The bill clearly is about ensuring that copies of government contracts and tender documents and results of performance monitoring and so on are kept publicly available.

The Hon. Jan Burnswoods: Further to the point of order: The Hon. Greg Pearce spoke about filters on the M5 East, then moved to a past-tense discussion about calls for papers. He may not have been prepared to speak to the bill, because nothing he has said has anything to do with the content of the bill put forward by the Hon. Dr Arthur Chesterfield-Evans.

The Hon. John Ryan: To the point of order: The Government (Open Market Competition) Bill largely deals with the Auditor-General auditing submissions to government by private companies. The projects to which the Hon. Jan Burnswoods referred are the very sorts of matters in which the Auditor-General would be involved if the bill is passed. As far as I can determine, everything that has been said by the Hon. Greg Pearce has been entirely relevant to the subject matter of the bill.

The Hon. John Jobling: To the point of order: I would put, firstly, that there is no point of order. This bill deals with government contracts, copies of associated tendering documents and the results of performance monitoring. That is a broad-ranging topic, and I contend the matters raised by other honourable members and my colleague the Hon. Greg Pearce are within the leave of the bill. The bill also seeks to ensure that the accounts of persons and bodies which receive money from a public authority by way of grant are subject to inspection, audit and examination by the Auditor-General under the Public Finance and Audit Act. If the first object of the bill were not broad enough to encompass the matters that have been raised, quite clearly the second object of the bill is sufficiently wide to cover those matters. I submit that the point of order taken by the honourable member is frivolous and should not be upheld.

The PRESIDENT: Order! The standing orders require that a member's remarks be relevant to the subject matter of the debate. However, that provision has been interpreted in a fairly general way. The Hon. Greg Pearce will ensure that the remainder of his speech is relevant to the subject matter of the bill.

The Hon. GREG PEARCE: I was saying that the M5 contracts fall squarely within the ambit of this legislation. For the benefit of the Hon. Jan Burnswoods, I refer to this definition in clause 3 of the bill:

> **government contract** means a contract between a public authority and some other person (which may consist of another public authority) under which the other person undertakes to provide the public authority with goods or services, or both goods and services, but does not include a contract of employment.

Clearly, under anyone's interpretation, the contracts for the M5 East are covered by the definition of "government contract". I was alluding to the example of government contracts that would be covered under this legislation to make the point that, in the past, government contracts have not been freely available. There has been a tendency by the Government to maintain secrecy and a lack of transparency about those contracts. That is the very reason why clause 4 of the bill provides that a public authority will be required to ensure that copies of the contract and copies of the successful tender for the contract are made available, free of charge, during ordinary business hours for public inspection at the head office of the authority. Before I was interrupted by the Hon. Jan Burnswoods, I was in the process of contrasting the proposal in the bill with the current practice adopted by this Government. I was using the M5 East contracts, which clearly fall within the bill's definition of "government contract", to contrast what is proposed under this bill with the process that has been adopted by the Government: a process of denying the right of members of the public to inspect contracts on the basis that a commercial-in-confidence classification has been claimed.

I do not dispute that in some circumstances arrangements are made which include very important commercial provisions that should not be publicly disclosed—that is a matter that clearly has to be dealt with by the Government in relation to this bill. But the process that has been adopted and is sought to be changed by this bill is one whereby the Government is simply able to deny the production of documents, force the House to

debate a motion to require the production of the documents and—even if the House adopts a resolution, contrary to what is proposed in clause 4 of the bill—claim privilege. That process would put honourable members who want to see the documents and who are perfectly entitled to do so through a process of having the privilege determined by a judge, a retired judge, or another appropriate person. That is the process that has been adopted—the process that this bill seeks to address and remedy.

The Opposition is prepared to consider supporting this bill, with some considerable amendment, because the Opposition is committed to transparency in government. The former Leader of the Opposition, the honourable member for Lane Cove, Kerry Chikarovski, set out the Opposition's policy in a speech entitled "Open Government: a Coalition Response".

The Hon. Charlie Lynn: It was a good response.

The Hon. GREG PEARCE: It was a very good speech and it set out the Coalition's policy on open and accountable government—issues that are specifically dealt with by this bill. In contrasting the existing process with what is proposed by the bill, I will set out some of the reasons why the Opposition is prepared to consider some of the provisions of the bill, with amendment. But first it is necessary to examine one of the other tactics adopted by the Government, which is to claim that the types of government contracts referred to in the definition of this bill should be withheld on the basis that they are Cabinet papers. All honourable members know the process: the Government annexes to a Cabinet paper mountains of documentation that would not normally be considered Cabinet papers and certainly would not have been considered by the Cabinet in detail because of their detail and length—including government contracts as defined in this bill.

The Government thereby avoids having to produce the documents, consistent with its policy of keeping the public in the dark about contracts that should be available for discussion and review and consistent with its policy of secrecy rather than open government in the public interest. I do not back away from mentioning the M5 East contracts as government contracts as defined in the bill—contracts that are clearly in the public interest and are of great interest to many people who have concerns about the form of those government contracts.

This bill is really a response to how the Government administers contracts. Clause 4 would ensure that the M5 East documents are made publicly available. Interestingly, the clause goes further and requires that the documents be placed on the Internet site of the relevant government authority. That in itself is a very interesting proposal because, as all honourable members know, the Government has not had much of a commitment to providing electronic information to the public.

It would be quite something if, pursuant to this bill, the Government moved into the twenty-first century and ensured that public authorities—the types of authorities that are the subject of this bill, but not exclusively, because the provision extends to statutory bodies representing the Crown and authorities for other public purposes under various Acts, State-owned corporations and their subsidiaries, councils, and county councils—make documents available to the public in electronic form. At this stage I am not in a position to say whether the Opposition will support the extension of the bill to all of those types of authorities, but the bill is very broad indeed in its application. If a proposal to proceed with this type of legislation gained the support of the House, it would clearly make a very significant impact on the availability of information that the public wants to see and, if the Government is able to produce a real electronic information policy and implement it, in a form that the public would welcome.

I will not speak about the provisions of the bill relating to the Public Finance and Audit Act, because other speakers have already referred to them. No doubt honourable members who are yet to participate in the debate will wish to discuss the functions of the Auditor-General and his role in monitoring contracts. In conclusion, I reiterate that the Opposition believes in transparency of government and may well be prepared to support the bill, with amendment.

The Hon. IAN MACDONALD (Parliamentary Secretary) [11.39 a.m.]: The Government opposes the Government (Open Market Competition) Bill, which was introduced by the Hon. Dr Arthur Chesterfield-Evans. The Government has carefully read the fine print of this bill and has considered all of its ramifications. The Government has concluded, in effect, that the bill will not add to good governance in this State. The bill has three objectives. The first is to ensure that copies of all government contracts, associated tendering documents, and the results of any performance monitoring required under government contracts are made publicly available by all public authorities. The only exception is that disclosure of a contract provision is not required if the Auditor-General certifies that disclosure would commercially disadvantage any party to the contract.

The Hon. Patricia Forsythe: You would not have to worry because that assumes, of course, that someone would want to apply for a contract.

The Hon. IAN MACDONALD: That is true. I acknowledge that wise interjection by the Hon. Patricia Forsythe. The Government opposes that proposal because its current policy on contract disclosure already requires disclosure of a considerable amount of information about government contracts. The "Premier's Memorandum 2000-11" requires public sector agencies to provide a summary of certain contract details, including price, as a matter of course for projects of $100,000 or more, and on request for projects below that amount. Additional contract details must be disclosed for projects of $5 million and more that involve private sector financing, land swaps, asset transfers, and similar arrangements.

The Government's guidelines for privately funded projects require the publication and tabling in Parliament of contract summaries for privately financed projects worth more than $5 million. For the sake of accountability, the extensive disclosure requirements are likely to inhibit rather than improve the bill. Disclosing numerous low-value contracts will make it difficult to identify the more significant contracts, and disclosing entire contracts will make it difficult to identify the significant provisions.

The Hon. Dr Arthur Chesterfield-Evans: That is what the amendment relates to: amounts under $100,000.

The Hon. IAN MACDONALD: Yes, but the amendment will be moved in Committee and we will deal with it then. The bill could lead to the disclosure of commercially confidential information. The exception for contract provisions certified by the Auditor-General does not make it clear what criteria the Auditor-General should use in deciding whether the disclosure of a contract provision would commercially disadvantage a party. The bill applies to State-owned corporations and this could lead to the disclosure of commercially sensitive information regarding suppliers and the value of contracts that could disadvantage those State-owned corporations as against their private sector competitors.

I am sure the Hon. Dr Arthur Chesterfield-Evans would have to think twice about that result. The bill applies to a range of entities that should not be subject to government disclosure requirements—for example, non-government organisations constituted by an Act, such as Sydney Grammar School. Although, in retrospect, I would not mind having a look at its accounts.

The Hon. John Jobling: I am extremely surprised at that.

The Hon. IAN MACDONALD: That was not a negative comment by the Hon. John Jobling. The second objective of the bill is to require the Ombudsman to supervise, investigate and report to Parliament on whether public authorities have complied with those disclosure obligations. That is likely to be an onerous and costly task that would divert resources from the Ombudsman's more important duties. The third objective of the bill is to ensure that the accounts of all bodies that receive government grants are subject to inspection, examination and audit by the Auditor-General and that the publicly funded activities of those bodies are investigated by the Auditor-General and reported on to the Treasurer.

The Government opposes that proposal for two reasons: first, it is impractical and prohibitively costly. Many non-public sector agencies receive small grants, and in many cases the compliance cost of the audit would exceed the value of the grant received. Second, the additional auditing responsibility is likely to be an onerous and costly task that would divert resources from the Auditor-General's more important and significant duties. The Hon. James Samios nods in agreement. He understands that the costs involved in this process would be extremely high. For those reasons the Government will oppose the bill.

The Hon. AMANDA FAZIO [11.44 a.m.]: I oppose the Government (Open Market Competition) Bill. In New South Wales we already have an open, accountable and transparent system of government. The people who complain that we do not are the sorts of people who request that large numbers of documents be tabled in this Chamber but do not look at the documents when they are tabled. The Coalition calls for truckloads of documents but does not look at them. All it wants to do is to be seen to be supporting open and accountable government; it does not want to be involved in it.

Comments about a report tabled in this Chamber last week indicated that the element of "commercial in confidence" seems to have been eroded. If members continue to demand that all tendering documents and contracts be made available, eventually we will drive away investment. Corporations that are involved in

supervised tendering processes do not want their competitors trawling over their tender documents when they are made public at a later date. The Coalition knows that, and that is why it is being quiet at the moment. The Coalition knows that this bill is a recipe for a downturn in the economy of New South Wales, and it should be ashamed for supporting it. The Hon. Dr Arthur Chesterfield-Evans should be ashamed for introducing the bill.

[*Interruption*]

I acknowledge the interjection of the Hon. Dr Arthur Chesterfield-Evans, simply to put on the record that governments are elected to govern and they are accountable to the electorate. Governments are accountable not to a bunch of pen-pushing public servants but to the voters of New South Wales. That is the simple fact. The reason the Hon. Dr Arthur Chesterfield-Evans cannot seem to wrap his head around that is that he will never get 37 per cent of the popular vote in New South Wales. He will be lucky if another Democrat is elected to this Chamber at the next election. That is the level of his representation!

The bill is poorly drafted and has unintended consequences. My main opposition to it is that clause 5 provides that the accounts of private organisations receiving government grants are to be audited by the Auditor-General. The bill is so poorly drafted that there is no definition of "private organisation". The Hon. Dr Arthur Chesterfield-Evans fawns over everyone he meets at the Standing Committee on Social Issues; he hands out his business cards like confetti and says, "If there is anything I can do to help you, please let me know."

He wants all organisations such as Family Advocacy, playgroups, showground trusts, and every small community organisation in New South Wales to be accountable to the Treasurer. He wants their activities, expenditure and annual income statements checked by the Auditor-General. If the intention of the Hon. Dr Arthur Chesterfield-Evans is to attack large organisations—

[*Interruption*]

The DEPUTY-PRESIDENT (The Hon. Dr. Brian Pezzutti): Order. I ask all members to remain silent in order that Hansard can hear and report the honourable member's contribution.

The Hon. AMANDA FAZIO: If the Hon. Dr Arthur Chesterfield-Evans wanted to attack Visy and gain access to the contracts it had signed, he should have introduced a specific bill to deal with that. He has cast the net so wide that the bill will not cover the activities and functions of large corporations that enter into government contracts, but will cover every playgroup in New South Wales that obtains a grant of $500 per annum for toys. If he does not understand that, his time in this Parliament has not been a learning experience. He came in with a closed mind and he will leave with a closed mind.

This is unnecessary legislation that will do nothing to increase or improve accountability in New South Wales. It is simply a joke, and the comments of the Hon. Dr Arthur Chesterfield-Evans indicate that he is not capable of more serious attention to government administration than making jokes. In continuing to oppose the bill I would like to state that we already have in place a large number of measures in New South Wales.

The Hon. Dr Arthur Chesterfield-Evans: A Premier's memo.

The Hon. AMANDA FAZIO: Yes, a Premier's memo. There is accountability and a requirement to cross-check what happens with government contracts. The honourable member made a stupid comment that public servants should not speak. Public servants are paid to do their jobs. He referred to the myth of whistleblowers being disaffected public servants who decide that they should label themselves as whistleblowers. That is an absolute joke. The fact that he believes every word they say is a poor reflection on him and on the poor people who vote for the Democrats because they think they will get some form of representation.

The Government (Open Market Competition) Bill will do nothing to ensure open market competition. It will not assist the economy or the public administration of New South Wales. The scope and compliance cost of the disclosure requirements proposed under the bill are, indeed, onerous. A new employment stream will be generated in New South Wales by way of staff in the Auditor-General's Office. That will be the one outcome of this bill.

There will be more auditor-general staff in New South Wales than one can poke a stick at. This will be an onerous cost for agencies that are parties to the disclosed contracts—government departments, government

agencies, the Auditor-General, and officers of the Ombudsman's Office—whose resources would be diverted from their key responsibilities to make them become the world's largest account checking staff in the history of financial regulation. The obligations would also apply to a broad range of public authorities not subject to the current disclosure obligations in the Premier's memorandum. Local government authorities and non-government organisations constituted by an Act would be covered.

Given the cost of preparing the accounts and the added burden on their voluntary auditors of being subject to scrutiny by the Auditor-General, the point could be reached where small community organisations have to decide whether it is worth their while accepting grants of a few hundred dollars. It would be difficult for those organisations to find individuals to give up their time to become honorary auditors. The Hon. Dr Arthur Chesterfield-Evans claims to be a champion of community organisations and community involvement, but I doubt he has had anything to do with the board of any small group or any understanding of the way in which they operate and the difficulties they encounter.

The Hon. Richard Jones: This is a personal speech.

The Hon. AMANDA FAZIO: It is a personal speech because when the Hon. Dr Arthur Chesterfield-Evans is confronted with reasonable criticism of his legislation, he is not able to comprehend it, absorb it or understand it. All he does is interject like a squawking parrot. If he were prepared to listen and to achieve certain outcomes in the bill, he would withdraw it and amend it. However, as the bill currently stands, it places a terrible impost on community organisations in New South Wales. As a community advocate I am not prepared to support it, and nobody involved in the community organisations that I am aware of would be prepared to support it. That is the real difference. One can talk about being involved in these types of activities, but a comparison of that supposed involvement with actual practical knowledge of how they operate would highlight the inappropriateness of this legislation.

Already, small organisations that receive government grants have, written into their contracts, accountability requirements imposed by the agency or government department that provides the grants. It does not mean that the activities of the organisations are made public. Those reports are provided to the relevant agency, which checks that the money has been expended on the purpose for which it was intended and that the organisation is operating according to its charter. Those involved in community welfare or charities understand the competing demands for funds, in-kind donations and so on. As a member of a number of community organisations I am concerned about the level of access to competing organisations. In the current climate these organisations compete against each other for available government funds, donations and sponsorship.

This bill will inhibit the ability of some community organisations to function effectively because of greater competition between different organisations. One organisation may seek to poach sponsorship from another group. That will be yet another unintended consequence of this bill. The current requirement is for summaries of contracts above a particular threshold to be made available. The requirement to disclose all contracts, including low-value contracts, will make it very difficult to identify the more significant contracts. Open and accountable government under this bill would mean that anyone seeking to identify pertinent contracts would have to trawl through a pile of documents as thick as the white pages of the Sydney Telephone Directory, rather than through two or three pages of an annual report as at present. The bill casts the net too broadly. That is another reason why the bill should be opposed.

The Government's current disclosure requirements set out in the "Premier's Memorandum 2000—11" and the guidelines for privately financed projects already require the disclosure of considerable information about government contracts. That level of disclosure is sufficient. If people have any doubts about any of the present guidelines, they should look to what has happened in this Chamber when a member has a serious doubt about something: an inquiry is held. We have more inquiries than we can poke a stick at. In fact, on some days there are so many committees and inquiries sitting that there are not enough government backbenchers to sit on all of them.

If a member is slightly aggrieved by the outcome of an inquiry they move a motion to have the documents tabled—and many documents have been tabled. Recently, six volumes of documents relating to the charcoal plant in Mogo were tabled and provided under freedom of information legislation and under the usual checks and balances available under good government in this State. Some of the documents were classified as not available to be publicly tabled and objection was taken to that. A retired Supreme Court judge reviewed the documents to see whether they were commercial in confidence or could be made available. The upshot was that more documents were provided and some that were categorised as commercial in confidence were kept back.

All the checks and balances needed are in place already. There is absolutely no requirement to pass this legislation. I urge all honourable members to stop and think about the consequences of their actions if they support the legislation, and to reject the bill.

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

ELECTRICITY INDUSTRY RATIONALISATION

The Hon. DUNCAN GAY: My question is to the Treasurer. Is it a fact that State Treasury is currently working on plans to further rationalise the State-owned electricity industry to create a model based on Queensland, where just two suppliers—one metropolitan and one regional—service the entire State? Is it also a fact that those two companies will be formed from a merger of EnergyAustralia and part of Integral Energy, and from a merger of Country Energy, Australian Inland Energy and the remainder of Integral Energy? What impact would this plan have on electricity consumers across New South Wales?

The Hon. MICHAEL EGAN: As this is the first question from Opposition members today it obviously is regarded as their most important question. I am pleased to inform the House and the honourable member that I have never heard of such a ridiculous plan. Treasury certainly has not suggested it to me. I do not know where the honourable member gets his information. It is ludicrous. More than that, he often conveys his information to other people, including certain radio journalists and radio stations who then get sued to the eyeballs. I suggest that the honourable gentleman should get better sources of information.

The Hon. Duncan Gay: Point of order.

The Hon. MICHAEL EGAN: You got it wrong.

The Hon. Duncan Gay: Madam President, the Minister indicated that I passed a piece of information to a radio journalist who got sued successfully. The Minister knows quite well that I was in the interview but I was unaware of the information. Otherwise I would have been sued as well. So, Minister, would you please withdraw that statement because it is incorrect?

The Hon. MICHAEL EGAN: I am quite happy. It is on the public record anyway.

The Hon. Duncan Gay: Turn around.

The Hon. MICHAEL EGAN: Don't get so upset. We do things sometimes that are silly and we get embarrassed. But if the Hon. Duncan Gay says that he was not the conveyor of that information—even though he was, I think, in the studio at the time—I am quite happy to take his word for it because I think he is an honest man.

The PRESIDENT: Order! Was the statement withdrawn or do I need to rule on the point of order?

The Hon. MICHAEL EGAN: I withdrew it.

INDUSTRIAL RELATIONS ACT REVIEW

The Hon. IAN WEST: Will the Minister for Industrial Relations inform the House about the five-year review of the Industrial Relations Act 1996?

The Hon. JOHN DELLA BOSCA: I thank the honourable member for his ongoing interest in industrial relations and industrial affairs. The Government is required to conduct a review—

The Hon. Dr Brian Pezzutti: This is six years. It is 2002 now.

The Hon. JOHN DELLA BOSCA: In answer to the interjection from the Hon. Dr Brian Pezzutti, the Government is required to conduct a review of the New South Wales Industrial Relations Act 1996 after five years to determine whether its objectives are still relevant and whether the Act meets those objectives. I am

pleased to report that this review has now been conducted. It has found that, after five years of operation, the New South Wales industrial relations system provides a sound basis to achieve fair, equitable and harmonious industrial relations.

The Hon. Michael Gallacher: Compared with every other State we are in front when it comes to working days lost.

The Hon. JOHN DELLA BOSCA: We are in front in many aspects of the economy. The review identified a number of particularly significant achievements, including the rationalisation in the number of awards from 1,600 to 800, making it easier for employers and employees to understand the conditions that apply to them.

The Hon. John Ryan: Have you made this review public?

The Hon. JOHN DELLA BOSCA: It was tabled this morning. The 1997 part-time work test case initiated by the Carr Government provided a minimum number of hours per shift and pro rata leave entitlements for part-time workers. The pay equity inquiry initiated by the Carr Government investigated the wages of women and has already provided significant increases to librarians and archivists. State Government inspectors have recovered approximately $16 million over the last six years. As part of the Government's family-friendly initiatives, personal or carers leave has been introduced into all awards and parental leave has been introduced for regular casual employees.

The Act was introduced in 1996 after an extensive period of consultation, which has been the hallmark of this Government's approach to industrial relations. The Act has evolved, where necessary, with a changing industrial environment and has encouraged a co-operative approach to industrial relations in this State. That approach was most effectively seen in the co-operation which led to the most successful Olympic Games ever, the Sydney Olympics. The industrial harmony and collaboration that were evident during the Games are an outstanding illustration of what can be achieved in the supportive industrial relations framework established by the Government. The Olympic Games was delivered on time, on budget and with a fully unionised private sector work force. It is a system that works. It is based on fairness—not conflict. Unlike the Federal Government, this Government supports the role of the commission as the independent umpire and encourages the commission to take a proactive role in preventing and settling disputes.

The Hon. Michael Gallacher: Have you met the Federal Minister yet?

The Hon. JOHN DELLA BOSCA: Have you met him?

The Hon. Michael Gallacher: Yes. I am asking whether you have met him.

The Hon. JOHN DELLA BOSCA: I have met him quite a few times The review provides further reasons for the New South Wales Government never surrendering its industrial relations powers to the Federal Government. While its system fosters disagreement and conflict, our system of industrial relations encourages harmony and co-operation. Not one submission to the review proposed to abolish or replace the Act. That is clear evidence that the New South Wales industrial relations system is working for both employees and employers. The submission of the Law Society of New South Wales stated:

> It is the general consensus of the Law Society's Industrial Law Committee comprised of senior practitioners working in the area of industrial relations and employment law, that the Act has worked well and overall constitutes a sound and effective legislative basis for the conduct of industrial relations in New South Wales.

Students of industrial relations around the nation should read the review—and the Act—and learn about the benefits of the Act for employers and employees and the economy New South Wales.

POLICE POWERS STATISTICS

The Hon. MICHAEL GALLACHER: My question is to the Minister for Police. Does the Minister have confidence in the success of knife search and move-on powers and in particular the integrity of the statistics compiled by each local area command detailing the use of those powers? Is the Minister aware of an internal police complaint that senior police allegedly recorded searches in the computer operated police system [COPS] that never took place? How long has the Minister been aware of this complaint and what action has been taken to address the substance of the complaint?

The Hon. MICHAEL COSTA: You should have led off with that question. It is a killer question! I am not aware of what the Leader of the Opposition is referring to. If he has specific allegations and is prepared to give the details to me I will be happy to make the appropriate investigations. But I am sure that, as usual when the Opposition raises these things, there will be very little follow-through.

SUPPLEMENTARY POLICING

The Hon. IAN COHEN: Will the Minister for Police provide the House with the terms of reference for the rent-a-cop trial that is due to take place in the near future in Sydney? Will the Minister inform the House of the procedures by which this trial will be assessed and the processes through which he will consult with the community? Will the Minister also outline the procedure that will assess the impacts of this trial on young people in the communities selected?

The Hon. MICHAEL COSTA: I have made a number of comments about the supplementary policing trial that is proposed by New South Wales Police. At this stage it appears that the trial is on track, to start this month. Supplementary policing will be an additional service beyond that already provided by the police, and I have made that point on a number of occasions. The trial will commence upon the trial participants signing a contract with the Government. The trial participants may wish to start their trial in their areas at different times and we are allowing flexibility. Some may wish to ensure that the trial period covers the Christmas and New Year holiday periods. The staggered approach enables us to look at the issues in relation to an evaluation process. As I have said all along, this is a trial. If it turns out there is no appropriate support for supplementary policing, we will certainly take that on board in any evaluation process. As I said, the supplementary policing trial is an idea that came from New South Wales Police and we will be looking at evaluating that in the appropriate way.

The Hon. Michael Gallacher: Do the police know where there is a trial of it?

The Hon. MICHAEL COSTA: The Leader of the Opposition interjects. I have already released the details of where the supplementary trial is. I suggest that he refer to it in *Hansard* if he is really that interested, rather than making a silly interjection.

The Hon. IAN COHEN: I ask the Minister a supplementary question. Will rent-a-cops who are hired, for example, in a shopping centre to catch shoplifters, still have discretion to caution or will they act in accordance with the commercial interests of their employer?

The Hon. MICHAEL COSTA: I am unable to answer that question because there is no such thing as a rent-a-cop. But if the honourable member is referring to the supplementary policing trial, I can answer the question. The question has been answered on many other occasions. Police will use police discretion—a concept that is well defined in law and in police practice—when making judgments about what action they will take against offenders.

COALMINE OCCUPATIONAL HEALTH AND SAFETY

The Hon. RON DYER: My question without notice is addressed to the Minister for Mineral Resources. Will the Minister advise the House about what has been done to improve air quality in underground mines in New South Wales?

The Hon. EDDIE OBEID: The New South Wales Government is determined to protect those working in our underground mines. As part of our mine safety initiative, the Government has provided $15 million to better protect all mine workers. I am pleased to advise the House that the New South Wales Government's expertise in occupational health and safety has been acknowledged with an important research grant. The Department of Mineral Resources has been awarded $290,000 from the Joint Coal Board Health and Safety Trust for a major new research project. The trust was established in 1991 to fund research into improving health and safety in Australian coalmines. Research includes injury, diseases and human factors such as stress and fatigue. The Department of Mineral Resources will use this money to help develop better air quality in our State's underground coalmines. This project is good news for our coalmining industry.

The research project aims to reduce emission levels in mines, and improve the occupational health and safety of mine workers. Finding an effective way of being able to accurately measure particles of diesel in raw exhaust emissions would be a milestone for the mining industry. The raw fumes come from diesel engines used

in underground coalmines. These diesel particles are known to be potentially hazardous to the health of those working underground. The Department of Mineral Resources plans to use these funds to help the coal industry establish rules for monitoring and managing air quality in underground equipment. No suitable method is currently available to industry to measure these potentially harmful particles. An important part of this 18-month project will be industry support and consultation. It will include a steering committee of industry stakeholders. This grant is one of eight being funded by the Joint Coal Board Health and Safety Trust in 2002. I look forward to updating the House about this important research.

M5 EAST EXHAUST STACK PROPERTY VALUE GUARANTEE

The Hon. RICHARD JONES: My question is to the Minister for Fisheries, representing the Minister for Roads. What has been the take-up rate on the M5 East stack property value guarantee? If the Roads and Traffic Authority [RTA] considers its property value guarantee to be a goodwill gesture, will it give a similar goodwill health guarantee? Is the RTA proposing to offer a similar goodwill gesture to those residing within 400 metres of the unfiltered Darling Harbour stack?

The Hon. EDDIE OBEID: The question needs a detailed answer and I will forward it to my colleague the Minister for Transport, and Minister for Roads for the appropriate answer.

POLICE POWERS STATISTICS

The Hon. JOHN RYAN: My question is to the Minister for Police. Were senior police aware of a complaint about the integrity of statistics relating to knife searches and move-on powers when Deputy Commissioner Dave Madden issued a media release on 23 April this year outlining the New South Wales Police commitment to the Police and Public Safety Act? Who is currently investigating this serious complaint, and why is the Special Crime and Internal Affairs division of the New South Wales Police not dealing with it?

The Hon. MICHAEL COSTA: I refer to my previous answer on this question.

The Hon. John Ryan: You don't know! You should give me more detail.

The PRESIDENT: Order! I have previously asked members sitting near a microphone to either refrain from interjecting or turn off the microphone.

BIG *h*ART

The Hon. JANELLE SAFFIN: My question without notice is to the Minister for Juvenile Justice, and Minister Assisting the Premier on Youth. Could you inform the House what progress the Big *h*ART organisation is making in delivering programs to vulnerable young people in New South Wales?

The Hon. CARMEL TEBBUTT: Many honourable members of this House know about the Big *h*ART organisation. It is a non-profit, multimedia arts organisation that delivers youth development programs for vulnerable young people—especially those in rural, remote and disadvantaged areas. It is in fact an organisation that has been recognised with a number of awards through various other organisations. It has been active in New South Wales for a number of years and has been working across northern New South Wales since 1999. Big *h*ART is funded to mentor vulnerable young people in the arts, and to help local communities obtain funding for arts projects and their subsequent development.

I can advise the House that two new project officers have now been appointed as Big *h*ART legacy workers in northern and western New South Wales. They will work in collaboration with Arts NorthWest and Outback Arts in supporting a large range of legacy projects in the region. There are now 11 Big *h*ART local advisory groups spread over 200,000 square kilometres of northern New South Wales. More than 200 groups and community people are represented on those advisory groups, which are involved in more than 13 legacy projects. That is quite an achievement.

The legacy projects are varied. They include the Festival of the Brolga project in Moree, ongoing theatre workshops in Walgett with the Australian Theatre for Young People, a sound production and video course in Cobar through the Foundation of Young Australians, and ROMP, which is the Regional Outreach Music Program delivering music and composition workshops across the northern region. In addition, a further six proposals are currently under consideration. Two new metropolitan initiatives include the Kirrawee Urban Planning Project, in which vulnerable young people in the Kirrawee area will document their experiences of urban living for future use by urban planners.

This pilot project will use digital technology and new media to present young people's views of the planning process and outline what they would like to be taken into account in future urban development. The material produced will also form part of the national Big *h*ART film project *kNOT at Home*. The Belvoir Street Housing Project is a collaboration between the Belvoir Street Theatre Company and the community who live in the Northcote building opposite the theatre. The aim is to develop, for early 2004, a stage production based on local experiences.

The project will engage artists and scriptwriters to work with the local community, collecting narratives and working them into a stage play. That will be most interesting. I am sure that people like me who have been to the Belvoir Street Theatre to see a performance often wonder what the people living in close proximity think about the activities at the theatre. This project may well give us a window into their views and feelings. Again, the material produced will be included in the *kNOT at Home* film project. Big *h*ART is performing vital work in connecting vulnerable young people with their communities. It is keeping them out of trouble, and it is making for safer communities. It is helping young people to produce meaningful and worthwhile projects that benefit not only them but also their local communities.

One important aspect of Big *h*ART's work is to mentor the most vulnerable of the young people enrolled, after the life of a project. Big *h*ART reports that this has been highly successful not only in diverting young people away from offending behaviour but also in keeping them alive in some cases. Big *h*ART also reports success in getting vulnerable young people back into education, helping them into employment and generally integrating them into the community. The case studies provided to me by Big *h*ART are impressive. Big *h*ART continues to forge links with education, employment and training organisations with the aim of finding innovative ways to engage some of the most marginalised young people in our community.

ATTACKS ON PLACES OF WORSHIP

Reverend the Hon. FRED NILE: I ask the Minister for Police a question without notice. Is it a fact that no arrests have been made in relation to the firebomb attacks on Jewish synagogues, Jewish property and a rabbi's home that I referred to in a question on 24 November 2000? Is it a fact that the Minister's answer in *Hansard* to my question on 27 February 2001 stated that Operation Spencerville was formed to investigate attacks as a high priority? Is it a fact that no charges have been laid for these serious attacks, despite a 20-month investigation? Will the Minister follow up this lengthy, overdue investigation to ensure that the persons guilty of these terrorist-style firebomb attacks are brought to justice to prevent and deter further attacks?

The Hon. Michael Gallacher: It is an operational matter.

The Hon. MICHAEL COSTA: Clearly this is an operational matter. However, I will certainly make the appropriate investigations to ensure that the police are giving their full attention to the matter as outlined by the honourable member.

ENERGYAUSTRALIA ELECTRICITY METER TENDER

The Hon. DON HARWIN: My question is addressed to the Treasurer, and Vice President of the Executive Council. Is the Treasurer aware that EnergyAustralia has awarded an $8.5 million contract for electricity meters to foreign-based companies when those meters could be supplied at a competitive price by the Sydney-based company Email Metering, a company that has supplied metering equipment to EnergyAustralia and its predecessors for more than 80 years? Is the Treasurer further aware of the impact that the awarding of this tender will have on the operations of Email Metering? What measures are in place to ensure that State-owned electricity companies source their materials from locally based companies where appropriate?

The Hon. MICHAEL EGAN: Normally I would have to plead ignorance about this question. However, as it happens, I saw some information on this matter yesterday. Indeed, I signed a letter to Email Metering, which was asking me to intervene in the tender process. Needless to say, I told the company that it was not my responsibility, that the issuing of tenders was the responsibility of EnergyAustralia. I would have to check the documentation to be absolutely precise, but my understanding is that the particular product for which Email Metering was tendering was a product that the company was fully importing from overseas. However, I will check on that. A number of companies were tendering for various aspects of the tender. Some of them involved the importation of overseas equipment, and some involved the assembling of equipment in Australia. As I said, my understanding is that Email Metering is importing the equipment for the tender for which it was applying. I will be happy to come back to the House with details. It is only last night that I signed a letter to Email Metering, and I will come back in chapter and verse.

The Hon. Dr Brian Pezzutti: What time?

The Hon. MICHAEL EGAN: It was at about 10.35 p.m.

The Hon. Michael Gallacher: You were in the House then.

The Hon. MICHAEL EGAN: Yes, and as honourable members are aware, I often bring my files down here. I get through a lot of my signings.

The Hon. Greg Pearce: But you were asleep.

The Hon. MICHAEL EGAN: No, I was not asleep.

The Hon. Dr Arthur Chesterfield-Evans: He wasn't paying attention to my speech.

The Hon. MICHAEL EGAN: I got worried when I heard the Hon. Dr Arthur Chesterfield-Evans supporting the Government on a particular bill, which alerted me to the fact that there might be something wrong with it. When I looked more closely at the bill I did find something wrong with it.

2001 CENSUS

The Hon. TONY KELLY: My question is directed to the Treasurer, and Minister for State Development. What does the 2001 census reveal about the size of the Australian population?

The Hon. Greg Pearce: How many people there are!

The Hon. MICHAEL EGAN: Yes, but the interesting thing is that the Australian Bureau of Statistics, which puts out information about Australia's demographic statistics on a quarterly basis, has different figures about the size of the Australian population as at September 2001. There is a difference, depending on whether one looks at the September quarter figures or the December quarter figures.

The Hon. Greg Pearce: What is your count?

The Hon. MICHAEL EGAN: I do not count these things. As honourable members will be aware, a census was undertaken in Australia in 2001. The previous census was undertaken in 1996. In between, the bureau updated its figures by taking surveys on a quarterly basis. On the basis of those surveys, the September quarter document, which was released on 21 March, indicated that Australia had a population of 19,442,000. In 2001 when the bureau got down to counting everyone it found that Australia had a population of 105,000 more people than it had thought a month or two earlier. Interestingly, 79,000 of the additional 105,000 people are in New South Wales. Once again we were dudded in the share of Commonwealth grants that New South Wales received.

[*Interruption*]

No. In some cases the Federal Government is to blame for dudding New South Wales. However, I think it is entirely unintentional in this case because the Australian Bureau of Statistics is a professional outfit. The revision of the figures shows that too often we get carried away by minor discrepancies or minor movements in statistics. Every now and again those of us who are not statisticians need to be reminded that the official statistics should not be relied on to the umpteenth decimal place. In other words, we should not get carried away. We should not get our boxes in a bundle or our knickers in a knot about slight variations or slight movements in these statistics.

It is significant that New South Wales has 79,000 more people that we thought only a few months ago, which means that the population growth of New South Wales has been revised. For example, in 1996-97 the bureau thought that our population had grown by 1.1 per cent; it has revised that to 1.31 per cent. In 1997-98 the bureau thought the growth was 0.97 per cent; it has revised that to 1.19 per cent. In 1998-99 the bureau thought the growth was 1 per cent; it has revised that to 1.22 per cent. In 1999-2000 it was thought that the growth in population was 1.03 per cent, but it turned out to be a 1.27 per cent increase. In 2000-01 it was thought that the growth in population was 1.08 per cent and that turned out to be 1.37 per cent.

The Hon. Dr Brian Pezzutti: What is the message to our audience?

The Hon. MICHAEL EGAN: The message to our audience is that the mob in Canberra is not giving New South Wales what it should be getting. Almost $200 million that should have come to New South Wales has gone to rogue States such as Queensland—$200 million that could have been spent on our schools, hospitals and community services.

The Hon. TONY KELLY: I ask a supplementary question. Will the Minister further elucidate his answer?

The Hon. MICHAEL EGAN: No.

TREE POISONING

Ms LEE RHIANNON: I direct my question without notice to the Treasurer. In December last year, when a senior member of the Minister's office received emails from officers of State Forests that revealed that the Minister for Forestry had given an incorrect answer to a question I had asked about tree poisoning, what action did the Treasurer take? Did he encourage the Minister for Forestry to follow the Westminster tradition and correct that information in the House?

The Hon. MICHAEL EGAN: I took no action because it turned out that the email from the officer to a member of my office was entirely wrong. The head of the department pointed out recently—only last week or the week before—that it was entirely wrong.

Ms LEE RHIANNON: I ask a supplementary question. Will the Treasurer release information to show where that email was wrong considering the fact that many different emails specified that trees were still being poisoned in New South Wales? Will the Treasurer release that information?

The Hon. MICHAEL EGAN: It is my understanding that the head of the department clarified that matter. I have not seen the clarification. I think I was in Melbourne with Senator Helen Coonan.

The Hon. Dr Brian Pezzutti: No, you were at a fundraiser.

The Hon. MICHAEL EGAN: No, I was not.

The Hon. Dr Brian Pezzutti: You are always at fundraisers.

The Hon. MICHAEL EGAN: That is true. In fact, I am going to a fundraiser tomorrow. I have to be in the Shoalhaven tomorrow for breakfast. I have to be there at 7.15 a.m. The only way to ensure that I am there on time is to treat it as supper and not go to bed.

ENERGYAUSTRALIA ELECTRICITY METER TENDER

The Hon. DUNCAN GAY: I ask the Treasurer a question without notice. When responding to a question that was asked by the Hon. Don Harwin the Treasurer said that Email Metering imported its meters. The Treasurer also said that he replied last night to a letter that he had received from Email Metering. However, the Treasurer overlooked the first paragraph of the letter, which states:

> The tender was awarded mainly to foreign-based electricity meter manufacturers, who import all their meters from overseas. In comparison, Email Metering designs and manufacturers meters in NSW.

Why did the Treasurer, as Minister for State Development, disregard a company that is based in New South Wales?

The Hon. MICHAEL EGAN: I indicated earlier to the Hon. Patricia Forsythe, in response to her interjection, that I would obtain a copy of the letter that I sent to Email Metering last night. I will also obtain the letter sent to me by Email Metering.

The Hon. Duncan Gay: Here is the letter.

The Hon. MICHAEL EGAN: I can obtain the letter from my file. As I pointed out earlier, the information that I received from, I think, EnergyAustralia was to the effect that Email Metering was involved in some special pleadings which were factually incorrect. I will obtain the information and provide it to the honourable member in due course.

DEPARTMENT OF EDUCATION AND TRAINING SCHOOLSAFE PROJECT

The Hon. JAN BURNSWOODS: My question without notice is directed to the Special Minister of State, and Minister for Industrial Relations. Will the Minister advise the House what the Government is doing to assist the Department of Education and Training to implement systems to protect the health and safety of its employees?

The Hon. JOHN DELLA BOSCA: Honourable members may be aware that the Department of Education and Training is the largest single employer in this State. It is responsible for public primary schools, secondary schools and TAFE colleges and it employs approximately 109,000 people. The department provides services to over 100 TAFE campuses and over 2,300 students attending school sites throughout New South Wales. On any given weekday up to one in six people in this State will spend some time on department property. Those people include teachers, schoolchildren, trades persons, contractors and visitors. The importance of the department providing a healthy and safe working environment cannot be doubted. WorkCover's government industry team has joined forces with the Department of Education and Training to launch the SchoolSafe project. This innovative project focuses on primary and secondary schools in New South Wales, which together employ the bulk of the department's staff and account for the majority of workplace health and safety incidents.

Inspectors from WorkCover's government team, as well as inspectors representing WorkCover's country south and country north teams, will be involved in visits to 60 schools across the State where inspections will be undertaken and staff surveyed regarding the occupational health and safety and injury management systems in their workplaces. Visits to schools throughout the State will commence this month. The project focuses on high-risk areas—slips, trips and falls; manual handling and repetitive movement; stress and the use of plant and equipment. Following the provision of assistance and advice at this school level, visits will also be made to the department's district offices where district superintendents and occupational health and safety staff will be interviewed in order to gain a complete understanding of the operations of occupational health and safety systems.

Finally, WorkCover representatives will meet with departmental officers at a senior management level to discuss any shortcomings that might have been identified. At the completion of the project, WorkCover's findings will be documented in a detailed report, which will be presented to the department. It is expected that this report will be completed by December this year. Based on the report, WorkCover and the department hope that a clear plan for the improvement of the department's occupational health and safety and injury management systems will be secured. This project is an example of the way in which WorkCover continues to fulfil its role of assisting employers in this State to implement occupational health and safety and injury management systems that will benefit employees in the private and public sector.

PEDESTRIAN SAFETY

The Hon. HELEN SHAM-HO: My question without notice is directed to the Minister for Mineral Resources, representing the Minister for Transport. Is the Minister aware that the Pedestrian Council of Australia called for an urgent review of penalties for road and traffic infringements? Given the fact that the Roads and Traffic Authority has advised that, in the 12 months prior to 11 June, there were 495 traffic accident deaths, 90 of which were pedestrian deaths, will the Minister inform the House what action the Government will take to lower that appalling death rate?

The Hon. EDDIE OBEID: The Hon. Helen Sham-Ho is genuinely concerned about the safety of pedestrians. I will seek a detailed answer to the honourable member's question from my colleague the Minister for Transport, the Hon. Carl Scully, in the other place.

SCHOOL SPORTS FIELD SAFETY

The Hon. PATRICIA FORSYTHE: My question without notice is directed to the Minister for Industrial Relations. I refer the Minister to his answer to a question asked earlier by the Hon. Jan Burnswoods. Has the Department of Education and Training asked the WorkCover Authority to review guidelines for schools for the safe marking of sports fields following the recent serious accident at James Busby High School? If not, what action has WorkCover taken to ensure that teachers, students and school staff at James Busby High School and at other schools have a safe environment in which to work?

The Hon. JOHN DELLA BOSCA: The Hon. Patricia Forsythe asked me a question about occupational health and safety at high schools and about the activities of WorkCover at those schools. I refer the honourable member to my answer to the question asked earlier by the Hon. Jan Burnswoods. The Government and WorkCover have in place a comprehensive strategy in relation to occupational health and safety issues in the school system. As to the specific incident at James Busby High School, I have no information for the honourable member over and above that which I have already provided. However, I undertake to find out from the WorkCover Authority and my colleague the Minister for Education and Training what details are to hand and to give them to the honourable member as soon as possible.

OPERATION WESTSAFE

The Hon. HENRY TSANG: My question is directed to the Minister for Police. What is the latest information about operations to target dangerous driving in Sydney's west?

The Hon. MICHAEL COSTA: Today I can report to the House about a successful program that police advise me has reduced the road toll in western Sydney by about 30 per cent.

The Hon. Charlie Lynn: They are mainly Labor people without a *Gregory's.*

The Hon. MICHAEL COSTA: The road toll is a very serious matter. Young kids in the gallery are listening to this debate. Opposition members should relax and listen to my answer. They can misbehave after question time. New South Wales Police have for nine months been conducting a co-ordinated blitz on the roads of the western suburbs codenamed Operation Westsafe. The campaign targets driving behaviour across 13 local government areas, with high-profile advertising and public education programs. Police advise me that the program is working: drivers are slowing down and fatalities are falling. Police tell me that between July last year and April this year almost 280,000 random breath tests were conducted, more than 8,600 people were caught speeding, 2,100 were caught not wearing seatbelts and 253 motorists were charged with drink driving.

The Hon. Duncan Gay: Are your statistics correct?

The Hon. MICHAEL COSTA: These statistics come from the New South Wales Police. Police say that drivers are slowing down. Western Sydney has always been overrepresented in our road statistics. The number of fatalities in our west peaked at 141 in 2000, which is tragic. It dropped to 94 last year, which is a reduction of 30 per cent. Police tell me that more than 60 per cent of all road deaths occurred in Western Sydney before the program began. Since the introduction of Westsafe that figure has fallen to less than 50 per cent of the Sydney total.

This high-profile, proactive campaign on our roads again highlights the front-line capability of the New South Wales Police Highway Patrol as well as record police resources across all local area commands. Operation Westsafe is a joint initiative by the New South Wales Police Service, the Roads and Traffic Authority and local government. I commend all those involved in the operation for its success, and join the people of western Sydney in hoping that these figures improve even further.

PACIFIC HIGHWAY NORTH COAST FATALITIES

The Hon. JOHN TINGLE: My question is directed to the Minister for Fisheries, representing the Minister for Transport, and Minister for Roads. Is the Minister aware that six people have died in the space of seven days in head-on collisions on one very short stretch of the Pacific Highway just north of Kew, which is south of Port Macquarie? Is the Minister also aware that this stretch of the Pacific Highway from Kew to Heron's Creek is becoming notorious for crashes, many of them head-on collisions but not all of them fatal? Is it a fact that, despite these deaths and smashes, the Roads and Traffic Authority [RTA] has announced that there will be no immediate roadworks or warning signage on this stretch of road until the Coroner releases a report on these deaths? Given that that could be months away, will the Minister direct the RTA at least to erect signs warning that this is a smash zone, and probably a fatigue zone, or will the RTA be allowed to sit on its hands while more people die?

The Hon. EDDIE OBEID: I am aware of the accidents to which the Hon. John Tingle referred as I, like others, read about them in the newspapers. It is shattering. One death is one too many. I am sure that my colleague the Hon. Carl Scully will inform us what action he proposes to take regarding this strip of road.

SOUTHERN HIGHLANDS POLICE PRISON ESCORT DUTIES

The Hon. CHARLIE LYNN: My question is directed to the Minister for Police. What action has the Minister taken to sign and finalise a formal agreement between the police and the Department of Corrective Services to remove the burden of prison escort duties from Southern Highlands police, which currently take up around 2,000 hours of police time a year? Is the Minister aware that, without a formal agreement, any arrangements made to relieve Southern Highlands police of this burden can be reneged at any time?

The Hon. MICHAEL COSTA: I have reported to the House before about discussions that I, as Minister for Police, have had with the Minister for Corrective Services about prisoner escorts. That is what the honourable member's question is about. We have reached an in-principle agreement that those escorts will be transferred to Corrective Services, but that depends on the budget and on the training of appropriate staff.

[*Interruption*]

Opposition members may laugh about budget matters. I will not comment about the current budget, but budgetary issues clearly concern the taxpayers of this State and we must take appropriate steps to ensure that we phase in these programs in a fiscally responsible manner. Of course the Opposition does not have to worry about that: John Brogden is running around the place, promising everything to everyone. I think his funding promises amount to about $5 billion already. We will take the responsible course: transfer the escorts and train personnel as the budget becomes available.

WAGONGA INLET BULL RAYS

The Hon. AMANDA FAZIO: My question is directed to the Minister for Fisheries. What has been done to protect local bull rays in Wagonga inlet on the far South Coast of New South Wales?

The Hon. EDDIE OBEID: The New South Wales Government is working actively with the community to protect the biodiversity of our aquatic life. This means extra government protection for bull rays on the far South Coast. The local community near Wagonga inlet asked the New South Wales Government to protect these graceful sea creatures, which have become quite an attraction in recent years. They have become local favourites and a popular tourist attraction. We are keen to ensure that future generations continue to enjoy these wonderful creatures.

The rays, which grow to nearly two metres in width and feed on crabs, shellfish and scraps, are an important part of the marine ecosystem. Despite their large stinging spine, which is used for defence, they are not known to harm swimmers. However, they may be dangerous to anyone who catches and handles them. On the advice of the local community, the Government has banned fishing for these creatures in Wagonga. This ban means that catching bull, eagle, black and cow-nose rays in this waterway—including all its creeks, bays and tributaries—is now prohibited. This decision has the full support of the Advisory Council on Recreational Fishing, which advises me about recreational fishing. The area is already protected from commercial fishing. A local community group, EuroSouth, plans to place signs on the Wagonga boardwalk, which runs from Mill Bay to Apex Park. Additional signs are also being produced by NSW Fisheries to advise anglers about this ban.

ETHNIC POLICE RECRUITMENT

The Hon. Dr PETER WONG: My question is directed to the Minister for Police. I thank the Minister for his public comments supporting the need for more officers from ethnic backgrounds in the New South Wales Police Service. While I am aware that there is a New South Wales police recruitment campaign in the ethnic media to recruit people from diverse cultural backgrounds, including those from Chinese, Vietnamese and Arabic-speaking communities, will the Minister explain to the House why, in the latest television advertisement, which cost more than $1 million to produce and features about 20 police officers, not one officer appears to be of an ethnic background? There certainly appears to be no officers from an Asian background. Will the Minister obtain advice from the New South Wales Police Service and inform the House of the strategy behind this omission of ethnic talent from this commercial? Was it intended to portray the New South Wales Police Service as comprising officers from mainly Anglo-Saxon backgrounds, or was the omission simply an oversight?

The Hon. MICHAEL COSTA: As the Hon. Dr Peter Wong correctly pointed out, there is a clear policy by New South Wales Police to recruit from as diverse a background as possible. As part of that process we have taken advice on the best strategies and we are running targeted campaigns in the ethnic media to recruit people from those backgrounds. In relation to the current police advertisement, I inform the honourable member that all the officers who are seen in those advertisements are serving New South Wales police officers.

RURAL HOSPITALS ANAESTHETIST SHORTAGE

The Hon. Dr BRIAN PEZZUTTI: My question is directed to the Treasurer, Minister for State Development, and Vice-President of the Executive Council. Is it true that 85 of the 750 anaesthetists in New South Wales are working in rural hospitals? Are they paid less than their counterparts in Victoria, Queensland and the Australian Capital Territory? Has the Minister investigated whether this lack of anaesthetists is responsible for the record waiting lists for elective treatment in country hospitals, which are now 78 cent higher than they were when this Government was elected? Will the Minister give an undertaking to adopt Coalition policy to provide incentives to help attract new doctors to country hospitals and keep the few anaesthetists who are still working there, thus averting a crisis?

The Hon. MICHAEL EGAN: The Hon. Dr Brian Pezzutti, who has been a valued member of this Parliament for quite some time and who, regrettably, will not be recontesting the next election, is obviously lining up for his next job as union delegate for anaesthetists. I am not sure whether the information he conveyed to the House in his question is correct. I have no doubt that it is an important issue, but I would have thought that, for appearance's sake, that question should not have been asked by the Hon. Dr Brian Pezzutti. Nevertheless, I will seek information about his question and provide it to the House.

The Hon. Dr Brian Pezzutti: I am inviting you to do that. I am not going to work when I leave this Parliament.

The Hon. MICHAEL EGAN: We know that. In fact, we think you have forgotten how to work!

SYDNEY OLYMPIC PARK INDOOR SPORTS CENTRE

The Hon. PETER PRIMROSE: Will the Treasurer provide the House with updated details of the expansion of sporting facilities at Sydney Olympic Park?

The Hon. MICHAEL EGAN: Last month I was pleased to officially open a new permanent home for the emerging Olympic sports of table tennis, badminton, handball, volleyball, wrestling and judo. Sports such as these became very popular at the Sydney 2000 Olympics. I was pleased to open the Sydney Indoor Sports Centre at Sydney Olympic Park so that these sports can have a permanent home. These six sports have had to exist on very limited facilities throughout the State and that has hampered their development over the years. These sports have been growing, no doubt due to their Sydney Olympics exposure, and they are continuing to increase in popularity.

The $800,000 Sydney Indoor Sports Training Centre comprises two freestanding halls providing 6,300 square metres of floor space. The halls feature a special removable flooring for the sports that also can be readily removed to allow for more traditional uses of the halls, such as for exhibition space during the Royal Easter Show. These halls will be managed by the State Sports Centre Trust with the support of the Department of Sport and Recreation.

The Hon. Duncan Gay: Point of order: I understand that the Sporting Venues Management Bill is before the House. This question and answer anticipate debate on that bill.

The PRESIDENT: Order! I remind the Minister not to allow his question to trespass into debate that is currently before the House.

The Hon. MICHAEL EGAN: As far as I am aware it has nothing to do with the bill before the House. The opening of the Sydney Indoor Sports Training Centre is another example of the diversity and quality of venues that make Sydney Olympic Park Sydney's premier sport, entertainment and recreational centre. The State Sports Centre Trust and the Department of Sport and Recreation both do a fabulous job. Sydney Olympic Park is not just for the major sports of football, rugby union, swimming and basketball and nor is it a facility just for elite athletes. The opening of these halls will help to boost the participation of ordinary Australians in sport and recreational activities. Honourable members might know that more than five million people visited Sydney Olympic Park in 2001. The opening of these halls will ensure that even more people visit Sydney Olympic Park in the future.

DNA CROSS-JURISDICTIONAL TRANSFER PROCEDURES

The Hon. PETER BREEN: Can the Minister for Police explain to the House the comments by the Northern Territory police Minister, Syd Stirling, to the effect that there are deficiencies in the New South Wales DNA forensic procedures legislation? Is the Minister aware that Mr Stirling has indicated that DNA cross-

checking procedures in New South Wales are responsible for failings in the Commonwealth's CrimTrac DNA database? Can the Minister inform the House what steps have been taken to solve the problems referred to by the Northern Territory police Minister? Will the Minister co-operate with the Northern Territory police Minister to investigate the abduction and presumed murder of Peter Falconio?

The Hon. MICHAEL COSTA: I am aware of comments made yesterday in another State.

Reverend the Hon. Fred Nile: Another territory.

The Hon. MICHAEL COSTA: Well, another territory.

The Hon. Michael Gallacher: Another jurisdiction.

The Hon. MICHAEL COSTA: Another jurisdiction; let us be pedantic. I repeat the statement I made yesterday that accurately outlines the position. Special regulations and attorneys-general and commissioners' agreements are being drawn up to allow the cross-jurisdictional exchange of forensic information. A meeting of the Executive Council was called for today to consider the regulation.

The Hon. Michael Gallacher: You're not allowed to say that.

The Hon. MICHAEL COSTA: Am I not allowed to say that? I am advised that the meeting took place this morning and the regulation was approved by the Governor. The regulation and agreements are necessary to overcome a cross-jurisdictional anomaly regarding the transfer of forensic material in those circumstances in which a person of interest to police in one State or Territory is a person of interest to police in another jurisdiction in relation to a separate matter. I am advised that the regulation and agreements will be in force on Friday 14 June to enable the exchange of relevant forensic material from that day. We are working closely with operational police and other jurisdictions to facilitate the transfer of forensic material.

It would be inappropriate for me to discuss the matter any further. However, I will provide the House with a status report on the DNA capacity of New South Wales. I am advised that since January 2001 approximately 9,700 prisoners have been DNA tested. To date there have been 342 cold hits, including matches from crime scenes to offenders when there was previously no suspect. New South Wales leads the country with approximately 8,000 DNA samples loaded onto the national database. Those are the facts. I will be discussing DNA-related matters at the Australasian Police Ministers Council in July in Darwin.

The Hon. PETER BREEN: I ask a supplementary question. Does the Minister accept that New South Wales police are responsible for providing inaccurate or incomplete information to the Northern Territory police?

The Hon. Dr Brian Pezzutti: Or are they just incompetent?

The Hon. MICHAEL COSTA: That is an outrageous interjection! You are accusing New South Wales police of being incompetent. I really think, in the spirit of defending the interests of our hard-working police officers, you should withdraw that comment. It is outrageous to say that our police are incompetent. Because of the sensitivity of this matter, I do not intend to elucidate any further.

PACIFIC POWER INTERNATIONAL PRIVATISATION

The Hon. JOHN JOBLING: My question is to the Treasurer, Minister for State Development, and Vice-President of the Executive Council. In his briefing note on the privatisation of Pacific Power International the Treasurer said, "a sale of PPI will have no impact on the ownership or operation of the State's electricity assets". Did the Treasurer mislead the Australian Labor Party caucus and the employees of Pacific Power International by stating that the company is expected to incur losses for the next two financial years, when in fact the company could return a profit in the coming year?

The Hon. MICHAEL EGAN: The answers to both questions is no.

CeBIT AUSTRALIA INFORMATION AND COMMUNICATIONS TECHNOLOGY TRADE SHOW

The Hon. TONY KELLY: My question without notice is to the Treasurer, and Minister for State Development. Will the Minister inform the House of the benefits to New South Wales from hosting the CeBIT Australia Information and Communications Technology trade show?

The Hon. MICHAEL EGAN: Australia is the second biggest market for information and communications technology [ICT] products and services in the Asia-Pacific region after Japan, and New South Wales accounts for more than 40 per cent of the domestic market. In fact, the information technology sector generates more than $26 billion a year in turnover and employs more than 100,000 people in New South Wales. The first CeBIT Australia ICT trade event was held at Darling Harbour last month. CeBIT Australia is based on Germany's CeBIT Hannover—the world's largest and most successful ICT trade show. Over the three days of the CeBIT Australia event more than 13,000 people, including information technology buyers and sellers, visited the trade fair, generating numerous business leads. More than a third of the 380-plus exhibitors were overseas companies. That is an impressive number.

Local companies represented at CeBIT Australia showed that they were up there with the best in terms of innovation and quality of development. Their products and innovations ranged from wireless communication technology, e-business solutions and telecommunications, to data security, business intelligence and multimedia software. Last year the organisers of CeBIT worldwide, Deutsche Messe AG, made a commitment to host CeBIT in Sydney over the next five years. The first CeBIT Australia also incorporated the Australian Information Industry Association popular Software Showcase, providing 150 smaller Australian software developers with the opportunity to participate.

Our software industry has a strong international reputation. CeBIT puts Australia on the map as a large and sophisticated information technology market and also as a developer of innovative information and communications technology. The long-term commitment by Deutsche Messe AG to host this event in Sydney supports our city's status as an international centre of ICT excellence and as an attractive location for business tourism. And, importantly, the hosting of CeBIT Australia in Sydney will also boost New South Wales's share of Australia's $2.2 billion conventions and meetings market.

If honourable members have further questions, they might place them on notice.

OBERON TO GOULBURN ROAD

The Hon. MICHAEL EGAN: On 9 May the Deputy Leader of the Opposition asked a question without notice regarding the upgrade of the Oberon to Goulburn road. I now provide the following response:

> I have been advised by the Minister for Roads that the upgrade of the Oberon to Goulburn Road is an important matter under consideration by the Roads and Traffic Authority. The Minister is kept informed of the community's concerns thanks to the ongoing advocacy of the honourable member for Bathurst.

ENERGYAUSTRALIA ELECTRICITY METER TENDER

The Hon. MICHAEL EGAN: Earlier today I was asked two questions about the EnergyAustralia electricity meter tender. As I advised the House last night, I signed off a letter to Mr Jokubaitis, the Chief Executive Officer of Email Metering. I said in that letter:

> Dear Mr Jokubaitis
>
> **Energy Australia's electricity meter tender EA/1510T/01**
>
> I have received your letter of 14 May 2002 regarding the outcome of Energy Australia's recent tender for a range of electricity metering products.
>
> Energy Australia is an independent commercial entity responsible for the management of various electricity related business activities. Energy Australia must have an efficient cost structure to maintain its earnings and to deliver a low-cost service to its household and business customers. While I would have concerns if Energy Australia failed to show correct process in awarding a commercial tender, my role is not to intervene in the day-to-day operational decisions of the business. Your letter does not indicate any failing by Energy Australia in complying with the processes set out in its request for product or its procurement policy.
>
> I am advised by Energy Australia that of the seven metering products awarded in the tender, five were awarded to Australian companies that design and assemble the meters in Australia, including one product that was awarded to Email Engineering. Energy Australia also advises that of the two fully imported products, Email's product was also a fully imported meter. Overall, some seventy five per cent of the value of the equipment purchased will be assembled in Australia.
>
> In the circumstances, I cannot support your request to intervene in the competitive tender conducted by Energy Australia.

POLICE PATROL VEHICLES VIDEO DATA RECORDERS

The Hon. MICHAEL COSTA: On 7 May the Hon. John Jobling asked me a question without notice concerning police vehicle video data recorders. I now provide the following response:

> I am advised in-car videos will be trialled further at two locations including Mascot and Brisbane Water to resolve the issues recently identified in the evaluation conducted by the Department of Public Works and Services. The matter has also been referred to the Advanced Technology Centre of the Police Special Services Group who will also advise on future technology issues.

POLICE PROTOCOLS

The Hon. MICHAEL COSTA: On 7 May the Hon. Peter Breen asked a question without notice concerning police protocol. I provide the following response:

> The information concerning strip searches and sniffer dog searches has been provided to the honourable member by letter dated 14 May 2002.

DEPARTMENT OF COMMUNITY SERVICES JUVENILE ACCOMMODATION

The Hon. CARMEL TEBBUTT: On 8 May the Hon. Patricia Forsythe asked a question regarding the Department of Community Services and juvenile accommodation. I now supply the following response:

> I am advised that the subject child was arrested by police on 2 May 2002 for malicious damage to property. She had run away from her placement. She was again taken to a placement but ran away again and again was picked up by police for malicious damage and held in custody over the weekend of 4-5 May 2002. If a child has been charged with a criminal offence, the court is required to make a decision regarding bail. At the local court hearing the magistrate refused bail on the grounds outlined above. The Department of Community Services does not have the power to override the criminal law.
>
> I am advised that staff of the Department of Community Services have devoted considerable resources to address this young person's high risk behaviour, which includes habitually absconding, and provide her with appropriate alternative accommodation. Whilst DOCS is required to find appropriate accommodation for young people in its care, the child and protection legislation does not allowed DOCS to force them to stay in that placement: nor is it possible for DOCS to secure a placement in such a way as to prevent the young person from leaving. I am advised that the young person has been referred to a youth justice conference, and has returned to a placement with a former carer, with undertakings relating to maintaining an acceptable standard of behaviour.

DEFERRED ANSWER

The following answer to a question without notice was received by the Clerk during the adjournment of the House:

ASIAN LANGUAGES AND STUDIES PROGRAM FUNDING

On 7 May the Hon. Helen Sham-Ho asked the Minister for Police, representing the Minister for Education and Training, a question without notice. The Minister for Education and Training supplied the following answer:

> The Federal Government is withdrawing its funding in spite of an evaluation of the strategy which included a strong recommendation that funding be continued until 2006. As a result, programs such as the Languages Continuity Initiative and the provision of some languages consultants will cease—to the detriment of NSW teachers and students.
>
> The State Government is pursuing this matter with the Federal Minister.

Questions without notice concluded.

[*The President left the chair at 1.07 p.m. The House resumed at 2.40 p.m.*]

GOVERNMENT (OPEN MARKET COMPETITION) BILL

Second Reading

Debate resumed from an earlier hour.

The Hon. MALCOLM JONES [2.40 p.m.]: In my experience open government is a cliche to which all governments pay lip service, yet all governments resent it and seek to a lesser or greater extent to avoid it. The tragedy slowly unfolding in relation to the M5 East stack will subsequently be litigated. Had the truth been

revealed up front, the M5 East would never have been built in a valley surrounded by houses. The resistance to disclosure, the inquiry, the suffering—all so unnecessary—would have been avoided if a genuine freedom of information system worked in New South Wales. I have tried to obtain information on other issues under the Freedom of Information Act against a hostile department and I have found it difficult. Years later, the same efforts are denied. I will be up front and say that I do not believe that the Carr Government is corrupt, but I believe that previous New South Wales governments have been corrupt. Ministers have been incarcerated—and I am sure honourable members on both sides of the House do not wish me to expand on that issue.

Corruption does not start with big corrupt acts; it starts with small acts where two or more people contrive to take a small or unfair advantage. Such behaviour goes undiscovered or is condoned, it is expanded until it becomes the norm to the participants, and it is further expanded until it becomes unstoppable. The extreme lengths to which some political leaders will go to prevent losing office is not for the sake of losing office and status—they usually have sufficient money—but to prevent exposure of corruption. Whole countries are ruined by corruption. For example, I refer to Mexico, whose economy is a disgrace. Corruption is so well entrenched in society that it is virtually unchangeable. Corruption is the disease of government. I repeat: the New South Wales Government is not on trial here. The Nazi Party in Germany came to power by corrupting the German people. The leaders of the country, many of whom had originally taken an anti-fascist position, were corrupted into supporting Hitler. Bosch, who was the head of I. G. Faben prior to 1933, was a strong anti-Nazi, yet his morality was corrupted by Hitler and the Nazis. Within 10 years I. G. Faben had its own concentration camp.

I return to the Government (Open Market Competition) Bill. It is fantastic that this House has question time each sitting day. It is the envy of many parliaments. I think the House of Commons has Prime Minister's question time once a week. There are checks and balances on our public service—so there should be—which will take in $33.6 billion next year. Every industry and profession is required to provide greater disclosure and compliance. Greater disclosure and compliance is a pain in the neck, expensive and time-consuming, but businesses that approach these issues in a constructive way learn to manage themselves more efficiently. This is both my experience and an unexpected benefit to business following the introduction of the much-hated business activity statement imposed on them as part of the GST legislation. Therefore, if businesses in general are subjected to greater compliance and scrutiny when they are spending private money, why should government not be subjected to greater scrutiny when it is spending and raising ever-increasing amounts of public money? If the Hon. Amanda Fazio is so incensed by the bill introduced by the Hon. Dr Arthur Chesterfield-Evans perhaps she should focus her rage into constructively amending it. I support the bill.

Debate adjourned on motion by Ms Lee Rhiannon.

GENERAL PURPOSE STANDING COMMITTEE No. 4

Report: Budget Estimates 2001-2002

Debate resumed from 9 May.

The Hon. Dr BRIAN PEZZUTTI [2.50 p.m.]: I shall refer not only to the report of the committee but also to the failure of the Hon. Carl Scully to answer questions put to him as part of the committee inquiry. For example, the Hon. John Jobling asked the Minister:

> (1) How many staff have received or will receive bonuses during 2000-01?

The Minister's answer was:

> On 28 August 2000 Premier's Memorandum 2000-21 was issued indicating that performance pay was not to be made available to members of the Chief and Senior Executive Services.

The Minister was then asked:

> (2) Can you provide the identity of the staff members, the positions they hold within those five entities and the specific amounts that have been paid?

The answer was:

> In August 2000 details of performance payments were published in the Sydney media relating to range of performance payments made in 2000.

That is something the Minister could have told us, rather than us having to rely on the good graces of the *Sydney Morning Herald* or the *Daily Telegraph*, both of which have not been journals of record for many years. Members of the committee should not be expected to find that out by reading the *Sydney Morning Herald*. Surely the Minister could have had a press release attached to the answer if he was so confident. The next question was:

> What amount from total expenses have you and your specific staff spent on Cabcharge expenses?

That is a sensible question. The answer was:

> The Minister's office Cabcharge account is funded from the allocation provided by the MAPS section in the Premiers Department through the Roads and Traffic Authority.

The Minister would know how much he used through the modular accounting plan section. The people of New South Wales are entitled to know such information. The Minister must be one of the great fans of the Minister for Health, because that is how the Minister for Health answers his questions. How can the people of New South Wales find out these things? Question No. 3, asked by the Hon. John Jobling, in relation to skipped stops and train times was:

> (1) What percentage of trains would experience skipped stops each day?

The answer was:

> The daily transport task for CityRail is massive. Each day more than 900,000 people travel on CityRail's 2,500 services.

We all knew that. The answer continued:

> Skipped stops is always used as a last resort to minimise inconvenience to our passengers.

There is still no information on what percentage an average train would experience each day. The next question was:

> (2) What did your figures show for last month?

Again, there is no answer. The Minister was asked:

> (3) What are the figures for the past three months?

Again, there is no answer. Instead, we got this little bit of verbiage:

> Skipped stops is a practice that has been used by CityRail network for many years, and was the subject of a Ministerial Press Release in November 1990 …

That is the sort of thing that people who travel by train want to know—how many skipped stops there were on average, and whether it is getting better or worse. That is the sort of information the Minister should have at his fingertips. It is one of the benchmarks he would use for giving the aforesaid SES officers their bonus for the year, which he was not prepared to declare. The Hon. Charlie Lynn asked the Minister for Transport question No. 4, about speed restrictions on the New South Wales road network. That is pretty important, because it tells us about the infrastructure. He asked:

> (1) At what locations are there current speed restrictions?
>
> (2) What is the normal speed at each location?
>
> (3) What is the slowest speed at each location?
>
> (4) What times of the day, or during which type of operation do the restrictions apply at each location?
>
> (5) How long are the restrictions to be in place at each location?
>
> (6) Why are there speed restrictions at each location?

The Rail Infrastructure Corporation [RIC] probably wrote the Minister a five-page tome, but he decided to send this to the committee:

> (1-6) Routine maintenance is carried out in a way that involves regular track inspections. On occasion, this may involve a speed restriction to ensure the safety of the tracks, trains and rail workers. Speed restrictions in rail are of a similar principle to speed restrictions around road work sites, that is, to provide greater level of safety. I am advised that across the four main country rail corridors, RIC is working towards a target of further reducing speed restrictions to a level that will not impact on passenger rail timetables.

That does not answer the question. The question asked by the Hon. Charlie Lynn was entirely about freight movements, including freight on the Pacific Highway. We end up with nothing. We do not find out where there are restrictions, why there are restrictions or the speed restrictions in each place. The speed restrictions on the Lismore to Bangalow route have been there for about six years or more. The speed is down to 10 kilometres an hour. In question No. 5, the Hon. Charlie Lynn asked the Minister for Transport:

> In relation to "customer satisfaction surveys carried out by CityRail"—

he must have had a bit of a giggle when he said that—

> (1) When was the last quarterly customer satisfaction survey carried out?
>
> (2) Will you also advise when the next survey will be carried out?
>
> (3) Will you be able to provide what the results were of the most recent survey?

That is pretty straightforward. How is CityRail meeting its customers' needs? The Minister's answer took one line:

> (1-3) The State Rail Authority welcomes constructive feedback from its many customers as a valuable management tool.

That is it. The Minister had no idea when the last one was done or what the results were. I would have thought that the Minister would want this information on his desk today, to see whether the chief executives in his rail service are meeting the needs of the people who are paying a large amount of money. Certainly the people of country New South Wales want to know that information. They want to know whether the money was well spent or wasted, and whether they are providing a service of quality. It costs an awful lot of money to run that service—money we could use on country roads because we do not have public transport in the country. The sixth question asked of the Minister was:

> Can you give an estimate of your expenditure on road-based infrastructure development compared with rail and public transport options?

The answer was:

> Total capital program for transport agencies is $721.7 million.
>
> Estimated expenditure on road-based infrastructure developments for 2000/02 is $688.5 million.
>
> This information is detailed in Budget Paper 4.

That is not what we asked. We asked for:

> … an estimate of expenditure on road-based infrastructure development compared with rail and public transport options.

In other words, we are looking at the options for providing a service that is road-based or the options for providing that by train. That is reasonable. Yet, the Minister for Transport gives information that any person in New South Wales could find by looking at the budget papers. The seventh question was asked by the Hon. Ian Cohen:

> In relation to "the school student transport scheme"
>
> (1) Have you been able to find out the total subsidy to children in non-government schools?
>
> (2) What is the total subsidy for children travelling past their local government school?
>
> (3) Which companies received the five largest payouts under the scheme?

That question was probably provided to the Hon. Ian Cohen by Ms Lee Rhiannon, who is a long-term DOGS supporter—that is, defence of government schools—a real communist from way back. The answer to that question was:

> (1) This information is only available for regular route bus operators and in 1999 the subsidy for children in non-government schools was $106.1 million out of a total payment to regular route bus operators of $238.8 million.

The Minister was not able to provide information about whether children travel past their local school. The question as to which companies received the five largest payouts was answered in this way:

(3) Some details of SSTS payments and distributions may be found in the Annual Report.

If the Minister were half decent he would have photocopied the page of the annual report containing that information and given it to the committee. I dare say that when we come out of election mode there will be many debates in this House about cutting back the transport subsidy for students. If Ms Lee Rhiannon had her way she would cut it out altogether. Clearly, that information could be provided by the Minister at no great cost. The Hon. Ian Cohen persisted and asked:

In relation to the "offer to home owners to sell their properties above the M5 tunnel and the M5 east stack"

(1) What would be the cost if every homeowner within a 400 metre radius of the M5 East stack took up the offer of selling their property to the Department?

The Minister's answer was:

The Roads and Traffic Authority … has found that 270 owner-occupiers of residential properties live within 400 metres of the M5 East air exhaust stacks. The RTA has written to those owners.

[*Debate interrupted.*]

DISTINGUISHED VISITORS

The PRESIDENT: Order! I welcome to the President's Gallery His Excellency Mr Khalifa Bakhit Al Falasi, Ambassador of the United Arab Emirates and Dean of the Arab Diplomatic Corps; His Excellency Mr Michel Bitar, Ambassador of Lebanon; His Excellency Mr Assem Megahed, Ambassador of Egypt, His Excellency Mr Ali Kazak, Head of the Palestinian Delegation to Australia and Ambassador to Vanuatu.

GENERAL PURPOSE STANDING COMMITTEE No. 4

Report: Budget Estimates 2001-2002

[*Debate resumed.*]

The Hon. Dr BRIAN PEZZUTTI [3.00 p.m.]: I am very pleased to have such distinguished gentlemen in the Chamber. We are discussing problems in New South Wales which would probably not exist in their countries. The New South Wales Minister for Transport is not prepared to divulge to the Parliament the way he spends public moneys, and we are concerned about the answers he gave to some of the questions he was asked. The Minister's answer continued:

Under the M5 East Property Value Guarantee the average loss in value between purchase and resale of properties has been 7%.

That was not the question the Minister was asked. The Minister was asked how much it would cost if every home owner within a 400-metre radius of the M5 East stack took up the offer of selling their property to the department. Four hundred houses multiplied by $400,000 would amount to some millions. But then, of course, the Roads and Traffic Authority [RTA] could sell the properties. The second question was:

What was the take-up rate for the 1997 offer to homeowners to sell their properties above the M5 road tunnel and those within 100 metres of the portals?

The Minister's answer was:

311 properties were eligible for the 1997 M5 East Property Value Guarantee for properties above the tunnel or within 100 metres of a tunnel portal.

Up to May 2001, 113 property owners had requested an offer from the RTA.

99 offers have been made, of which 62 have proceeded to exchange of contracts.

Of the 28 answers in seven individual packages of questions, that is the first answer that comes close to answering the question. The third question was:

What has been the cost of the scheme so far?

The Minister's answer was:

Including the temporary financial outlay between exchange of contracts on purchase of eligible properties until settlement of resales, total expenditure for the 1997 M5 East Property Valuation Guarantee up to June 2001 is $4,013,000.

The answer does not tell us how much was paid for the properties and how much they resold for. Of the 99 contracts entered into, 62 have proceeded. Some of the properties have been sold, so that has devalued the $4 million property valuation guarantee. It would have been easier if the Minister had provided a table showing the relevant information. I bet there is a whiteboard in his office that is updated every day. The fourth question in that group of questions was:

> What is the average gap between the price of the sale of the property to the RTA and the rate of resale to the new owners?

The Minister answered:

> In respect of the 62 properties resold up to May 2001 under the 1997 M5 East Property Value Guarantee, the average loss in market value has been 7%.

The Minister does not say why. Is it because he is trying to turn them over quickly? Is it because of the M5 East stack? We are provided with no details. The Hon. Ian Cohen then asked:

> Have you had any interagency communication on or investigations into the viability of biodiesel?

That is a good question. The Minister gave the following answer:

> The Government is committed to pursuing more environmentally friendly fuels both to improve the air quality and reduce greenhouse gas emissions. Biodiesel is a generic name for fuels made from modified vegetable oils.

The Minister then went on to tell us that according to the CSIRO's report commissioned by the Australian Greenhouse Office, biodiesel has the lowest greenhouse gas emissions on a life-cycle basis, that ethanol comes next, and so on. The Minister then said:

> The State Transit Authority (STA) is committed to Compressed Natural Gas as the alternative to diesel fuels.

That has nothing whatsoever to do with biodiesel. The Minister continued:

> STA has previously conducted trials with bioblend fuels such as Diesohol—

which again has nothing whatsoever to do with biodiesel—

> and after extensive testing this type of fuel did not prove a successful alternative to commercially available diesel.

But it does not answer the question, which was whether the Minister had any interagency communication on or investigation into the viability of biodiesel. The fourth paragraph of the answer reads:

> It is advised that AGO [Australian Greenhouse Office] is conducting further research …

The fifth paragraph of the answer reads:

> The Minister for Agriculture and Minister for Land and Water Conservation recently announced his support for the development of alternative fuel products using vegetable oil.

This is the first time we see an interagency comment—in other words, from the Department of Agriculture and the Department of Land and Water Conservation to the Roads and Traffic Authority. The answer continues:

> NSW Agriculture and the Biodiesel Association of Australia are currently discussing the potential of biodiesel and have invited the participation of the Roads and Traffic Authority.

Nothing in that answer tells us about interagency communication on or investigation into the viability of biodiesel. It is just a furphy. In question 10 the Hon. John Jobling asked:

> In relation to "flood damaged roads"—

which is a matter of interest to residents on the North Coast and throughout Western Sydney in particular—

> (1) What councils have applied for and received funding for flood-damaged roads over the last three years?
>
> (2) Can you match that with the maintenance funding for each of those councils over the last three years?

We were not provided with a list of councils, which is what we wanted. The Minister's answer was:

> The State Government has provided $504,783,135 maintenance funding, including additional funding for the repair of flood damaged roads, to councils (including the unincorporated area) over the past three years.

So there is $504 million for maintenance funding, including additional funding for the repair of flood-damaged roads. We did not ask how much funding was provided; we simply asked what councils applied for funding, but a list of councils was not provided. $504 million is a lot of money, but it addresses the entire issue of road maintenance plus the repair of flood-damaged roads. The Minister was then asked:

> Can you match that with the maintenance funding for each of those councils over the last three years?

The Minister's answer was:

> 134 councils (including the unincorporated area) have received flood disaster funding over this period.

That is not what the Minister was asked. We wanted to find out whether the Minister was using a little whiteboard, like his Federal counterparts, or whether he was simply providing funding for his mates in Western Sydney and starving the other areas of the State. But the Minister does not provide the answer. In question 11 the Minister was asked:

> When was Gosford City Council informed that funding would be provided in the 2001/2002 Budget for Avoca Drive, The Entrance Road and Pacific Highway within Gosford City Council?

Six very specific questions followed, including the following question:

> Can the Minister provide a funding schedule for the following developed works within Gosford City Council?

People are interested to know when the road will be fixed. The Minister's answer was:

> The Roads and Traffic Authority and the Department of Transport are working closely with Gosford Council and Wyong Council to develop a plan for priority roadworks and transport improvement on the Central Coast.
>
> The NSW Government has now opened a dedicated transport and roads office on the Central Coast to service the transport needs of this rapidly growing region.
>
> In the Gosford City Council area, where Council and the RTA's Road Services Operations have been the historical providers of services, the RTA has adopted a transitional approach of inviting tenders from both organisations, so that they may develop their contracting skills.
>
> The contract documentation requested of Councils is the same as required of private contractors and accords within current contracting practices within NSW.

That does not tell us when Gosford City Council was informed that funding would be provided in the 2001-02 Budget for Avoca Drive, The Entrance Road and Pacific Highway within Gosford City Council, nor does it indicate what criteria apply in determining whether a single contract price would be used. It does not tell us what actions the RTA had taken to minimise the considerable contractual documentation required, or when the Minister will indicate when the funding will be provided in any way, and it does not tell us what the funding schedule will be for any of those roads. To that extent, the response did not even go close to answering the question except to tell us that the RTA had backflipped on the single contracting issue into which I conducted an inquiry with the Hon. Tony Kelly. [*Time expired.*]

The Hon. JOHN RYAN [3.10 p.m.]: The Opposition has moved this motion because we wish to ventilate our frustration over the manner in which the estimates committees were conducted last year. Part of the reason for doing so is to ensure that the Opposition does not suffer this year from the problems we suffered last year. Sadly, we have no reason to be hopeful because the estimates committee hearings this year will be conducted over a much shorter period than last year—they will be conducted in three days, and in quick succession. The likelihood is that there will be some pressure for additional hearings.

It is rather silly that this motion addresses a problem that members of Parliament should not have to contend with, namely, the non-provision of satisfactory answers to questions on notice. I am sure that the Clerk of the Parliaments would rather not have zillions of questions placed on notice. It takes members a great deal of time to research and write the questions. It also takes time to ensure that each word is weighed so that the Minister is directed to the specific question, and that the question is worded in such a way that the Minister cannot avoid answering it and providing the information sought. If the estimates were examined over a longer period, we may well be able to avoid the asinine nonsense of putting numerous questions on notice.

The Hon. Jan Burnswoods: But you are the people who do it.

The Hon. JOHN RYAN: We do it because there is inadequate time in which to canvass these matters in open hearings. It is not that members of the Opposition derive great pleasure from drafting questions to put on

notice: It is a remarkably difficult and onerous task. Bearing in mind that this year many Opposition members will be walking almost immediately from one estimates committee hearing to the next and that some hearings will even be conducted on sitting days, our time and opportunity to examine the estimates will be somewhat limited. The procedure begins with the work of the Clerk of the Parliaments and his staff, who gather all the information and put it in the proper form. It is then sent to the various government departments or to the Ministers' offices and is disseminated to ministerial officers to be answered, and in some instances briefings are prepared. The answers are then returned to the ministerial offices.

The Hon. Ron Dyer: Point of order: The honourable member is supposed to be debating the Hon. Jennifer Gardiner's motion, which reads:

> That this House take note of Report No. 6 of General Purpose Standing Committee No. 4 entitled "Budget Estimates 2001-2002", and in particular, the Committee's adverse report on the failure of the Minister for Transport, and Minister for Roads to provide satisfactory answers to many of the Committee's questions on notice and further notes that this exemplifies the lack of ministerial accountability, secrecy, and hubris that pervades the Carr Labor Government.

The Hon. John Ryan is engaged in a wide-ranging review of what he anticipates the procedures will be for estimates committees this year, which, by definition, have not yet occurred. He is at length complaining about what he perceives to be problems yet to come, whereas the Hon. Jennifer Gardiner's motion deals with grievances that that member apparently harbours as a result of her past experiences. I suggest to you that the Hon. John Ryan is not debating the motion. He is using the motion as an excuse to debate other matters that have not yet occurred.

The Hon. JOHN RYAN: To the point of order: The motion relates to, providing satisfactory answers to committees' questions. I am certainly not anticipating anything in the future but the nub of this issue is nevertheless the whole business of putting questions on notice and seeking answers. To the best of my knowledge, all I have been doing is describing the process that occurs. I have no real intention of dealing with what might happen in the future—not that I think I would have any problem if I wished to do so in terms of the motion before the House. I am simply discussing the way questions and answers are drafted. That goes to the root of the problem. I believe I am quite within the leave of the motion.

The Hon. Dr Brian Pezzutti: To the point of order: The Hon. Ron Dyer was the Minister for Community Services. I think he is concerned that the Hon. John Ryan, who has worked in a number of ministerial offices, is clearly describing the procedure that would have been followed.

The Hon. Jan Burnswoods: To the point of order: This is an outrageous attack on the Hon. Ron Dyer. For the Hon. Dr Brian Pezzutti to have the hide to suggest that the Hon. Ron Dyer is, or was, concerned about someone such as the Hon. John Ryan attacking his performance of his former ministerial duties is outrageous. I demand that he withdraw those remarks.

The Hon. Dr Brian Pezzutti: Further to the point of order: There is no point of order. The Hon. Jan Burnswoods should clear the wax out of her ears and listen carefully.

The DEPUTY-PRESIDENT (The Hon. Tony Kelly): Order! No point of order is involved.

The Hon. Dr Brian Pezzutti: The Hon. John Ryan has been explaining the process that would have taken place in the office of the Minister for Transport, and Minister for Roads to get to the sad situation that I have been describing.

The DEPUTY-PRESIDENT: Order! There is no point of order. However, I ask the Hon. John Ryan to confine his remarks to the subject matter of the question before the Chair.

The Hon. Peter Primrose: That saved you having to think up things for five minutes.

The Hon. JOHN RYAN: Not at all. I just hope I get the opportunity to express all the frustrations that I wish to express.

The Hon. Jan Burnswoods: Are you on the Transport committee? Are you actually equipped to make any comment?

The Hon. JOHN RYAN: I am sure that I am well and truly equipped. I was explaining to the House—and if members opposite continue to interject, I might have to explain again—the tedious process that is undertaken for the preparation of answers to questions on notice for estimates committee hearings. The process is remarkably tedious and difficult.

The Hon. Jan Burnswoods: Have you ever thought that that is because your questions are so tedious, useless, ill-prepared, ill-digested and ill thought-out?

The Hon. JOHN RYAN: I am inclined to think that the honourable member's interjection is some sort of an imputation, but I will not take offence. The difficulty is that Opposition members are rushed into preparing the questions, and I have no doubt that that was the milieu in which the questions of General Purpose Standing Committee No. 4 were prepared. Estimates committees are all very similar and the hearings are largely conducted in the same period. The point I am making is that estimates committees need time in which to ventilate the issues, as do estimates committees in the Senate. The Federal estimates committees are convened in the morning and sometimes extend throughout the day into the evening until each of the issues is ventilated. They tend not to have the enormous difficulty of having to provide answers to sometimes hundreds of questions.

I have no doubt that one of the defences a Minister would use, if a Minister was in a position to respond, would be that the answers are inadequate owing to the insufficiency of time or resources to facilitate a response to all the questions. As one who has placed some questions on notice, I am able to say that nothing is more frustrating than putting a question on notice and being told that some small detail in the way in which the question was asked was inappropriate, or receiving an answer that is deliberate obfuscation, which sadly is the case with General Purpose Standing Committee No. 4. I urge the House to consider the provision of a little more time to ventilate the issues in a more fulsome way during the hearings of the estimates committees.

The Hon. Jan Burnswoods: Do you mean "full" or "fulsome"?

The Hon. JOHN RYAN: I meant in a fulsome way. If that happened, the Opposition would not be debating a motion of the type that is currently before the House, notwithstanding that it could have moved a similar motion after almost any set of estimates committee hearings in which I have participated since I have been a member of Parliament. We would not be debating this, because most issues would have been ventilated. If more time was allocated for estimates committees the Coalition and the crossbench might even run out of questions. Most members are seeking, first, to show the electorate that they are making a decent job of investigating the budget estimates and, second, answers to questions which concern their constituencies. In question 13 the Hon. John Jobling asked the Hon. Carl Scully:

(1) Has State Rail purchased a lightning data tracking system for the Rail Co-ordination Centre?

(2) What was the cost of purchasing this system?

(3) (a) Did the contract to supply the system go to tender?

(b) If so, when and who was the successful contractor?

(4) If the contract was filled through quotes, from which companies were quotes sought?

It is fairly obvious what the questioner was trying to achieve. In many instances I suspect that if the Carr Government was not quite so secretive—in fact, if all governments were not quite so secretive—the Minister could well have said, "Rather than having a detailed briefing in which we try to answer questions as specifically as possible so as not to give the Opposition too much or too little information, here is the relevant documentation that will help you discover the answer to those questions yourself." If the process was a little more open the Minister probably would not be in a position to answer in the fashion in which he did, which was, "I am advised that a system was purchased in full accordance with the State Rail Authority's procurement guidelines."

As the Minister did not provide any details, what did his answer tell the questioner? Absolutely nothing. The answer did not state whether the lightning data tracking system was the one purchased. It could have been any service. The answer did not refer to the cost of the system, which is what the questioner wanted to know. Essentially the Minister said that he was satisfied that the State Rail Authority did a satisfactory job, but he had no intention of revealing any of the details that he discovered when he went through the process. That tactic caused frustration to the member who went to a great deal of effort to draft the four segments of the question.

It might even give the Minister a thrill to say, "Wait until the Opposition gets that; that will teach it to ask questions of that nature." I remind the Minister that he is dealing with the public of New South Wales. He may not like the fact that members of different political parties are elected to the Parliament of New South Wales; nevertheless, all sections of the community are represented. Each member represents and has been

elected by the people, and they should be shown due respect and provided with answers. One could go through the notice paper and find example after example. The Hon. Charlie Lynn asked the Minister for Transport:

> (1) How many staff are in the State Rail Communications and Marketing Division?
>
> (2) What are the positions?
>
> (3) What are the salary ranges for each position?
>
> (4) Who are the incumbents for each position?
>
> (5) Which are permanent positions and which are temporary?

Perhaps the question was a bit too detailed. Members of Parliament probably do not need to know the incumbents for each position. Nevertheless, the question was so detailed because the Opposition knows that unless every base is covered it will get a smart alec answer from the Minister. Notwithstanding that the question was well researched and attempted to cover all bases, the Minister answered:

> The State Rail Authority advises me of the following:
>
> (1-3) Staff numbers will vary from time to time, depending on leave or peak periods.

The member who drafted the question would not have imagined otherwise: The answer tells us that staff were employed. It was neither fair nor appropriate for the Minister to answer a reasonable question in such a smart-alec way. If the member had applied for information under freedom of information legislation, it would not have been unusual for the Government to contact the member's office and say that it was not possible to provide all the requested detail because of the expense. The officer could have asked what the member was seeking and offered to assist. No goodwill is ever exercised. Estimates committees carry out an important function but the Minister shows no goodwill; only contempt and arrogance.

The Hon. Peter Primrose: Point of order: The Hon. Dr Brian Pezzutti is continually interjecting on the Hon. John Ryan. That is disorderly and I ask that he be called to order.

The DEPUTY-PRESIDENT (The Hon. Helen Sham-Ho): Order! The Hon. Dr Brian Pezzutti will cease interjecting. I remind him that interjections are disorderly at all times.

The Hon. JOHN RYAN: All of the questions on notice resulted in the same response by the Minister. Similar tactics are used by other Ministers, who know that the Opposition has about 20 minutes in which to ask questions. They deliberately filibuster, and state the obvious. In many instances they do not respond. If estimates committees were conducted in a proper fashion Ministers might be in a position to answer frankly and candidly or, alternatively, if the answers were commercial in confidence or not available, they could provide the relevant answers on notice. It is totally inappropriate for the Government to simply ignore legitimate questions on notice, and thus show contempt of the House. I could entertain the House with endless examples.

The Hon. Jan Burnswoods: Entertain?

The Hon. JOHN RYAN: In many respects they are not entertaining. It is rather sad that the Minister would answer in such a way. For example, the Hon. Charlie Lynn asked question 18:

> What is the total administrative cost of the various transport boards for 2000-01?

That is a perfectly reasonable question. The answer is not in the budget papers, so the only way to get the information is to ask the question. The Minister replied:

> I refer the Honourable Member to my answer to Question 16.

The questions were obviously drafted by a public servant, but I do not understand the arrogance of a public servant in providing an answer of that nature. Any public servant worth his salt would have said to the Minister, "We cannot do that". Perhaps the public servant was instructed by the Minister to do otherwise. Question 16 asked:

> What is the estimated total administrative cost of the various transport boards for 2001-02?

That question referred to the following year. The Minister answered:

> Precise details of these costs incurred are not accounted for separately.

I do not believe that. I suspect that the Minister is—

The Hon. Duncan Gay: Covering up.

The Hon. JOHN RYAN: Not just covering up, but misleading. I do not believe that an organisation such as the Department of Transport would not know the specific costs, aggregate or separate, of its transport boards. If it does not know, it would be fair to say that it could well be running the risk of wasting valuable and scarce resources made available to it by taxpayers or by revenue collected through fares. I do not understand why the Minister would not want know the answer to a question of that nature. Members frequently put to the Government request after request for resources to be provided in some area of priority. It is not unreasonable to ask how the Government is spending its budget now and how that might be judged against other priorities of the Government. The Hon. Jennifer Gardiner should be congratulated on bringing this matter to the attention of the House.

The Hon. Dr Brian Pezzutti: Look at the motion adopted by members of the committee.

The Hon. JOHN RYAN: Indeed. I understand that the motion not only reflects the views of members of the Opposition; I imagine Government members must have voted to support this matter coming to the House in this fashion. Even Government members, when faced with this sort of smart alec nonsense, would not deny that it was appropriate. Being professional members of Parliament, they would understand that this sort of response is not a way in which to respect the rights and privileges of the parliamentary institution, and even they joined in, in an unusual bipartisan spirit, to condemn that sort of behaviour. I sincerely hope the previous type of response does not occur in the estimates hearings that are soon to be conducted. I hope the Government will learn its lesson through listening to the speeches and hearing the views of this House. We might not get the opportunity to vote on the motion today but in any event—

The Hon. Tony Kelly: Point of order: We have already debated whether the honourable member should speak to the motion or about future estimates meetings. He has now started to wander into a discussion of future estimates hearings. The member should cease talking about what might or might not happen at future estimates hearings.

The Hon. Dr Brian Pezzutti: To the point of order: The Hon. John Ryan was trying to say that, having faced the condemnation of the committee last time, and having given these examples to support the motion, Carl Scully will hopefully have actually learned something after all these years as Minister. I understand that the Hon. John Ryan is hoping that this year will be different. That is perfectly apposite to the debate on this motion. If the honourable member wished to draft an amendment, it would be along the lines that the Minister should learn from the experience and come back a better person this year.

The Hon. Duncan Gay: To the point of order: By the very wording of the motion the honourable member's point of order is completely without foundation. The Hon. Jennifer Gardiner moved:

> That this House take note of Report No. 6 of General Purpose Standing Committee No. 4 entitled "Budget Estimates 2001-2002" and, in particular, the committee's adverse report on the failure of the Minister for Transport, and Minister for Roads to provide satisfactory answers to many of the committee's questions on notice; and further notes that this exemplifies the lack of ministerial accountability, secrecy and hubris that pervades the Carr Labor Government.

The Hon. Tony Kelly may not like the terms of the motion, but they are exactly to the point that the Hon. John Ryan is making, quite succinctly in my opinion.

The Hon. JOHN RYAN: To the point of order: The Hon. Tony Kelly was not taking a point of order so much as making some sort of point of argument. There would be no point in the House taking notice of the report without it having a bearing on future actions. In the final 30 seconds of my available speaking time I wanted to refer to the future and say that I hoped that the mistakes that had occurred in the past—which I outlined in some detail—would not occur in the future.

The Hon. Tony Kelly: Further to the point of order: Regardless of the time, my point is to reinforce the previous decision of the Chair to bring members back to the motion, and to ensure that in future debates on private members' days members speak to the matter under discussion.

The DEPUTY-PRESIDENT (The Hon. Helen Sham-Ho): Order! There is no point of order. The member's time for speaking has expired.

The Hon. TONY KELLY [3.38 p.m.]: The motion moved by the Hon. Jennifer Gardiner states:

> That this House take note of Report No. 6 of General Purpose Standing Committee No. 4 entitled "Budget Estimates 2001-2002" and, in particular, the committee's adverse report on the failure of the Minister for Transport, and Minister for Roads to provide satisfactory answers to many of the committee's questions on notice; and further notes that this exemplifies the lack of ministerial accountability, secrecy and hubris that pervades the Carr Labor Government.

The Hon. Dr Brian Pezzutti: Quite right.

The Hon. TONY KELLY: I will debate that point in just a moment. I am not sure that everybody understands just what hubris means. The *Concise Macquarie Dictionary* gives the definition of "hubris" as "insolence or wanton violence stemming from excessive pride". I would like members opposite to justify how in the budget estimate hearings the actions of the Minister for Transport, and Minister for Roads exemplified a lack of ministerial accountability and wanton violence. No-one has addressed that aspect of the motion.

The Hon. Dr Brian Pezzutti: Point of order: The Hon. Tony Kelly quoted from the *Concise Macquarie Dictionary*. He talked about hubris being wanton violence stemming from excessive pride. But he should have included the first definition, which is "insolence—stemming from excessive pride", which I am sure is the meaning intended by the Hon. Jennifer Gardiner. The Hon. Tony Kelly may not have done it deliberately but he missed the first definition and therefore missed the point of the Hon. Jennifer Gardiner's motion.

The DEPUTY-PRESIDENT: Order! There is no point of order. The honourable member is quite at liberty to interpret matters however he likes in debate.

The Hon. TONY KELLY: I will now address some of the issues the Hon. Dr Brian Pezzutti talked about earlier, particularly some of the questions and answers, because the motion may have suggested that the Minister did not provide satisfactory answers to many of the committee's questions on notice.

The Hon. Dr Brian Pezzutti: That is what the committee said. It was a resolution of the committee.

The Hon. TONY KELLY: The committee actually debated the inclusion of these words in its report:

> The Committee was disappointed that the information provided in response to many of its questions on notice to the Minister for Transport and Roads, The Hon. Carl Scully, MP, was unsatisfactory. Indeed, the Minister failed to provide useful answers to many questions.

The resolution does not mention hubris, accountability or secrecy. Those words have been added later.

The Hon. Dr Brian Pezzutti: It is not in quotes.

The Hon. TONY KELLY: That is true. In the earlier debate on the motion we were led to believe that the committee agreed with that unanimously, but it did not. The committee actually divided on the matter. I will read the words again because we do not want them to be confused with the motion before the House, which purports something different from the wording contained in the report:

> The committee was disappointed that the information provided in response to many of its questions on notice to the Minister of Transport and Roads, The Hon. Carl Scully, MP, was unsatisfactory. Indeed, the Minister failed to provide useful answers to many questions.

At 4.10 p.m. on that day the Hon. Janelle Saffin moved that those sentences be deleted from the introduction. The committee divided, and the Hon. Janelle Saffin was narrowly defeated by two to one—only by one vote.

The Hon. Ron Dyer: You could have held that meeting in a phone box; only three people were voting.

The Hon. TONY KELLY: Certainly. In fact I presume there was a quorum there.

The Hon. Dr Brian Pezzutti: You could have got all the answers on a postage stamp, if you want to take the analogy further. Certainly the total value of the answers would have fitted on a postage stamp.

The Hon. TONY KELLY: Of the seven members who should have been there, only the Hon. Janelle Saffin, the Hon. Jennifer Gardiner and the Hon. Charlie Lynn were in attendance, so it was a very narrow victory. The very first question from the Hon. Charlie Lynn was directed to the Minister for Transport, and Minister for Roads, the Hon. Carl Scully:

> How many staff received bonuses during 2000-2001 or will receive bonuses during 2001-2002?

The Hon. Dr Brian Pezzutti: "How many", the question was. How many? What number?

The Hon. TONY KELLY: Which is interesting, because although these were estimates hearings on the Budget Estimates for 2001-2002, the question asks about two different years. But in relation to State Rail, State Transit, the Department of Transport, Rail Infrastructure Corporation and FreightCorp the answer was:

> On 28 August 2000 Premier's Memorandum 2001-21 was issued indicating that performance pay was not to be made available to members of the Chief or Senior Executive Services.

The Hon. Dr Brian Pezzutti: Go on to the next bit. You did not answer the question. For the year before they got paid. It was published in the *Sydney Morning Herald* and the *Daily Telegraph*.

The Hon. TONY KELLY: Well, why did you ask it again?

The Hon. Dr Brian Pezzutti: Because we wanted to know what you are going to pay them next year.

The Hon. TONY KELLY: The Hon. Charlie Lynn asked the Minister:

> What is the estimated total administrative cost of the various transport boards 2001-2002 ?

And the answer was:

> Precise details of these costs incurred are not accounted for separately.

The Hon. Charlie Lynn performed fairly well at this committee, although he was one of those three members who voted to include that nasty comment in the report. He asked the Minister—

The Hon. Duncan Gay: Point of order: On behalf of the Hon. Charlie Lynn I take offence at the term "nasty". Members of the committee made this recommendation in good faith, and I request that the honourable member withdraw the derogatory word "nasty".

The Hon. TONY KELLY: To save you having to rule on this matter, Madam Deputy-President, my understanding is that the member concerned has to take the point of order. However, I certainly did not mean to reflect on the Hon. Charlie Lynn. In fact I have the opposite view of Charlie Lynn. He is the last person I would call nasty.

The Hon. John Ryan: "Nasty" means "physically filthy; disgustingly unclean; nauseous; offensive or morally obscene".

The Hon. Dr Brian Pezzutti: Is that what he is?

The Hon. TONY KELLY: I did not use those words and I would not use them.

The DEPUTY-PRESIDENT (The Hon. Helen Sham-Ho): Order! Does the Hon. Tony Kelly withdraw the word?

The Hon. TONY KELLY: If there is any thought that I intended those words, I definitely withdraw them. Perhaps the Hon. Charlie Lynn will come down and assist me with some of these questions. He then asked the Minister:

> (a) Was a feasibility study into the High Speed Rail for the Illawarra completed during 2000-2001?
>
> (b) If so, is it available to the public?
>
> (c) If not, when will the study be available?

The answer to (a) was "Yes," so a feasibility study into the high-speed rail for the Illawarra was completed during 2000-2001; the answer to (b) was, "No"; and the answer to (c) was:

> The study has been forwarded to the Commonwealth Government's High-Speed Train Branch. The finding into the study will be used in the context of the national High-Speed Train network as part of the Federal Government's East Coast Very High-Speed Train scoping study.

So they could have released it if they had wanted to. Your Federal Government had that report and they could have released it.

The Hon. Dr Brian Pezzutti: He should have said, "No."

The Hon. TONY KELLY: What else could the Minister do? He was trying to look after your Federal Government. The Hon. Charlie Lynn asked the Minister—

The Hon. Dr Brian Pezzutti: He's persistent.

The Hon. TONY KELLY: He is very persistent, isn't he? He asked:

What is the total administrative cost of the various transport boards for 2000-2001?

The Hon. Dr Brian Pezzutti: To which he said he didn't know.

The Hon. TONY KELLY: No, he said:

I refer the Honourable Member to my answer to Question 16—

which he had already answered.

The Hon. Dr Brian Pezzutti: What was the answer to question 16?

The Hon. TONY KELLY: The answer to question 16 was:

Precise details of these costs incurred are not accounted for separately.

The Hon. Charlie Lynn asked the Minister:

How often are State Transit buses cleaned?

And the answer was:

I am advised that all STA buses are swept daily, cleaned through the bus wash at least once a week (sometimes more often)—

The Hon. Dr Brian Pezzutti: Once a week!

The Hon. TONY KELLY: They are not driven on country gravel roads; they run in the city, where it rains all the time and they get washed anyway.

The Hon. Dr Brian Pezzutti: They are covered in the dirt.

The Hon. TONY KELLY: The answer continues:

and given a heavy clean every six weeks to maintain them in a clean and comfortable condition.

Again the Minister answered the question. The Hon. John Jobling then took over from the Hon. Charlie Lynn. The Hon. Charlie Lynn asked a lot of other questions, but I think I have made my point about the answers. The Hon. John Jobling asked the Hon. Carl Scully:

What surplus land does SRA intend to sell during 2001-2002?

Bearing in mind that Ministers bring along an enormous number of staff to assist them to answer as many questions as possible, how could the Minister possibly—

The Hon. Dr Brian Pezzutti: These were questions on notice.

The Hon. TONY KELLY: How could the Minister know these answers off by heart?

The Hon. Dr Brian Pezzutti: You are misleading the House. These are questions on notice.

The Hon. TONY KELLY: Are you taking a point of order?

The Hon. Dr Brian Pezzutti: : Point of order: It is perfectly clear that the Hon. Tony Kelly is misleading the House. These were replies to questions on notice, yet the honourable member said the Minister had all his advisers and they did not know at the time. It is perfectly obvious that the department probably sent the answer—

Reverend the Hon. FRED NILE: There was sufficient time to answer the questions.

The Hon. Dr Brian Pezzutti: Plenty of time. They take months to do it. In fact, if you look at the timetable—

The DEPUTY-PRESIDENT (The Hon. Helen Sham-Ho): Order! What is the point of order?

The Hon. Dr Brian Pezzutti: The point of order is that the member is misleading the House. He should stick to his script.

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

The Hon. TONY KELLY: In answer to the question "What surplus land does SRA intend to sell during 2001-2002?" the Minister said, "The State Rail Authority advises me of the following". He can only give the answer that he is given, and he said:

(1) sale opportunities will be notified progressively. Clearly, it would be inappropriate to disclose details at this stage.

(2) information on the sale of property for past years is contained in the relevant Annual Reports.

The Hon. Dr Brian Pezzutti: Why didn't he just give us a copy of the annual report, for heaven's sake?

The Hon. TONY KELLY: They are public documents.

The Hon. Dr Brian Pezzutti: You can't get those things. He could just photocopy one page and send it back, if he wants to.

The Hon. TONY KELLY: Why waste the time of the estimates committee asking questions about matters contained in the annual report?

The Hon. Dr Brian Pezzutti: These people have gone to the trouble of finding the annual report and saying, "It's in the annual report," and so on. Why do they not just photocopy the page and send it to the committee?

The Hon. TONY KELLY: The Hon. Charlie Lynn also asked the Minister:

Is the station signage program—

I take it that that is the railway station signage program—

which was announced in the capital works program for 2000-01 at an estimated cost of $8.3 million with a completion date of 2006 ongoing?

That is a pretty silly question. If the program started in 2000-01 and will continue until 2006, obviously it is ongoing. It has another five years to go. The Minister sensibly answered without taking the opportunity to make a silly comment: he said yes.

The Hon. Dr Brian Pezzutti: Did he say how much has been spent to date? The Hon. Charlie Lynn asked that question.

The Hon. TONY KELLY: The Hon. Charlie Lynn went on to ask:

If so:

(i) What does this project involve?
(ii) Will it be finished on time—

that means ongoing time. I can almost guess what the Minister's answers would be—

(iii) What is the estimated cost of the project?

The Minister supplied the following answer:

> The project is on-going—

that is duplicating the first answer—

> and is undertaken in conjunction with Easy Access station upgrades. The funding is included in the funding for each Easy Access station upgrade. Further funds are allocated via the Station Renewal Program for Stations not receiving Easy Access upgrades.

The Hon. Dr Brian Pezzutti: That is just camouflage.

The Hon. TONY KELLY: What do you mean it is camouflage? No, it is not. It is upgrading the stations. It is not camouflaging them. It is not camouflaging the stations. The Hon. Charlie Lynn further asked:

> If not:
>
> (i) Why has the project being cancelled?
> (ii) What was the $2.6 million spent on?
> (iii) Was the estimated $1million spent during 2000-01?

The Minister's response to that question was:

> Not applicable.

The reason the question is not applicable is that the program is ongoing; it has not been cancelled.

The Hon. Dr Brian Pezzutti: That does not answer the question of why only $1 million was spent that year.

The Hon. TONY KELLY: The Hon. John Jobling asked the Minister:

> How did CityRail spend $700,000 it promised on marketing for the Airport Line?

The Hon. John Jobling: That was a fair question, wasn't it?

The Hon. TONY KELLY: It is a fair question. The reference is Budget Paper No. 3, Volume 2, pages 18-4 and 18-5. The Minister's answer was specific:

> The State Rail Authority advises that, over the past nine months, it has conducted several marketing initiatives for the Airport Rail Link. Major initiatives have included:
>
> • Upgrading of Airport Link signage stations;
> • Lightbox advertising at Sydney, Melbourne and Brisbane Airports—

presumably people would be coming to Sydney from Melbourne airport and Brisbane airport—

> • Two print runs of a new generic brochure;
> • Airport Link billboards in Sydney CBD plus nine regional sites;
> • Six-week advertising campaign in seven regional weekly newspapers;
> • Advertising campaign in street furniture sites throughout Sydney CBD;
> • Recording, editing and down loading of promotional DVA messages—

The Hon. Dr Brian Pezzutti: What is that?

The Hon. John Jobling: Do you know what that means? Do you know the acronym?

The Hon. TONY KELLY: Digital video audio messages at key railway stations across the CityRail network. They are the talking billboards that people now see on Sydney railway stations.

The Hon. Dr Brian Pezzutti: Talking billboards? They are called railway employees. They are real people. The people on the train stations are real. They move and they talk, and they are nice people.

The Hon. TONY KELLY: They are nice people. The initiatives also included:

> • Re-design of the Airport Link web site;
> • Design and distribution of promotional postcards at over 250 locations across Sydney, Melbourne and Brisbane; and
> • Filming, editing and placing of a promotional video which is displayed at various baggage reclaim sites and selected flight information screens at the Qantas terminal.

Bearing all that in mind, I cannot understand how members opposite could be confused about the way the Minister answered those questions.

The Hon. John Jobling: You just selectively picked out a few.

The Hon. TONY KELLY: I started from the front. I could continue for another hour with other questions, if necessary. I cannot understand how members opposite could possibly support the motion moved by the Hon. Jennifer Gardiner. I completely agree with the way the Minister answered the questions last year. [*Time expired.*]

Reverend the Hon. FRED NILE [3.58 p.m.]: The motion moved by the Hon. Jennifer Gardiner states:

> That this House take note of Report No. 6 of General Purpose Standing Committee No. 4 entitled "Budget Estimates 2001-2002", and in particular the Committee's adverse report on the failure of the Minister for Transport and Minister for Roads to provide satisfactory answers to many of the Committee's questions on notice and further notes that this exemplifies the lack of ministerial accountability, secrecy, and hubris that pervades the Carr Labor Government.

General Purpose Standing Committee No. 4 passed an unusual motion, which is contained in its report No. 6 of September 2001. I have been on estimates committees for many years, and the committee I am on has never felt the need to pass a similar motion. Such criticism of a Minister is unique, and I do not believe that General Purpose Standing Committee No. 4 would have passed the motion unless it felt it was fully justified. The motion is set out in the report as follows:

> The Committee was disappointed that the information provided in response to many of its questions on notice to the Minister for Transport and Roads, The Hon. Carl Scully, MP, was unsatisfactory. Indeed, the Minister failed to provide useful answers to many questions.

Apparently, the committee was divided on the issue, but it resolved that the transcripts of evidence, tabled documents, answers to questions and relevant correspondence be tabled in the House with the report and made public. Earlier today questions were raised about Mr Scully's responsibilities relating to the M5. I understand that some of the reluctance to provide information related not so much to the road itself but to the M5 tunnel. Mr Scully has boasted that the M5 tunnel is one of the longest tunnels in Australia. However, the tunnel has caused many problems, particularly in terms of health. We can understand the Minister's reluctance to the frank, fully open, at the committee hearings, especially in answering questions on notice, because this whole matter has become an embarrassment to both Mr Scully and the Government.

This week we had deputations about the M5 tunnel from local residents who were complaining about the impact on their health of fumes coming from the tunnel, through the stack and, unusually, from both ends of the tunnel. It is unusual for a tunnel to be so defective that fumes are escaping from each end of the tunnel and wafting into local homes. Motorists who use that tunnel will notice that it bisects a suburban residential area. Fumes rise from the tunnel and waft straight to the homes above the tunnel openings.

Estimates committees are important. We debated in this place changing our approach to the conduct of estimates committees in order to prevent the Minister and/or his staff avoiding answering questions. The Hon. John Jobling was very anxious to see the new system adopted, which involved having the Minister virtually on tap for a day, and it was becoming a war of attrition in the committee until the Minister finally began to tell the truth and to answer questions frankly. I understand the Hon. John Jobling's objectives in taking that approach. I have no problem questioning a Minister for extensive periods in order to avoid the difficulties that arose in this case. I would prefer not to have so many questions on notice as it creates massive amounts of paperwork both for the committee members who ask the questions and for the departmental officers who research the answers.

The Hon. John Jobling: Isn't it nice to have the answers?

Reverend the Hon. FRED NILE: Yes. It would also be nice to have time to pursue those answers by changing our system to emulate the Senate's approach to estimates. However, the direction of the debate caused me concern as I feared that we could lose the initial hearings that we had arranged with Ministers. I am happy for Senate-style hearings to follow those scheduled hearings, which I regard as an introduction to—or an opening up of—the estimates process. Each estimates committee could then hold additional hearings as required with various witnesses from different areas. However, the vote on this question did not allow us many options: it was a case of voting for either the present system or the new system. My objective was to marry both systems, but we did not pull it off.

Estimates committees may continue to decide to recall witnesses. Some committees have done so extensively. General Purpose Standing Committee No. 5, which is chaired by the Hon. Richard Jones, deals with

issues that require detailed investigation. This may not be so obvious in the case of General Purpose Standing Committee No. 1, which I chair. We must question the President about the operations of the House and, where possible, try to find out about the running of the entire Parliament. However, we continually hit a brick wall in the form of the Financial Controller and the Speaker. Even though the Financial Controller is co-operative and attends the hearings, he is very much under the authority of his master, the Speaker, whom the Financial Controller considers to be his employer. I think he should be responsible to both the President and the Speaker, who would be his joint employers. I submit returns for the reimbursement of telephone calls and so on to the Financial Controller, whose address is the Legislative Assembly, for which the Speaker is of course responsible. I always address my correspondence to: Financial Controller, Parliament House.

Even though this report criticises the responses provided by the Minister for Transport, and Minister for Roads, I have noted over the years that questions are often not prepared well. I think the quality and relevance of questions should improve. They should be constructed clearly; they should not be a fishing expedition. That happens on occasion.

The Hon. Ian Macdonald: That is a major criticism of the Opposition in this House.

Reverend the Hon. FRED NILE: I have a list of issues that I am working through. Questions often seem to neglect major matters and focus instead on minor issues. A year or so ago General Purpose Standing Committee No. 1 spent a great deal of time discussing a broken chair in the President's dining room: Was there a broken chair? Who broke the chair? Who sat on the chair? As chairman, I became quite frustrated as I thought other earth-shattering issues in the budget should get priority.

The Hon. John Jobling: It is not your job to become irritated; you're the chairman.

Reverend the Hon. FRED NILE: I was not irritated but frustrated that we were focusing on minor matters instead of serious issues. If the questions were genuine and sought specific information Ministers would co-operate more in providing answers. I have also noted that questions are sometimes drafted by others—second-hand questions scribbled by a researcher or a shadow Minister—and then given to committee members. It is obvious from the way in which they ask those questions that members are not sure what they are about. That is a bit embarrassing.

The Hon. John Jobling: Do you mean to say that your researchers have never written one of your questions?

Reverend the Hon. FRED NILE: No, they do not.

The Hon. John Jobling: Only you research and write your questions?

Reverend the Hon. FRED NILE: Yes. My remarks are not aimed solely at the Opposition.

The Hon. Duncan Gay: What does your staff do all day?

Reverend the Hon. FRED NILE: That is a good question. These are my general observations.

The Hon. Jan Burnswoods: In my experience, when you are in the chair you ask very few questions.

Reverend the Hon. FRED NILE: During estimates committee hearings?

The Hon. Jan Burnswoods: Yes.

Reverend the Hon. FRED NILE: I always ask my quota of questions. I have never deviated from that practice.

The Hon. Jan Burnswoods: But you ask fewer questions because you are in the chair.

Reverend the Hon. FRED NILE: I have always used the time allocated to me to ask questions during estimates committees.

The Hon. Jan Burnswoods: I thought you were usually generous and gave your time to others.

Reverend the Hon. FRED NILE: If there is a problem, I am happy to hand over. It is not as though I do not have enough questions; I try to be co-operative. My comments are not necessarily aimed at the Opposition or the Hon. John Jobling. I am speaking from my experience of both governments: similar things happen on both sides of politics. My point is that the clarity of questions from both sides varies. Neither side asks perfect questions. It is difficult for a Minister to answer a question if that question is not drafted properly and not clear about the information it seeks.

The Hon. Dr Brian Pezzutti: I must admit that the Hon. Alan Corbett's questions are fairly obtuse.

Reverend the Hon. FRED NILE: If he is there. There is no doubt that some Ministers who are a little nervous in their new roles—there have often been portfolio changes—tend to filibuster.

The Hon. Dr Brian Pezzutti: Mr Scully as been the Minister for Transport forever.

Reverend the Hon. FRED NILE: I am thinking of other Ministers who do that. Ministers filibuster, thinking that the more they talk the fewer questions they will be asked. They try to dominate the committee meeting. Perhaps their advisers say, "Keep talking to use up the allocated time and you can't get into trouble." That is a problem.

The Hon. Jan Burnswoods: It was fun when the Hon. Duncan Gay would question Ernie Page. He would ask long questions and Ernie would answer, "Yep," "Nope," "Yep".

Reverend the Hon. FRED NILE: He was the exception. Did he provide information? Those answers may not have provided any information. Those are some problems I noticed with past estimates committees. Obviously, General Purpose Standing Committee No. 1 deals with senior Ministers, starting with the Premier, who have always treated the hearings with great respect.

The Hon. Duncan Gay: What about the Speaker?

The Hon. Dr Brian Pezzutti: The Speaker never turns up.

Reverend the Hon. FRED NILE: Yes, the Speaker is an exception. The Minister must at least be present, which happens with the Premier. He always brings with him the head of every commission, whether it is ICAC or the Ethnic Affairs Commission, as it was. It might be said that the stage is set and everything is ready. There could be ways of avoiding the inquiry problems. It may be advantageous to hold longer hearings so that fewer questions are placed on notice. One criticism, which I believe would be from both sides of politics, is that so many questions are placed on notice that a tremendous amount of time and taxpayers' money is consumed in responding to them.

The Hon. Dr Brian Pezzutti: But this is accountability.

Reverend the Hon. FRED NILE: It is, but the questions may be creating more work. If more time had been available at the hearings and questions of the Minister were asked on notice, simple answers may have been provided. Once the question is put into written form it goes through the bureaucracy and creates more administrative work.

The Hon. Dr Brian Pezzutti: If a child comes up and asks you a question, do you say, "Go away. Don't ask stupid questions?" You try to answer the question.

Reverend the Hon. FRED NILE: That is right. I agree that it is better to have the Minister present to ask the question than to place a huge amount of questions on notice, which are forwarded to the Minister after the hearing has concluded. That seems to be one of the recurring problems.

The Hon. Dr Brian Pezzutti: Carl Scully took on a lot. He said, "I can't answer that question. I'll take it on notice." These are the answers he gave us.

Reverend the Hon. FRED NILE: Sometimes it reveals that the Minister is not conversant with his own department.

The Hon. Dr Brian Pezzutti: Or not very bright.

Reverend the Hon. FRED NILE: That is a subjective matter. Perhaps he was a bit confused, as you say, or he may not be fully briefed by his department. Or the Opposition may have stumbled onto something that he realised did not sound quite right and he thought, "This is a problem area and I better be careful what I say, so the safest thing is to say I will take it on notice".

The Hon. Dr Brian Pezzutti: Then the question is not answered, and that is what those answers are all about.

Reverend the Hon. FRED NILE: The question is ducked on the day, as appears to have happened on this occasion, and even the question on notice is not answered. Ministers see whether a snow job can be done on the committee in some way. It would be good if committees were unanimous in the way hearings were to proceed. Committees are divided on these criticisms. Obviously, Government members wish to protect the Minister as much as possible. It would be good if estimates committees and other committees could be more objective. It often does work that way. And when genuine concern is expressed all committee members should support a motion of criticism. The impact of the criticism is undermined if the committee is divided with Opposition members versus Government members. I note this motion does not refer to a crossbench member.

The Hon. Dr Brian Pezzutti: They didn't turn up.

Reverend the Hon. FRED NILE: Did not turn up, no.

The Hon. Tony Kelly: They are entered on the front page.

The Hon. Dr Brian Pezzutti: No, they didn't turn up.

The Hon. Amanda Fazio: It was a disgrace. It wasn't even a democratic meeting.

Reverend the Hon. FRED NILE: Yes. One problem that worries me, and I do not want to get shot down by the crossbench, is that the parties have built-in discipline for their members to attend question times, other debates and committee hearings.

The Hon. Dr Brian Pezzutti: They need a good Whip.

Reverend the Hon. FRED NILE: I tried to do that but you cannot make them do it.

The Hon. Duncan Gay: I thought you were into politicking.

The Hon. Amanda Fazio: He is sullying your good reputation, Reverend Nile. Don't take it.

Reverend the Hon. FRED NILE: He does not mean that. If these committees are to work, it is important that the crossbench members play their role diligently by attending and asking questions. Many members of the public might think that by voting for a crossbench member, that is, a minor party or Independent rather than voting for a major party, they are going to be better served. They might be disillusioned if they saw what really happened with the input or output of some crossbench members. Hopefully I am not guilty of that. None of us is perfect, but I try to give 100 per cent effort in the role I have been given by the people of this State to carry out in this Legislative Council, which is the house of review, and the reason estimates committees are important. I would rather have joint estimates committees with lower House and upper House members working together.

The Hon. Dr Brian Pezzutti: And get Mr Speaker to turn up and answer questions.

Reverend the Hon. FRED NILE: That is right. We could then be more thorough in examining all areas of the Parliament and the administration of joint House activities, which is difficult to do at the moment. It would then also provide the opportunity for the shadow Minister to question the Minister. At the moment most shadow Ministers are in the other place, which is part of the confusion when questions are asked. The shadow Minister writes down the question and gives it to an attendant to take to the upper House member to ask the Minister. However, the committee member perhaps does not fully understand what the shadow Minister was trying to elicit from the question, especially if there was no conversation beforehand regarding the purpose of the question.

The Hon. Dr Brian Pezzutti: Almost all are written by the shadow Minister.

Reverend the Hon. FRED NILE: They should be, but my observation is that some matters arise at short notice and the shadow Minister passes the question across and the committee member does their best with the material provided, perhaps without fully understanding it.

The Hon. John Jobling: It is probably just illegibly written.

Reverend the Hon. FRED NILE: Yes, it could be a problem if they scribbled it on notepaper. I have outlined some of my concerns. I do not believe we have previously debated this particular issue. I thank the Hon. Jennifer Gardiner for placing this motion on the notice paper.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [4.18 p.m.]: I have great pleasure in supporting the motion moved by the Hon. Jennifer Gardiner. It is a worthwhile motion. It is a pity we are not able to discuss these issues more fully within the committees thereby not necessitating the need for such a motion. Had there been support in this House for the amendments to the committee system, which were proposed by the Hon. John Jobling, it would have alleviated many concerns.

The Hon. Dr Brian Pezzutti: Yes. Where was the crossbench?

The Hon. DUNCAN GAY: I searched for supporters of this motion and the best support I could find—

The Hon. Amanda Fazio: You couldn't find any.

The Hon. DUNCAN GAY: I did. We had the Stasi out there; the Stasi are good. We found one. Reverend the Hon. Fred Nile would like this because he likes reports to be unanimous. We searched the records and found the foreword, the introduction, by the Deputy-Chair of General Purpose Standing Committee No. 5, none other than the Hon. Jan Burnswoods! I quote the fulsome support, which comes at about the fourth paragraph:

> During these hearings Ministers took a number of questions on notice. In addition, the Committee lodged written questions on notice in relation to several portfolio areas. The Committee notes that the answers have been provided to questions on notice. Some members of the Committee are less than satisfied by the quality of the information supplied by some Ministers in response to the questions supplied by the Committee.

Is that not what the motion is about? Members are not satisfied by the quality of the information supplied by some Ministers in response to the questions supplied by the Committee.

The Hon. Dr Brian Pezzutti: Who wrote that?

The Hon. DUNCAN GAY: You ask who wrote that? I will tell you who wrote that: the Hon. Jan Burnswoods, MLC. There it is—our great supporter. She actually supports the motion.

The Hon. Jan Burnswoods: Now you're misquoting. I said some members and some Ministers. You're so dishonest you can't even quote right.

The Hon. DUNCAN GAY: I take exception to that interjection.

The Hon. Jan Burnswoods: Being called dishonest?

The Hon. DUNCAN GAY: Exactly! The honourable member called me dishonest. I quoted her statement in the introduction to the report. Madam President, I ask you to direct the honourable member to withdraw that comment.

The PRESIDENT: Order! I could not hear. As the honourable member knows, interjections are disorderly at all times. The Deputy Leader of the Opposition may proceed.

The Hon. DUNCAN GAY: That was not my request. I ask that the honourable member be directed to withdraw her comment.

The PRESIDENT: Order! Interjections are disorderly at all times. The Deputy Leader of the Opposition may proceed.

The Hon. Jan Burnswoods: Look, the steam is rising!

The Hon. DUNCAN GAY: Absolutely. I believe that was an inappropriate ruling.

The Hon. Jan Burnswoods: Point of order: The Deputy Leader of the Opposition is canvassing your ruling. The honourable member's behaviour is outrageous. I ask you to remind him of your ruling.

The PRESIDENT: Order! I have asked the member on previous occasions not to canvass my rulings. The point of my ruling is that as interjections are disorderly at all times, theoretically they do not exist. The member may proceed.

The Hon. DUNCAN GAY: The honourable member accused me, by interjection, of being dishonest. It is in *Hansard* that she did accuse me of being dishonest. She accused me of being dishonest for simply quoting her statement. As she has accused me of being dishonest, I will repeat that quotation.

The Hon. Jan Burnswoods: You are dishonest.

The Hon. DUNCAN GAY: The honourable member said:

> During these hearings, Ministers took a number of questions on notice. In addition the Committee lodged written questions on notice in relation to several portfolio areas. The Committee notes that answers have been provided to questions on notice. Some members of the Committee are less than satisfied by the quality of information supplied by some Ministers in response to questions supplied by the Committee.

The Hon. Jan Burnswoods: Oh good! You read it properly that time.

The Hon. DUNCAN GAY: I read it properly the first time. It is by Jan Burnswoods MLC, Deputy Chair of the Committee. She is the greatest supporter of the Hon. Jennifer Gardiner's motion. If the Hon. Jan Burnswoods is saying something else now, she has changed her mind. It would not be unusual for the Hon. Jan Burnswoods to change her mind. The motion speaks of hubris. I disagree with the meaning ascribed to the word by the Hon. Tony Kelly. The *Oxford Dictionary* defines hubris as insolent pride or presumption. I do not think there is any better example of insolent pride than that demonstrated by Minister Yeadon's comments to the committee chaired by the Hon. Jan Burnswoods. This is what he told the committee when he was asked to return. I quote from page 2 of Budget Estimates, General Purpose Standing Committee No. 5 of Friday 27 July 2000—lest I be accused of being dishonest by small-minded people with little to do:

> On 29 May this year the Legislative Council resolved that the budget estimates and related documents presenting the amounts to be appropriated from the Consolidated Fund be referred to the general purpose standing committees for inquiry and report. With this in mind, I attended the initial hearing of the Committee on 22 June this year with Sydney Water's Managing Director and was told that the Committee would not consider Sydney Water's budget estimates. Today I have again attended this Committee to respond to questions relating to Sydney Water's budget estimates.

This Labor Minister—whom Government members do not believe acts with hubris—went on to say:

> I hear what the Committee has said about sitting for a duration of two hours but as I have indicated in correspondence to you, I am only available for 45 minutes.

Take it or leave it! This is the open, accountable, let's-see-it-all Labor Government. The Minister said, when he was informed the committee wanted him to attend for two hours, "You can have me for 45 minutes." This is gentle, nice, open, accountable Minister Kim Yeadon. And Government members say he is without hubris! The Minister continued:

> I have tried to make myself available to the Committee for a second time but I put on record that I believe it is inappropriate for the Committee to continue to deliberate in my absence. This is about Ministers coming before these committees.

It is not about the New South Wales public getting the information they need.

The Hon. Amanda Fazio: Point of order: The motion refers to General Purpose Standing Committee No. 4 "and in particular, the Committee's adverse report on the failure of the Minister for Transport and Minister for Roads to provide satisfactory answers to many of the Committee's questions..." This motion is not about the operations of budget estimates committees in general. It is not a motion about every other standing committee that the Deputy Leader of the Opposition may or may not have attended in his time in this Parliament. I ask you to direct the honourable member to confine his comments to the motion before the House, that is, the response of the Minister for Transport, and Minister for Roads to General Purpose Standing Committee No. 4.

The Hon. DUNCAN GAY: To the point of order: The Hon. Jan Burnswoods accused me of being dishonest in not quoting a statement in its fullness. In this instance the Hon. Amanda Fazio is guilty of that accusation. The member read only the first part of the motion of the Hon. Jennifer Gardiner, that is:

> That this House take note of Report No. 6 of General Purpose Standing Committee No. 4 entitled "Budget Estimates 2001-2002", and in particular, the Committee's adverse report on the failure of the Minister for Transport and Minister for Roads to provide satisfactory answers to many of the Committee's questions on notice..."

The next part of the motion—which the honourable member did not read—is:

> and further notes that this exemplifies the lack of ministerial accountability, secrecy, and hubris that pervades the Carr Labor Government.

It was clear that my quotations from Minister Yeadon related to the latter part of the motion before the House, and therefore are not out of order.

The Hon. John Jobling: To the point of order: There are five estimates committees, and problems have occurred with many of them. Report No. 6 of General Purpose Standing Committee No. 4 merely exemplifies that which occurs with many other committees. The debate thus far has been wide-ranging. References to the reports and problems of other committees merely go to reinforce the complaint that General Purpose Standing Committee No. 4 has not functioned satisfactorily, and that in that instance the Minister did not supply satisfactory answers to the committee. It is perfectly clear that this demonstrates a general problem. The unsatisfactory nature of the responses given by the Minister to that committee could be backed up by like examples with many other committees.

This motion is important if the estimates are to produce anything of substance. As the examination of estimates for the 2002-03 financial year is to commence on Thursday 20 June this matter must be addressed. Although General Purpose Standing Committee No. 4 is the subject of this motion, my colleague said earlier that the same process is followed in all other committees. This exemplifies the lack of ministerial accountability, secrecy and hubris that pervade the Government. As debate on this motion has been wide ranging I contend that the honourable member's comments and examples are in order.

The PRESIDENT: Order! As I ruled earlier, although standing orders require members' comments to be relevant to the motion, the second part of the motion is more general than simply comments about General Purpose Standing Committee No. 4. Therefore, some general discussion is allowed. The member's comments were not disorderly. He may proceed.

The Hon. DUNCAN GAY: I was referring earlier to the comments that were made by the Hon. Kim Yeadon. He said he believed it was inappropriate for the committee to continue to deliberate in his absence and that Ministers should be able to appear before committees. He was not talking about accountability, about the people of New South Wales finding out whether their money had been spent properly, or about questioning public servants who administer these portfolios. That is the degree of hubris and arrogance that is referred to in the motion. The Minister stated:

> I am concerned also about the approach of the Committee in that certainly I have a number of portfolios but I am not a unique Minister in that regard. The committee process makes it clear that there is a two-hour block for each Minister, not for each portfolio.

Introductory speeches, questions from Government members and spurious points of order by the Hon. Amanda Fazio can quickly erode a two-hour estimates committee hearing. The Minister went on to state:

> I am not aware of other committees extending their deliberations in a similar way to this Committee. It seems to me that it is outside the scope of the Committee; otherwise committees, if they wished, could resolve to meet eight hours a day five days a week for every day of the year and that, certainly, is not within the provisions of this process, in my view. I make it clear to the Committee that I disagree with its approach.

That is the approach taken by the Minister's colleagues in Canberra. They virtually have unlimited time to question Ministers. They do not question Ministers from the lower House; they question only Ministers from the Senate and bureaucrats from various departments. Senators Ray and Faulkner carefully go through all portfolios.

The Hon. Tony Kelly: They are experts.

The Hon. DUNCAN GAY: They are experts.

The Hon. Tony Kelly: Our experts, not like you lot.

The Hon. DUNCAN GAY: Our experts. They say it is all right for them—

[*Interruption*]

The Hon. Amanda Fazio agrees with the Hon. Tony Kelly that it is all right for them but not for anyone else to do it.

The Hon. Amanda Fazio: Point of order: The Deputy Leader of the Opposition is misleading the House. I did not agree with the comments of the Hon. Tony Kelly. I said that there is a difference between what happens here and what happens with Senator Ray and Senator Faulkner. They are intelligent men.

The PRESIDENT: Order! I have warned members on several occasions not to use points of order simply to make debating points. The honourable member may continue.

The Hon. DUNCAN GAY: I could take offence at that obvious but pretty poor slur, but I will not. It is obvious from what I was saying that it is okay for Government members to cover-up for their own people in New South Wales. Faulkner and Ray are able to do that in Canberra with the blessing of the New South Wales Australian Labor Party but if we let the Hon. Greg Pearce and the Hon. Dr Brian Pezzutti loose , with an unfettered right to do what Government members do regularly, it is a different story.

The Hon. Jan Burnswoods: Ladysan himself.

The Hon. DUNCAN GAY: What does the honourable member mean?

The Hon. Jan Burnswoods: Greg Ladysan Pearce. That is what is on the door of his office. Where were you earlier? Have you not read about his Liberal Party campaign office with the Ladysan sign on the door? You are a bit behind.

The Hon. DUNCAN GAY: I cannot see how a comment about something called Ladysan is appropriate. What is Ladysan?

The Hon. Jan Burnswoods: Ladysan is a female sanitary product.

The Hon. DUNCAN GAY: Is the honourable member calling my colleague a female sanitary product?

The Hon. Jan Burnswoods: I am saying that the Liberal Party campaign office opened by the Leader of the Opposition in Ryde still has the sign on the door of the former tenant, which is Ladysan.

The Hon. DUNCAN GAY: What is the joke in that?

The Hon. Jan Burnswoods: According to our information, the Hon. Greg Pearce is staffing the office in his spare time, presumably at taxpayers' expense.

The PRESIDENT: Order! I remind members that interjections are disorderly at all times. The Deputy Leader of the Opposition will continue his speech.

The Hon. DUNCAN GAY: I find it quite unusual that a female member of this House is trying to make some sort of funny, smutty joke about a door on a campaign office. I just cannot believe that members of the Left in the Labor Party would stoop so low.

The PRESIDENT: Order! I ask the honourable member not to be diverted by interjections.

The Hon. DUNCAN GAY: Thank you, Madam President, I have a lot that I want to say. I seek an extension of time if honourable members will grant it to me. [*Time expired.*]

The Hon. JOHN JOBLING [4.38 p.m.]: This motion relates to General Purpose Standing Committee No. 4. The House established five general purpose standing committees to deal with many matters that come before this House—to examine whether the Government has or has not dealt with certain issues; to determine whether or not the Government has expended funds; and to supervise matters that are dealt with by this House. As a result of the failure of the lower House to continue to operate joint estimates committees, those five

committees were allocated the task of examining the estimates. Each committee meets to consider the estimates of about four or five portfolio areas. Committee members have the right to ask questions about matters referred to in the budget papers and associated documents, statutory authorities, annual reports, and any other relevant documents. As occurs in the Senate, budget estimates committee members may also ask questions about matters relating to the previous budget that may not have been covered or satisfactorily responded to.

Prior to budget estimates committee hearings, committee members have the right to place on notice questions to relevant Ministers and heads of department in relation to specific portfolio areas. The purpose of the questioning is to obtain information about the operations of departments and to gain an understanding as to why specific determinations are made. If such questioning were not allowed in the Federal sphere, we would never have understood how the whiteboard came into operation and how it worked. Budget estimates committee hearings provide an opportunity for members to garner information from the Government to assist them in carrying out their duties. Shadow Ministers need such information, as do crossbench members and members of the public. Obtaining such information also provides members with an understanding of the operations of specific portfolios.

The Parliament has taken steps to enable members to ask questions directly of heads of departments. Ministers should be extremely pleased that their heads of departments, heads of ministries and bureaucrats are thereby able to inform them of any problems that may confront them. Ministers should not be fearful about heads of departments or bureaucrats forgetting to inform them about matters discussed at estimates committee hearings—and heaven help any person who does not act properly.

The Hon. John Ryan: It could be a DCM.

The Hon. JOHN JOBLING: As my colleague said, it could be a "Don't come Monday." However, the Minister is fully informed. It is difficult to obtain all the required information through questions without notice, questions on notice and questions asked during estimates committee hearings. Obviously, from time to time Ministers, heads of departments and bureaucrats will give the Clayton's answer, which may be, "I do not know", "I have not brought the documents with me", or, "I will take it on notice." A Minister who takes a question on notice has the opportunity, over a prescribed period, to go back to his or her department, examine the records, and supply a full and comprehensive report to the committee.

Budget estimates committee questioning does not delay the budget, so there is absolutely no reason why questions should not be answered fulsomely. But that is not what is occurring in budget estimates committee hearings at present. Under the current structure of budget estimates committee hearings, committee members receive from the Government a matrix document that sets out the availability of the Minister for his first appearance before the committee. The Minister may be responsible for a number of portfolios. General Purpose Standing Committee No. 4 deals with the portfolios of Public Works and Services, and Sport and Recreation. The committee is allocated a two-hour initial hearing. In that two-hour period the committee will decide whether it will deal with all or only some of the portfolios. The committee will then break up the two hours into a series of 30-minute or 45-minute allocations.

The Minister may make an opening statement to the committee, which can take anything from five to 35 minutes. The Government may then decide, for reasons best known to it, that it will forgo its allocation. It is difficult to develop a reasonable line of questioning. The Leader of the House has had a bad couple of days with some of the standing and sessional orders of the House. I suggest that he look at the budget estimates guides. As a matter of courtesy, the Leader of the House will normally be invited by the chairman to make a statement if he wishes.

Some Ministers do not suffer from verbal diarrhoea. They adopt the attitude that they would much rather answer questions or have their bureaucrats answer questions. The questions do not have to be directed to the Minister; they may be directed to the head of the relevant department, the director-general, or other officers concerned with the portfolio. It would appear that the Leader of the House has adopted the approach that he would prefer to answer questions; he does not follow the approach of many of his colleagues.

The Hon. Michael Egan: I don't think I have ever been asked to make a statement. Did I make a statement for 35 minutes?

The Hon. JOHN JOBLING: We probably accepted that the Treasurer's statement would not generate much joy. Equally, we could ask him to put his answer in writing if he wanted to filibuster. Then again, what

would he have to say that, first, would take 35 minutes, second, would be of interest and, third, would be of any use in the gathering of information? The Leader of the House may want to think about that, take it on notice, and then come along with a two-minute handout that will try to convince us that he has something to say. Similar problems are encountered by General Purpose Standing Committee No. 4. Many Ministers have made themselves available for budget estimates committee hearings during the sittings of the Parliament. It is clear that this year we will again suffer the interruptions of divisions requiring the Minister to withdraw from the hearing, as occurred last year. If so, the Minister will ask the committee to suspend the hearing, the two hours will soon run out and there will be little opportunity to ask questions.

The Minister will not be pleased about having to appear before the committee on another occasion, but the committee has the power to so require. Quite often the Minister will have more reasons for not being able to come back than a camel has fleas. One must then ask the question: Should the hearing proceed without the Minister? This Parliament is different from the Federal Parliament in this regard. In this Parliament, lower House Ministers attend budget estimates committee hearings and are prepared to answer questions. Of course, the exception is the Speaker, who declines to attend budget estimates committee hearings. Occasionally Ministers will attempt to interrupt and take over the questioning, which is perhaps a little rude, but at least they attend.

The Federal Parliament's budget estimates committee hearings are perhaps less confrontational, but they are more information-producing. It would be of great benefit if our budget estimates committee hearings were more information-producing, whether it be through pre-hearing questions, questions asked during committee hearings or post-hearing questions taken on notice, to ensure that members are better informed and gain an understanding as to why certain decisions are made. The Federal system allows for a whole day, although the whole day may not be taken up. It may well be that only selected items are examined, which overcomes the need to place questions on notice.

I assure the House that General Purpose Standing Committee No. 2 considered placing a motion on the business paper in terms similar to the one being discussed, but it was felt that criticism by General Purpose Standing Committee No. 4 of the way in which Ministers' answers contain no information and are of absolutely no help applies generally to estimates hearings. I am sure that the Leader of the House does not want that position to be maintained. Conversely, I believe he would want all honourable members to be well informed and understand how portfolios operate. He would approve of shadow Ministers being able to understand why the Government does, or does not, do certain things. It is also highly desirable for members of the public to be well informed. I asked question on notice No. 94, which is headed, "2001 Budget Estimates Transport and Roads Portfolios", which states:

> How is 'community satisfaction with road network' assessed and by whom?

That is not an unreasonable question. Surely there is a formula to explain how the assessment is made. Surely government departments have a formula or a set of guidelines. If they do not, that is a terrible indictment on departments and I am sure that the responsible Minister would not want that to be the case.

The Hon. Tony Kelly: And if they do?

The Hon. JOHN JOBLING: If the guidelines or formula exist, what is so secretive about them? Wherein lies the national treasure that must be hidden? Some time ago I invoked freedom of information procedures and lodged an application with the Ombudsman to obtain answers to questions such as how a train was declared to be running late, what the criteria are, and how many incidences had occurred. The answers would not bring down a national network, but they would have been interesting to know. If the question of how the assessment is made of community satisfaction with a road network has been dealt with, who made the assessment surely cannot be any great secret. The second part of question No. 94 related to whether the assessment had been made by consultants. Governments often employ consultants and that is not an unacceptable practice. The second part of the question states:

> If by consultants, how much is paid to those consultants and who are those consultants?

Again, that is a fair and reasonable question. The third part of the question states:

> If by the RTA, how much is spent on such assessment?

The response was, "ANSWER (1-3)" and that was approved under the signature of the Minister for Roads. The answer states:

> On 20 December 2000 Premier's Memorandum 2000-28 was issued indicating that under no circumstances should surveys of clients, other users of Government services or citizens be used to elicit information of a political nature.

It would be interesting to know who made the assessment. Is that information of a political nature? The assessors are a body of people who are named and known, and the provision of their names does not constitute information of a political nature. If the assessment was made by consultants, that is also not of a political nature because it is fair enough to know who the consultants are. If an assessment costs money, a budget estimates committee reasonably could ask how much was spent on the assessment. It is a simple fact of life, not a political imperative, that expenditure is a specific budgetary item and is documented, but the response was a classical example of a non-answer.

The Hon. Tony Kelly: Classical? Not classic?

The Hon. JOHN JOBLING: It is quite classic. There are pages of questions on notice and time after time a non-answer has been provided. The attitude of Ministers seems to be that answers do not matter. I also asked this question:

> What does Countrylink estimate its patronage to be for 2000-01and 2001-02?
>
> What plans does Countrylink have to increase levels of patronage?

One would assume that Countrylink has a plan and would want to increase its level of patronage. If that is not the case, I would like to know. I am sure that everybody in New South Wales, including every taxpayer and every member of Parliament, would also like to know. Did the Minister's response answer that question? The response, which measures 1¼ lines, states:

> Countrylink's passenger journey details are published in the State Rail Authority's Annual Report.

Annual reports are generally published a year after the event. Am I expected to believe that Countrylink does not have a forecast or plan to work out what people think will happen this year, what is estimated to happen next year or the year after that, and what will be done to upgrade tracks, replace equipment and deal with staff and training? If Countrylink does not have those types of plans, certain people should no longer work there. They certainly would not be able to work in any other type of business. In the response to that question, the plans that Countrylink might have to increase its level of patronage were not even referred to. Would anybody have the audacity to suggest that that response was a proper answer? Clearly, the response was not a proper answer.

One is left to draw the conclusion that the Government has no information or that it has something to hide by not wishing to answer the question. One would think that the Government would be trumpeting Countrylink's plans for growth to convince the Opposition to support the extension of services and planning for the future, but this Government does not want to tell us anything. Most people who operate a business publicise their plans, identify problems and their solutions and forecast growth, so I cannot imagine why a major government department, which is managed by skilled personnel, would provide such an answer to a Minister. Probably much more information was provided in the department's answer that did not appear in the response that was signed by the Minister. I have seen government, and I know how it works.

The Hon. Tony Kelly: That is what you did, was it?

The Hon. JOHN JOBLING: Yes. We supplied fulsome answers to our Ministers and they presented them. The question and answer process needs to be reviewed. The Government is not providing the information that members of Parliament and the people of this State deserve. Members of Parliament are not given sufficient time or resources to enable them to conduct proper hearings and Ministers are not going out of their way to ensure that, when a proper question is asked, a proper answer is given. I am sure that there is no reason for Ministers to be proud of or most Government members to be overjoyed with the probity of answers that are provided not only to General Purpose Standing Committee No. 4 but also to all other general purpose standing committees operating in this Parliament. The current practice is repeated time and again. I plead with Ministers to compile genuine answers so that Opposition members may be provided with accurate information.

The Hon. AMANDA FAZIO [4.58 p.m.]: I speak against the motion. I draw the attention of members to the dictionary definitions of "hubris", which some members think has a silent "r", and "fulsome". One

member said, "When we were in government we gave fulsome answers." The *Concise Oxford Dictionary* meaning of "fulsome" is "cloying, excessive, disgusting by excess, (of flattery, servility, exaggerated affection)". I rest my case. Members who took this debate so seriously and have used up most of the afternoon should have read the committee's report "Budget Estimates 2001-2002", page 29, headed "Minutes No. 25", which commences "5 September 2001 at Parliament House at 4.05 p.m." On the next page it is stated, "The Committee adjourned at 4.10 pm."

Pursuant to sessional orders business interrupted.

SPECIAL ADJOURNMENT

Motion by the Hon. Michael Egan agreed to:

That this House at its rising today do adjourn until Tuesday 18 June 2002 at 2.30 p.m.

LOCAL GOVERNMENT AMENDMENT (ANTI-CORRUPTION) BILL

Second Reading

The Hon. EDDIE OBEID (Minister for Mineral Resources, and Minister for Fisheries) [5.00 p.m.]: I move:

That this bill be now read a second time.

I seek leave to incorporate the second reading speech in *Hansard*.

Leave granted.

Local government is the tier of government with which many people have the most contact. While local government is no longer the domain merely of 'roads, rates and rubbish', the broadening services and functions of local government means that councils are in even more contact with members of the community and are major contributors to the well-being and quality of lifestyle in a community. For these reasons, it is vital that councils operate effectively, and that people can have confidence that their local council is operating effectively.

I have commented on the admirable job that councillors and council staff perform for the benefit of their communities in this place before. I do not wish to detract in any way from that good work, although I must speak about those few persons who, for their own selfish purposes, corrupt the system of local government by interfering inappropriately in it.

As recent events affecting the Rockdale city council have shown, unfortunately there are still some unscrupulous individuals who are so driven by greed that they are willing to chance the severe anti-corruption and criminal conduct sanctions that are currently in place in order to obtain financial benefit or some other benefit or favour for themselves.

The scale of corruption exposed in the independent commission against corruption inquiry into activities at the Rockdale city council has shocked the community.

All people involved in the local government sector would have been disappointed to see one councillor admitting corruption, and another collected from his home by ICAC officers to appear before the inquiry to answer allegations of corruption. ICAC officers had completed rigorous and thorough investigations into the alleged corruption and the work of those officers and the inquiry is to be commended.

I note that it appears to have only been in the face of overwhelming evidence collected by anti-corruption officers that one councillor did admit that he had engaged in corrupt conduct. The councillor has since publicly apologised for his disgraceful behaviour and resigned from the council.

Evidence at the ICAC inquiry has shown that at least one councillor received money from development applicants, via intermediaries, to assist with the successful passage of a particular application through council.

The result for the community of such a scheme is the possibility of development that is not within the limits set by legislation or the council in consultation with its community. Residents or developers going to a council for approvals of one kind or another must be able to have security in the knowledge that their application will be dealt with on its merits, and according to the prescribed processes, and that the application will not be interfered with by corrupt councillors or staff. Decisions made on behalf of residents and ratepayers must not be made for the benefit of corrupt individuals.

The community has every right to expect that the State government will ensure that corruption within councils is not tolerated, and that councils will themselves undertake whatever reasonable measures may be necessary to render their organisations resistant to corruption.

Moreover, the community is entitled to have confidence that appropriate measures are in place so that where corruption or other criminal behaviour does exist, it will be rooted out and the people involved punished. It is critically important in terms of

deterrence of other councillors or staff who may potentially take corrupt action that those persons conducting corrupt activities are found out and dealt with appropriately under the law.

This bill evidences the Government's resolve to act promptly and decisively against corrupt councillors, corrupt council staff, and councils which are afflicted by systemic corruption.

The measures contained in the bill will allow the immediate suspension, without the need for further inquiry, of individual councillors and council staff who have been found to be corrupt by a formal inquiry conducted by the ICAC, or who have admitted corruption, or who have been charged with a criminal offence relating to their civic duty.

The suspension will operate pending further action, which may involve prosecution of persons by the director of public prosecutions, or other appropriate action.

Corruption rots an organisation from the inside out. The longer it is left, the more damage it can do, and the harder it is to eradicate. Therefore the proposal provides that a suspension of a councillor or staff member may be based upon the findings of either an interim or final report of the ICAC. This element of the proposal, which focuses on timeliness, will ensure that there is little if any delay between the release of an adverse ICAC finding about an individual and that person being suspended from his or her civic office or council employment on a temporary basis.

It will no longer be possible for persons who have had an adverse recommendation made by the ICAC for their suspension or dismissal, who have admitted corruption or who have been charged with criminal conduct relating to their civic office to continue on in their role, or to be paid fees or salary, or to be involved in the day-to-day decision making of their council while waiting for the due process of law to reach its conclusion.

The capacity to immediately suspend these persons is essential for the maintenance of community confidence in the system of local government.

If the person is a councillor, the minister for local government will provide the councillor with an opportunity to make submissions as to why the councillor should not be dismissed from civic office. If the minister is not satisfied that the councillor should retain his or her civic office, that councillor may be dismissed by the Governor, by proclamation.

This power to dismiss a councillor is proposed as an option of last resort to remove a person who has been found to be engaging in corrupt conduct but who refuses to resign his or her position.

The period of dismissal will be determined in all the circumstances, but is to be no longer than 5 years. This maximum period is consistent with the powers of the local government pecuniary interest tribunal under the Local Government Act to disqualify a councillor against whom a complaint has been proven from holding civic office for a period of not more than 5 years.

The proposed dismissal power applies only to councillors, and not staff of councils. General managers have powers under the common law, industrial awards and agreements and employment contracts to deal with disciplinary matters relating to staff. Staff may also have further action taken against them by the director of public prosecutions.

An exercise of the power to dismiss a councillor for engaging in corrupt conduct is a serious matter. It is a power to protect the integrity and the reputation of a particular council and the local government sector as a whole. The ICAC considers that this proposal is critical to the effective removal of corrupt persons from civic offices.

If corrupt conduct extends beyond a handful of councillors and council staff to the point where the whole council is tainted by corruption, the Governor will also be able to immediately dismiss the council where a formal inquiry conducted by the ICAC has exposed systemic corruption and recommended its removal.

In those cases where a whole council has been dismissed due to evidence of systemic corruption, the council will immediately be replaced by an administrator appointed by the Minister for Local Government. The administrator will perform all of the functions of the council. The restoration of democratic local governance will occur as soon as it is deemed appropriate by the Government to hold fresh elections for the area. The right to select local representatives by democratic process is important and as such, voting for a new council will be restored as soon as is reasonably practicable.

It is entirely appropriate that the recommendation to suspend a councillor or member of staff, or to dismiss an individual councillor or an entire council, is made to the Minister for Local Government by the ICAC, following its investigations.

The ICAC has primary responsibility for administering the Government's anti-corruption program affecting public authorities including local councils. The ICAC is specially empowered to investigate the conduct of public officials, to make findings and recommendations and may refer criminal conduct for prosecution by either the director of public prosecutions or the police.

Due to the need for a prompt legislative response, on this occasion formal consultation with the peak local government sector organisations was not able to be pursued.

However, I am confident that the local government industry acknowledges the urgent need to place greater barriers, and to apply speedier sanctions, against those persons who through their selfish and greedy actions would bring the whole sector into disrepute.

The Government believes that these new measures will provide a greater threshold of deterrence against persons holding civic office or employed by a local government authority from succumbing to the temptation to act in criminal or corrupt ways. It is my hope that the powers will need to be used only very rarely. I expect, and the community expects, councillors and council staff to respect their offices and to protect the integrity of local government. The measures in this bill will ensure that swift and strong

action can be taken in those exceptional cases where councillors or council staff prefer personal profit or favour over the proper performance of their duties for the benefit of the community.

I would anticipate, and welcome, bi-partisan support for this important bill.

The welfare of the community and long-term stability and economic prosperity of the State are too important to extend any leniency to corrupt officials who seek to subvert the public institutions and values upon which our society is founded and depends.

The people of this State are entitled to expect that the conduct of councillors and council officers is not for the purpose of personal profit, and that they will always act honestly and fairly in carrying out their civic duties.

I commend the bill to the House.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [5.02 p.m.]: The Opposition supports the Local Government Amendment (Anti-Corruption) Bill. It recognises the need to ensure that corruption in local government is dealt with in the most effective and timely manner. I find it somewhat strange that the Government has reordered this bill to become the first item of Government business for the day on the same day that a front-page article in the *Sydney Morning Herald* reported on the goings-on at the Rockdale City Council meeting last night. I can only assume that the Government has been moved to action because of that article and because of this week's recommendations from counsel assisting the Independent Commission Against Corruption.

It is also interesting that the Australian Labor Party has finally moved to suspend Councillor McCormick from the party. Why has it taken so long to do that? The Liberal Party expelled Councillor Andrew Smyrnis during the ICAC investigation. Councillor Smyrnis subsequently resigned his position on the council. If the Labor Party is serious about anti-corruption, surely Councillor McCormick should have been expelled from the party and urged to resign from the council some weeks ago. I caution the House that it is important for members and the media to note that the recommendations from counsel assisting the ICAC, Greg Farmer, are not the final recommendations from the commission. Caution is needed in referring to those recommendations. Taking those recommendations at face value would be the same as accepting as absolute the closing submission of a police prosecutor in any criminal case.

Despite the obvious gravity of the evidence before the ICAC and the recommendations of Mr Farmer, it is nonetheless important to note that point. It is my further understanding that it could be up to seven weeks before the ICAC hands down its final report on this matter. The current provision under which all civic offices in a council cannot be declared vacant by the Governor unless an investigation and inquiry is conducted under the Local Government Act, even in cases where the ICAC report may have found that a council was plagued by corrupt practices, is clearly an anomaly that must be addressed. That is what the bill is about. That inquiry process, which was included in the Local Government Act as a way of dealing with structural or procedural problems, such as those at Maitland and Bega Valley councils, can take a lengthy time. The shortest inquiry leading to the dismissal of a council that the Opposition can recall was a three-month inquiry into the former Windouran council in the State's south west.

The Hon. Michael Egan: Three months?

The Hon. DUNCAN GAY: Yes, three months.

The Hon. Michael Egan: Was that because of the need to provide natural justice?

The Hon. DUNCAN GAY: It could have been shortened a little if there had been narrower terms of reference.

The Hon. Michael Egan: I am sure that a people's tribunal could knock it over in half a day.

The Hon. DUNCAN GAY: I am sure that the Labor Party's credentials committee could knock it over in five minutes, but that is not the point. This is about natural justice, and it is important at this stage to stress that in mentioning those three councils I am not making any assertions of corrupt conduct against any of the former councillors of those councils. Given that the legislation could result in a virtual repeat of an ICAC inquiry, it is appropriate that provisions be enacted to allow a council to be dismissed on the recommendation of the ICAC commissioner contained in either an interim or final report of the commission. That streamlining of the provisions will mean that councils identified as corrupt will be able to be dealt with in a timely manner without the need for an extended period of investigation by the Department of Local Government.

Earlier this afternoon I was interested to hear the Minister for Local Government speaking on radio 2GB about Rockdale council. In that interview he said words to the following effect, "We need to get this legislation through quickly, then I won't have to have a public inquiry. This will get through Parliament as long as the Opposition supports it." The Minister is well aware that the Opposition supports this bill, as we said in the other House. The Minister did not need to engage in politicking. He is well aware that this bill will get through Parliament. It is the fault of the Government that the legislation has not been debated before this time.

I remind the House again that it is interesting to note the timing of debate on this bill: it is on the very same day that Rockdale council is again front-page news. Following the Minister's comments on radio today, as reported on the Australian Associated Press [AAP] wire service, I now pose two important questions to the Minister and the Government that need to be answered. First, if this bill is passed by the upper House tonight and ratified by the lower House next week, will it apply to Rockdale City Council? In other words, will those councillors adversely named in the final report of the ICAC be subject to the suspension and possible disqualification provisions contained in this bill?

The Hon. Michael Egan: I would hope so.

The Hon. DUNCAN GAY: So would I, but there is a degree of uncertainty. For instance, if the commissioner were to bring forward that recommendation tomorrow, and this bill had not gone back to the lower House or to the Governor, would the Rockdale council case be outside the purview of the bill?

The Hon. Michael Egan: I wouldn't have thought so.

The Hon. DUNCAN GAY: I look forward to the Government giving an assurance that that is not the case. The second question I ask is: When the Minister indicated today, as reported on the AAP wire service, that the director-general of the department will order the elected Rockdale mayor to be the sole chair at council meetings, under what part of the Local Government Act or associated regulations will that order be made? We had a cursory examination of the Local Government Act today and we could not find that part. We would be happy if the Minister or the Minister's representative could clarify those two matters.

The Hon. John Hatzistergos: You would prefer someone else to chair the meetings, would you?

The Hon. DUNCAN GAY: It is about process. I am surprised at a comment such as that from a member of the Labor Party. You are not happy with your Labor Party.

The Hon. John Hatzistergos: It is a really dumb question.

The Hon. DUNCAN GAY: Today the Minister indicated that he had instructed the director-general to indicate who can or cannot chair a council meeting. I am surprised that the honourable member—a prominent lawyer before he entered Parliament, a proud member of local government and a Labor councillor—would not want to know that the Minister has the power to, willy-nilly, direct in any instance who will chair a meeting. If we make law to deal with particular examples we make bad law. Whilst I agree that individuals under investigation should not chair meetings, the process should be conducted properly. I look forward to a response on those two issues. The bill deals with three primary issues, and I will deal with them in turn. First, the bill amends section 255 of the Local Government Act to allow the Governor to declare vacant all civic offices of a council and appoint an administrator without the need for a formal public inquiry. For the reasons I have already spoken about, this is an important amendment and it is appropriate that the proposed changes stipulate that the Governor cannot take this step unless a recommendation to that effect has been contained in an interim or final report from the Independent Commission Against Corruption.

Second, proposed section 440B will allow the Governor to dismiss a councillor from civic office and to disqualify the councillor from holding civic office for up to five years if the ICAC has recommended that consideration be given to the suspension of the person from civic office with a view to his or her dismissal for serious corrupt conduct. There is a proper process to be followed before disqualification, which includes the Minister giving the person a reasonable opportunity to show cause why he or she should not be dismissed from holding civic office. It would be rather difficult, I would imagine, in the face of a report of an investigation by the ICAC, for a person who is the subject of an adverse recommendation to show appropriate cause in this situation. There are some matters in relation to section 440B that the Opposition would like clarified. Those matters have already been canvassed in the Legislative Assembly, but the Minister failed to substantially address those concerns in his reply to the second reading debate.

Section 440B will allow the Governor to disqualify a person from holding civic office for a period of up to five years, which it is claimed is consistent with the powers under the Local Government Act for the Pecuniary Interest Tribunal to suspend a councillor who has breached the pecuniary interest provisions of the Act. Elsewhere in the same Act reference is made to the disqualification from holding civic office for a period of seven years of a person who is found guilty of the offence of acting in civic office while subject to disqualification. There is an apparent contradiction in what the Government is trying to achieve in this instance. In the view of the Government which is the more serious: an admission of serious corrupt conduct, a breach of the pecuniary interest provisions of the Act, or another offence under the Act that may lead to a seven-year suspension?

This is important legislation and it is important that it is implemented properly the first time around. That is why the Coalition seeks a clearer explanation from the Government as to the discrepancies that I have just mentioned. We do not intend to oppose or amend the five-year dismissal provision, but we would like a clear explanation of those contradictions. Once again we have been treated to a load of rhetoric from the Government on getting tough on corrupt councillors. The Minister for Local Government said in his second reading speech in the other place:

> This bill evidences the Government's resolve to act promptly and decisively against corrupt councillors.

If that was indeed the case, why has it apparently taken last night's Rockdale council meeting and the recommendations of the counsel assisting the ICAC to prompt the Government into bringing this bill up the list for debate in the upper House tonight? The third major part of the bill relates to the temporary suspension of either councillors or council staff, subject to strict provisions. Proposed section 440C deals with provisions relating to temporary suspension from civic office for serious corrupt conduct. Under this section the Minister may, without notice or inquiry, suspend a person from civic office if the ICAC recommends that this happen, if criminal proceedings for serious corrupt conduct are instituted against the person, or if the person makes an admission of serious corrupt conduct. While suspended, a person is not entitled to exercise any functions relating to the civic office, or to collect any remuneration or fees connected with that civic office.

The suspension can be lifted if the person is not dismissed from civic office or if criminal proceedings are not instituted within six months after the suspension. If the suspension is removed the Minister may ensure that the remuneration or fees withheld are paid to the person who was subject to the suspension. That is appropriate and proper. If a person is cleared of the allegations that led to the original suspension it is only right that the moneys withheld be then paid. Section 440D relates to the ability of a general manager to institute a temporary suspension of a staff member in connection with serious corrupt conduct. This section is substantially similar to section 440C with regard to the grounds for suspension, the process of suspension, the remuneration provisions in place under suspension and when suspension is removed, except for the fact that it is the general manager and not the Minister who institutes the suspension. The Opposition also holds some concerns about the wording of sections 440C and 440D. Section 440C (1) states:

> The Minister may, without notice or inquiry, suspend a person from civic office.

Similarly, section 440D (1) states:

> The General Manager may suspend a member of staff of a council from duty.

The key point that the Opposition takes issue with in these two sections is the word "may". Under the proposed legislation there is no compulsion on the Minister to suspend a councillor or a general manager to suspend a staff member. Rather, they "may" suspend a councillor or a staff member. This wording significantly weakens the bill. I ask the Minister to clarify why the word "may" instead of the word "must" is not included in those sections. By replacing "may" with "must" the bill would be significantly strengthened. Frankly, the Coalition would have expected that if the Government were serious about cleaning up corruption in local government and addressing community concerns about corruption amongst councillors or staff it would have made the bill as tough as possible.

In its present form, allowing the Minister or the general manager the latitude to suspend a councillor or staff member, rather that enacting a compulsory suspension based on either a recommendation from the ICAC, the commencement of criminal proceedings or an admission of corruption, is subverting the intent of the legislation as outlined in the Minister's second reading speech. The Minister claimed in the other place that it is important that the discretionary "may" remain in the legislation. He claimed that a value judgment needs to be made as to whether the admission of serious corrupt conduct actually constitutes serious corrupt conduct. One

would have thought that an admission alone would be grounds for suspension. Frankly, an admission of serious corrupt conduct does not need to be judged. I look forward to the Government's views and assurances on that matter because the explanation of the Minister for Local Government does little to allay my concerns about this legislation. Will the Government assure the House that the wording of these sections will not leave a loophole in the legislation? I have indicated that it was the Opposition's intention to change the word "may" to "must"—

The Hon. Richard Jones: Changed your mind?

The Hon. DUNCAN GAY: No, we have not. We will not be proceeding with that because—

[*Interruption*]

I suppose technically we have, I accept that, but we have not changed our mind on the validity of changing—

[*Interruption*]

We are not proceeding with the change because we have been advised by Parliamentary Counsel that it is unable to do this without affecting other bills, which would be inappropriate because of the ramifications that flow into the ICAC Act. We rely on the professionalism of Parliamentary Counsel—I have no reason to doubt it—in this instance. I accept the recommendation.

The Hon. Michael Egan: A good and wise man.

The Hon. DUNCAN GAY: However, we have concerns about the philosophy. I cannot see why the Minister or the general manager should exercise latitude. The Opposition supports the bill, despite the concerns I have outlined, particularly in relation to sections 440C and 440D. We support the bill because we recognise the importance of the issue at hand following the disturbing revelations at the ICAC inquiry into Rockdale City Council. Local government remains at the forefront in most people's lives. Last week I spoke to the Civil Liability Bill and quoted from a Local Government Association of Queensland submission which stated that the only people who do not come into contact with something involving local government at least once a day are those who never venture beyond their front doors. Communities need to have faith in the ability of their local council to operate in an effective and corruption-free manner. They need to be assured that the actions of their council are not tainted by corruption.

Currently, as the Act stands, an entire council faces the threat of dismissal following an investigation of the Department of Local Government. In that case a community may lose elected representatives who have not been found to be involved in corrupt behaviour. Clearly, that is not fair: good people are tainted by the actions of a few. The allegations of corrupt behaviour will hang over that entire administration, both elected and employed. I was interested to read that the ICAC Commissioner, Irene Moss, has flagged the need for consideration of development applications to be taken away from elected councillors and placed in the hands of council staff members. I do not think that that would solve the problem of possible corruption, but it may go some way towards addressing the issue.

The Rockdale City Council situation has shown that there needs to be a streamlining of the process involved in dealing with corruption at the local government level. That is why the Opposition will support the bill. In conclusion, I reiterate that the comments that have been quoted as facts in the press are only the closing summation of the counsel assisting the ICAC. While they are most damning comments they are not the verdict of the ICAC Commissioner, and I would hope that they will be treated accordingly.

The Hon. Eddie Obeid: She said that.

The Hon. DUNCAN GAY: She did not say that.

The Hon. Eddie Obeid: Irene Moss said that—that they are the comments of the counsel assisting.

The Hon. DUNCAN GAY: Yes, they are the comments of the counsel assisting, and we should treat them as such. It has been a damning inquiry, but we need to be tempered in our response to this most serious matter.

Ms LEE RHIANNON [5.25 p.m.]: The Greens welcome the Local Government Amendment (Anti-Corruption) Bill, which will make it easier for corrupt councillors, or councillors reasonably suspected of

corruption, to be suspended or dismissed from civic office. We have some concerns about the power vested in the Minister with regard to suspending councillors, which I will come to later. There can be no doubt that corrupt activity occurs within some local councils. The recent revelations about Rockdale City Council are just one example. The article in today's *Sydney Morning Herald* referring to Warringah Council alludes to other councils. Since the Greens have been successful in getting elected representatives into local government we have been concerned about the number of examples brought to our attention.

The bill sets out three possible events that can trigger a councillor being suspended from office: on the recommendation of an ICAC report, if criminal proceedings for serious corrupt conduct are instituted, or if the councillor admits to serious corrupt conduct. The Greens support a councillor involved in these scenarios being suspended. Only last night there was an extraordinary situation at Rockdale City Council that made a farce of that council—indeed, of local government. Labor Councillor Adam McCormick attempted to chair a meeting when he had been named and recommended for prosecution by the ICAC. He pushed it too far. From the reports that we have received and from what we have read in the paper, it caused many local people a great deal of distress.

It is not too much to ask that such councillors be suspended from duty until such time as they are proven guilty or otherwise. In fact, as we saw last night, to have them continue in their official roles trivialises council meetings—it is farcical. A corrupt councillor could quite conceivably continue to influence events in a corrupt manner while charges are pending. This is obviously another reason why those councillors should be suspended. We are concerned that the bill gives the Minister a discretionary power to suspend councillors. This could undermine the process and could conceivably lead to further corruption. If a Labor Minister, for example, were to decline to suspend a Labor councillor, rightly or wrongly, an appearance of favouritism would be created. Straight away the anti-corruption message would have been diluted and the disciplinary process discredited. Surely it is better and safer to make the suspension automatic and remove the Minister's discretion.

The Greens also support extending the disciplinary powers to council staff, including general managers. There is often an assumption that corruption involves only elected councillors. However, in reality and from our experience, it is unlikely that corrupt activity could be entrenched amongst councillors without some staff being involved. While the Greens support the bill, it raises important issues of probity and corruption in local government that the Government has failed to address. The pecuniary interest provisions of the Local Government Act need to be strengthened. Councillors are continuing to find their way around the limited way the provisions are set out.

More fundamentally, the nexus between developers, campaign donations and councillors must be broken. We cannot have democracy at the local government level unless this occurs. It is time to call a spade a spade: A donation from a developer to a candidate or a party is simply corruption. It cannot be seen as otherwise. There is no other word for it. Labor and the Coalition can continue to refer to it as a donation or a contribution, but the general public understands very well that it is a form of corruption.

[*Interruption*]

I note the interjections from my colleague the Hon. John Hatzistergos. I imagine that he winced when he saw the bribery proceedings unfolding, when members of his own party were interchanging the word "bribery" with the word "donation" as they tried to squirm out of the situation. The member is trying to refer, with difficulty, to donations made to the Greens. I refer him to our web site. The Greens is the only party I know that discloses its donations, and it is calling for full disclosure. For the record, environment groups have enough trouble raising money for themselves, and they certainly do not give money to political parties. So again the member is off the mark.

This form of corruption does not end with local government. Let us not forget that the Minister for Planning is the consent authority for the largest and most important developments in New South Wales. Let us not forget that he has the ability to call in and approve developments. The Greens are in touch with community feeling on this issue, and the major parties are falling way behind. When developers give money to a candidate or a party, are we really supposed to believe that they expect nothing in return, that pragmatic, hard-headed business people would give money simply out of the goodness of their hearts? No-one believes that.

The Government must legislate to ban outright all donations from any corporation or individual involved in the property industry to political parties or candidates at both the local and State government levels. I note that the former Labor Prime Minister, Paul Keating, has talked about this issue, because he has seen the

damage it is doing to urban planning and development, particularly in the Sydney area, and to his own party. Democracy has been compromised. Decisions are being bought and sold, and only drastic action will put things right. The Greens will continue to defend and promote democratic values until the scourge of money politics has been eradicated. At a local government level money politics has come to the fore and is working in a very dirty way, and that needs to be cleaned up.

The Hon. JOHN HATZISTERGOS [5.32 p.m.]: Firstly, in relation to the matters which have brought this legislation before the House, I express my absolute abhorrence at the revelations that the ICAC has uncovered. At the same time, I congratulate the commission on the professionalism with which it has conducted these proceedings so far. When the committee first met with the new commissioner she unveiled a process that she intended to undertake to reform the ICAC. In many ways, the way this investigation has unfolded and the sophistication with which the evidence has been presented, particularly in relation to the interception of SMS text messages, has demonstrated the fruit of those efforts.

In many ways, the Government would prefer not to have had to introduce this legislation. Most people who serve in local government—I think more than 1,000 people serve in New South Wales—perform their duties diligently in the public interest. They do not get remunerated. In many cases it costs them money to perform their duties and they put enormous efforts into their public duties and responsibilities. I recall from my own experience in local government—I think I said this in my inaugural speech—that for many of these people it is a thankless task. They put up with an enormous amount of criticism, they get little reward for it, and the contribution they make to our community is invaluable.

Having said all of that, however, it does not excuse in any way the sort of conduct that existed in Rockdale. Clearly, this legislation will go a long way to addressing those matters. One would have thought from the contribution of the Deputy Leader of the Opposition that this legislation may not have had application to Rockdale, but clearly it does because section 440E of the bill proposes that it applies both before and after commencement. In other words, the section will apply to criminal proceedings which may have been instituted or admissions that may have been made about serious corrupt conduct before or after the commencement of division 2 of the bill. Clearly, this legislation will apply to Rockdale. One need not be concerned that the sort of conduct that was revealed in Rockdale cannot come within the scope of this bill.

The Deputy Leader of the Opposition made another criticism to which I must respond, that is, the use of the word "may" as opposed to the word "must" in sections 440C and 440D. It is necessary for honourable members to understand that the ICAC was established not as a body that dispenses discipline or determining guilt or innocence but as a royal commission, that is, an investigator. Subsequent amendments to the Act have allowed the commission to make recommendations, findings of fact and findings of corrupt conduct. However, that still does not detract from the fact that it is essentially an investigative body. It is not a court or a tribunal which is ultimately determining the legal rights of participants. People who appear before the ICAC do so in relation to a matter that the commission is investigating. They are not appearing in response to a petition brought by a citizen that requires a response. In other words, it is not an adversarial proceeding; it is an inquisitorial proceeding. Things can unfold in the course of an investigation.

The Hon. Duncan Gay: That is a matter of opinion. They are very adversarial down there.

The Hon. JOHN HATZISTERGOS: It is not at all. It is inquisitorial.

The Hon. Duncan Gay: Talk to some of the people who have actually been there.

The Hon. JOHN HATZISTERGOS: The Deputy Leader of the Opposition disagrees with that. I will not canvass the next report of the joint Committee on the Independent Commission Against Corruption, which hopefully will be released in the next couple of weeks. That report deals precisely with these issues and tries to explain in simple terms an inquisition and an adversarial process. Some people think that the ICAC is an adversarial body. It is not. It may have some features of an adversarial body but it is not. Effectively, it is a standing royal commission that has the power to institute its own inquiries, and it determines issues within the scope and purpose statements that it sets itself at the investigative stage.

The Hon. Duncan Gay: I do not believe it is an improper body, but it is clearly an adversarial body in its function and in the way it conducts its inquiries, particularly its parliamentary inquiries.

The Hon. JOHN HATZISTERGOS: I know that the ICAC has come under criticism, particularly from leaders of the National Party in the past. However, with the greatest of respect, I do not think that it can be

attacked for the way it conducts itself in terms of it being an inquisitorial body in the royal commission sense. To my knowledge and the way I have been following it, it certainly follows in a similar way to the National Crime Authority, the Police Integrity Commission and, indeed, most royal commissions, bearing in mind that the commission's legislation is somewhat different. Having said all that, when the legislation establishing the ICAC was enacted by the Greiner Government it did not state that the ICAC will have the power, for example, to prosecute persons who are found to be corrupt.

The choice words were used in that legislation—it is still there at the moment for anyone who wants to look at it—that the role of the ICAC is to make a recommendation that consideration be given to prosecution by the Director of Public Prosecutions [DPP]. In other words, in this bill we are importing the same terminology for exactly the same reason, that is, the DPP in the instance of prosecution is an independent officer who has independent responsibilities and must give consideration to all the issues.

The Hon. Duncan Gay: That is different—

The Hon. JOHN HATZISTERGOS: No, it is not different. The DPP must give consideration to different issues.

The Hon. Duncan Gay: It is different from a suspension. We are not talking about a sacking; we are talking about a suspension.

The Hon. JOHN HATZISTERGOS: The Director of Public Prosecutions has to consider issues separately from the ICAC. One clear reason the DPP has to consider matters differently to the way the ICAC considers matters is that evidence before the ICAC may not be admissible in a prosecution. Also, the DPP has to take into account the prosecution guidelines.

The Hon. Duncan Gay: That would be true if I was talking about sacking, but I was talking about suspension.

The Hon. JOHN HATZISTERGOS: The point that I am making is simply this: The ICAC is simply an investigator making recommendations. Somebody else is handing out the discipline and that person needs to be satisfied that the appropriate circumstances exist for that discipline to be instituted. The ICAC should not be given power to dispense discipline. It does not and should not have it. Other factors enter into the equation. There may be circumstances beyond the ICAC inquiry that would activate a general manager to act—for or against—particularly in relation to new section 440D. Also, general managers must consider industrial relations laws that are binding on them in their determinations, notwithstanding this legislation. That is why it is appropriate that consideration be given.

The Hon. Duncan Gay: It is a pretty long bow.

The Hon. JOHN HATZISTERGOS: I do not think it is. I think it is appropriate to consider all the circumstances, including the recommendation, in determining the action. If a recommendation is given by the ICAC that someone should be dealt with in this way, it would be a pretty brave general manager or Minister who did not act in accordance with that recommendation. However, it is appropriate that the legislation be drafted to reflect the division to which I referred earlier. The Deputy Leader of the Opposition also referred to the Minister's reference on radio today to the chairmanship of Rockdale City Council. I do not believe that the Minister indicated at any point during that radio interview that he was acting under some legislative precondition to direct Rockdale City Council to be chaired in a particular manner.

The Hon. Duncan Gay: He said, "I have ordered him."

The Hon. JOHN HATZISTERGOS: He can order him but, quite frankly, I would think that in the current circumstances Rockdale City Council would want to do as much as it could to comply with directions about the conduct of its meetings, bearing in mind the revelations that we have heard. It would be totally inappropriate to suggest that the Minister should stand aside and watch the sort of farce that unfolded yesterday, whether or not it is permitted under the legislation, and not voice criticism or issue some instructions to the director-general about the future chairmanship of that council.

The Hon. Duncan Gay: How does he order if he does not have the power?

The Hon. JOHN HATZISTERGOS: Let us not get into semantics. It is the end result we are talking about. In the current circumstances this means that it is inappropriate that the situation that existed last night

should be repeated, particularly next week. That is, the meeting was suspended and a councillor, by all accounts, acted in a way that may ultimately lead to adverse comment by the commission, and was able to chair a meeting of Rockdale City Council which, amongst other things, was considering development applications.

I commend the Minister for the action he has taken. It is part of the package that the Government has foreshadowed with respect to local government. Other legislation has been foreshadowed in relation to planning, to deal with developers who pay off councillors and obtain development consents to which they are not entitled, and in appropriate cases revoke the consent and confiscate the profits in the event that the development ultimately proceeds. That legislation, which will be introduced in due course, should be regarded as part of the package.

I have no problems with people donating to political parties provided that it is done openly and transparently. I do not believe it was in this particular case. Ms Rhiannon has confused the issue by suggesting that any developer's contribution to a political party is somehow corruption. It is not. For example, many people donate to the Greens because they seek to support a certain policy by way of a financial contribution. As many people would be aware, larger developers donate to both political parties. What is wrong is connecting the two, that is, paying for a designated outcome. It is that to which this bill and the bill to be debated later in this session are directed.

The Hon. Dr PETER WONG [5.46 p.m.]: I briefly comment on the Local Government Amendment (Anti-Corruption) Bill. The Unity party will support this bill to strengthen the New South Wales Government's ability to stand down councillors or dismiss councils on the ground of corruption. Although this legislation is a knee-jerk response to a specific council issue, it has merit. I believe it is appropriate that the Minister for Local Government should be able to stand down councillors or council staff subject to an ICAC recommendation, police charges being laid, or an admission of guilt.

It is also appropriate that councillors should be able to be dismissed by the Minister under the same criteria, and councils dismissed when the ICAC has found systemic corruption. The Government is keen to be seen as being tough on corruption, especially when a Labor councillor is involved. Alan Jones might get something to use against the New South Wales Government and the Labor Party. It is stating the obvious, but if we accept that this is okay, we are accepting government by media and headline. That is not good government and will not produce the best legislation in the public interest. Finally, I suggest that other measures need to be taken to reduce the potential for corruption in local government, which has been demonstrated in Rockdale City Council recently.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [5.47 p.m.]: On behalf of the Democrats I support this legislation. The Local Government Amendment (Anti-Corruption) Bill will amend the Local Government Act to provide that the Governor may, on the advice of the Minister for Local Government, disqualify a councillor or council employees who have been charged by police of offences, once the ICAC has found them guilty of corrupt conduct, or who have admitted their participation in corrupt conduct relating to their occupation. This sanction will last for five years. The Governor may also sack an entire council if the ICAC has recommended that consideration be given to its removal because of systemic corruption. In effect, the Minister arranges suspension and then recommends to the Governor that those persons should be sacked. They are then sacked by the Governor. It involves a two-step process.

The matter must be investigated by the ICAC, which must provide a report in order for the Minister to act. In other words, there must be a clearly written opinion on the fitness of those persons to continue in office. The bill will insert new sections 440A, 440B, 440C, 440D and 440E, which outline new provisions for the dismissal of councillors and council employees regarding serious corrupt conduct. Section 440A will insert the definition of "serious corrupt conduct" as defined within the meaning of the Independent Commission Against Corruption Act 1988 and apply that to corrupt conduct by councillors and council employees.

Section 440B (2) provides that the Minister will give the accused—for lack of a better term—an opportunity to show cause as to why he or she should not be dismissed before advising the Governor on what action to take in a particular case. In other words, people have an opportunity to defend themselves in the time between when the Minister suspends them and when the Governor accepts the Minister's recommendation to dismiss them. Under section 440D the general manager of a council may suspend a council employee on grounds similar to those outlined in section 440B. Schedule 2 makes a consequential amendment to the Independent Commission Against Corruption Act 1988 relating to reports on the dismissal of local government authorities, councillors and staff. In the second reading speech on 28 May the Minister said:

> Due to the need for a prompt legislative response on this occasion, formal consultation with the peak local government sector organisations was not able to be pursued.

At least my office did its best and contacted the Local Government and Shires Associations and the Municipal Employees Union [MEU] about the bill. The Local Government and Shires Associations said that they were fine with the majority of the bill but were a little concerned about section 440C. They believe that a councillor should be dismissed only after he or she has had his or her day in court. They consider this to be an issue of natural justice. The MEU said that it had not even seen the bill, so my staff emailed it a copy.

The bill establishes a hierarchy of responsibility from the Governor, who takes the advice of the Minister, to the general manager, who is responsible for staff. If the ICAC determines that someone should face trial and that occurs, I do not believe a councillor should be able to say, "I will chair this meeting and, until I am found guilty, I will continue to act as if nothing has happened." I think justice must be not only done but seen to be done. If there is more than a smell of corruption—for example, the ICAC is involved and has delivered serious findings—councillors should not be allowed to tough it out and continue business as usual while the council discusses issues such as further development consents. That is not fair play. It is one thing to be presumed innocent until proven guilty, but another to allow the stench of corruption to surround a council indefinitely as though it does not matter. That does not lend credibility to the governmental process.

I was distressed to see articles in the *Sydney Morning Herald* of 14 and 16 May and yesterday and today about not only Rockdale City Council but Warringah Council and others. It is always dangerous to have a lot of developer money flooding into particular areas, especially in view of changes to the environmental planning and assessment legislation that allow developers to sue councils. I believe planning in New South Wales has been undermined. I have criticised the Government for this before. We need a plan. We must state this plan's philosophical basis publicly and encourage much community discussion. We must improve public transport and increase urban density along public transport corridors. We must make these decisions publicly. We must have zoning to support our plan and we need recreation areas that are not perpetually threatened by this Government's piecemeal approach that is shaped by the Environmental Planning and Assessment Act.

The Land and Environment Court is viewed as the developers' court as it overrules any planning decisions a council tries to make. This has led to higgledy-piggledy development that has no framework and is restricted only by what developers can buy or get away with. Although I support the Government's move to get rid of corrupt councillors, while it perpetuates these closed processes and a lack of planning—which gives councillors much discretion and allows developers to buy the land available and construct as big a building as it can persuade the council to permit—the immense incentives for corruption will remain. That problem must be addressed.

With those caveats, the Australian Democrats support the bill. We support honest government and reject those councillors who have appeared before the ICAC and who say, "Until my wrongdoing is proven in court, I will continue the way I have been going." We believe there must be better, more open planning processes and serious plans and visions for our cities. They have not been forthcoming from this Government. Interestingly, in introducing this bill the Government has not thought beyond the immediate situation regarding corrupt councils. It has not considered the broader picture, which is typical of this Government.

The Hon. IAN COHEN [5.55 p.m.]: I shall reiterate some of the points made earlier by Ms Lee Rhiannon on behalf of the Greens. We support the Local Government Amendment (Anti-Corruption) Bill. The public has heard sensational evidence over the past few weeks regarding councillors, developers and go-betweens at Rockdale City Council and some worrying developments at Warringah Council. Weeks of evidence unfolding before the ICAC has revealed that councillors were in the process of receiving hundreds of thousands of dollars to ensure that particular development applications were approved. On Tuesday 11 June Greg Farmer, counsel assisting the ICAC, recommended that two Rockdale councillors—former Liberal councillor Andrew Smyrnis and Australian Labor Party Deputy Mayor Adam McCormick—two developers, and two go-betweens face criminal charges as a result of their "terrible crimes" of corrupt conduct.

While it is great that this particular corrupt conduct has been made public, the Greens believe that the situation uncovered at Rockdale City Council may be only the tip of the iceberg because of the pressures that councillors face when dealing with development applications. Those pressures may take the form of offers of gifts, benefits, bribes or other lobbying techniques. Because of the different power relationships and the potential for individual councillors and staff to make enormous amounts of money from the development process, undue influence and pressure could be exerted during the assessment process to produce a particular outcome.

It is interesting to note that developers make enormous financial contributions to the major political parties. In the two years between 1998 and 2000 Australia's three biggest property development companies—Meriton, Mirvac and Lend Lease—contributed more than $750,000 to various branches of the Labor, Liberal and National parties. The latest returns for 2000-01 reveal that Westfield gave $150,000 each to the Liberals and Labor, Meriton gave $150,000 to Labor and $100,000 to the Liberals, Leighton gave $125,000 to Labor and $122,000 to the Coalition and Multiplex gave $118,000 to the ALP, mainly in Western Australia.

The Hon. Richard Jones: What did they want for their money?

The Hon. IAN COHEN: Indeed, what did they expect for those significant amounts of money? This is part and parcel of the present problems with our political system. When asked why he made donations Leighton's Chief Executive Officer, Wal King, recently told the *Sydney Morning Herald*:

> If you don't do it, there's a chance of getting a black mark against your name. It's like giving your wife flowers; why wouldn't you?

Anne Davies, a reporter for the *Sydney Morning Herald*, pointed out that the New South Wales Labor Party now receives more than 30 per cent of its income from major developers. She wrote:

> We are asked to accept that developers are simply ardent supporters of democracy. It has nothing to do with the fact that the NSW Government awards major construction contracts and has the power to "call in" developments and appoint itself the consent authority.

This bill deals with a small aspect of the corruption issue, but the Greens believe there must be a much wider review of donations from those in the property industry, particularly by developers to councils and political parties. The Greens would like to see, first, amendments that prohibit individuals involved in the property industry from giving donations to councillors or to political parties represented on council and those who contest any election to that council in the proceeding eight years; second, amendments that require developers to disclose all political donations they have made when they lodge a development application, as recommended by Greg Farmer, counsel assisting the ICAC, on 11 June; and, third, amendments that specify that donations to councillors are entered onto a public register operated by the State Electoral Office and posted on its web site. The Greens attempted to have these amendments drafted by Julia Bastable, whom I thank—she provides wonderful support to me in such matters—but Parliamentary Counsel advised us that they were outside the leave of the bill.

Clearly, political donations, which are generally made to the major parties, are a major problem. When they come tagged with expectations they cause many problems to local government. It is important to recognise that not only local councillors but council staff are vulnerable to corruption, and that needs to be closely monitored. Often there has been debate about whether councillors should be paid full salaries rather than a small amount of support money, thus making it their full-time job. That would move things forward considerably. Because councils work at a basic level and have great power over the development assessment process, and because staff recommendations count so much in many developments, particularly small-scale developments which are not considered by the whole of council, there is a constant temptation.

The bill enables the Governor to dismiss a council without the need for an inquiry when the ICAC has recommended that consideration be given to such action because of systemic corruption within the council. The bill enables the Minister, or the general manager, to stand down councillors or council staff who are the subject of an ICAC report and against whom the ICAC has recommended suspension and/or they have been charged with criminal offences relating to their civic duty and/or they have admitted corruption. Finally, the bill allows the Governor to dismiss a councillor if the ICAC recommends it and the councillor has been stood down by the Minister. The Greens believe the bill is a small but significant step in dealing with corruption at a council level, which has plagued many communities and cut into the social fabric of those communities in recent times. Adverse council decisions have had a deleterious effect on our environment.

The Hon. Tony Kelly: Point of order: I draw to your attention that a member is reading a newspaper.

The Hon. Richard Jones: To the point of order: This is not a newspaper, it is a copy of the *Land*, a very important newspaper. I am checking out the price of grazing leases in western New South Wales.

The DEPUTY-PRESIDENT (The Hon. Henry Tsang): Order! Members wishing to read newspapers may do so in the members' room, which adjoins the Chamber.

Reverend the Hon. FRED NILE [6.03 p.m.]: The Christian Democratic Party supports the Local Government Amendment (Anti-Corruption) Bill. This bill will amend the Local Government Act 1993 to enable prompt action to be taken against councils, councillors and council staff involved in serious corrupt conduct. It will also amend the Independent Commission against Corruption Act 1988. The bill provides for the immediate standing down, without the need for further inquiry, by the Minister or the general manager of councillors and council staff who are the subject of an interim or final report of the ICAC recommending suspension or have been charged by the police for criminal offences relating to their civic duty or have admitted corruption.

The bill also provides for the dismissal of a councillor by the Governor, contingent on an ICAC recommendation, where that councillor has already been suspended by the Minister, under the criteria set out above, and where that councillor has been given opportunity to show cause. The bill further provides for the immediate dismissal of a council and the appointment of an administrator to the council by the Governor, without a public inquiry, on the formal recommendation of the ICAC because of systemic corruption within the council.

The bill also provides that should a councillor or member of a council staff who has been charged with corrupt and/or criminal conduct affecting their civic duty be subsequently exonerated of those charges, that councillor or staff member will be automatically entitled to resume their former position with their council free of any penalty or stigma. Does this bill enable councillors to claim compensation for damage to their reputation? If a council is dismissed as a result of systemic corruption, and subsequently various individuals are exonerated, what will happen to the council? Could the council be reinstated? Is that within the contemplation of the Government and is there legislative provision for it? I do not think so, but that raises the question of the difficulty of restoring or replacing a dismissed council.

The bill is mainly the result of events that occurred within Rockdale council. I congratulate the ICAC on its successful conduct of the Rockdale council inquiry and its use of phone taps and surveillance. I am pleased that the ICAC has those powers. I know that whenever there is debate in this House about those powers, there is always criticism from civil liberty groups and so on, about infringing people's civil liberties. I believe that bodies such as the ICAC and the Police Integrity Commission must have those powers in our modern society to get all possible available evidence against those who are engaged in corrupt activities and who sometimes anticipate surveillance.

One of the those involved in the Rockdale council inquiry, a tailor, used the word "suit" in a childish way: one suit equalled $10,000. A child could work out the code. It has been found in other corruption cases that some people become aware that they are under surveillance and take actions to conceal their activities. For example, a former Minister who let people out of prison used a code that represented dollars, and solicitors and others knew how to use the code.

For those reasons we have to put aside the fear of interference in a person's civil liberties in order to collect evidence, successfully charge corrupt individuals, and have them found guilty by their own words. In early evidence before the commission in relation to Rockdale council, individuals denied allegations and, quite cleverly, the commissioner allowed them to commit perjury and then asked them to listen to tapes in which they agreed to accept money in payment for corrupt activity. They were condemned by their own words. Because of the important role of local government, it must be seen to be above corruption.

Millions of dollars of profit is involved in the rapid development of Sydney's suburbs and large development projects. Because of that there has been, and will be in the future, great temptation. Councillors, who are often local businesspeople, suddenly have dangled before them $70,000 or $140,000, a rich reward, if they vote to approve a particular project. We need this legislation and I trust there will be an education program about these measures for all councillors throughout New South Wales. Hopefully, in the future they will report all attempted bribery to the ICAC. Perhaps at that point it becomes a sting where the ICAC can then conduct surveillance and, hopefully, catch more of those who offer bribes and those who accept them.

A member asked how this legislation will apply to the problems with Rockdale council. The bill states, "This Act commences on the date of assent", which obviously will be further down the track. Will the bill apply to the Rockdale councillors who are the subject of findings by the ICAC? We must be certain that legal representations cannot be made to the effect that the bill does not apply to people found guilty of corrupt activity before it was assented to. I can see nothing in the bill that says it applies to cases of corruption identified before it is assented to. The Government may already have received legal advice to the contrary. I hope there is no loophole through which people will be able to wriggle out of the impact of the legislation, which obviously was introduced to deal specifically with Rockdale council.

Sadly, there has been an increasing number of reports of corruption across Australia, not only in Rockdale. I understand that at least five councils have been sacked in the past five years, and that dozens of others have been suspended pending investigation. In December 2000 the Melbourne City Council was sacked by the State Government amid claims of bullying, harassment, travel rorts and expenses frauds. In June 2000 the Western Australia State Government sacked the Cockburn City Council after a $1.8 million inquiry found 66 incidents of unlawful activity involving eight councillors. In November 1997 Maitland council in the New South Wales Hunter Valley was sacked after an inquiry revealed that some councillors had drawn up hit lists of those in rival factions.

What has been happening in local government does not paint a bright picture, and we certainly hope that what happened at Rockdale is an exception to the rule. The Rockdale case was simple. Mr McCormick, whom we all saw on the front page of a newspaper, was reported in the *Australian* on 11 May as saying that this matter involved a developer's application to build an eight-storey block of units in Rockdale. On the weekend I attended a wedding and stayed at the Novotel hotel. My room was at the back of the hotel and as I looked over the buildings I was amazed at how Rockdale had grown like a forest. Certainly, many buildings were more than four storeys high. I know that the current issue relates to a development in Frederick Street, which is further back from the foreshore, but other buildings between the foreshore and Frederick Street seemed to be higher than four storeys.

I am not suggesting that other corrupt activity may have been involved in those developments, but perhaps it would be useful to examine all development approvals over the past couple of years. This current corrupt activity may just be the tip of the iceberg. We are pleased the Government has acted promptly. I do not know all of the individuals concerned, but allegations have been made about councillors associated with the Labor Party and also with the Liberal Party. This legislation will not advantage one particular party. We must ensure that all councils are above corrupt activity and that the men and women elected to them will deal honestly and truthfully with every decision they make. We are pleased to support the bill.

The Hon. RICHARD JONES [6.14 p.m.]: I support the Local Government Amendment (Anti-Corruption) Bill. I congratulate the Minister on acting quickly on this problem. Clearly a number of problems have existed with local government over the years. Some future government will reform local government procedures considerably and that will cause much angst in the community. I believe that we will have to reshape local government by amalgamating the numerous councils in this State into smaller groups of councils, as happened in Victoria, and then ensure that councillors are paid adequately.

One of the problems is that some people, not all, become involved in local government to serve not the community but their own ends. Often people with a vested interest in developments are involved in council, and even if they excuse themselves from meetings that discuss their developments, their influence is quite strong. People should be willing to go into local government if they can afford to do so and receive some reasonable compensation for their time. Being a local councillor takes a great deal of time and energy. It is a full-time job if one is conscientious. At some future point there will have to be a shake-up in local government, obviously in consultation with the people.

To cut costs, I believe we have to considerably reduce the number of councils, and I have no doubt that will happen. That will allow councillors to be elected from a wider representation of the community rather than from a narrow group or development lobby. That will go some way towards cleaning up local government. Local government is always fraught with difficulty. Every time the Minister has previously tried to amalgamate councils, some councils objected because they did not want to lose their identity; some felt they would be taking on the debts of the adjacent councils. One can fully understand their objection.

Reverend the Hon. Fred Nile: Residents do not want that either. They want to keep their local identity.

The Hon. RICHARD JONES: That is true, but retaining local identity and having too many councils results in extraordinary inefficiencies and residents paying higher rates. The present system is fundamentally inefficient and, unfortunately, lends itself to corruption. Like other honourable members, I received a copy of a letter from Peter Woods, the President of the Local Government Association, and Mike Montgomery, the President of the Shires Association, to Harry Woods. They very much oppose the idea of dismissing a council without a public inquiry, which this legislation provides for in new section 255(3). That section provides that the Governor may dismiss a mayor and councillors without holding a public or other inquiry concerning the council. I imagine that the Minister would not take that action lightly. Clearly, if the ICAC found a council to have been

seriously corrupt, the Minister would have to act swiftly, and perhaps that may not warrant an inquiry. However, in most cases, as Peter Woods and Mike Montgomery say, there should be an inquiry irrespective of a report from ICAC.

The Opposition intended to amend section 440C so that it provided that the Minister "must"—rather than "may", as it presently provides—without notice or inquiry, suspend a person from civic office, and to amend section 440D so that it provides that the general manager "must"—rather than "may"—suspend a member of staff of a council from duty under certain circumstances. For various reasons the Opposition will not move those amendments, which would be somewhat restrictive in any event. It would not necessarily be the case that the Minister should always suspend a person from civic office, or that the general manager should suspend a member of staff.

I consulted the Minister's advisers about this, and I understand that, in reply, the Minister will make a statement to the effect that the Minister for Local Government would put reasons in writing for not suspending a person from civic office. Of course, the general manager should also make his or her reasons available to the ICAC, but I do not know how the Minister will be able to achieve that result. Perhaps that should be negotiated by the Minister.

I consulted Byron Bay council about this legislation and it is happy with the bill. The new general manager, Robyn Read, is doing a very good job, and the council is going full steam ahead. Other councils also support the legislation in its present form. I hope it will work to help clean up the one or two rotten apples. I look forward at some future point to a considerable shake-up in local government, in consultation with the Local Government Association, the Shires Association and the people. I believe it will be necessary to adequately remunerate councillors for the work they do on behalf of the people.

The Hon. EDDIE OBEID (Minister for Mineral Resources, and Minister for Fisheries) [6.20 p.m.], in reply: I thank all honourable members who participated in this debate, and I welcome their support for this important legislation. I am sure all would agree, given the circumstances today, that this bill is crucial in restoring public confidence in local government, which has suffered somewhat over the past couple of months. As all honourable members know, this bill will enable the Minister to act more swiftly in these types of matters based on recommendations from the Independent Commission Against Corruption [ICAC]. Under the changes, the Minister will be able to recommend the dismissal of a council without the need to go through a public inquiry. Similarly, an individual councillor could be dismissed and disqualified from holding office for up to five years if the ICAC recommends such action.

The Minister will also be able to suspend an individual councillor if he or she has made an admission of serious corrupt conduct, if criminal charges are launched in relation to that councillor's civic duties, or if the ICAC has made such a recommendation. I understand that the Opposition was concerned about the provisions as they relate to the discretion of the Minister and the general manager to suspend an individual councillor or council staff member, as the case may be. I can assure honourable members that this discretion is important because it will enable the Minister to consider the ICAC's request rather than having to automatically suspend a councillor. For the benefit of honourable members who have raised this issue, I am advised that the Minister will consider carefully a report of the ICAC recommending the suspension of a councillor. Were a decision to be made not to adopt such a recommendation, written reasons would be provided by the Minister to the ICAC.

Obviously, in instances where suspension is crucial to the smooth functioning of a council and its good standing in the eyes of the community, the Minister would act quickly. The Minister has spoken at length today about the Government's desire to have this bill pass this Chamber tonight. He has said that once the legislation has passed, he will write to the ICAC commissioner explaining that the legislation is available and that she may make recommendations to the Minister, via an interim or final report, about Rockdale council.

The Minister has already made it clear that he is not satisfied with the situation at that council. In fact, today he asked the Director-General of the Department of Local Government, Mr Garry Payne, to contact the mayor and relay the Government's insistence that the mayor chair all future council meetings. The director-general spoke to the mayor and received a favourable response to that stern request. The Minister has also told me that if the ICAC makes any recommendation to sack either the entire council or an individual councillor, he will do it.

Finally, I would like to address the five-year disqualification period, which the Opposition referred to. Chapter 10 of the Local Government Act provides for a seven-year disqualification period, but only for repeat

offenders, for example, a councillor who has already been disqualified under the Act but regains civic office during the disqualification period. This bill is consistent with the powers of the Local Government Pecuniary Interest Tribunal, which can disqualify a councillor for up to five years. I believe that the five-year period is appropriate. A councillor who re-offends would have the additional deterrent of up to seven years disqualification. I would also point out that five years is consistent with section 21 of the Interpretation Act 1987, which refers to "an indictable offence that is punishable by imprisonment for life or for a term of five years or more". I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

LOCAL GOVERNMENT AMENDMENT (MISCELLANEOUS) BILL

Second Reading

The Hon. EDDIE OBEID (Minister for Mineral Resources, and Minister for Fisheries) [6.24 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

This bill reflects the Government's continuing commitment to providing an appropriate and effective legislative framework for the administration of local government in New South Wales. The Government is committed to ensuring that improvements in local government are ongoing, and that new provisions are responsible and workable. The practical experiences of councils, residents and ratepayers also demonstrates the need for further amendments to ensure the responsiveness of the legislation. The amendments contained in this package will continue the process of improving the legislation that empowers this important level of government.

The bill amends the Local Government Act 1993 in relation to council meetings, plans of management for community land, council ward boundaries, fees for councillors and water supply, sewerage and stormwater drainage works by councils, and other matters.

Community land

I will first review the amendments contained in the package that relate to the management of community land. Many people in the community are vitally interested in the management of public land.

Land such as bushland, escarpment, foreshore, parks or sportsgrounds is commonly designated as community land. Another important type of community land is land that is of aboriginal, historical or cultural significance. Community land is public land owned or controlled by the council and which has been classified as community land under the Local Government Act. Once classified, community land is protected from sale or long-term lease, for the benefit of the whole community.

An area of community land which comprises the habitat of endangered or threatened species has special protections under the current Act. A council which is responsible for community land must take particular steps to manage the land including developing a plan of management for the land, in consultation with the local community.

The Local Government (Community Land Management) Amendment Act 1998 made significant amendments to the community land provisions. The amendments proposed in this bill will refine those earlier amendments and improve the ways in which local councils manage community land.

Local councils must categorise community land in one of the set categories, including as a natural area, sportsground, park, an area of cultural significance, or general community use. Land which is a natural area must be further categorised as bushland, wetland, an escarpment, a watercourse or foreshore. Categorisation of land is a key factor in determining the uses of the land.

Councils are required by the Act to hold a public hearing in respect of a proposed plan of management for community land, to ensure that communities have input into the use of public land. The amendment in this package clarifies when a public hearing is required in relation to a draft plan of management. A public hearing must be held if a draft plan of management has the effect of categorising, or altering the categorisation of, community land. However a public hearing is not required where the categorisation, or new categorisation, relates only to the further categorisation that is required for natural areas, which I have already mentioned.

Additionally, if following a public hearing for a draft plan of management, the council decides to amend the plan by altering the categorisation of community land, another public hearing must be held in relation to the draft plan of management.

These amendments will ensure that in any case where it is proposed to change the key determinant of the use of public land, the local community has a chance to have its say on the management of the land. Public land is a vital environmental, social and cultural resource and it is critical that local councils listen to the views of their communities when categorising community land.

A number of local councils work closely with Aboriginal communities in relation to the management of sites of significance to aboriginal people on community land. Those councils have listened to the Aboriginal communities and have taken account of their concerns. Significant sites, such as rock paintings and middens, should be adequately protected from accidental or intentional misuse or destruction, for the benefit of all of us. At the same time it is important to retain public access to community land.

A council may resolve to keep confidential, within the plan of management for community land, the nature and location of a place or an item of Aboriginal significance. A council may also close part of its meeting to discuss information concerning the nature and location of a place or an item of aboriginal significance on community land.

The plan of management will contain a note stating that the plan is affected by the resolution of confidentiality, so that people may know that a place is being protected under the provision.

Any Aboriginal person associated with the public land concerned may apply to the local council for protection of the confidentiality of the nature and location of the place or item, or a council may resolve to do so of its own volition. However, in either case the council must consult with the appropriate Aboriginal community regarding public access to, and use of information concerning sites of Aboriginal significance on community land.

Therefore, while councils must deal with important Aboriginal sites within a plan of management for community land, public access to the land is maintained and the nature and location of a place or site of significance to Aboriginal people can be kept confidential, in order to protect Aboriginal history and culture.

A final amendment relating to the management of community land concerns the granting of an easement over community land to a landowner. A private landowner may require the installation of a wholly underground pipe for drainage purposes from private land, under community land to a drainage facility, or other appropriate facility.

Currently, the Act requires a council to expressly authorise the grant of an easement over community land in a plan of management for community land, because the easement may affect the public land. The Act also requires that the easement be consistent with the core objectives of the relevant category of community land.

Meeting these legislative standards can be very difficult indeed. However, there is no public interest in effectively neutralising the value of a property, or substantially impeding its use, by refusing to grant an easement for necessary utility pipes. Further, the grant of an easement for underground pipes would not hinder the use of the community land by the public.

Accordingly, an amendment is proposed that will enable councils to grant an easement for wholly underground pipes for the purpose of connecting a premises adjoining community land to a facility of the council or other public utility provider. This amendment eases the administrative restrictions on the granting of easements by local councils so that they may allow landowners to fully enjoy the use of their property, without interruption to the enjoyment of community land by the public.

Powers of entry

This bill also provides for council employees—or other persons authorised by council—to enter any premises, other than national parks and wildlife reserves, to carry out such water supply work, sewerage work or stormwater drainage work that the council is otherwise authorised to carry out. The bill also clarifies that ownership of such works rests with the local council that installed them.

In New South Wales, all local councils are responsible for the provision of stormwater control works in their local areas. About 120 councils outside the Sydney–Wollongong–Central Coast–Newcastle areas are also responsible for water and sewerage under the Local Government Act.

Unlike its predecessor, the current Local Government Act only empowers councils to enter premises to inspect such works. It does not allow them to enter premises to construct, repair or replace such works. To do so, councils have had to purchase easements by agreement or by compulsory acquisition.

The cost of obtaining easements to enable councils to fulfil their community obligations is far beyond the financial resources available to them. The total cost to councils to acquire easements for water and sewerage works is estimated at $1.275 billion. This estimate does not include the costs of acquiring easements for stormwater drainage or flood mitigation works.

This expense is a major disincentive to councils to carry out maintenance and repair works. Any delay caused by landowner objection will also lead to further disadvantage of the wider community.

This bill also addresses practical anomalies illustrated by the powers exercised by Gosford and Wyong councils which are both designated as water supply authorities under the Water Management Act 2000.

As councils operating under that Act, they have the benefit of the powers of entry provided to them under that Act, whereas if they were to provide the same services under the Local Government Act, they would not have those powers.

The provision to councils of the powers the subject of this bill is equitable. It addresses the anomaly that similar powers are now enjoyed by other authorities—such as private irrigation boards, private drainage boards, Sydney Water and Hunter Water—and State authorities operating under the Public Works Act 1912.

Where the powers of entry are utilised by a council to undertake water supply work, sewerage work or stormwater drainage work that the council is authorised to carry out, private property owners would receive adequate compensation for any damage caused by the work.

Accountability of councillors

I have spoken before in this place about increasing the accountability of councillors to their local communities. At local government elections every four years, some 1,700 councillors are elected to the 172 councils throughout the State.

Those people, in holding civic office, have certain duties and responsibilities that they must perform satisfactorily. For the most part, the councillors who volunteer their abilities, time and efforts for the good of their communities undertake their work admirably and with significant benefits for their areas.

Councillors must represent the views and aspirations of residents and ratepayers, and a critical part of this is attendance and contribution at council meetings. Councillors are paid an annual fee, determined each year by the Local Government Remuneration Tribunal, in recognition of and as compensation for the voluntary nature of the office of councillor.

However, local communities are legitimately concerned when elected councillors do not attend council meetings, particularly where this becomes a regular occurrence or habit of one councillor or another. Councils are able to grant a leave of absence to a councillor, and there are many cases in which this will be entirely appropriate. For example, a councillor may suffer from an illness, may need to care for a family member, or may be required to travel for employment or business reasons. In all of these cases the local community would be likely to regard the grant of a leave of absence as necessary and satisfactory.

An amendment in this bill will clarify the meaning of the leave provisions under the Act to make it clear that a councillor may seek leave either prior to the meeting from which the councillor is seeking leave, or at that meeting. There are legitimate circumstances that may prevent a councillor from attending a meeting and it may not always be possible to seek that leave at an earlier meeting of council, given there will often be a period of up to one month before the leave is required.

Procedures relating to the attendance of councillors at council meetings enhance public confidence in local government as well as increasing accountability to the community, and for those reasons this clarifying amendment is considered to be necessary.

Another issue that is addressed in this bill is the case of a councillor taking a period of leave, and receiving fees for that period. The Government considers that if a councillor, for whatever reason, spends a long time without attending a council meeting, that councillor should not receive the proportion of the annual fee that relates to the time the councillor was absent. Councils may presently withhold councillors' annual fees by resolution of the council for any period for which the councillor is absent from council meetings, whether leave has been granted or not. This provides the discretion for a council to continue to pay councillor fees to a councillor who is on an extended period of leave.

Under the Act, there is also a limit to the number of council meetings a councillor can miss without obtaining the prior leave of the council, before the civic office is declared vacant and a by-election called. After missing three consecutive ordinary meetings of the council without prior leave, the position is automatically declared vacant and a by-election must be held. This was the case at Queanbeyan City Council where, following the grant of leave for almost eight months, for which the councillor fees were paid, former councillor Carol Atkins missed three meetings and a by-election was held to replace her.

Accountability to ratepayers in spending public monies, and the voluntary nature of a councillor's service to the local community, has led the Government to determine that the payment of fees should cease if a councillor remains on leave after three months absence from council meetings, with or without the permission of the council.

There may well be circumstances in which it is appropriate to grant leave to councillors, but councillors on extended leave should not receive fees for that period, as they are not able to fulfil the duties of civic office that are required of them in their capacity as councillors. The amendment contained in this package will help to ensure that ratepayers are effectively and diligently represented on council, and that fees for councillors should depend upon participation in the meetings of council.

The theme of increasing accountability to residents and ratepayers is continued in a further amendment in this bill relating to meeting procedures of councils. The Act allows councils to close part of a meeting to the public in very limited circumstances, including to discuss commercial information of a confidential nature, advice concerning litigation, the personal hardship of any resident or ratepayer, and personnel matters concerning particular individuals.

The time spent in closed session must be minimised and the grounds for closure of the meeting must be specified in the minutes of the meeting. These provisions recognise that councils need to consider some matters confidentially, but give paramount importance to the principle of open meetings and transparency in the exercise of council's functions. This is a principle that is found throughout the Act and should guide the transaction of council business.

In relation to the closure of council meetings to discuss personnel matters concerning particular individuals, there is knowledge of instances that the provision has been relied upon to close meetings to discuss matters concerning councillors, such as the payment of travel claims or the council's fees and expenses policy. This was not the intention of the Act. It is an entirely inappropriate practice and the Government is proposing action to prevent it occurring. Councillors are not employees of the council. Councillors are publicly elected officials whose behaviour and decisions should properly be the subject of the scrutiny of the local community through the open meeting process.

To ensure the transparency of council decisions, the Government proposes an amendment in this bill to make it clear that councillors are not personnel of the council for the purposes of closing a council meeting. Therefore, personnel matters concerning particular councillors must be discussed in an open meeting.

Dismissal of a council

Another matter the Government is addressing in this bill relates to the broader accountability of councils as the governing body to function effectively in the day-to-day administration of local government in its area. Under the Act an administrator may be appointed where the governor declares that the council is "non-functioning", without the need for a public inquiry. A council may

be "non-functioning" because an ordinary rate has not been made or levied, the council has not exercised its functions for 6 months or more, or there are not enough councillors for a quorum to be reached at council meetings. As an alternative to the appointment of an administrator in circumstances relating to the failure to obtain a quorum, the governor may appoint a number of councillors so that a quorum may be reached and maintained.

The Act also provides that the governor may declare vacant all civic offices in a council if a public inquiry concerning the council has been held, and after considering the results of the inquiry, the Minister has recommended that the governor dismiss the council. The governor is required to appoint an administrator to exercise all the functions of the council for a specified term, or to order the holding of a fresh election, and may make such further orders as the Minister recommends are necessary in the circumstances.

The circumstances that may result, and have in the past resulted, in a declaration being made that the civic offices of a council are vacant include serious councillor misbehaviour, maladministration, or loss of public confidence in the council. I would remind honourable members that the Maitland and Bega Valley councils were such serious cases where recommendations to remove the councillors had to be made.

In the usual course of local government, councillors who have been democratically elected by their communities should be allowed to fulfil their terms of office. However, where the interests of the residents and ratepayers in the good administration of a council is so deeply and detrimentally affected by misbehaviour, maladministration, a loss of community confidence, or some other circumstance as may arise, interference with the primacy of the elected body is warranted.

A state of affairs may eventuate where a council has been dismissed following a public inquiry, an administrator has been appointed and his or her term has been completed, fresh elections held for new councillors, and yet the general issues that resulted in the initial dismissal of the council continue despite the earlier process. Entrenched divisions between groups of councillors, between the councillors and staff, or between the council and the community, may persist after fresh elections.

This may occur regardless of whether some or all of the previously dismissed councillors are re-elected at the fresh elections. While some particular issues may have been resolved by the administrator during his or her term, for example, in relation to a contentious development application, other more general issues may persist and seriously hinder the effective day-to-day administration of local government in the area.

It is also possible that an additional range of issues may arise shortly following fresh elections for the council. These issues may be substantially the same as the grounds for making the initial declaration of vacancy of the civic offices of the council, or may be substantially of the same nature as those grounds. In either case, the difficulties experienced by residents and ratepayers in the area, as well as council's other clients and stakeholders, will be of such a magnitude as to demand a satisfactory and comprehensive resolution.

Under the Act currently, a second dismissal of the governing body of the council in these serious circumstances would require the holding of a further public inquiry. This would be a negative step for the local community, which would suffer continuing disruption to the functioning of the local council while the inquiry took place. Moreover the further public inquiry is likely to consider substantially the same issues as those which resulted in the initial dismissal of the council.

It is unlikely that the heightened atmosphere of another public inquiry would assist in the resolution of problems for the benefit of the community. A second public inquiry and report process also represents a significant cost to the public, both in terms of money expended on the inquiry and the time for that process to be completed.

It is not appropriate for the Government to ignore serious failings of a council, and to leave the residents and ratepayers of the area without effective day-to-day administration. The State Government therefore considers that legislative amendment is necessary to provide for a satisfactory measure in cases where a previous council has been dismissed, and the problems blighting the council persist. It is not proposed to amend the current provisions with regard to the dismissal of a council for the first time, either after a public inquiry or where the council is declared to be "non-functioning". The amendment is in addition to the current provisions and operates only subsequent to their application.

The Government's intention in relation to this amendment is to ensure that residents and ratepayers can enjoy the proper and effective administration of local government in their area. The Government is also mindful of the need to give fulfilment to the voter's wishes in electing councillors for a full term, and by providing checks and balances on the dismissal powers we will ensure that a declaration for the vacancy of civic offices of a council is only made in serious and appropriate circumstances.

The amendment provides that the governor may, by proclamation, declare that all civic offices in relation to the council are vacant, without the necessity of a public inquiry. The provision allows an administrator to be appointed where a council has previously been dismissed on the basis of a public inquiry, an administrator appointed and that term completed, and fresh elections held for a new council. The power to dismiss a council without a public inquiry will be limited to the first 12 months following the election of a new council. After this period, another public inquiry would be required. This check on the power will ensure that the option of dismissing a council is only utilised in appropriate cases.

Because the dismissal of a council is so serious, the Minister may only recommend that a council be dismissed if a departmental investigation has been conducted into the matters of concern at the council, and the departmental representative recommends in the report of that investigation that such a declaration be made. Additionally, the Minister must be satisfied that there are reasonable grounds for making a declaration in relation to the dismissal of the council.

The Minister must also be satisfied that those grounds include grounds that are substantially the same, or are substantially of the same nature, as all or some of the grounds for making the previous declaration of vacancy of the civic offices of the council.

The Government's proposal ensures that natural justice is afforded to the councillors and other affected persons. During the course of the departmental investigation, the departmental representative will be required to give each of the councillors, as well

as any employee of council and any other person whose actions the investigator intends to adversely refer to in the investigation report, an opportunity to comment on the parts of the report that refer to themselves, before the final report is submitted to the director general of the department and the Minister. The Minister and governor are required to consider the report and any submissions by those affected persons, before taking any action to dismiss the council.

Management plans

A council's annual management plan is one of the key ways that a council can consult with its community, and establish a strategic plan for the council's work, activities and revenue policy. A council must give public notice of its management plan and must exhibit the plan for not less than 28 days. The council is required to consider submissions made to it by members of the public, and the council must adopt the plan, after submissions from the public have been considered. Once adopted, these plans are available to the community for inspection, which of itself assists in providing accountability of the council to its stakeholders. A number of matters are required by legislation to be included in the management plan, including a statement of the principal activities that the council proposes to conduct, and performance targets for each of those principal activities.

Because annual management plans are such a key resource of the council, and determine its work and activities in the community for the forthcoming year, the Government has determined that the adoption of management plans should not be able to be delegated to any other person or body.

The Act provides that certain council functions should not be delegated. The making of a rate or a charge, the borrowing of money, the compulsory acquisition of land, and the acceptance of tenders are examples in this category of non-delegable council functions. Perhaps the most obvious matter that should not be delegated by the governing body is the voting of money for expenditure on works, services or operations. These functions are considered to be critical to the operation of a council and are of such a nature that proper accountability demands that the functions and powers be exercised by the council itself.

The amendment in this bill clarifies that the adoption of the council's annual management plan is not a delegable function. However, other kinds of management plans, such as privacy and equal employment opportunity plans, may continue to be delegated by council to the general manager.

Further, it is also proposed to expand the range of matters which a council should include in its management plan, so as to include any activities prescribed in the regulations as "principal activities". For example, councils may be required to include in management plans statements relating to social, community and cultural matters. This provision will increase flexibility in setting out additional matters which are of such importance to the operation of the council that they should be incorporated in an annual management plan.

The amendment will not unnecessarily burden councils with planning, but will genuinely further the processes of open government in the community by allowing the community to have a say on important issues. Public planning is an excellent method of enhancing councils' communication with the community and responsiveness to the needs of the local area.

Ward boundaries

A local council may seek the approval of its community, by way of a constitutional referendum, to divide its area into wards. Wards then have an equal number of councillors, although the councillors continue to represent the entire area. Many local councils have divided their areas into wards, to maintain local communities of interest and geographic cohesion, and to assist in an understanding of associations that may be important when planning or implementing council's services.

Wards are therefore an important feature of local government representation and provide further opportunities for direct involvement in local government processes for residents and ratepayers. The Act, by requiring a constitutional referendum to divide an area into wards or to abolish wards in an area, provides the framework for community consultation in relation to wards.

Additionally, the Act requires councils to keep its ward boundaries under review, and to consult with the Australian statistician and the state electoral commissioner in relation to making changes to the ward boundaries. However, the Act does not currently provide a legislative mechanism for councils to consult with the local community when considering altering the ward boundaries or changing the number of wards. There are many reasons why a council would wish to make such changes, including changes in local demographics, to take into account new communities of interest, or developments that have altered the nature of the area or the nature of council's functions in the area.

The Government considers that it is appropriate to provide additional guidance to councils on the manner of altering ward boundaries or the number of wards, to provide proper accountability to the local community and transparency in council decision-making. Consultation on ward boundaries gives councils the opportunity to understand associations that may be important when exercising a council's functions.

The amendment in this bill requires councils to provide 28 days public notice of a proposal to change the number of wards or to alter ward boundaries, and to allow 42 days for the lodgment of written submissions by members of the public in relation to the proposal. This scheme is consistent with the public notification and consultation provisions under the Act for other purposes. Councils will still be required to consult with the Australian statistician and state electoral commissioner to ensure that the proposed boundaries of its wards correspond to the boundaries of appropriate parliamentary subdivisions and census districts.

Similar to the need for community consultation concerning wards and ward boundaries, the principles of democratic representation demand that all wards contain approximately the same number of electors. The Act provides that the division of a council's area into wards, or a change to the boundaries of a ward, must not result in a variation of more than 10 per cent between the number of electors in each ward in the area. The integrity of the ward system depends upon an appropriate boundary being made, which maintains communities of interest and geographic associations, and provides that wards are basically equal in the number of electors that the ward contains.

While the introduction of a ward system in an area, or a change to the boundaries of the wards in an area must not result in a variation of more than 10 per cent between the numbers of electors in the wards, there is no requirement under the Act to rectify an imbalance in the number of electors in each ward if a variation of more than 10 per cent arises. An amendment is therefore proposed to address this deficiency and to support the system of wards where they have been introduced.

If, during a council's term of office, the council becomes aware that the number of electors in one ward in its area differs by more than 10 per cent from the number of electors in any other ward in its area, and that difference remains at the end of the first year of the following term, the council must alter the ward boundaries in a manner that will result in each ward containing a number of electors that does not differ by more than 10 per cent from each other ward in the area.

This amendment will ensure the proper effectiveness of the ward system can be achieved and maintained by local councils throughout New South Wales. The requirements of the community consultation amendment contained in this bill will also apply to changes to ward boundaries or the number of wards that must be made by virtue of the operation of the 10 per cent variation rule.

In conclusion, the reforms contained in this bill to the Local Government Act reflect the Government's broad commitment to increasing the effectiveness of the local government legislative framework, and to responding in a timely way to the concerns of local councils and the community about the operation and accountability of local government. The current proposals maintain and promote the values of open and accountable decision-making, and will assist councils in providing good and effective local administration for the benefit of communities in this State.

I commend the bill to the House.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [6.24 p.m.]: The Opposition generally supports the Local Government Amendment (Miscellaneous) Bill, which is an omnibus bill that addresses several important issues. They include council meeting procedures, plans of management for community land, council ward boundaries, water supply matters, and dismissal provisions for councils. The Opposition supports the majority of the amendments in the bill, as I understand that councils themselves have called for the changes.

Many of the amendments in the bill make administrative improvements, especially those relating to community land. The Opposition commends the Government for introducing these amendments as they will go some way towards streamlining the bureaucracy created by the original community land legislation. The bill also endeavours to achieve a greater degree of transparency and accountability in the way that councils operate. This has been the result of a number of problems with individual councils over the past twelve months.

The Opposition supports section 191A, which increases the power of entry of council officers. At present they may enter premises only for inspections. The new section provides that a council employee or other person authorised by a council may enter any premises to carry out water supply work, sewerage work or stormwater drainage work, on or under the premises—being work that the council is authorised to carry out. This amendment deals with the power of entry of council officers specifically where councils, such as county councils and Wyong and Gosford councils, are charged with water supply. The amendment brings the power of entry of council officers into line with the power given to electricity and general water authorities. If the power of entry is utilised by a council to undertake work it is authorised to do, and property damage results from that work, the Opposition anticipates that private property owners would receive adequate compensation for the damage.

The Opposition supports section 210A, which provides for consultation, public notice and exhibition of proposals regarding ward boundaries. The amendment provides that a local council should keep its ward boundaries under review, and alter them if the number of electors in a ward differs by more than 10 per cent from the number of electors in any other ward. Before ward boundaries are altered, the council must consult with the Electoral Commissioner and the Australian Statistician and prepare a plan detailing the proposed changes, which must be placed on public exhibition. The amendment requires councils to provide 28 days public notice of a proposal to change the number of wards or to alter ward boundaries, and to allow 42 days for the lodgment of written submissions by members of the public in relation to the proposal. That is consistent with public notification and consultation under the Local Government Act for other purposes.

The Opposition supports the replacement section 40A, which provides for the categorising of community land under the Local Government Act, 1993, to clarify when a public hearing is to be held in relation to a draft plan of management. A public hearing must be held if a draft plan of management has the effect of categorising or altering the categorisation of community land. A public hearing is not required if the proposed changes relate only to further categorisation that is required of natural lands. This amendment has the effect of removing the time-consuming and unnecessary administrative processes associated with community land.

Another amendment concerning community land will allow councils to grant an easement for wholly underground pipes for the purpose of connecting premises adjoining community land to a facility of the council

or other service provider. That essentially simplifies the administrative processes relating to the granting of an easement, because notification of the easement would not have to be included in a revised plan of management, which would then have to be placed on public display. It is a commonsense amendment. As I said, it goes some way towards addressing the problems created for councils and ratepayers alike by the original community lands legislation.

The amendment concerning sites of Aboriginal significance is an important one and relates to the ability of a council to keep confidential the location of sites of Aboriginal significance. In this instance, a local council must consult with the appropriate Aboriginal community regarding public access to sites of Aboriginal cultural or historical significance on community land and the use of information regarding those site. The Opposition supports this amendment as it is designed to protect the Aboriginal sites and any artefacts or paintings that may be part of that site from intentional or unintentional misuse or damage.

The Opposition welcomes the amendment relating to meetings. The amendment is designed to clarify the provisions for leave of absence from council. The amendment proposes that if a councillor is absent, with or without leave from the council, from ordinary meetings for any period of more than three months, the council must not pay any fee, or part thereof, to that councillor. The amendment also provides that that councillor may seek and be granted leave from a council meeting at the meeting concerned and may seek that leave in absentia. I understand this amendment arose from a situation at Queanbeyan council when a former councillor was absent from three meetings following the grant of leave for eight months. The position on the council was declared vacant, and a by-election was subsequently held. Another amendment relating to meetings provides that council meetings are not to be closed to the public simply because the meeting is to discuss personnel matters concerning a particular councillor. The amendment is designed to ensure that council meetings are conducted in an open and transparent manner.

The amendment relating to regulatory functions to streamline certain approval processes is supported, because it allows a council to send a notice to a person who has been granted an approval to operate a system of sewerage management and invite that person to renew the approval. If the application fee is paid, the person will be taken to have made an application to renew the approval in the same terms as the original approval. That is fairly sensible, unlike what the previous Minister was trying to do. Essentially this amendment is aimed at streamlining the approvals process. It takes some of the red tape out of the process and, as many honourable members would be aware, the entire issue of on-site septic management is a real concern to many councils and ratepayers right across the State. It is a lingering legacy from the previous Minister.

Another amendment will allow a council to retain any moneys, penalty, fine or forfeiture imposed for a contempt or court order in relation to offences under the Local Government Act 1993. The Opposition supports amendments relating to management plans to allow additional matters to be prescribed by regulation to be included in council plans of management. However, I ask that the Minister provide a list of what matters can be prescribed by legislation before the completion of debate on this legislation. It is important that members are aware what those matters are, because we will not get a substantive chance to examine and debate the actual regulation. It is important that we know what they are. Another amendment provides that the function of adopting a council's general management plan is not able to be delegated to an officer of the council and must be considered by a council at a general meeting. We support and applaud that amendment. We also support the amendment concerning auditors, which has the administrative purpose of clarifying that the reappointment of council auditors must be subject to tender. That is appropriate. I understand there has been some concern expressed in relation to this matter at various councils.

The Coalition is concerned about one amendment in the bill. It relates to the dismissal of a council in limited circumstances, and provides that in the 12 months following the fresh election of a council that has been previously under the control of an administrator, the Governor may declare all civic offices in that council to be vacant. That may be done on the recommendation of the Minister but only after a departmental investigation. Councillors or staff members referred to in the final report of that investigation must be given the opportunity to explain themselves prior to a final recommendation being made. The Minister's office has indicated that this is a pre-emptory move to ensure that persons do not seek to be elected, or to have someone elected on their behalf, to a council from which they have been dismissed simply to again disrupt the council's operations. To date, to my knowledge there has not been an instance where this has occurred.

The Local Government and Shires Associations are concerned at the inclusion of this provision. They believe that a full public inquiry should take place to ensure that the process is transparent. This appears to have come about as a result of the dismissal of the Bega Valley Shire Council. In that case, some of the dismissed

councillors continued to agitate the work of the administrator and, when fresh elections were called, several of the former councillors sought re-election to the new council. The Opposition is concerned about this amendment because it is an active disincentive to dismissed councillors to seek re-election, and in some cases that may dissuade genuine candidates for an election from standing because of the fear that they may face dismissal. As mentioned earlier, the Local Government and Shires Associations are opposed to this provision without the need for a full public inquiry being held first. We would like to hear an explanation from the Minister as to why this amendment is needed. Can he give an example where this situation has arisen, or can he confirm to the House that he is trying to scare potential candidates from seeking election to a council that has previously been dismissed?

The Opposition generally supports the amendments contained in this bill, apart from our concerns about the amendment dealing with the dismissal of a council in limited circumstances, and our concerns that that amendment could be applied in a political manner. The bill is designed to make local government councils more open, transparent and accountable to their constituency. The bill is also designed to effectively remove the needless administrative processes surrounding community land, thereby streamlining the bureaucracy to be more efficient and less time-consuming. This is at least the fourth time that Parliament has considered changes to the community land provisions of the Local Government Act, which is probably a fair indication that the amendments made by the former Minister, which we opposed at the time, were fairly ordinary.

The Coalition hopes that the Minister will do what should be done in relation to the community land provisions of the Act and review the entire relevant section rather than merely reappearing here year after year with community land amendments as part of a larger amendment bill. It is about time this happened so that councils know once and for all what they have to do in relation to community land. With bills of this size and complexity we rely on our staff. In this instance, a new member of my staff, Jane Simmons, has done most of the work. I thank her for that work. We are persuaded by the bill but before we consider amendments that the Hon. Richard Jones will properly put before the House, we will look for a reply from the Minister to the concerns we have raised.

Debate adjourned on motion by the Hon. Peter Primrose.

DISTINGUISHED VISITORS

The DEPUTY-PRESIDENT (The Hon. Henry Tsang): I welcome to the gallery an official delegation from the Shanghai Government.

[*The Deputy-President (The Hon. Henry Tsang) left the chair at 6.40 p.m. The House resumed at 8.00 p.m.*]

LOCAL GOVERNMENT AMENDMENT (ENFORCEMENT OF PARKING AND RELATED OFFENCES) BILL

In Committee

Consideration of the Legislative Assembly's message of 7 June.

The Hon. MICHAEL COSTA (Minister for Police) [8.00 p.m.]: I move:

That the Committee does not insist on its amendment No. 2 disagreed to by the Legislative Assembly in the bill.

The purpose of the Local Government Amendment (Enforcement of Parking and Related Offences) Bill will amend the Local Government Act 1993 to enable Sydney City Council, North Sydney Council and South Sydney City Council to enter into agreements with the State Government to share net revenue from fines relating to parking offences. The bill will also enable local councils to employ parking patrol officers currently employed in the Police Service without a merit-based selection process.

The bill was introduced into Parliament last year. It resulted from a review of the Police Service's enforcement of on-street parking by the Audit Office in 1999. The report found that the management, productivity and effectiveness of parking enforcement in New South Wales was poor in comparison with other States, where the function is undertaken by local councils. It was recommended that the arrangements for enforcement be reviewed, including the involvement of councils.

Following further examination of the issues, Cabinet agreed that the function should be transferred to councils. The bill was drafted to deal with the employment and financial arrangements. The bill was amended in the Legislative Council. One of the amendments sought to specify that the Treasurer may make an arrangement to share revenue only with Sydney City Council, North Sydney Council and South Sydney City Council. The Government accepts this amendment.

The second amendment sought to limit the duration of revenue sharing with the councils of North Sydney and South Sydney to a maximum of five years. The councils have now agreed to ongoing revenue sharing. Part of the amendment seeks to include in the legislation the provision that net infringement revenue be allocated in equal portions between the council and the State. This is indeed the basis for the financial arrangements the Government intends to include in agreements with North Sydney Council and South Sydney City Council.

However, the financial arrangements are more complex than that. For example, where a council already has an agreement with the commissioner to undertake parking enforcement in certain areas, the council keeps 100 per cent of revenue from infringements in that area. The Government intends that those arrangements should continue but that the circumstances of the councils will differ. It would be difficult to include the details of these and other arrangements in legislation, and it is considered more appropriate to include the details in individual agreements with the councils.

Of course, all councils except North Sydney Council, South Sydney City Council and Sydney City Council, will keep 100 per cent of all infringement revenue they collect; there will not be any revenue sharing agreement with them. In addition, a fund will be established to subsidise councils for whom the costs of employing existing parking patrol officers exceeds their revenue from infringements. Conditions of employment for existing parking patrol officers transferring to councils have been negotiated to the satisfaction of the Public Service Association, the Local Government and Shires Associations and the New South Wales Police Service. The Municipal and Shire Employees Union of New South Wales, which will have coverage of the parking patrol officers when they become council employees, have raised some issues. I am consulting with the Treasurer on these matters. I move:

> That the first amendment specifying the three councils with which revenue may be shared is accepted and the second amendment is rejected.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [8.10 p.m.]: I seek clarification. There is a motion before the Committee by the Minister, namely, "That the Committee does not insist on its amendment No. 2 disagreed to by the Legislative Assembly in the bill." The Minister has moved subsequent amendments and there appears to be a contradiction.

The DEPUTY-PRESIDENT (The Hon. Tony Kelly): Order! The only motion before the Chair is that the Committee does not insist on its amendment No. 2 disagreed to by the Legislative Assembly in the bill.

The Hon. MICHAEL COSTA (Minister for Police) [8.10 p.m.]: I withdraw the last motion.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [8.10 p.m.]: I am pleased that the Minister has resolved that unfortunate situation. The Opposition originally moved the amendments with the support of the crossbenchers, which I acknowledge, to try to enhance the quality of local government. In essence the Opposition wanted to ensure that the transfer of parking patrol officers from the Police Service to local government did not become another form of unfunded mandate. The amendments relate specifically to revenue-sharing arrangements and were designed to ensure that councils received a fair go in the sharing of any moneys raised through the collection of parking fines and fines for other offences. Having now consulted with the Local Government and Shires Associations of New South Wales, North Sydney Council and South Sydney City Council, the Opposition accepts the message from the Legislative Assembly. I am pleased that the Government has accepted amendment No. 1.

As a consequence of the explanation given by the Leader of the House in the other place and the Minister in this place during the debate, the Opposition understands why amendment No. 2 has been rejected. If it is the case, as claimed by the Government, that an unintended consequence of amendment No. 2 would be to effectively limit the amount of revenue that the council could receive, that would defeat the purpose that the amendment was designed to achieve. Therefore, the Coalition accepts the amendment on the clear understanding that it has been the affected councils themselves which have agreed with the Government's course of action. However, I wonder why the Government took almost 12 months to bring the bill back to the Legislative Assembly for consideration of amendments that were passed by this House in June last year. There is genuine concern that the Government effectively shelved its response to the amendments to allow time for the Treasurer to beat up councils into individual revenue-sharing arrangements and bully his way into negotiating arrangements that may have done away with the need for amendments in the first place.

As the shadow Minister for Police stated in the other place, the acceptance by the Government of part of the Coalition's amendments is clear justification of the Coalition's course of action, with the support of the

crossbenchers, in the first place. Those amendments obviously caused some problems for the Government, and forced it to examine more carefully the impact of the proposed legislation and talk to people outside its small group of mates, typified by the Mayor of Sydney, Frank Sartor. In conclusion, I again wonder why it has taken 12 months for some fairly simple amendments to come back to this Chamber for Legislative Council approval—something that should have happened in the first place.

Ms LEE RHIANNON [8.14 p.m.]: The Greens are pleased that the Government has compromised to some extent on this bill. However, the industrial issues still have not been fully resolved. The Green's position is that the Government must ensure that no transferred workers are worse off. There is no doubt that the bill, as it was first presented to this House last year, would have been unfair in its operation toward both South Sydney City Council and North Sydney Council. Amendments were moved in this Chamber, and the Greens supported the Coalition's amendments. The fact that the Government is now indicating that it will accept the amendments is proof that in part the Government got it wrong the first time around. It also shows most emphatically the value of the Legislative Council. If the Legislative Council did not exist, changes would not have been made to the legislation.

The Hon. Michael Costa: Ha, ha!

Ms LEE RHIANNON: I note the grunts that are coming from the Minister.

The Hon. Michael Costa: That was a laugh, not a grunt.

Ms LEE RHIANNON: I acknowledge the correction made by the Minister. He said he laughed, which reflects on him more than it does on the Legislative Council because his Government has accepted one of the upper House amendments. I emphasise that the provisions being considered by this Committee would not be passing into law if it were not for the Legislative Council. My office has been in contact with the relevant councils, which have indicated that although the legislation does not represent their preferred outcome and they still believe it to be unfair, as a result of the Government's concession they now feel that they can live with the bill. It is still clear that there is an outstanding industrial issue that needs to be resolved. I understand that the parking officers who will be transferred from the State Government to local councils are quite unhappy about the potential loss of conditions.

The Government has so far failed to resolve the situation to the satisfaction of either the employees or the union. The parking officers are so unhappy that they have organised a stop-work meeting for 26 June to discuss what further action may be necessary. The issues that remain to be resolved include: transfer of superannuation entitlements, transfer of sick leave credits, rates of pay, absorption of future general award increases, loss of penalty rates for weekend work, a possible cut in hours for part-time staff, and loss of travel concessions. They also include the issue of redundancy provisions for staff who cannot transfer because their job description has been changed. The Government has been keen to bury that aspect. I noticed that when the Minister opened the topic for discussion, he glossed over the concerns that the workers have expressed. The fact is that those workers are being badly treated. I understand that already some of the employees who have transferred to the City of Sydney Council have found that the council has breached several advance undertakings.

It is simply not good enough that, after all this time, the Government has done nothing to adequately resolve the industrial dimension of this issue. This is a Labor Government, but one would be hard-pressed to realise that, just as one would be hard-pressed to realise that the Minister who laughed was once head of the Labor Council. But perhaps we are reminded instead of the history of the Labor Council. This is a Labor Government that once again is letting the workers down. The Greens call on the Government to resolve these issues as rapidly as possible. I hope that the Minister will indicate in his reply how the Government will resolve the issues. I have listened to the concerns of workers and, instead of the Minister glossing over them, it is time for him to provide some detailed solutions. At the end of the day, the fact that the Government has been forced to compromise is just one more example of the worth of and benefit to New South Wales of the Legislative Council. I re-emphasise that point because I know that some Labor members become aggravated by discussion of the topic.

This legislation provides an example of the worth of the Legislative Council that could not be clearer. By giving a voice to interests other than those of the Government, injustice can be avoided and legislation can be improved. Without the Legislative Council, New South Wales would have only the arbitrary exercise of power by an arrogant Government. Sometimes members of the Legislative Council can do something about that, and tonight is one of those occasions.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [8.20 p.m.]: The Democrats support the amendment and are pleased with the results that have been achieved. Councils were concerned that they were not getting a good deal from the Government. However, the Chamber intervened in the interests of local government and the compromise, although not perfect, allocated 50:50 revenue to South Sydney and North Sydney councils after the costs of collecting the revenue were deducted. That system, which is much fairer, will operate for five years.

The acceptance of the amendment by the Government confirms the Legislative Council as a House of review. I am pleased that the Government, when pressured, came to the right conclusion. However, a letter from the Federated Municipal and Shire Council Employees Union of Australia, New South Wales Division—the MEU in common parlance—stated that the union is unhappy that the pay and conditions of officers transferred to local government have not been resolved. As my colleague Ms Lee Rhiannon said, the union is talking about a stop-work meeting on 26 June. To avoid that happening, I hope that the Government resolves this matter. One would think that the Government, in transferring government employees from one department to another, would do the right thing by those employees and not undermine their working conditions, particularly given the history of the Minister for Police.

The Hon. Michael Costa: Lecturing me again.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: It is a shame that these lectures are necessary. I have a copy of a letter dated 5 June from the MEU to the Minister for Police which states:

> To date significant discussions have not yet occurred with the MEU about these matters—

That is a reference to the transfer of parking officers to local government. It continues:

> The Local Government and shires associations of NSW (LGSA) maintain that parking officers transferred to local government may have future General Award increases absorbed and may also lose the right to receive payment of penalty rates for weekend work.
>
> Those parking officers involved in the transfer are most dissatisfied with what is perceived as a lack of transparency in the negotiation process. The officers concerned have resolved to convene a stop work meeting on 26th of June at 12.00 noon to discuss what further action may need to be taken to resolve the matter industrially.

That letter is signed by Brian Harris, general secretary of the union. If I appear to be lecturing the Minister, that letter explains why. I am pleased that a compromise has been worked out with local councils. Obviously the next task is to resolve any problems of employees who are doing the work.

Reverend the Hon. FRED NILE [8.22 p.m.]: The Christian Democratic Party is pleased that there has been a solution to the parking fees issue. As other honourable members have said, parking police employed by the State Government are satisfied with the arrangements and have received their due benefits.

Motion agreed to.

Resolution reported from Committee and report adopted.

Message forwarded to the Legislative Assembly advising it of the resolution.

LOCAL GOVERNMENT AMENDMENT (MISCELLANEOUS) BILL

Second Reading

Debate resumed from an earlier hour.

The Hon. RICHARD JONES [8.25 p.m.]: The Deputy Leader of the Opposition covered much of what I wanted to say, so I will restrict my remarks to the concerns that I have in relation to section 257A. The Deputy Leader of the Opposition and other honourable members received correspondence dated 30 May from Councillor Peter Woods and Councillor Mike Montgomery. The Minister alluded to that letter in his speech. The Local Government and Shires Associations of New South Wales are most upset about section 257A, which provides for a council to be dismissed without public inquiry. I will move an amendment in Committee to delete that section. A miscellaneous bill such as this should not have controversial provisions; they are so important and profound that they should be included in separate legislation. I understand that the Government and the Opposition will accept my amendment. I thank them for that.

Reverend the Hon. FRED NILE [8.26 p.m.]: The Christian Democratic Party supports the Local Government Amendment (Miscellaneous) Bill. The bill amends the Local Government Act to give councils powers of entry consistent with the powers of water, sewerage and electricity providers. I ask the Minister to clarify whether that means entry to property and/or buildings on the property. The bill provides for community consultation in relation to changing ward boundaries or the number of wards in each local government area. The community should have some say in those matters.

The bill clarifies the process of public hearings that are required for draft plans of management for community land and encourages the protection of sites of Aboriginal significance on community land. The bill amends the provisions relating to leave of absence from council meetings. I ask the Minister to clarify whether the bill will prevent councils from closing meetings to discuss personnel or personal matters. I thought that the Deputy Leader of the Opposition said "personal", meaning councillors. The word "personnel" refers to staff matters. I seek clarification in relation to that matter.

The Hon. Duncan Gay: There is no conspiracy; it was my mispronunciation.

Reverend the Hon. FRED NILE: I ask the Minister to clarify that issue.

The Hon. Michael Costa: It is personnel matters.

Reverend the Hon. FRED NILE: The bill provides for dismissal of a council in limited circumstances and other matters. The Christian Democratic Party is pleased to support the bill.

Ms LEE RHIANNON [8.28 p.m.]: The Greens welcome the majority of provisions in the bill. We are pleased with the amendments relating to ward boundaries. However, our chief area of concern about the bill is the new provision to allow the Minister for Local Government to dismiss a council within 12 months of an election following a previous dismissal. The provision for ward boundaries has been unsatisfactorily murky for some time. The principal of one vote, one value is a basic tenet of democracy. It is important that it be enshrined in legislation relating to local government. We all remember the notorious Joh Bjelke-Petersen days. They gave not only Joh but also Queensland a bad name. The possibility of gerrymanders should not be allowed to exist in local government.

The provisions to require wards to be within a 10 per cent margin of each other, to require councils to monitor changes, and to require a public process when boundaries are changed are all to be commended. The Greens are also pleased to see the provision allowing a council to keep confidential such parts of a draft or adopted plan of management for a parcel of community land as would disclose the nature and location of a place or an item of Aboriginal significance. It is a tragedy when Aboriginal sites of significance are desecrated. Often when their location is publicly disclosed that can be the outcome—resulting in a loss of culture, a loss of heritage and a perpetuation of the oppression of Aboriginal people. Forcing councils to disclose the location of such sites clearly places them at risk, and the Greens support allowing councils to keep them confidential.

We likewise support the provision to require councils not to pay any annual fee to a councillor who is absent from ordinary council meetings for a period of three months or more. Irrespective of whether the councillor is absent by leave of the council, it is inappropriate to continue to pay councillors when they are not performing their core functions. It is often the case that councillors have very sound reasons for being absent, and are given leave by their council. However, this is a separate issue from whether they should be paid for this period. The relevant standard in this context should be the conditions that apply in the regular work force. Usually, if a worker is absent for even one day without being on leave of some kind that person will not be paid. Only four weeks paid leave per year is generally allowed in the wider work force. Therefore, we believe that it is unreasonable to expect the community to wear one standard for elected officials and another for everyone else. It lessens the standing of democratic institutions if we allow such practices to continue. In the main, the Greens welcome the bill. We are pleased that the Government is dealing with some of the problems in local government.

The Hon. Dr Brian Pezzutti: Where is Egan?

Ms LEE RHIANNON: That is an interesting question. The Minister for Local Government could solve some other problems by dropping his attempt to force through changes to inner-city boundaries in a desperate attempt to fix the Sydney City Council elections. Then we might be hitting the jackpot. And the Government could get really serious about cleaning up local government by prohibiting donations from developers to political parties. This is one area that neither major party will venture into. Incremental improvements are to be commended, but it is certainly time that the Government tackled the big issues in local government.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [8.34 p.m.]: The Australian Democrats basically support the bill. It obviously does not cope with the types of problems mentioned by my colleague Ms Lee Rhiannon, who talked about donations from developers. The bill introduces reasonable incremental changes. We note that the provision for the dismissal of councils will be deleted in an amendment to be moved by the Hon. Richard Jones and supported by the Government. We hope that the anti-corruption amendments passed earlier today will deal with that issue. If councillors are merely incompetent rather than actually corrupt another inquiry may be required. But the correct processes should be followed. Overall, the bill is a reasonable, if non-dramatic, incremental improvement.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 4 agreed to.

Schedule 1

The Hon. RICHARD JONES [8.37 p.m.]: I move:

Pages 11 and 12, schedule 1, line 19 on page 11 to line 34 on page 12. Omit all words on those lines.

This amendment will remove section 257A. I am surprised that such an antidemocratic provision should even appear in a miscellaneous bill. As I said during the second reading debate, the Local Government Association and the Shires Association are shocked that the provision is in the bill and have asked that it be removed. I understand that the amendment has the support of both the Government and the Opposition.

The Hon. MICHAEL COSTA (Minister for Police) [8.37 p.m.]: The Government accepts the amendment.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [8.37 p.m.]: As I indicated during the second reading debate, the Opposition had concerns about this provision. It allows the possibility of partisan behaviour by a Minister. He or she could choose to refuse councillors on a political basis. I am not saying that the present Minister would ever do that, but we have to consider the inquiries into councils that have taken place since 1995. Not one has been into a Labor-controlled council; they have all been into either Independent or Liberal-controlled councils. I do not think that the only councils that have problems are those that have been controlled by that group. Removing the provision removes an added temptation for a Minister. I do not believe that the present Minister is partisan.

The Hon. Michael Costa: You are talking about Harry, are you?

The Hon. DUNCAN GAY: Yes, I am talking about Harry. He is the Minister. You are not the Minister for Local Government. You do enough damage in Police, without what you would do if you were given any more power.

The Hon. Michael Costa: You are going to be disappointed after the next election.

The Hon. DUNCAN GAY: No-one will be more disappointed than the Minister for Police. He will be spending 10 to 14 years in opposition and he will be doing hard time, like some of the people he is giving a hard time at the moment. We support the amendment. It is supported by the Local Government and Shires Associations, as I outlined in my contribution to the second reading debate. I congratulate the Minister and his advisers, who were willing to work through a particular problem in the legislation. We deal with a lot of bills in this House. Not all Ministers' advisers are willing to listen to valid concerns, relay them to their Minister and have their Minister make a quick decision—as occurred in this instance. We believe it was a proper decision. We applaud the Minister's advisers and the Minister.

The CHAIRMAN: Order! I welcome to the President's Gallery members of the family of the Deputy Leader of the Opposition.

Amendment agreed to.

Schedule 1 as amended agreed to.

Schedule 2 agreed to.

Title agreed to.

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

WESTERN LANDS AMENDMENT BILL

Second Reading

The Hon. MICHAEL COSTA (Minister for Police) [8.42 p.m.]: I move:

That this bill be now read a second time.

The Western Lands Amendment Bill represents the most important and historic package of reforms to the management of the Western Division to come before this Parliament in more than 100 years, since the enactment of the Western Lands Act in 1901. The bill will enable a system of legal roads to be established, together with legal access to all rural properties. It will replace the outmoded rental system with a new scheme that is more equitable and simpler to administer. It will establish a broadly based advisory council to advise the Minister on matters affecting the Western Division. In addition, the bill contains many other reforms that will introduce greater efficiency and flexibility into dealings with, and management of, Western Lands leases. In the past century the Western Division has changed a great deal, but the legislation underpinning its management has lagged behind. The result has been that social and economic opportunities for Western Lands residents and visitors have been unnecessarily restricted. This bill is designed to remedy that situation.

The Western Division is that part of the State situated to the west of a line running from the Victorian border near Balranald to Mungindi in the north, and covers 42 per cent of New South Wales. The division is special in many ways and its people have a distinct identity. It is sparsely populated, with few towns and cities. Rainfall tends to be low and unreliable. Scientists classify much of it as rangeland, but its semi-arid ecosystems have important biodiversity and other conservation values. A significant portion in the north-west, known as the unincorporated area, does not have sufficient population to support its own local government. The principal land-use since the area was opened to European settlement in the nineteenth century has been sheep grazing. No region has been more sensitive to the fluctuations in wool prices, which, I am pleased to say, have recovered after many years of serious depression.

However, the long-term trend for wool—like most other commodity prices—will probably continue to be downward. Economic development in the division has tended to occur in other farming activities, and in tourism and recreation. In recent years there has been increased use of dryland and irrigated agriculture, particularly along the rivers, in the north-east and along the eastern and southern margins of the division. An urgent matter has arisen and I am required to leave the Chamber immediately. I therefore ask my colleague the Minister for Juvenile Justice to continue the second reading speech.

The Hon. CARMEL TEBBUTT (Minister for Juvenile Justice, Minister Assisting the Premier on Youth, and Minister Assisting the Minister for the Environment) [8.37 p.m.]: The differences in climate and landscape across the division are reflected in the sizes of average rural properties. They range from 5,000 hectares in the Wentworth and Carrathool local government areas to 54,000 hectares in the unincorporated area. The total area of grazing leases is approximately 30 million hectares, which includes 883,000 hectares of land where cultivation permits are in force. The total area of agricultural leases is approximately 337,000 hectares. Another special feature of the Western Division is land tenure. Like rangelands in other States and overseas, 95 per cent of the division has been retained as Crown land, with pastoralists holding leases in perpetuity rather than freehold title. These lands have been administered since 1901 under the Western Lands Act.

This bill will give effect to proposals arising from the Western Lands Review, undertaken by a team led by the Hon. John Kerin between 1998 and 2000. The previous Minister, the Hon. Richard Amery, announced the independent review of Western Division legislation and administration on 11 March 1998. The review team, chaired by the Hon. John Kerin and assisted by consultants, undertook an extensive public consultation process over an 18-month period. The first round of public consultation identified issues impacting on long-term sustainable management of the Western Division. The outcomes of this consultation resulted in the review team preparing an options paper entitled "Improving the Western Division: Have Your Say", published in August 1999. Drawing on the public responses to the options paper, six independent consultancy reports and

meetings with over 400 stakeholders, the review team prepared its Western Lands Review Final Report. The report was released in March 2000 for a five-month feedback period. The report made 57 recommendations, and attracted a total of 216 submissions.

This bill gives effect to many of the final report's recommendations. It will be clear to honourable members who are familiar with the final report that the Government has not adopted all of Mr Kerin's recommendations. Clause 3 of the bill is a formal provision which gives effect to the amendments to the Western Lands Act 1901, set out in schedules 1, 2, 3 and 4. The principal focus of the bill is to put the legal infrastructure in place to improve legal access across the Western Division. This is the most critical issue for most stakeholders. This bill will amend the Western Lands Act to enable cost-effective implementation of a legal road and easement access network. The need for this bill cannot be understood without reference to the history of access arrangements in the Western Division. From the time of the commencement of the Crown Lands Alienation Act 1861, the former Department of Lands adopted a policy, when subdividing Crown lands for sale or lease in the Eastern and Central Divisions, of ensuring that each parcel intended for separate occupation would as far as practicable be serviced by land reserved as a road.

However, this policy was not routinely followed in the Western Division, and settlers used a series of undefined tracks to provide practicable means of access through the division. In many cases these tracks remain in use today, although most have never been formally opened by the Crown as public roads or dedicated to the public. Currently, few roads within the division have been properly established by being formally removed from leases and gazetted as public roads. This applies even to main transport routes such as sections of the Silver City Highway. No legal access has been created for the great majority of the 5,000 rural leases within the division. The current system of access is far from satisfactory for a number of reasons. First, there is uncertainty about the public's right of access through leases and to places of interest. This acts as a break on the development of the tourism and recreation industries.

Second, there is the problem of legal liability should a road accident occur. Third, many lessees can only reach their properties by crossing neighbouring properties, and there is the potential for access to be obstructed when disputes between neighbours arise. Fourth, in the absence of an official legal system of roads, land-holders have little control over who enters and crosses their land—a situation that threatens the safety and security of their families. Western Lands lessees and other interested parties have quite reasonably expressed dissatisfaction at a system of access that they consider is uncertain, unsafe and associated with unknown legal liability. This was reflected in the findings of the Western Lands Review. Schedule 1 makes amendments to the Act to provide for the establishment of public roads and rights of way. It would be possible to create legal roads and easements using existing legislation.

This would entail acquisition of roads under the Roads Act, pursuant to the Land Acquisition (Just Terms Compensation) Act 1991. However, because the task entails the provision of roads and easements for some 1,500 individual land-holdings comprising approximately 5,000 leases, proceeding under existing legislation and processes would be an administrative task of enormous proportions. To illustrate the size and complexity of this task, the 271 kilometres of the Cobb Highway between Wilcannia and Booligal pass through 30 leases. It is estimated that the administrative and legal costs associated with using existing legislation would be in the order of $10 million. This bill contains an alternative legislative scheme that empowers the Minister to compulsorily acquire land needed for roads without complying with the pre-acquisition provisions of the Land Acquisition (Just Terms Compensation) Act and without the payment of compensation.

The Hon. Dr Brian Pezzutti: Why not? You are joking!

The Hon. CARMEL TEBBUTT: I have just explained that. The estimated administrative costs for this scheme are only a quarter of the costs that would be involved if the existing legislation were relied upon. It would not be appropriate for compensation to be paid to land-holders affected by the creation of roads. The roads already exist in a physical sense, and lessees will be the net beneficiaries of the creation of a legal roads system. As a matter of administrative policy, decisions to designate routes as public roads will be made only after consultation with local government, lessees, the Roads and Traffic Authority [RTA] and other interested parties. It is proposed to identify those routes that provide essential linkages between towns and other popular locations, and to create them as public roads. Maintaining the roads will become the responsibility of local government when they lie within a local government area, or the RTA when the roads lie within the unincorporated area.

It is not anticipated that new roads will be physically created. These thoroughfares are already in use, and it is only the legal entities that will be created. The vast bulk of roads to be dedicated are already maintained

by either the RTA or councils. Land-locked land-holdings are properties that have no road access and where current access is through other properties. The most cost-effective way to provide clear legal access to them is to create a system of easements. The creation of an easement rather than a road has advantages for both Western Lands lessees and the State. Only those people who are authorised under the terms of the easement—that is, the lessees and the lessees' licensees and invitees—are entitled to use the easement. The land, and improvements thereon, remains with the lease and consequently no severance or loss of property occurs. The State does not become liable for the maintenance of the road or for compensation. And the cost of survey and recording the easement title is significantly less than the cost of creating a public road.

The creation of an easement out of the leasehold interest will not affect any native title rights and interests. In the case of the easements, compensation would certainly not be appropriate, as easements will be created only with the agreement of land-holders, and land-holders will be the principal beneficiaries. In implementing this scheme, the Government will endeavour to maximise the creation of easements to deal with lease access issues. This will have the advantage of minimising the burden on local councils, which do not have the resources to maintain a more extensive road network. The legislation also provides that when lessees are in dispute over the creation of an easement the parties may take the issue to the local land board for mediation. Tracks that are not required to serve public or lessee access requirements will become private routes accessible to the land-holder only. As public roads and easements are gazetted, the current access provisions in the Act and in Western Lands leases will be progressively withdrawn.

I emphasise that the public roads within local government areas [LGAs] will continue to be maintained by councils. The Roads and Traffic Authority will maintain the public roads in the unincorporated area. Matters such as weed control within the road corridor are the responsibility of the relevant roads authority. Within the LGA, that is the council; in the unincorporated area it is the Department of Land and Water Conservation. Easements will be maintained by the lessees through whose leases they pass. That is, local government and the RTA will continue to maintain much the same roads as they do today. Land-holders will not be compelled to fence public roads once they are created. In many cases major roads are already fenced on one side or on both sides, but neither the Government nor councils will compel land-holders to put up fences.

Once the new access system is in place, the public's rights of access will be limited to public roads. A person will be permitted to use an easement if that person falls into the class of person permitted to use that particular easement. This will be set out in the instrument that creates the easement and will be displayed on signs on the easement. Of course, the creation of easements, however restricted their legal instruments may be, will not affect the entry rights of Government officials who have a statutory right of entry to carry out their duties under State or Commonwealth laws. I also note that the access arrangements will be rolled out gradually so that current general access across leases is not withdrawn until the system of roads and easements is in place. Similarly, opal miners have relied upon the general access provisions in schedule A of the Western Lands Act. They have expressed concern that they will lose this provision before new access arrangements are in place. I can assure them that this part of the legislation will not commence until new access infrastructure is in place.

I am also aware that opal miners have long-term problems with planning and access matters. The Government will continue to assist in the resolution of these matters, and the Department of Land and Water Conservation will work with the Department of Mineral Resources, the Department of Planning, lessees and miners to find a workable solution to these problems. I also note that the Minister for Land and Water Conservation has discussed with the Minister for Fisheries the access issues for those who engage in fishing. Fishers organisations will be invited to be involved in the consultation process on which routes will become public roads. Proposed section 35U enables a dispute over a proposal to create or release an easement to be referred to a local land board for mediation. Participation in mediation proceedings is to be voluntary. The parties to the proceedings are to bear their own costs. Evidence in the proceedings is to be inadmissible in other proceedings, and the local land board and the parties are to have the same protections and immunities as apply to civil proceedings before a Local Court.

Schedule 2 deals with the proposed Western Lands Advisory Council. Although the Government decided not to adopt the more radical institutional changes proposed by the Western Lands Review, it did support the recommendation that the Minister should be advised by a broadly based statutory advisory body. The proposed Western Lands Advisory Council [WLAC] is similar in its functions and breadth of membership to existing advisory bodies established under the Water Management Act 2000 and the Native Vegetation Conservation Act 1997. It will replace the administratively created Western Lands Advisory Board. The bill establishes a Western Lands Advisory Council comprising specified individuals and representatives of groups that have an interest in the Western Division.

I cannot emphasise too strongly the significance of section 8B (3). Subsection (3) states that the members of the Western Lands Advisory Council must have, in the Minister's opinion, a current or recent connection with, or a relevant interest in, the Western Division. In the consultation process associated with this bill, it was indicated on many occasions that there is a need for the council members to have past or present knowledge of the Western Division so they can make informed decisions. The principal functions of the Western Lands Advisory Council as set out in the bill are to advise the Minister on matters relevant to the objects of the Act, to advise the Minister on matters affecting the administration of the Western Division, and to consult with persons and bodies having an interest in any matter affecting the administration of the Western Division.

Further provisions relating to the constitution and procedure of the Western Lands Advisory Council are set out in proposed schedule 5. The 14 members comprise: an independent chairperson; four people representing lessees in the Western Division, with two to be nominated by NSW Farmers Western Division Council, one to represent pastoralists of West Darling, and one to be non-aligned; a person representing the interests of environment protection groups; two people representing local councils; a person representing catchment management boards; two people representing the interests of Aboriginal people, the Western Lands Commissioner; a person representing the Minister for the Environment; and a person representing the Minister for Agriculture.

As recommended in the Western Lands Review, the bill establishes a completely new system for setting and periodically adjusting rents. The existing rental system is anomalous, subjective, inequitable and out of date. The inequity is demonstrated by the fact that some land-holders are paying up to 30 times as much rent as their neighbours for the same land use on similar land. These anomalies arise, in part, from a system that sets rent on leases for agriculture and leases for grazing in different ways. For example, rent on leases for agriculture is set at 2.5 per cent of capital value, which is about 1.5 per cent of land value per annum. By contrast, rent on leases for grazing is related to the sheep-carrying capacity of the lease, and the average rent on a grazing lease is equivalent to only 0.6 per cent of land value per annum.

Nevertheless, the holder of a grazing lease may, for a fee, obtain a cultivation permit that allows the farmer to undertake similar activities to those undertaken by holders of an agricultural lease, yet for a much lower rent. An alternative system has therefore been devised. I am pleased to report that it has been developed in conjunction with, and is supported by, the NSW Farmers Association and other pastoral and local government interests in the Western Division. Under the new system, rent will be set by a formula that reflects both the environmental impact and the profitability of different land uses, and will be calculated on an enterprise basis, rather than on individual leases. It will achieve this outcome by basing rent on both land use and land area.

I will now briefly outline how rents will be calculated. A base rent will apply to the entire land-holding, regardless of land use. The base rent will be set on a sliding scale so that a lower weighted average per hectare charge applies to larger land-holdings. This is in recognition that many of the largest grazing properties are on the least productive land in the north-west of the division. Where lessees use some or all of their farms for cultivation and/or intensive agriculture, then additional higher charges will apply to these areas. The unit charges for these land uses will be higher than the base rent. These charges will represent premiums for land uses that impose greater wear and tear on the environment. In cases where a portion of a land-holding is specifically managed to achieve a positive environmental outcome, then a managed rehabilitation rebate will apply. The rebate will be set at a level equivalent to the cultivation rate.

Eligibility for the managed rehabilitation rebate will be determined by the Western Lands Commissioner, in accordance with principles prepared by the Western Lands Advisory Council and approved by the Minister. To cover the costs of lease administration a minimum rent for each enterprise will apply. Rents will be adjusted annually, based on 50 per cent of the movement in the Australian consumer price index. Overall, the new rental system will be revenue neutral. The total revenue generated in the first year by the new rental regime will approximate the total rebated rental revenue under current arrangements. This, in effect, continues the 50 per cent rebate that has applied since its introduction in 1994 by the former Government.

I turn now to modernisation and miscellaneous amendments. Schedule 3 contains miscellaneous amendments. A modern objects clause, based on the principles of ecologically sustainable development, is proposed to be inserted into the Act. The proposed objects of the Act are to establish an appropriate system of land tenure for the Western Division; to regulate the manner in which land in the Western Division may be dealt with; to provide for the establishment of a formal access network, by means of roads and rights of way, in the Western Division; to establish the rights and responsibilities of lessees and other persons with respect to the use

of land in the Western Division; to ensure that land in the Western Division is used in accordance with the principles of ecologically sustainable development referred to in section 6 (2) of the Protection of the Environment Administration Act 1991; to promote the social, economic and environmental interests of the Western Division; and to make other provision for the effective integration of land administration and natural resource management in the Western Division.

It is proposed to extend the delegation powers of the Minister and the Western Lands Commissioner so as to enable them to delegate their functions to public and local authorities. This power will allow the Western Lands Commissioner to transfer the administration and rental income of urban and residential leases to a local council with its consent. This is in line with the Western Lands Review recommendation that urban leases and planning functions should be transferred to local government. Also consistent with the recommendation of the Western Lands Review, the Government has adopted a policy of encouraging the holders of residential and business Western Lands leases within urban areas to convert their leases to freehold. This policy is designed to free the Western Lands Commissioner and the Department of Land and Water Conservation from the burden of administering urban leases that provide little income and are in public ownership for historic reasons only.

I now turn to reforms in land tenure and lease purpose. The bill includes measures to relax unnecessary restrictions that currently apply to transfers and other dealings with respect to lands held under a Western Lands lease, and to enable greater flexibility of lease purpose arrangements. It is proposed to amend the Act to streamline the process for sub-leasing, consistent with the purpose of the lease. The new section prohibits the transfer of land held under a Western Lands lease except with the consent of the Minister, but for small residential and commercial blocks the Minister can waive this requirement. Currently, the Minister's consent is needed for all dealings in respect of land held under a Western Lands lease.

The bill provides for the Act's lease forfeiture provisions to be simplified and consistent with those of the Crown Lands Act 1989. This will be effected by amending schedule B so as to adopt the provisions of the Crown Lands Act 1989 with respect to the forfeiture of leases. Consequential amendments are made by schedule 3, including the substitution of section 18 in a simplified form. Currently, the holder of a Western Lands lease can convert the lease to a purchase only if the land is used for residential, business, motel or similar purposes.

The bill will amend the Western Lands Act to allow applications for conversion to freehold title of leases for agriculture, and similar leases, to be considered on a case-by-case basis, and where the proposal is ecologically sustainable and there is a clear public and economic benefit. Native title is not a barrier to conversion with leases for agriculture created before 1996, as the Commonwealth Native Title Act 1993 recognises that this type of lease has extinguished native title. The bill amends section 28BB so as to extend the range of purposes to include agricultural and community purposes, subject to appropriate protection of native title interests, so that the only land not able to be converted in this manner will be land the subject of a lease for grazing or pastoral purposes.

A similar amendment is made to schedule B in relation to the purposes for which land in the Western Division may be sold pursuant to the adopted provisions of the Crown Lands Act 1989. The bill amends schedules B and D, which relate to the conversion of leasehold land, to ensure that the sale or conversion will proceed only if the Minister is satisfied that the use of the land concerned for the purchaser's proposed purpose is ecologically sustainable. The bill makes provision for the creation of licences for public purposes such as telecommunications and other infrastructure. The provisions are similar to those contained in the Crown Lands Act. Currently, the maximum area of land that can be withdrawn from a lease for public purposes is 80 hectares. It is proposed to amend section 43B so as to remove this limit, which is arbitrary and may not be sufficient for pipelines, communications facilities and similar infrastructure. It is further proposed to amend schedule B so as to enable the Minister to grant a licence over land the subject of a Western Lands lease pursuant to the adopted provisions of the Crown Lands Act 1989, but only with the consent of the holder of the lease.

Other minor amendments include an amendment to section 35N so as to extend the range of matters for which the Minister can enter into an agreement under that section; an amendment to schedule A so as to update certain references relating to noxious weeds; an amendment to schedule B so as to extend the operation of the adopted provisions of the Crown Lands Act 1989 with respect to easements over Torrens title land and land the subject of a lease in perpetuity; and an amendment to schedule D enabling a more flexible approach to be taken to payments made in relation to land being purchased. This will facilitate the conversion of urban and business leases.

The bill also amends schedule C so as to enable regulations of a savings or transitional nature to be made in connection with the proposed Act, and enacts specific savings and transitional provisions in connection

with the proposed Act. Schedule 4 makes amendments by way of statute law revision. The proposals outlined in the bill represent an historic package of reforms that will bring up to date many aspects of Western Lands management and administration. The improved flexibility and efficiencies that this legislation will achieve will have a marked positive impact on the rural communities of western New South Wales. They will modernise the Western Lands Act and make it more flexible to enable the Minister and commissioner to deal with needs and socioeconomic changes that were not foreseen when the Act was drafted more than a century ago. Rural communities are keen to see resolution of access issues in the Western Division.

The proposed access measures will increase family security, particularly families living in isolated homesteads in Western Lands leases. The formalisation of public roads and easements will give lessees a greater capacity to regulate public access to and across leases. The uncertainty regarding legal liability for motor vehicle accidents on public roads will also be resolved. The new rental system will be more equitable and flexible for land-holders, and simpler and cheaper to administer. It breaks away from the cumbersome complexities and inequities of the current model, and sensibly links rents to the environmental impacts of land uses. The bill will remove or reduce government ownership and control of land when this is no longer in the public interest, such as with residential and business properties in urban areas, and in the case of sustainable agricultural leases.

The bill will also allow greater flexibility in dealings involving leased Crown lands, including sub-leasing, licensing and the provision of public infrastructure. Finally, the bill will establish a broadly based body to advise the Minister, and remove a number of archaic and redundant features of the Act. This is a worthwhile and well-balanced reform package that will be welcomed by the Western Division community. I thank all those who participated in the public consultation of the drawing up of this bill. I thank particularly the honourable member for Murray-Darling for his singular contribution to bringing this bill into being. I commend the bill to the House.

The Hon. RICK COLLESS [9.10 p.m.]: I lead for the Opposition on the Western Lands Amendment Bill. The Opposition will not oppose the bill. It has been four years in the making and much work has been done on it in that time. It is a shame that the bill received a second reading only a couple of days ago and that we must debate it now without sufficient consultation with the community. Having said that, there has been much consultation in the past, and the Coalition will not oppose the bill.

As the Minister said in his second reading speech, the Western Division represents some 42 per cent of the total land area of New South Wales. The Liberal-National Coalition recognises the importance of the Western Division and its significant contribution to the State of New South Wales. The National Party, in particular, has a long history of association with the Western Division. My family history dates back to the days of the original settlement of the Western Division. The Colless family were the original settlers in the Walgett-Bourke area, and my paternal grandfather was born on Ningawalla Station near Ford's Bridge.

The Western Division generates in excess of $1 billion in earnings each year and is home to more than 50,000 people. The climate of high summer temperatures, low and erratic rainfall and evaporation rates that greatly exceed rainfall, together with the vast area covered by the division, ensure that its residents are confronted by challenges that are not faced by the rest of the State. The Coalition recognises that legislation governing the Eastern Division must contain provisions that allow the businesses and residents of the Western Division to overcome these challenges.

The Coalition will not oppose the bill because we believe it will improve the administration of the Western Division through the formation of a legal road network, the implementation of a more equitable and consistent method of determining annual rents, and the power for some types of leases to be converted to freehold title. These amendments will modernise the operation of the Western Lands Act and benefit farmers and residents of the Western Division alike. However, the Government cannot claim credit for the improvements that this bill will make to the administration and management of the Western Division. I support the shadow Minister for Land and Water Conservation, who, in his speech during the second reading debate, congratulated the residents and land-holders of the Western Division who, through organisations such as the New South Wales Farmers Association and the Pastoralists Association of West Darling, have lobbied the Government for several years to reach this point.

One of the first documents I received when I came to this place was the Kerin review of the Western Division. It was given to me on the basis that I would lead the debate when this matter came before the House. That was almost two years ago, and the bill has finally reached this place. The Coalition recognises the role that the mayors of the Western Division have played in helping to bring this legislation to a commonsense

conclusion. I applaud the Government for its bipartisan approach to reform and recognise the role played by the former Minister for Land and Water Conservation in March 1998. The Western Lands Review, conducted by the Hon. John Kerin, was completed in 2000 and the Coalition very much appreciated his bi-partisan role and assistance with briefings along the way.

We have also been advised that the current Western Lands Advisory Board does not oppose the bill. However, I have some concerns about the structure of the proposed Western Lands Advisory Council. The bill allows for a total of 14 members of this council, only four of whom are guaranteed to be lessees under the bill. This has the potential to be yet another advisory organisation on which the representation does not truly reflect the individual land-holders and their local communities whose livelihoods will be impacted by the decisions of the council. In particular, I seek a commitment from the Minister that any environmental representative will have a connection with, and knowledge of, the Western Division and that there will be no fly-in representative from the city. This is a serious problem with many of the other advisory organisations operating under a whole suite of environmental, land and water management legislation introduced by the Government.

Because of the extensive consultation period and the broad support in the Western Division for this bill, it should be passed by this House with minimal amendments. It is a bill for the people of the Western Division, designed by the people of the Western Division, and the composition of the advisory council should reflect this fact. The National Party will monitor carefully the implementation of the Western Lands Advisory Council, and we shall certainly bring it to the attention of the Government should the council assume power that is not in the best interests of the local communities in the Western Division.

The creation of a formal network of roads and rights of way in the Western Division will be a great step forward. There are virtually no roads in the Western Division that are currently declared lawful. The lack of an official road system has caused a number of problems, including public liability in the event of an accident and uncertainty about access rights. Without a lawful road network, people travelling through the Western Division were able to venture onto roads that were nothing more than private tracks, with the result that gates were often left open and sheep and cattle from neighbouring paddocks and leases were boxed, creating significant extra work for the farmers who had to sort out the stock. It is pleasing that this bill will formalise the public road network through the Western Division so that such uncertainty will be avoided.

The Coalition is pleased with the provision in the bill that allows the creation of easements for land-locked leases. Lessees must have access to their leases, and the creation of those easements appears to be a sensible way of facilitating this access. The easements will also allow lessees to erect signs to state clearly who is permitted to use the easements and, as such, will allow lease-holders greater control over the people travelling through their properties. The Government has assured the Coalition that the creation of a legal road network through the Western Division will not increase the road maintenance burden of local government within the Western Division. The Coalition will monitor that assurance and push for increased funding for any local government body that ends up with extra road maintenance responsibilities.

The new system of determining annual rents proposed in the bill is a step forward for the Western Division. The previous system had become outdated and inequitable and was in need of change. I understand that the Department of Land and Water Conservation has worked closely with the NSW Farmers Association to develop the model in the bill. We commend the department for including the major stakeholders—the farmers—in the process of designing the new rental system. The current system provides many inequities: land-holders in some cases could be paying 30 times the rent of a neighbour who is engaged in similar rural activities. That is clearly a nonsense.

Western Lands lessees have acknowledged the anomalies in the current system and the need for rental reform. As a result of community consultation, a new scheme has been developed whereby rents are related to the size of leases and the types of land use, with different rates for grazing, dry-land cultivation and intensive agriculture. An important feature of the scheme is a rebate for areas that are managed for conservation purposes. It seems to me that the new scheme will achieve the key outcomes of fairness, simplicity and transparency. Under the new scheme, like will be treated with like, lessees will have certainty about rent, and the scheme will be cheaper to administer. The Chairman of the Western Lands Advisory Board, Ralph Hunt, a man who has had extensive experience in the Western Division, has described the new rental arrangement as complex but fair. I think that is a fair description of it. Its arrangements for working out rent are somewhat complex, but it does provide a fair system. It will address the inconsistencies and provide certainty that was not there before.

The Coalition acknowledges that the total amount of rent generated by the new model will be equal to the amount currently collected from rent for leases in the Western Division—in other words, it should be revenue neutral. I emphasise to leaseholders that the total rent collected from the Western Division will increase

at only half the rate of the consumer price index [CPI] each year. That is a good concession, bearing in mind that most leases elsewhere increase at the full rate of the CPI increase. That represents an acknowledgement of the special circumstances in the Western Division. It is also good that the formula incorporates a component to allow for a rental rebate for land managed for rehabilitation. It has long been Coalition policy to offer incentives for conservation rather than applying the regulatory, big-stick approach. We are pleased that this policy has been adopted in the formula for calculating rents for leases in the Western Division.

The Coalition is also pleased to support the provision in the bill to allow certain types of leases to be converted to freehold title. The Western Division is a special place and it is home to special people. Many farms in the Western Division have been operated by the same family for several generations and more, and it is appropriate to give such people the opportunity to have freehold title to the land on which they earn a living and on which their families earned a living. As I said, the Coalition does not oppose the bill; we support it. It is a shame that we have not had more time to consider it a little more closely, but I know that a lot of work has gone into it. I acknowledge the contribution of NSW Farmers, John Kerin and his review team, the Pastoralists Association of West Darling, and all those who have worked diligently to bring about a solution to a complex issue. I commend the bill to the House.

Reverend the Hon. FRED NILE [9.22 p.m.]: The Christian Democratic Party is pleased to support the Western Lands Amendment Bill, which has been in the making for a number of years, following the Western Lands Review completed in 2000 by the Hon. John Kerin. The Western Division is an important part of the State that covers more than 42 per cent of its land area. Almost every year I visit the Western Division and meet with people in Nyngan, Bourke, Wilcannia, Cobar, Broken Hill, Hillston and other towns, and I am amused when people often say, "We appreciate a member of the upper House visiting us. We haven't met our local member yet." I am not referring to any particular local member.

It must be difficult for a local member who represents 42 per cent of the State to regularly visit every town in the electorate. The earlier system of loading country electorates so they had fewer constituents, to ensure on-the-ground representation, had some value. Though we advocate the notion of "one vote, one value", we can hardly say that one person representing more than 42 per cent of the State is good representation for the people in that area. The differences in climate and landscape across the division are reflected in the range of average rural property sizes. They range from 5,000 hectares in the Wentworth and Carrathool local government areas to 54,000 hectares in the unincorporated area. The total area of grazing leases is approximately 30 million hectares, which includes 883,000 hectares of land where cultivation permits are in force.

The total area of agricultural leases is approximately 337,000 hectares. Another special feature of the Western Division is its land tenure. Like rangelands in other States and overseas, 95 per cent of the division has been retained as Crown land, with pastoralists holding leases in perpetuity rather than freehold title. These lands have been administered since 1901 under the Western Lands Act.

This bill also addresses access on roads and tracks made by leaseholders that, strictly speaking, are not public roads. The bill will allow the Minister to withdraw land from a Western lands lease without compensation—I do not believe there should be compensation, because better access will be provided for leaseholders. If land is being used as a road, the Minister can dedicate it as a public road. The key benefit is that it will absolve leaseholders of liability for accidents on public roads. That is a positive advantage—particularly with problems with insurance today—that would offset any issue about compensation. The bill will provide roads and easements for some 1,500 individual landholdings comprising approximately 5,000 leases.

It has been reported that the Western Division generates in excess of $1 billion in earnings each year and is home to more than 50,000 people. The Western Division has major problems with rainfall. The climate comprises high summer temperatures, low and erratic rainfall and evaporation rates that greatly exceed rainfall, together with its vast area. People who live in the area face challenges that people living in metropolitan areas of New South Wales do not experience. It is time that certain advantages flowed to those leaseholders.

This bill will allow appropriate freeholding of some leases, subleasing, and more flexible transfer arrangements. It will establish a Western Lands Advisory Council to advise the Minister on matters affecting the administration of the Western Division and to consult with citizens and interested groups on anything that affects the division. The Hon. Rick Colless and other members have said the council should comprise residents of the area and not so-called Pitt Street farmers or the Paddington Green environment committee. We support the bill.

The Hon. RICHARD JONES [9.29 p.m.]: As the Government briefing note claims, the Western Lands Amendment Bill deals with some issues arising from the Western Lands Review completed in 2000 by the Hon. John Kerin, but it does not by any means address them all. I and the peak environment groups of New South Wales had hoped that more of the recommendations of the Kerin report would receive legislative backing. We are disappointed that the Government has not taken the opportunity to include various measures in the bill. We are disappointed that the Government has not introduced a revised Western Division Resource Act. We are disappointed also to see the continued subsidising of Western Lands leases, which is often at the expense of the environment. This is an incredible oversight as the Western Division is a in precariously fragile state and cannot afford to wait any longer for major reform and the removal of these subsidies.

The Western Division has some of the least well-conserved bioregions in the country, and the western slopes were identified as one of the major areas of intensive land clearance between 1893 and 1921. Of course, that trend continues. In fact, a 150-kilometre wide area of land along the eastern and western boundaries of the Western Division and the northern wheat belt within the Central Division is still considered to be the most affected area within the State. The Resource Assessment Commission has estimated the rate of deforestation for the Western Division since 1986 at 80,000 hectares per year. Between 1984 and 1990, clearing licences were granted for over 640,000 hectares by the former Western Lands Commission, while another approximately 650,000 hectares of natural grasslands, scrub lands and previously cleared land were approved for extensive cropping activities from 1978 to 1990.

With the majority of present clearing in the area occurring in the higher rainfall sections of the 150-kilometre land along its eastern boundary, the Western Division is indeed in a precariously fragile state. The cost of native vegetation loss and the resultant land and water degradation are staggering. In national terms, land degradation costs Australia at least $2.5 billion per year in lost production, but the costs do not stop there. The maintenance of production levels and the rehabilitation of degraded land are also increasingly expensive. The cost of soil conservation measures within New South Wales increased from $44.9 million in 1988-89 to $57.6 million in 1990-91.

Soil that is lost because of erosion is not considered to be a renewable resource, as the estimated rate of its formation is so slow that it is deemed to be negligible in real terms. Considering that studies in the Western Division indicate that up to 209 tonnes of topsoil per hectare is lost annually—that is 12 centimetres every 10 years—land degradation resulting from land clearance is a real and serious problem. Native vegetation clearance contributes also to the disruption of ecological processes such as water cycles. Annual rainfall tends to decrease in areas of extensive land clearing, and water tables have been known to rise by between 10 centimetres and one metre per year, thereby causing major salinity problems.

Forest clearing for agriculture alone in 1986 was estimated to have contributed more than 27 per cent of Australia's total greenhouse gas emissions. However, the benefits of preserving native vegetation are numerous and compelling. Such vegetation serves to protect water resources; prevent salinity; control soil erosion; produce oxygen; absorb greenhouse gases; maintain biodiversity, rainfall, water tables, and water retention and quality; conserve genetic resources, sense of identity and place; form and protect soils; store and cycle nutrients; and provide shade, shelter and windbreak for stock and crops as well as emergency stockfeed during droughts and floods. It is neither economically nor ecologically viable to replant rather than retain native vegetation.

I understand that my colleague the Hon. Ian Cohen will move amendments in Committee to ensure that right-of-way easements cannot be created on land owned or managed by the National Parks and Wildlife Service; that the definition of "intensive agriculture" includes any activity that involves clear felling; that a clear definition of what constitutes "relocation" is inserted into the Act; that any decisions made on concessional rates must be reported in the budget; that the membership of the Western Lands Advisory Council will contain two Nature Conservation Council of New South Wales nominees to represent the interests of environment protection groups; that the objects of the Act are reordered and must be given priority in the order in which they are set out; that the Minister cannot convert grazing leases to agricultural or mixed-use leases; that the Minister must follow a process similar to other areas of New South Wales when changing land uses, that is, there must be a full assessment of the environmental impact; and that the five-year delay on rent increases for some properties is removed.

I urge honourable members to support those amendments. The National Parks and Wildlife Service is responsible for any access to national parks and nature reserves and, therefore, should be the body that decides whether easements for right of way should be allowed on the land owned or managed by it. The bill's definition of "intensive agriculture" is wanting as it does not include the full range of allowable activities that will have a

significant impact on the environment. For example, it does not include activities that involve clear felling. While the bill refers to rehabilitation, it fails to clarify the definitions of "permanent" and "temporary" rehabilitation, and does not include mechanisms for monitoring, auditing and reporting that are independent and publicly accountable.

The provision relating to concessional rent is also problematic as it leaves the issue to the Minister's discretion. This is unacceptable as it is neither transparent nor accountable. As other key non-government stakeholders, such as NSW Farmers and the New South Wales Aboriginal Land Council, are able to put forward nominees for the Western Lands Advisory Council, it is only reasonable for the peak environment group of the State to be able to do so as well, and in equal numbers. No doubt all honourable members of this House are aware that the Western Division has a unique and fragile ecosystem. Therefore, the object of the Western Lands Act needs to be prioritised and contain measures relating to environment protection, ecologically sustainable development [ESD], and integrated natural resource management.

Under this bill, grazing leases can be converted to agricultural or mixed-use leases with the permission of the Minister. This is unacceptable as it would allow the conversion of leasehold land to freehold land, which can act as the second step in a two-step process for converting grazing leases to freehold leases. The bill also gives the Minister total power over changes in the use of land in the Western Division. Given the uniqueness and fragility of the division's ecosystem, land-use changes within it should be subject to a full assessment of the impact on the environment. The five-year delay this bill puts on rent increases for some properties in the Western Division is unacceptable as it could result in less revenue rather than no change in revenue for up to five years.

I received extensive briefings from the Minister's office. Interestingly, the annual economic return to the people of New South Wales from rent paid for their grazing land in the Western Division is 0.6 per cent per year. This has been paid for a number of years, as the Hon. Rick Colless is aware. That is a 0.6 per cent return, not 6 per cent. That is a ludicrously low return for the people of New South Wales on their land. Agricultural leases have a 2.5 per cent return. Annual rent for the entire Western Division, the whole 30 million hectares, is $1.4 million a year, which is a very poor return— indeed, virtually nothing at all. It is not an economic rent. We are subsidising people to destroy the environment. That rent brings in very little of the gross annual return.

The calculation of rent is based on a sliding scale. If the land is cultivated, an additional amount of up to 10 times must be paid, or if it involves intensive horticulture, 60 times. The people of New South Wales then obtain a reasonable return. The average rent on these properties is $1,200 per year, which is $24 a week. That is ridiculously low. Of course, the annual rental increase is based on only 50 per cent of the consumer price index. The return on the land, which belongs essentially to the people of New South Wales—the 30 million hectares—is $1.4 million a year. That is ludicrous. Of course, that will increase gradually over the next few years. Although $1.4 million a year is being paid, it will gradually increase and ultimately provide a decent return to the people of New South Wales, as it should. We support the legislation, with amendments that we hope will be supported by the Government—perhaps not by the National Party—which will enable the bill to pass through this place rapidly. If people convert their land to freehold title—though we doubt any will, because it would be an expensive exercise—we hope they will look after the land as it should be looked after.

The Hon. IAN COHEN [9.38 p.m.]: The Greens recognise that the Western Lands area is unique: the people, the land and its uses, the environment and the climatic conditions. My colleague the Hon. Richard Jones certainly was fulsome in reporting on the difficulties in the Western Lands region. I concur with much of what he said about problems facing the farming community and also the fragility of the western lands, particularly regarding the state of the topsoil, salinity, and past practices that are not sustainable. I acknowledge that certainly the culture is changing and that much is being done to rectify past practices. The Greens acknowledge with some reservations the bill's attempt to implement the recommendations of the Western Lands Review. However, it does not go as far as it could to address the concerns raised by the review.

Updating the objects of the Act in line with contemporary legislation allows for consistency across the State. However, the Greens do have some concerns with the ordering of the objects, and will be proposing an amendment to the objects to make them more in line with the Water Management Act 2000. This will more adequately reflect that the Western Division has a unique and fragile ecosystem. The Act needs to acknowledge this. Clear ownership and access of public roads within the Western Division is essential. Any road that is being used by the public but is actually leasehold land leaves open the potential for liability problems. A system to provide clarification is obviously needed.

The Greens stand by the Government's position not to provide compensation for any leasehold land that is withdrawn by the Minister for the purposes of dedicating it as a public road. However, I understand the

Government is recognising and compensating impact on native title rights, and I would be interested to hear the Minister explain in reply how these issues have been raised and whether various indigenous representative bodies have been consulted on this proposal, given their obvious interests in the matter. One would expect that existing roads have been fenced and the creation of the easement will not cost any lessee additional money. In fact, the formal creation of public roads is in the interest of the lessee in that any possible liability is clarified, and as such any compensation would be contrary to the purpose of creating the easement.

Annual rents for rural holdings should reflect types of land use. The bill's provision to calculate rents based on cultivation, intensive agriculture and rehabilitation is reflective of environmental impact and profitability of leaseholders' land use. The Greens support this recognition of the significance of environmental factors and, as was clearly indicated by the Hon. Richard Jones, degradation and damage of the land that occurred in the past. The creation of the Western Lands Advisory Council attempts to involve peak stakeholder groups to advise the Minister on a range of issues relevant to the objects of the Act, administration of the Western Division and to act as a conduit of consultation with people and groups having an interest in matters affecting the Western Division.

I note the membership of the Western Lands Advisory Council, and I note that most stakeholder groups and government agencies are listed as being able to appoint representatives. I draw the attention of the House to the lack of an appointing body to represent the interests of the environment. In Committee I will move an amendment to specify that the Nature Conservation Council should be listed as that nominating body, as it is the peak stakeholder non-government environment group of New South Wales. I understand this specification is also supported by the New South Wales Farmers Association.

The Hon. Rick Colless: One position, not two. Your amendment seeks two positions.

The Hon. IAN COHEN: Perhaps that can be discussed in Committee.

Reverend the Hon. Fred Nile: You can't verbal the Farmers Association.

The Hon. IAN COHEN: I do not think I mention any number, but I will discuss that matter in Committee. I am also concerned that the bill allows the advisory council, even if constituted in part by a member who has a pecuniary interest—even if the member fails to disclose that interest—still to give effect to its decisions. I have had some discussion on this matter with the Minister's advisers. Though I appreciate it is an advisory body, I am nonetheless concerned that clause 6 (5) of new schedule 5—proposed to be inserted into the Act by item [2] of schedule 3—provides:

> A contravention of this clause does not invalidate any decision of the Western Lands Advisory Council or the exercise of any function under this Act.

I am concerned about such decisions of the council constituted by a member who has a particular pecuniary interest in the matter decided upon. I seek clarification from the Government on this matter. Either that person should be removed from the council when it makes such a decision, or there should be provision to negate those decisions of the council. I wish to address the House with respect to the conversion of grazing leases to agricultural leases or mixed-use leases. The Minister's office assures me that that is not an issue as far is this bill is concerned, but I would be interested to hear more on the matter from the Minister when he speaks in reply. I have concerns with the potential to convert leasehold to freehold, and will move an amendment in Committee to address this concern after I have discussions with representatives of the Nature Conservation Council and the Government. Other than that, the Greens support the bill.

The Hon. Duncan Gay: Do you own freehold land?

The Hon. IAN COHEN: I share ownership of freehold land, yes.

The Hon. Rick Colless: So you have joint ownership of freehold land?

The Hon. IAN COHEN: Yes.

The Hon. Duncan Gay: But you do not want Western Division people to have that ownership?

The Hon. Rick Colless: You do not want people whose families have been working on the land for four and five generations to have freehold land?

The Hon. IAN COHEN: I think there are other issues involved, and I will be open to discussion of those matters. I think the nature of my comments tonight show that I am open to other perspectives on the issue. I take the point that National Party members have a greater understanding of these western lands than most other members of this House. That does not mean I will agree with their perspectives.

The Hon. Ian Macdonald: What about the Aboriginals who occupied those lands for thousands of years?

The Hon. IAN COHEN: I think I have acknowledged that as well.

The Hon. Ian Macdonald: Maybe they should have freehold rights over the whole of the area.

The Hon. IAN COHEN: There is a very strong argument that they have certain rights in those areas, and I would not like to see them alienated. I acknowledge the subtle interjections from the Opposition, but I feel comfortable supporting the bill with the amendment that the Greens will move in Committee. I hope, in particular, that the issue of pecuniary interests of members serving on the advisory council will be resolved for me so that we can move on in good faith to give security of tenure on Western Lands, with adequate focus on the environmental and ecological issues, which are paramount to the survival of these extremely sensitive and in some cases extremely degraded lands.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [9.47 p.m.]: I support the bill. The Western Lands Amendment Bill will implement some of the recommendations in the final report by the Western Lands Review, chaired by John Kerin. Those recommendations were made in April 2000. The Western Lands Act 1901 has provided the basic legislative framework for the management of leasehold land in the Western Division for more than 100 years. The division as defined under the Act encompasses half the area of the State. It has a fragile ecosystem and a small human population relative to the rest of the State.

Increases in feral animal populations have created a marked change in the species composition in the division and an increase in land degradation. The bill will insert a section outlining the objects of the Act, including principles of ecologically sustainable development and the promotion of social, economic and environmental interests of the division, among other principles. This implements recommendation 2 of the Kerin review. Schedule 1 will insert a new section 35Q, to enable the Minister to gazette lands dedicated as public roads. Division 2 of new part 9C provides that the Minister may create easements for rights of way. This follows recommendations of the Kerin review that the Act should clarify leasehold access arrangements, remove ambiguity and be consistent with the defined public access system. The problem obviously is a difficult one. I would like to quote just some of the 10 recommendations:

> Overall, it is proposed that this set of arrangements will seek to achieve a vision of "Management of the Western Division to meet the current and future economic, social and cultural needs of its people and conserve its natural resources."
>
> The Present
>
> These changes are recommended because the situation in the Western Division is a difficult one. For a much more detailed understanding of these difficulties, I recommend the six consultant studies that were prepared for this Review (The consultant studies can be viewed at http://www.dlwc.nsw.gov.au/care/land/wlr/studies.html). Mining in Broken Hill is coming to an end, wool prices are depressed, woody shrub invasion is continuing, biodiversity is under pressure, and in many areas are resident population has been in decline for some time.

The Hon. Duncan Gay: Where did you get the idea that wool prices were depressed?

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Wool prices are no longer depressed. They were depressed in April 2000 when this report came out. I am quoting from the report. The report continues:

> Opportunities for growth and development exist in some areas but they are not uniform across the Division. Hopes for the development of tourism are expressed often but this opportunity is not sufficient to solve the problems faced by many. The financial situation in many areas is bleak. Considerable structural adjustment is to be expected.
>
> The major quest for Aboriginal people is access to land, not just for traditional and spiritual purposes but as a commercial base to enhance Aboriginal livelihood.
>
> It is reasonable to say that for the next five to ten years the people of the Western Division will head for a greater degree of welfare and government dependence because of declining or spasmodic international commodity prices, and the limited opportunities for alternatives, such as irrigation and tourism.

> There is a need for people to see beyond their sector and to creatively combine sectoral advantages and build on the unique characteristics of the Western Division, for example the pastoral and mining heritage. The provision of basic services is intrinsically more expensive and, apart from Broken Hill and a few other centres, tends to be of a lesser standard than for the rest of NSW (particularly regarding modern communication networks). Distance provokes educational disadvantage and expense for children, especially for secondary and tertiary studies. On the other hand, distance contributes to the uniqueness and character of the Western Division.

I take up the earlier interjection of the Deputy Leader of the Opposition that wool prices are no longer depressed—an issue of great economic benefit to the people of the Western Division. No-one would doubt that that is a difficult area to live in, given the geography, the distances and the resources. All power to the people there. This bill provides a framework that has been updated and that takes account of more recent concerns than the 1901 Act. We will certainly be looking at the Greens' amendments—amendments that have been suggested by some environmental groups to improve economic sustainability, which is an object of the Act. The legislative framework must be reinforced, and that is what those amendments will do.

Debate adjourned on motion by the Hon. Peter Primrose.

ADJOURNMENT

The Hon. IAN MACDONALD (Parliamentary Secretary) [9.55 p.m.]: I move:

> That this House do now adjourn.

DEATH OF Mrs NANCY CRICK

The Hon. IAN COHEN [9.55 p.m.]: Recently I attended the funeral of Nancy Crick, who featured quite prominently in the media of late. I want to make a few comments about that. I met Nancy Crick twice, once at a rally on the Gold Coast. She was a wonderful woman, very determined and with an earthy sense of humour. Nancy Crick was suffering. I know there has been some debate about what she was suffering from, but she had multiple operations for bowel cancer and she was in great pain. She made some clear decisions. First, she was a strong-minded woman and made her own decisions—in life and also to end her life. Second, she was not abused or bullied by anyone from the pro-euthanasia movement. Nancy went through a number of processes, including undertaking palliative care, which she was encouraged to do by Dr Nitschke and others. In the end, that was something she rejected. She said she received patches that no pensioner in Australia would be able to obtain, because they were just too expensive. She received top-quality palliative care.

She was in pain because she stayed off the drugs for fear of losing her mind and not being able to think straight. It was difficult for her because she felt that the greatest thing she had at that stage in her life was her active mind. She put herself in that bind. She was a champion for her campaign and a very brave woman. At the Gold Coast rally she was selling Nancy's Keys. I got one and I have it with me. Mine is No. 129. The card on which the key is mounted contains the following information:

> This key opens the front door of Nancy Crick's house.
>
> Nancy is dying of cancer and has invited people to be with her when she takes the legal step to end her life. She does not want to be alone.
>
> By purchasing this key you are making it clear that you support Nancy. Your actions will help to remove the barbaric legislation that forces people to die alone.

This was an initiative of EXIT (Australia). The card displaying the key is signed by Nancy. Nancy bravely attended the rally. I attended Nancy's funeral in Brisbane as a mark of respect and genuine regard for this very brave lady. She chose to shorten a life filled with intolerable pain, no matter how many drugs she took or operations she had. Nancy chose to die with self-control and dignity, a right that the great majority of Australians support but which is being denied them by a small minority of religious groups and politicians who lack the courage to take a stand on the issue. I introduced in this House the Voluntary Euthanasia Trial Referendum Bill, which would give voters the opportunity to voice their opinion on this issue once and for all at the next State election by way of a referendum. I believe the time has come for such a bill.

The bill asks New South Wales voters to cast another vote next March indicating whether they support a legally and medically supervised trial of voluntary euthanasia for 18 months. This would enable a rational, clinical assessment to be conducted. The trial is a trial—nothing more, and nothing less. In some ways the media treatment of Nancy Crick regarding the extent of her illness was very sad. Having spoken to Nancy, and to her

family at the funeral, I am convinced that she was in great pain and was finding the palliative care inadequate. As expressed by the tune that was played at Nancy's request during the funeral service, *I Did It My Way*, Nancy did it her way. She was a brave and wonderful woman; a pioneer with a strong spirit. Nancy's family supports the direction she took. Certainly many Australians consider Nancy to be a pioneer and a person to be greatly admired.

ADOPTION OF DECLARATION ON STATE SOVEREIGNTY OF THE RUSSIAN FEDERATION TENTH ANNIVERSARY

The Hon. AMANDA FAZIO [9.58 p.m.]: On Wednesday 12 June I had the pleasure of representing the Premier at the Russian Consulate in Sydney to celebrate the tenth anniversary of the Adoption of the Declaration on State Sovereignty of the Russian Federation, which was an important day for the people of the Russian Federation. This year the celebration of the anniversary of the sovereignty of the Russian Federation coincides with the sixtieth anniversary of the establishment of diplomatic relations between Russia and Australia, and the bicentenary of the Russian Foreign Ministry. Diplomatic relations between the Union of Soviet Socialist Republics [USSR] and Australia were established on 13 October 1942, during World War II. Appointed in the first diplomatic exchange between the two countries were Mr Andrei P. Vlasov as Minister for the USSR to Australia and the Hon. William Slater as His Majesty's Envoy and Minister Plenipotentiary for the Commonwealth of Australia to the USSR.

Although Russian-Australian official diplomatic ties are comparatively young, their beginnings date back to 1803, just a year after the establishment of the Russian Foreign Ministry by Tsar Alexander I in 1802. The first official correspondence between St Petersburg, London and Sydney was in connection with the first Russian circumnavigation. It was a letter from the Secretary of State for Colonies, Lord Hobart, to Governor Philip Gidley King dated June 1803. Initial personal contacts occurred in 1807 when the Russian sloop *Neva* reached Port Jackson, and Governor William Bligh received Captain Lieutenant L. A. Gagemiester. In the same year the future Governor of New South Wales, Lachlan Macquarie, travelled to Moscow and St Petersburg, and visited the Russian Foreign Ministry.

Macquarie's diaries of his 2½-month journey through Russia are an important historical document of that period. Macquarie's amicable dealings with the Russians he met, particularly with Russian naval officers, had a very fruitful continuation in his meetings with the Russian seafarers in Sydney in 1814 and 1820. The friendly rapport that existed between Australian and Russian representatives soon became traditional and included the Russian Consuls after their posts were established in Sydney and Melbourne in 1857. Names of at least two Consuls, E. M. Paul and N. P. Passek, need to be specially mentioned, as they participated along with the Russian naval commanders in the Centenary of the Foundation of New South Wales in 1888 and on the occasion of the proclamation of the Commonwealth of Australia in 1901. They left valuable memories of these historic events.

Beginning from the 1850s, there were gradually increasing inflows of Russian and Russian-speaking immigrants to Australia. This ultimately resulted in the creation of a large Russian community, which substantially contributed to building up the country's prosperity. The Russian community in New South Wales is significant, as is the contribution it has made to the State. New South Wales has one of the most culturally diverse societies in the world and we view our cultural diversity as an asset. Within Australia, New South Wales has the largest number of people born overseas. Approximately 40 per cent of people from the Russian Federation who have migrated to Australia live in New South Wales. In the period after the October revolution of 1917 until British recognition of the Soviet Union in 1924, bilateral relations between Australia and the Soviet Union were de jure ceased. In 1942, during the crucial time of World War 11, the Soviet Union and the Commonwealth of Australia agreed to open the embassies.

Notwithstanding the dramatic changes of the twentieth century, our two countries have never had complex problems which would prevent the development of bilateral ties for the long term. A new level of co-operation has been being built, particularly during the last decade, between the Russian Federation and Australia. The visit of Foreign Minister Alexander Downer to Moscow and his talks with Foreign Minister Igor Ivanov in February 2002 were a continuation of the active political dialogue on a broad spectrum of issues of a global character relating to strategic stability and the struggle against international terrorism, as well as on problems in the Asia-Pacific region. On most questions, the positions of Russia and Australia are similar, and the two side are actively co-ordinating their actions on the international scene.

In the economic sphere our bilateral relations are regulated by agreements on mutual trade and on avoiding double taxation. In the past few years the goods turnover between the two countries has been

developing, though the level achieved certainly cannot be viewed as sufficient for trade and economic relations of countries such as Russia and Australia. First of all, there exist many unutilised opportunities for Russian exports to Australia. It is gratifying that Australia and Russia are also becoming partners in space activities—the legal basis for which was created by signing the Agreement on Exploration and Use of Outer Space for Peaceful Purposes in 2001. Very wide opportunities exist in scientific, educational and cultural exchanges between individual business organisations and in many other spheres.

In review, the following significant events have occurred in recent times in the Russian Federation: on 12 June 1990 the Declaration of the State Sovereignty of the Russian Soviet Federative Socialist Republic was adopted by the Supreme Council; on 12 June 1991 the first President of Russia, Boris Yeltsin, was elected; following the dissolution of the USSR on 25 December 1991 the Russian Federation was renamed; and in 1992 12 June was officially proclaimed as the national holiday of the Russian Federation. As stated by the President of the Russian Federation, Vladimir Putin, who was elected on 26 March 2000, the Adoption of the Declaration on State Sovereignty marked the end of an epoch. The nature of Russia's state system and its political order has changed. A multiparty political system, property legislation, and independent mass media have started to develop. The years that have passed since the day of the adoption of the declaration are marked by democratic and economic changes and true federalism. [*Time expired.*]

HUNTER MEDICAL RESEARCH INSTITUTE

The Hon. PATRICIA FORSYTHE [10.03 p.m.]: I refer to the role of the Hunter Medical Research Institute [HMRI], which is an integral element of the dynamic that is the Hunter Valley in the twenty-first century. Newcastle and its region are today marked by innovation and change. The two largest employers are Hunter Health and the University of Newcastle. Together they form a synergy that is bound together in HMRI. The Hunter Medical Research Institute is Australia's only regional health and medical research institute. It is an umbrella organisation, uniting 300 researchers on seven sites with internationally competitive research strengths. The aim of the HMRI is to achieve international excellence in medical and health research. Honourable members will know of the pride with which I speak of Newcastle and, in particular, the university. The medical faculty has been pre-eminent among university medical faculties in Australia since its establishment. The development of the institute in 1988 was the logical next step in the development of Newcastle as a key medical research hub.

Like so many other aspects of life in Newcastle the HMRI is supported by the community and its firms in a way and to a level that must be the envy of many longer-established institutes. The institute's board, like its foundation, reads like the *Who's Who* of the community. The next challenge for the HMRI will be to extend into other parts of New South Wales and Australia. HMRI will give Novocastrians now living in other parts of the State an opportunity to give a little back. The next goal of the institute is the construction of a clinical research centre on the John Hunter Hospital campus. While that construction will offer opportunities for both the State and Federal governments to make a contribution, the institute will, I hope, be able to reach out to corporations and the community.

Research does not come cheaply but without appropriate buildings in which to work progress becomes more difficult. Last year the council of HMRI agreed on a set of principles for the distribution of infrastructure funding. This led to 10 research groups coalescing into five research programs that built on their areas of strategic strength in the clinical-biomedical areas. These are: cancer, particularly breast and colon cancer and melanoma; clinical neuroscience, mental health, stroke, brain imaging, and brain function at the cellular and molecular level; cardiovascular health, vascular biology, and cardiorespiratory reflexes; infections and immunity, mucosal immunity asthma, sexually transmitted diseases and vaccine development; and pregnancy and reproduction, particularly premature birth and fertilisation.

HMRI's public health researchers, working under the umbrella of the Newcastle Institute for Public Health, have identified three areas of strategic research focus: ageing, social determinants of health, and health services research. One of the advantages of HMRI's organisational model as a multicampus distributed research hub is that it can readily absorb new sites. The establishment by the University of Newcastle of health and medical teaching centres in Gosford, Tamworth and Orange has been significant in enhancing new opportunities for research in regional New South Wales. I am sure the House joins me in congratulating the institute on its achievements so far and will assist me in promoting the achievements of what is not only Australia's only regional health and medical centre but a significant contributor to improving health outcomes in regional and rural New South Wales.

ASYLUM SEEKERS

The Hon. DAVID OLDFIELD [10.07 p.m.]: My speech tonight is prompted by a recent fundraiser held in Parliament House by an organisation that calls itself Just And Fair Asylum. The people who attended that function would largely fall into the following categories: communists, chardonnay socialists, the well-meaning but ill-informed and those of misplaced sympathy incapable of making rational judgments of human misfortune. Those seeking asylum in Australia have always been treated justly and fairly even though many fail to be grateful for being housed, clothed and fed at no cost to themselves, far from any danger.

It is outrageous the way Australia has been singled out as being unjust and inhumane in the treatment of asylum seekers, many of whom in reality are merely illegal immigration opportunists passing themselves off as refugees. It is disgraceful that the United Nations would send to us an inspector from a country where poverty and human rights violations are the cultural norm—a place where unwanted wives are surrounded by tyres and set on fire. We should all be sick and tired of primitive, corrupt, violent, third-world countries hypocritically setting themselves up to judge anyone anywhere through the United Nations or any other means. These people couldn't run a bath and mostly don't. In many respects they are the unwashed of political appointees living high on international travel while the people of their own countries languish in despair. How dare they judge other nations!

The Swiss Federal Police recently reported that nearly half of all serious crime in Switzerland, including murders and armed robberies, are committed by non-resident foreigners. Only a couple of weeks ago the Swiss Justice Minister, Ruth Metzler, said, "The growing number of asylum seekers in Europe and the ever louder calls for tougher measures on immigration made it imperative for Switzerland and its neighbours to impose more regulations." The first world is getting fed up with fake refugees travelling asylum class and there are moves everywhere to address the millions of illegal immigrants who have illegitimately taken up residence and abused the benevolence of countries all around the world.

The Italians are continuing their crime crackdown—much of the crime is attributed to illegal immigrants and the Italian Government is working on a new immigration bill to make it harder for immigrants to enter the country and easier for the Government to kick them out. In between time, thousands of illegal immigrants have been rounded up in what Prime Minister Silvio Berlusconi described as "a new model of fighting crime". The Italian Prime Minister described the invaders as "the evil army". They are being expelled in large numbers. Only a few weeks ago 350 of these people were forcibly placed on planes and flown to their country of origin.

The Portuguese have just announced their intention to strengthen Portugal's laws on immigration by imposing quotas and expelling illegal immigrants. The Danish intend to introduce travel restrictions on refugees, delay their eligibility for permanent residence permits for seven years, and restrict the practice of granting humanitarian asylum. The Danes are about to take over the presidency of the European Union but, on the subject of Swedish criticism of a toughening immigration stance, Danish Prime Minister Anders Rasmussen said, "No outsider, Swedish or otherwise, has the right to meddle in the country's internal affairs."

Even New Zealand has just tightened the criteria for gaining permanent residency, amid claims of unplanned and uncontrolled immigration. In Norway last year 3,000 so-called asylum seekers disappeared from temporary immigration reception centres. It is no wonder the captain of the Tampa did not want to take his asylum-class tourists back to Norway. In the last three years over 150,000 so-called asylum seekers ordered to leave the United Kingdom have absconded into the community and the Home Office does not know where they are.

The British report that many are thought to have assumed false identities to take jobs, claim benefits or both—apparently an easy and simple thing to do. The British Government is now urging the European Union to make the award of aid to developing countries conditional on their co-operation in cracking down on illegal migration. Funnily enough, this is exactly the approach I have previously suggested. Why should Australian taxpayers give Indonesia more than $120 million a year when the Indonesians openly aid and abet in the use of their country as a departure lounge for asylum-class tourists stopping over on their way to Australia?

ABORIGINAL RECONCILIATION

The Hon. IAN WEST [10.12 p.m.]: The dispossession of the Aboriginal people of Australia began here 214 years ago, and this Parliament made laws that fostered the systematic and unnecessary destruction of

Aboriginal communities. The voices of those who knew we were doing wrong have continued to rise in protest since that time. Former Governor-General Sir William Deane said:

> There will be no true reconciliation until it can be seen that we are making real progress towards the position where the future prospects—in terms of health, education, life expectancy, living conditions and self-esteem—of an Aboriginal baby are at least within the same area of discourse as the future prospects of a non-Aboriginal baby.

The ridiculous assertion, made by a few whose sad ignorance and blind hate cannot be logically fathomed, that Aboriginals are a privileged group in Australia is a continuation of an attitude which owes much to the colonial mindset—mean, insecure, indifferent, guilty, in denial, supporting the concept of terra nullius. On the weekend I became aware that "Guboo" Ted Thomas, the last initiated tribal elder of the South Coast, had returned to the Dreaming, having passed away at the age of 93 in May this year. Guboo's work in developing mutual respect and understanding, and in the renewal of the Spirit and the Dreaming, was prolific and ongoing. In his own words:

> The earth is our mother.
> When I die I'm going down there.
> When you die you're coming too!
> And what are you doing for the earth—for the mother?

Guboo's accomplishments speak volumes about his commitment to Australia and his achievements in making Aboriginal spirituality relevant to the twenty-first century. Through his work with the Institute of Aboriginal Studies an invaluable record of sacred sites along the New South Wales coast was established. In 1979 Premier Neville Wran ordered a cease to logging on the Mumbulla Mountain south of Bermagui. This led to a significant land rights settlement in New South Wales. Guboo's re-enactment of a 350-kilometre Dreamtime walk from Malacoota on the Victorian border to the Hawkesbury River during the Bicentenary with a group of koori kids from broken homes demonstrated a personal vision guided by hard work, spirituality, respect and love for our planet.

Guboo wanted the Dreaming to enrich the lives of all Australians and devoted the rest of his life to being a catalyst for a worldwide return to selfless ancient values. On religion, Guboo went to the United Nations and urged the World Council of Churches to accept indigenous religions. Subsequently he became a member of the Baha'i faith, emphasising the spiritual unity of humankind of all religions. For the remainder of his life Guboo held "Dreaming Camps" around Australia and overseas. I join with the sentiments expressed by Guboo, who was fond of saying, "Always remember, the best is yet to come."

In May I had the opportunity to visit some areas of State and national significance, along with a number of my parliamentary colleagues. We travelled to Echuca, Swan Hill and Hay and met with representatives from Moama, Wamba Wamba and Hay Aboriginal land councils and also representatives of the Balranald Aboriginal community. We visited the Yorta Yorta people and their "Keeping Place Museum". We also visited Wamba Wamba Mission and some recent acquisitions to the housing infrastructure on the Murrumbidgee River, which were provided under the Aboriginal Land Fund.

To paraphrase the negotiating principles used by the Yorta Yorta peoples: The progress being made in these communities is testimony to what can be achieved when everyone recognises that the indigenous and non-indigenous peoples of New South Wales are all here to stay; that the movement towards reconciliation between indigenous and non-indigenous Australians is unstoppable and has wide public support; that litigation over native title will not settle detailed and practical issues satisfactorily—it is up to the people at the coalface; and that negotiation between indigenous people and government is the best method of reaching workable agreements for lasting partnerships.

I look forward to continuing the work of learning indigenous and non-indigenous approaches to life in the expectation that through understanding will come respect and tolerance, renewal and hope. Perhaps, with that, Australia will emerge truly united, celebrating its Aboriginal heritage, and respecting the mother land and all its peoples. I also acknowledge Reconciliation Week from 27 May to 3 June 2002, which was the "Journey of Healing", and that 3 June marked 10 years since the High Court Mabo decision.

TREASURY MANAGED FUND RISK MANAGEMENT PROCEDURES

The Hon. Dr BRIAN PEZZUTTI [10.17 p.m.]: I wish to speak about the issue of risk assessment and risk adjustment to reduce injuries to people due to health interventions. This week I was given an answer to a question I asked in the Chamber about the Treasury Managed Fund. As honourable members will remember, in

December last year the Minister for Health, the Hon. Craig Knowles, assumed the State's responsibility for any injury occurring to a public hospital patient where there is a risk that a visiting medical officer would be responsible. He already covered the costs of any other health worker within his Health portfolio. The doctors had to sign a clause acknowledging that they would be part of the risk management processes.

To that end I asked the Treasurer whether the Treasury Managed Fund had received reports relating to visiting medical officers, and whether the Treasury Managed Fund had been properly assessed. He assured me that there had been 208 incidents reported to the Treasury Managed Fund as of this month and that the fund had sufficient monies to cover them. I wrote a press release saying that the time had come to look not at professional indemnity insurance but at how we can prevent injuries to patients. I am drawn to a whole series of editorials and other articles in the *Medical Journal of Australia* dealing with the human element of adverse events. One states:

> Morbidity due to healthcare appears to be a major public health problem … The major categories of human error, accounting for over 70% of AEs, were:
>
> - Failures in technical performance;
> - Failure to decide and/or act on available information;
> - Failure to investigate or consult; and
> - A lack of care or failure to attend.

We certainly should not accept such high levels of iatrogenic injury, much of which is preventable. As welcome as initiatives are, the pace of change nevertheless seems slow, given the stark message of the original quality studies four years ago. These findings in Australia show that each year 50,000 Australians are permanently disabled and 18,000 die, partly as a result of their health care. While one could argue with those numbers, they are still substantial. Since then, thousands more Australians have presumably been injured and died through deficiencies in the health care system—I repeat the word "system". In its interim report the National Expert Advisory Group pointed out that the extrapolated potential saving from adverse outcomes in 1995-96 would be $4.17 billion. It is tragic if the lack of care revealed as causes of these adverse events ultimately also applied to the professionals and government bodies responsible for prevention programs.

Another major analysis was done in 1999; the conclusion was that the cause of adverse events or errors leading to adverse events can be characterised as human error, with human error as a major cause. The failure to synthesise, decide or act on available information, and the failure to request or arrange investigation, procedure or consultation are important, and most common errors are the complication or failure in the technical performance of an indicated procedure or operation. The importance of timeliness to the quality of health care led to further analysis of all the adverse events to ascertain the nature and role of delay in their causation. Delays contributed to 20 per cent of adverse events. Importantly, the events with delay categories were judged to have been highly preventable.

I belong to the College of Anaesthetists, which for a long time has led the medical field in reducing the number of adverse events. I believe the Minister should put a lot more money into adverse event prevention. Most importantly, with the new process of picking up the cost, the Treasury Managed Fund must show a major commitment towards risk management procedures. We must get rid of the blame culture of litigation and look at how we will solve the problems of adverse events.

Adverse events that are preventable should be prevented. We will only prevent them if we have a blameless culture, a culture in which we look at every adverse event, find out why it happened, find out what we can do to prevent it, and then put systems in place that will stop it. For example, there have to be about 4.5 single errors for a death to occur under anaesthesia. Most of these are systemic errors. Canterbury Hospital was the best example of systemic errors that I have told the House about: 32 single errors must happen before persons are injected with the wrong drug in the wrong hospital, with harm coming to them.

GUN CONTROL

Ms LEE RHIANNON [10.22 p.m.]: On Tuesday this week another person was shot dead, another tragic loss of life. For a Government that has law and order at the top of its election agenda, one would think that eradicating gun violence would be a priority of the Premier, the Attorney General and the Minister for Police. In commenting on this state of affairs, the New South Wales Convener for the National Coalition for Gun Control, Ms Sam Lee, said:

> It is hard to believe in a State like New South Wales where there has been a 400% increase in the number of incidents involving handguns, where over 3000 firearms have been stolen from legitimate gun owners since 1998 (800 per year) with 76% of these stolen from home dwellings, that neither the Premier or Police Minister are willing to discuss this problem.

The Premier's refusal to date is disappointing because in the past he has shown an understanding of the need for stronger gun control. After the Premier had met three fathers of children slain in the Dunblane massacre in Scotland, in which the gunman used a hand gun, he was reported in an article in the *Daily Telegraph* of 19 April 1997 as saying:

> [Handguns] could well be a disaster waiting to happen … we would carefully listen to anyone arguing that the effectiveness of existing controls was flawed and react if they made a case.

Ms Sam Lee continued her comments:

> The only thing we are asking of the government is for some consistency in State firearm laws. Why ban one semi-automatic in 1996, but refuse to ban another in 2002? The only answer I can think of is that Carr is doing deals with the Shooters Party and deals with peoples' lives.

I call on the Premier and the Minister for Police to meet with Ms Sam Lee and representatives of the National Coalition for Gun Control. They should show compassion, and work to save lives and make our community safer.

Motion agreed to.

The House adjourned at 10.25 p.m.
until Tuesday 18 June 2002 at 2.30 p.m.