

LEGISLATIVE COUNCIL

Tuesday 24 June 2003

The President (The Hon. Dr Meredith Burgmann) took the chair at 2.30 p.m.

The President offered the Prayers.

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

COMMISSION TO ADMINISTER THE OATH OR AFFIRMATION OF ALLEGIANCE

The PRESIDENT: I report the receipt of a commission authorising me as President of the Legislative Council to administer from time to time as occasion may require, to any member of the Legislative Council, the oath or affirmation of allegiance to Her Majesty the Queen.

The Clerk read the Commission.

The PRESIDENT: I report also the receipt of a commission authorising the Chairman of Committees, in my absence, to administer from time to time as occasion may require, to any member of the Legislative Council, the oath or affirmation of allegiance to Her Majesty the Queen.

The Clerk read the Commission.

ASSENT TO BILLS

Assent to the following bills reported:

City of Sydney Amendment (Electoral Rolls) Bill
Local Government Amendment (National Competition Policy Review) Bill
Crimes Amendment (Sexual Offences) Bill
Victims Legislation Amendment Bill

BILLS RETURNED

The following bills were returned from the Legislative Assembly without amendment:

Gene Technology (New South Wales) Bill
Gene Technology (GM Crop Moratorium) Bill

AUSTRALIAN CRIME COMMISSION (NEW SOUTH WALES) BILL

BAIL AMENDMENT BILL

NURSES AMENDMENT BILL

VALUATION OF LAND AMENDMENT (VALUER-GENERAL) BILL

PACIFIC POWER (DISSOLUTION) BILL

CANCER INSTITUTE (NSW) BILL

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL

HUMAN CLONING AND OTHER PROHIBITED PRACTICES BILL

RESEARCH INVOLVING HUMAN EMBRYOS (NEW SOUTH WALES) BILL

Bills received.

The PRESIDENT: Order! Is there any objection to leave being granted for procedural motions for the first reading, printing, suspension of standing orders and fixing of sitting day for second reading of the bills to be dealt with on one motion without formalities?

Ms Lee Rhiannon: Objection is taken with regard to the Australian Crime Commission (New South Wales) Bill, the Bail Amendment Bill and the Pacific Power (Dissolution) Bill.

NURSES AMENDMENT BILL**VALUATION OF LAND AMENDMENT (VALUER-GENERAL) BILL****CANCER INSTITUTE (NSW) BILL****STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL****HUMAN CLONING AND OTHER PROHIBITED PRACTICES BILL****RESEARCH INVOLVING HUMAN EMBRYOS (NEW SOUTH WALES) BILL**

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

Motion by the Hon. John Della Bosca agreed to:

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

Bills read a first time.

AUSTRALIAN CRIME COMMISSION (NEW SOUTH WALES) BILL

Bill read a first time.

Motion by the Hon. John Della Bosca agreed to:

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

Second reading to stand as an order of the day.

BAIL AMENDMENT BILL

Bill read a first time.

Motion by the Hon. John Della Bosca agreed to:

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

Second reading to stand as an order of the day.

PACIFIC POWER (DISSOLUTION) BILL

Bill read a first time.

Motion by the Hon. John Della Bosca agreed to:

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

Second reading to stand as an order of the day.

POLICE INTEGRITY COMMISSION**Report**

The President announced the receipt, pursuant to the Police Integrity Commission Act 1996, of the report from the Inspector of the Police Integrity Commission entitled "Report on the Practices and Procedures of the Police Integrity Commission", dated June 2003.

The President announced that she had authorised that the report be made public.

GENERAL PURPOSE STANDING COMMITTEE NO. 3**Report: Independent Commission Against Corruption Reference Response**

The President tabled further correspondence dated 18 June 2003 from the Commissioner of the Independent Commission Against Corruption relating to the referral to the commissioner of Report No. 10 of General Purpose Standing Committee No. 3, entitled "Inquiry into Aspects of the Department of Corrective Services".

The President announced that copies of the correspondence were available from the Clerk.

BUSINESS OF THE HOUSE**Order of Business****Motion by the Hon. John Della Bosca agreed to:**

That Questions commence at 3.00 p.m. on Tuesday 24 June 2003.

STANDING COMMITTEE ON SOCIAL ISSUES**References****Motion by the Hon. Tony Kelly agreed to:**

1. That the Standing Committee on Social Issues inquire into and report on the following matters referred to the Committee in the previous Parliament and not disposed of:
 - (a) inquiry into community housing, and
 - (b) inquiry into early intervention into learning difficulties.
2. That in considering these references the Committee may review any evidence, submissions, documents and records of the previous Parliament.

**ROADS AND TRAFFIC AUTHORITY AND CROSS CITY MOTORWAY CONSORTIUM
CONTRACT DOCUMENTS****Motion by Ms Lee Rhiannon agreed to:**

1. That, under Standing Order 18, there be laid on the table of the House by 5.00 p.m. on 8 July 2003, and made public without restricted access, the following documents, excluding any photographs, technical drawings, maps, plans, designs or specifications, in the possession, custody or power of the Roads and Traffic Authority (RTA):
 - (a) the contract between the RTA and the Cross City Motorway Consortium (CCM), signed in December 2002, to finance, construct, operate and maintain the Cross City Tunnel,
 - (b) any documents subsequent to the successful tender by CCM relating to contract negotiations between the RTA and CCM concerning the financing of the project,
 - (c) any document which records or refers to the production of documents as a result of this order of the House.
2. That an indexed list of all documents tabled under this resolution be prepared showing the date of creation of the document, a description of the document and the author of the document.
3. That anything required to be laid before the House by this resolution may be lodged with the Clerk of the House if the House is not sitting, and unless privilege is claimed, is deemed for all purposes to have been presented to or laid before the House and published by authority of the House.
4. Where a document required to be tabled under this order is considered to be privileged and should not be made public or tabled:
 - (a) a return is to be prepared and tabled showing the date of creation of the document, a description of the document, the author of the document and reasons for the claim of privilege,
 - (b) the documents are to be delivered to the Clerk of the House by the date and time required in paragraph 1 and:
 - (i) made available only to Members of the Legislative Council,
 - (ii) not published or copied without an order of the House.

5. (a) Where any member of the House, by communication in writing to the Clerk, disputes the validity of a claim of privilege in relation to a particular document, the Clerk is authorised to release the disputed document to an independent legal arbiter, for evaluation and report within 5 days as to the validity of the claim.
- (b) A dispute may relate to the whole or part of a document.
- (c) The independent legal arbiter is to be appointed by the President and must be a Queen's Counsel, a Senior Counsel or a retired Supreme Court Judge.
- (d) A report from the independent legal arbiter is to be lodged with the Clerk of the House, and:
 - (i) made available only to members of the Legislative Council,
 - (ii) not published or copied without an order of the House.

TABLING OF PAPERS

The Hon. John Hatzistergos tabled, pursuant to the Crimes (Administration of Sentences) Act 1999, the report entitled "Review of the Office of the Inspector-General, Department of Corrective Services", dated May 2003.

Ordered to be printed.

AUDIT OFFICE

Reports

The Clerk announced the receipt, pursuant to the Public Finance and Audit Act 1983, of the following performance audit reports:

NSW Police—The Police Assistance Line, dated June 2003
Roads and Traffic Authority—Delivering Services Online, dated June 2003
State Rail Authority—The Millennium Train Project, dated June 2003.

The Clerk announced that it had been authorised that the reports be printed.

MILLENNIUM TRAINS

Return to Order

The Clerk tabled, pursuant to the resolution of the House of Wednesday 7 May 2003:

- (1) Additional documents relating to the Millennium trains received on Friday 6 June 2003 from the Director-General of the Premier's Department and referred to in paragraph 1 of the resolution of the House, together with an indexed list of the documents.
- (2) A return identifying documents received on Friday 6 June 2003 from the Director-General of the Premier's Department and referred to in paragraph 4 of the resolution of the House, which are considered to be privileged and should not be made public or tabled. According to the resolution of the House, the Clerk advised that the documents are available for inspection by members of the Legislative Council only.

MILLENNIUM TRAINS

Production of Papers

The PRESIDENT: Order! On Wednesday 7 May 2003 the House ordered the production of papers in relation to Millennium trains. On Tuesday 27 May 2003 the Director-General of the Premier's Department lodged with the Clerk two categories of documents, namely: (a) documents to be made public, and (b) documents considered privileged and not made public, and which are available only to members of the Legislative Council. Two indexed lists of documents, separately listing those documents "for which privilege is not claimed" and those "for which privilege is claimed", were also provided. This is in accordance with established practice for returns to order.

On 12 June 2003 the Hon. Greg Pearce MLC wrote to the Clerk advising him that some documents that had been produced by the Rail Infrastructure Corporation [RIC], including the draft performance audit report on the Millennium trains project and related documents, had been included in the index listing documents in

relation to which privilege is not claimed. However, the documents in question had been delivered in a box which was marked "Millennium Trains Standing Order 18 Privileged Documents Box 4 Draft Auditor General's Report" and had therefore been kept with the privileged documents and not made available for public inspection. The Hon. Greg Pearce submitted that privilege had not been claimed in relation to the documents and that they should therefore be placed with the documents available for public inspection.

Having contacted the Premiers Department in relation to the status of the documents, the Clerk received correspondence indicating that, while a claim of privilege had not been made in relation to the documents, RIC now wished to make such a claim on the grounds of public interest immunity, claiming that the documents were "audit-in-confidence material". Although not a dispute as to the validity of a claim of privilege but rather a question as to whether a claim of privilege had in fact been made, for abundant caution the Clerk wrote to Sir Laurence Street to seek his advice in this matter. Sir Laurence's written advice on this matter was received on 16 June 2003. Sir Laurence concluded that the documents should "simply be placed with the unprivileged material regardless of the title on the box".

Following receipt of Sir Laurence's advice, at approximately 4 p.m. on 16 June 2003 the Clerk placed the documents in question with the documents available for public inspection. It should be noted that the draft performance audit report and related documents were also produced by the Transport Co-ordination Authority, with a claim of privilege on the grounds of public interest immunity. However, this does not affect the status of the documents produced by RIC without a claim of privilege and made available for public inspection as outlined.

PETITIONS

Age of Consent

Petition supporting a uniform age of consent of 18 for both boys and girls and increased criminal penalties for sexual predators, opposing legislative retrospectivity, and praying that these issues be dealt with separately, received from **the Hon. Duncan Gay**.

Broadwater Biomass Electricity Co-generation

Petition praying that the House ensure that the development application for a proposed biomass electricity co-generation facility for Broadwater village not proceed until a comprehensive environmental impact statement is submitted, received from **the Hon. Christine Robertson**.

Drug Reform

Petition praying that the House oppose certain recommendations of the Drug Summit and introduce drug reform through a fivefold strategy of coercive residential rehabilitation, free naltrexone treatment, and medical panel to assist the Drug Court, co-operation between law enforcement and parents of addicts, and random drug tests, received from **Reverend the Hon. Fred Nile**

Hastings River Commercial Fishing

Petition opposing any reopening of the Hastings River to commercial fishing, received from **the Hon. John Tingle**.

Pursuant to resolution business interrupted.

QUESTIONS WITHOUT NOTICE

MILLENNIUM TRAINS

The Hon. MICHAEL GALLACHER: My question without notice is directed to the Minister for Transport Services. What action has the Minister taken to ensure that the costs associated with having an EDI technician on every Millennium train are not being borne, either directly or indirectly, by New South Wales taxpayers and instead are being borne directly by EDI?

The Hon. MICHAEL COSTA: It is good to see that the Leader of the Opposition is interested in and has asked a question about the Millennium train. I was starting to worry that the Leader of the Opposition in the lower House had become the transport spokesperson. Honourable members would be aware that last week I met with EDI management—the manufacturers of the Millennium train—and with State Rail Authority management at the Cardiff workshops. I was able to meet with both delegates and workers. I made it clear—as I have made it clear in the past—that the problems associated with the Millennium train did not relate to the quality of workmanship of the Hunter work force.

The Hon. Duncan Gay: You are going to start another class war—workers against boss. You have run out of people to blame.

The Hon. MICHAEL COSTA: I will make sure that the comments of the Deputy Leader of the Opposition about the quality of workmanship are conveyed to the Hunter work force. Components that have been manufactured in Australia comply with world standards. The Hunter work force is doing a first-class job.

[*Interruption*]

I acknowledge the Hon. Greg Pearce's criticism of members of the work force and I will convey to them his comments about the problems associated with the Millennium train. Management of State Rail, EDI and I discussed a number of matters relating to the teething problems of the Millennium train.

[*Interruption*]

I again acknowledge the interjection of Dennis Denuto. The only problem is that I have more knowledge about this matter than he has.

The Hon. Don Harwin: Point of order: The Minister knows full well that he should refer to honourable members by their proper title and not by the sort of epithet he was using. I ask you to ask him to observe the sessional orders.

The PRESIDENT: Order! The Minister will return to answering the question.

The Hon. MICHAEL COSTA: As I was outlining before I was interrupted, the fact is that there are teething problems.

The Hon. Greg Pearce: There are record numbers of defects!

The Hon. MICHAEL COSTA: Is that a galah? The Hon. Greg Pearce is sounding like a galah now. I am happy to answer the question if the Opposition—

The PRESIDENT: Order! I ask members to keep their chatter to a minimum.

The Hon. MICHAEL COSTA: As I understand it, the question was specifically about whether the cost of the changes negotiated last week will be borne by taxpayers or, specifically, the technician. Although I released details last Friday, if members opposite want an answer, I am happy to give them an answer about that. A number of matters were discussed at the meeting, including issues relating to the training regime and the testing regime for the trains. Currently, the trains are tested—

The Hon. Duncan Gay: Who is paying for it? It is a simple question.

The Hon. MICHAEL COSTA: I am happy to answer the question. If members opposite continue to interject, the time will expire and they will not get an answer. [*Time expired.*]

NSW FISHERIES FIELD OFFICERS

The Hon. AMANDA FAZIO: My question is directed to the Minister for Agriculture and Fisheries. Will the Minister advise the House on the recent appointment of women in NSW Fisheries field positions?

The Hon. IAN MACDONALD: I thank the Hon. Amanda Fazio for an important question about women working in NSW Fisheries officer positions. The type of work associated with fisheries compliance was

once considered a man's job. Historically, the fishing industry has been a male-dominated industry. However, these attitudes are fast changing, and just as many women as men are now competing for Fisheries officer positions. I am pleased to advise the House that both regional and metropolitan New South Wales are benefiting from the recruitment of 12 Fisheries officers, 6 of whom are women. These officers have been employed to enforce the State's fishing rules and to advise both recreational and commercial fishers about these rules, conservation issues and any other fisheries management-related questions.

Fisheries officers are the people who interact most with the community and the commercial fishing industry. They play an important role in deterring illegal activities and making sure that the community is aware of fishing rules and why they are in place. They provide an invaluable service to local communities. They are trained in key specialist areas, including sea safety, conflict management, effective fisheries management, licensing, legislation and fish identification. These skills are essential to work effectively, ethically and safely, both in field-based compliance operations and in regional offices across the State. The new recruits are already on the ground in their new jobs. A career with NSW Fisheries is both challenging and rewarding.

The Hon. Melinda Pavey: Especially with you as Minister.

The Hon. IAN MACDONALD: Very much so. I wish them all success in their careers.

ALBURY AND WODONGA AMALGAMATION

The Hon. DUNCAN GAY: My question is addressed to the Minister for Local Government. At what stage is the intergovernmental task force set up by the New South Wales and Victorian governments to review the Sinclair report into the one city proposal for Albury and Wodonga? Has the working group ever met? Who is the new New South Wales co-chair of the task force following the elevation of the Hon. John Hatzistergos to the ministry? How much has the working group cost to support, and has it delivered any recommendations to government?

The Hon. TONY KELLY: That is a good question from the Deputy Leader of the Opposition. I will take it on notice, and I will confer with my colleague and report back to the House.

STAMP DUTY

The Hon. DAVID OLDFIELD: Given the understandable absence of the Treasurer, I address my question to the Hon. John Della Bosca. What concerns does the Treasurer have for the ongoing media highlighting of the unjustifiably high level of stamp duty on family homes? Will the Government acknowledge that stamp duty is an ever-increasing impost on home buyers and investors, and that it is unfair for the Government to capitalise on escalating real estate values? Will the Government ease the burden on New South Wales home buyers and investors while also setting an appropriate example for the other States by, at the very least, reducing stamp duty to a level more in line with revenue expectations prior to the real estate boom of recent years? Given that taxes such as stamp duty, payroll tax and land tax are cynical revenue-raising exercises that are difficult to uphold, will the Government consider a complete overhaul of State taxation so that as much tax as possible can be transparently linked to public costs?

The Hon. JOHN DELLA BOSCA: I thank the honourable member for his budget speech. This is one occasion when I am sorry that the Hon. Michael Egan is not here, because I am sure he would be able to give a great answer to that question. However, according to longstanding conventions, such questions relate directly to revenue issues in the budget and must be asked after the Treasurer has delivered the budget.

SUPPORTED ACCOMMODATION ASSISTANCE PROGRAM

The Hon. PETER PRIMROSE: My question is directed to the Minister for Community Services. Will the Minister inform the House about what the Department of Community Services is doing to assist homeless people or those at risk of homelessness in New South Wales?

The Hon. CARMEL TEBBUTT: I thank the Hon. Peter Primrose for his important question. Homelessness is something that the Government members of this House and members of the community are concerned about. The Government provides support for people in crisis and at risk of homelessness through a range of programs, but particularly through the Supported Accommodation Assistance Program [SAAP]. The SAAP is a \$107 million joint State-Commonwealth initiative that has been operating since 1985. In New South

Wales the SAAP is part of our early intervention and prevention work that aims to support families and keep them together when possible. In 2001-02 the SAAP supported at least 26,000 men, women and children across New South Wales who found themselves in crisis. This was achieved through 400 funded services across the State, including emergency and longer-term refuges for families in crisis, women and children escaping domestic violence, young people unable to live at home, and single men and women.

The SAAP services do not just provide a room for the night. They provide outreach, advocacy and living skills for their clients. They also link clients with other services, such as health, housing and aged care. Since 1985 the SAAP has evolved from a focus on providing a safe bed for the night to providing a diverse range of services that are focused on meeting client needs primarily through case management. The current round of joint funding, known as SAAP4, has its focus on four key outcomes: contributing to a reduction in homelessness; promoting independence, choice and self-reliance; providing crisis responses that respond to the changing pattern of need for SAAP clients; and increasing partnerships with other services. In New South Wales the Department of Community Services has worked consistently with the non-government sector to improve the way that clients are supported when they find themselves in crisis, including initiatives such as the development of case management guidelines and standards, providing training for workers in SAAP services; and working with SAAP services to improve flexibility and responsiveness so that clients with complex needs, such as alcohol and/or drug dependence or mental health issues, can find services.

As I said, this work has always been done in partnership with non-government organisations. The work of non-government organisations was specifically recognised when the Government contributed an additional \$11 million to cover wage increases for workers in the sector under the Social and Community Services Award. The Government is continuing to work with the SAAP sector to address issues of services viability and ongoing reform. As I have previously indicated to the House, the Government has also been carefully examining ways to improve co-ordination and to facilitate better linkages between the SAAP and the overall homelessness reforms led by the Department of Housing, including the proposed move of the administrative responsibility for the SAAP from the Department of Community Services to the Department of Housing. I can report to the House that, after close consideration and consultation with the non-government sector, the administrative responsibility for the SAAP will remain within the Department of Community Services. I know this will be well received by many people, including non-government providers of the SAAP services.

Both the Minister for Housing and I, together with our respective agencies, will continue to work together to improve co-ordination and the options available for clients of the supported accommodation assistance program so that they can move into independent living. It was always that desire to achieve more seamless service delivery between SAAP and the Department of Housing that motivated any reform put forward by the Government in this area. The Government is committed to dealing with homelessness, a complex issue that we recognise requires a whole-of-government response. Through the Partnership Against Homelessness, for which the Department of Housing is the lead agency, all agencies across the Government are brought together to improve the Government's response to homelessness.

HUNTER DEVELOPMENT APPLICATIONS

Ms LEE RHIANNON: I ask my question of the Minister for the Hunter. Is the Minister aware of comments made at a Cessnock Council meeting by his electorate office staffer Councillor Katie Brassil that she would like to run a bulldozer over 37 opponents of the local development application? Does the Minister condone violent threats by his staffers? Does he agree with her view that people in the Hunter have no right to publicly question development decisions?

The Hon. MICHAEL COSTA: The honourable member is again doing what she has become renowned for: grandstanding and beating up issues for her political gain. The wedge politics played by the Greens in the Hunter at the moment is absolutely disgraceful.

Ms Lee Rhiannon: Point of order: I draw your attention to standing order No. 9, which clearly states that an answer must be relevant to a question. I request that you ask the Minister to return to the question.

The PRESIDENT: Order! I remind the Minister that the sessional order relating to questions states that in answering a question a member must not debate the question.

The Hon. MICHAEL COSTA: I have answered the question.

Ms LEE RHIANNON: I ask a supplementary question. Will the Minister discipline his staffer Katie Brassil for her outrageous denigration of a legitimate community concern? Does he condone violent threats by his staffer?

The Hon. MICHAEL COSTA: Once again, I remind the honourable member that if somebody disagrees with the position she takes, it does not mean that it is corrupt or derogatory. It just means that they disagree with her.

GROUP HOME REFORM

The Hon. JOHN RYAN: My question without notice is directed to the Minister for Community Services. What is the group homes consolidation project within the Department of Ageing, Disability and Home Care? Does the project involve the displacement of a large number of clients from group homes so that they can be extended to permit larger numbers of clients to be housed in any one group home? Does the project also involve the forced relocation of several other group home clients from group homes that currently house fewer than three clients? When will the relocation take place and what consultation will take place with clients before they are moved?

The Hon. CARMEL TEBBUTT: Group home reform has been an ongoing issue for the department. Group homes are the major way in which the department and non-government organisations provide accommodation for people with a disability to live in the community. Nonetheless, it certainly has been the case and it has been recognised with the regionalisation and the split of Disability Services from Community Services that organisational reform can be a good thing. No aspect of the department should be free from considering how we do our business and whether we can do it in a better way. A feature of the new organisational model for the Department of Ageing, Disability and Home Care is its improvements to the management arrangements for its group homes. The focus of these changes is in improving the quality and responsiveness of local level support to people with a disability who are living in supported accommodation services provided by the department.

Under the previous arrangements, group home managers spent just one to two rostered days a week fulfilling their managerial, client-support and staff supervision responsibilities. The remaining shifts saw them performing routine service delivery functions. It is not surprising that having someone function in a management position for, say, two days a week but working alongside co-workers in a non-management role for the rest of the week would create difficulties. People could appreciate the difficulties that raises for effective management responsibilities for that individual. The new arrangements will result in full-time managers dedicated to the delivery of quality support arrangements for residents. This change will produce significant enhancements in the capacity of group home staff to respond to the needs of residents, and also allows staff to be more responsive and available to families and guardians of people living in care.

The new model will also improve accountability and make staff management practices more effective. I can assure the House that these changes will not result in a reduction of support services available to people in these group homes. The new management arrangements will be designed locally, and will take into account the level of client support needs and the number of staff to be supervised. Additional professional development will be available for group home staff and their managers. Learning and development officers are now based in each region to address local staff training, and to develop skills that reflect the local needs of staff. Complementing the new arrangements will be a direct and more accessible relationship with the new regional senior management structure.

Recently, the department appointed regional directors who will have direct responsibility for the design and management of accommodation and other services in their local area. To complement the new regional senior management structure, regional managers for the different business streams have been appointed. These enhanced regional management arrangements will deliver consistent response to issues, improve the quality of support to all group home residents, and provide group homes and managers with direct access to senior management support and input. I am confident that these changes will deliver improved standards of care for clients, and a better-skilled and more supported work force in this critical area.

The Hon. JOHN RYAN: I ask a supplementary question. I am not sure that the Minister entirely understood my question. Does this group home reform involve the extension of some cottages to take four or five residents, and the closure of and transfer from cottages that house one or two group home clients to the extended homes?

The Hon. CARMEL TEBBUTT: Without more detail from the honourable member, it is very difficult for me to respond to his question. I am not aware of specific cases of residents being moved around. From time to time it is necessary for group home configurations to be changed because clients are not compatible and cannot remain living in the same group home, non-government auspices decide they no longer want to be involved, or additional clients have been moved in. A lot of factors can impact on changes in group homes. Obviously, the honourable member is concerned about specific issues. I suggest that he make that information available to me and I will be happy to follow it up for him.

EMU PLAINS CORRECTIONAL CENTRE MOBILE WORK CAMP

The Hon. KAYEE GRIFFIN: My question without notice is addressed to the Minister for Justice. Will the Minister advise the House what initiatives and programs the Department of Corrective Services is providing for female inmates at the Emu Plains Correctional Centre?

The Hon. JOHN HATZISTERGOS: On 6 June I visited the facility and, with the honourable member for Penrith, had the opportunity to launch the first mobile camp for women offenders. The self-sufficient work camp will enable six minimum security inmates to undertake community projects within a 500-kilometre range of the centre. Selected inmates will be required to undertake basic first aid, bushfire training and operation of modified mobile camp equipment designed specifically for women. Correctional officers will supervise the inmates on the mobile camp, and will remain with them on remote sites for up to five days. The women involved with the camp already have carried out a number of community projects on a trial basis, including building houses for the disadvantaged, tree planting to regenerate areas of Emu Plains, mulching and caring for planted trees, and maintaining gardens and lawns at Winmalee Neighbourhood Centre and Winmalee Youth Centre.

This wonderful initiative aims to give inmates a heightened awareness of their responsibilities when living and working in the community. Another achievement at Emu Plains is the early success of a major new lifestyle facility that prepares female inmates for release back into the community after a period of imprisonment. The centre has received comments about the work I have described, including one from the Mayor of Penrith City Council, Pat Sheehy, who stated:

I wish to convey our heartfelt thanks for your organisation's support of the emergency services during the recent fires ... The emergency services could not have continued their operations without the services and equipment that you provided.

In addition, Brenda Taffel, the Administrator of Winmalee Youth Service, wrote:

I am writing on behalf of the staff and management committee to express our thanks for the excellent gardening work that your work team carried out for us.

Ava Emdin, the Manager of Fundraising and Community Relations at the NRMA, stated:

We all greatly appreciate the interest in our work and our service shown by the staff and inmates.

In addition to the facilities I have described, a new minimum security transitional centre to house 16 inmates, Bolwarra House, valued at \$1.06 million, was opened in April last year. Already 12 former inmates have completed the program and to date none have returned to custody. This is a superb result and is due to the proactive approach taken by the staff at Bolwarra House in helping female offenders develop the important lifestyle skills they need to function effectively in society. Very importantly, as a transitional centre Bolwarra House permits women to have closer contact with their children than would otherwise be possible, and to undertake external employment. The centre follows on from the success of the Parramatta Transitional Centre started six years ago, with 88 inmates released and only two returned to custody. I have every confidence that in time we will replicate those results at Emu Plains.

COALITION FOR GUN CONTROL TELEVISION ADVERTISEMENT

The Hon. JOHN TINGLE: My question without notice is addressed to the Minister for Justice, representing the Minister for Police. Is the Minister aware of a television advertisement that the Coalition for Gun Control is seeking to have broadcast that shows an apparently very young person handling and carrying a variety of pistols in public places? Do the situations shown in the commercial portray major breaches of the New South Wales Firearms Act in relation to the age at which a person can legally handle a pistol, and the requirements as to storage, carriage of pistols, and other specifics of the Act? Does the commercial falsely state that anyone over the age of 18 can obtain a semiautomatic handgun at any gun shop in New South Wales? Will

the Minister investigate the circumstances in which the commercial was made, including whether the pistols shown were real, or illegal replicas? Will the Minister consider taking action under the Firearms Act 1996 against those involved in arranging this commercial, including the Coalition for Gun Control, the advertising agency that made the commercial, and the person or persons who supplied the pistols used in the commercial?

The Hon. JOHN HATZISTERGOS: I will refer the question to the Minister for Police and obtain an answer.

CITYRAIL SERVICES

The Hon. CATHERINE CUSACK: My question without notice is addressed to the Minister for Transport Services. Will the Minister confirm that in the event of a late-running train, CityRail does not cancel the service but claims it is due to a breakdown, simply to remove that late-running train from the service in an attempt to maintain CityRail's on-time running figures? In particular, will the Minister confirm that the 7.21 a.m. Sydney to Newcastle train has not been cancelled after running late on more than one occasion at Gosford due to what is labelled a technical problem?

The Hon. MICHAEL COSTA: In relation to the 7.21 a.m. train I will obtain some detailed advice from CityRail. In relation to on-time running I advise the honourable member that that material is available on the web site in line with the Government's policy of providing customer information and transparency.

AUSTRALIAN SAFER COMMUNITIES AWARDS

The Hon. TONY BURKE: My question without notice is addressed to the Minister for Emergency Services. What is the Government doing to recognise the work of our emergency services?

The Hon. TONY KELLY: Our emergency services are the best-equipped and trained in the world. Front-line emergency services workers are a committed and skilled group of men and women who battle the worst of conditions and do their jobs admirably. They put their own welfare on the line to protect homes and families across the State, and their efforts do not go unrecognised. They have the gratitude of not only the Government but also the community. I am pleased to announce that these people can nominate for the Australian Safer Communities Awards, which are presented each year to recognise the innovation of our emergency services. The emergency services will be up against the best in the country, with the award recognising excellence in prevention, planning, and responding to emergencies.

Last year New South Wales emergency services and other agencies won 12 awards. The winners included the New South Wales Fire Brigades for its Community Fire Unit program; Lismore City Council's Flood Awareness Week Project; Tamarama Surf Life Saving Club's swimming safety education campaign; and NSW Agriculture's work to counter the introduction of exotic animal diseases, which I believe was codenamed Minataur. Applications for the fourth annual awards are now open to agencies in the Federal and State emergency management sectors as well as business, local government, research organisations, and community and volunteer-based organisations. While there is no specific individual award, individuals are able to submit entries in an appropriate category. The awards cover all pre-disaster and post-disaster aspects of emergency management, such as risk assessment, training and response to emergencies.

Entries will be assessed on their contribution to community safety. Applicants need to illustrate how their project improved the community's safety and what future benefits are expected. The awards, which are organised by the Commonwealth's Emergency Management Australia agency in conjunction with the States, work on two levels. Applications close on 8 August, and the State and Territory winners will be announced in September. The winners will then go on to the national awards in November. I encourage State agencies, community organisations, and individuals involved in community safety to nominate for the awards. Our emergency management agencies have a wealth of expertise, skill and experience. They deserve the national recognition that comes with these awards.

CABRAMATTA DRUG TRAFFICKING

The Hon. Dr PETER WONG: My question without notice is addressed to the Minister for Justice, representing the Minister for Police. The inquiry into policing in Cabramatta and the lead-up to the recent State election resulted in a dramatic improvement in the level of safety and a lowering of drug trafficking in that area. The Government must be congratulated on that improvement. However, recent observations from local

community leaders allude to the suspicion of a gradual return of drug trafficking, which is supported by increased syringe purchases from local pharmacies. Will the Minister inform the House whether those observations are correct? What measures are being implemented to curb the resurgence of the drug trade and its associated problems in that area?

The Hon. JOHN HATZISTERGOS: I will refer the question to the Minister for Police and obtain an answer, which I will provide to the House in due course.

GAN GAN ARMY CAMP SITE SALE

The Hon. ROBYN PARKER: My question without notice is addressed to the Minister for Transport Services. Will the Minister outline why the Minister for the Environment failed to lodge an application for the priority sale of, or even an expression of interest in time to purchase, the former Gan Gan Army Base in Port Stephens despite the extended deadline for tenders and the subsequent sale of the site to a private developer? The land was identified by the Federal Government as surplus to its needs as early as 1997 and there was enormous public support for the land to remain in public hands. Did the Minister simply believe that the land would be transferred to the Government's control without the need to tell the Federal Government of its interest?

The Hon. MICHAEL COSTA: Clearly that is a question for the Minister for the Environment. I will seek advice from him.

AUSTRALIAN SEABIRD RESCUE SERVICE

The Hon. HENRY TSANG: My question without notice is addressed to the Minister for Agriculture and Fisheries. Will the Minister advise the House whether the Government has provided any support to the North Coast-based Australian Seabird Rescue Service?

The Hon. IAN MACDONALD: The Australian Seabird Rescue Service consists of a team of committed volunteers who rescue injured seabirds and turtles along the New South Wales coastline. I might say in passing that when I speak to people in the fishing industry and I am hungry, it is difficult to talk about prawns or crayfish without actually having the chance to eat some. I am sure the Leader of the Opposition would agree. Last night's episode of the ABC's *Australian Story* featured the founder of the rescue service, Lance Ferris. The Government is very supportive of the work that team has done and has provided the organisation with some very helpful assistance.

I am pleased to advise the House that last week I handed over to the rescue service the keys to a New South Wales Fisheries boat with an outboard motor, worth approximately \$12,000, as part of a three-year sponsorship arrangement. The boat, which will be used by the service until mid-2006, is a 5.5 metre Savage vessel that has been fitted with a 150 horsepower Johnson outboard. It will carry out rescue operations in the area between Wallis Lake on the mid North Coast and Tweed Heads on the far North Coast of the State.

Sadly, many injuries to sea birds are caused by recreational and commercial fishing activities. Research has indicated that the some of the biggest threats to sea birds are unattended fishing lines left on the end of jetties or river banks, or tangled lines left by irresponsible fishers. Some land-based birds also use tangled pieces of line to make nests, often with disastrous results. Rubbish is also a major problem. Birds and turtles are often found tangled in plastic bags or with plastic objects in their stomachs. Each of those threats is the result of human activities.

The Government is aware of the importance of reducing the incidence of those threats. We are undertaking environmental assessments and preparing new management strategies that will minimise the impact of those threats. We will continue to work closely with the Australian Seabird Rescue Service to promote greater public awareness. We need to let fishers know about their responsibilities to the environment. The sponsorship arrangement clearly shows the Government's commitment to working with the Australian Seabird Rescue Service.

CHILDREN AND YOUNG PEOPLE (CARE AND PROTECTION) ACT 1998 PROCLAMATION

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: My question without notice is directed to the Minister for Community Services. Did the Government carry out a full financial impact statement before it introduced the Children and Young People (Care and Protection) Act in 1998? Did that statement indicate the

real cost of fully implementing the Act? Is the Government now trying to avoid implementing several sections of the Act because it cannot afford the cost of a fully functioning Children's Guardian? Is it true that the Government is being advised by its senior child protection officers to change the functions of the Children's Guardian to an accreditation agency rather than have the responsibility, as provided in the 1990 Act, to investigate the care experiences of individual children in out-of-home care? What is the Minister's timetable for proclaiming the various unproclaimed sections of the Children and Young People (Care and Protection) Act 1998?

The Hon. CARMEL TEBBUTT: The Hon. Dr Arthur Chesterfield-Evans has taken a close interest in this matter over time. The Government is progressively proclaiming the Children and Young People (Care and Protection) Act, as I have previously outlined. I have made no secret of the fact that there are aspects of that Act, chapters 8 and 10, that require further consideration and discussion, particularly with the non-government sector, on whom they will significantly impact. That is why, when I first took over this portfolio, I established the Ministerial Advisory Committee, chaired by Leonie Manz, with representatives from the Association of Child Welfare Agencies and the Council of Social Service of New South Wales and others, to provide me with advice on how to proceed with the proclamation of chapters 8 and 10.

For example, I think there are significant problems with expecting the Children's Guardian to review every care plan for every child in out-of-home care. I am not sure that that was necessarily envisaged in the original drafting of the legislation but, if it was, it is obviously problematic. To expect the Children's Guardian to review the care plan of the 5,000 children in out-of-home care demonstrates to the House some of the difficulties. Nonetheless, as I have said, I have established a Ministerial Advisory Committee which has already provided me with significant advice on how to proceed with the staged proclamation to assist the smooth implementation of the Act, to permit targeted training, and to allow for the development of appropriate policies, procedures, and support tools for the Department of Community Services and its community partner agencies.

I am sure that I do not need to remind honourable members that this Government has made a substantial financial commitment to improving arrangements for the care of vulnerable children and families in New South Wales. Proclamation of the out-of-home care sections of the legislation will lay the foundation for significant improvements in the care of the most vulnerable children and young persons, but it is absolutely critical to get it right. It is hard to make the claim that this Government is concerned about having enough money to make improvements in out-of-home care, given that our package last year of \$1 billion over four years provides some \$450 million over five years for out-of-home care improvements. The issue is getting it right, rather than necessarily being concerned about whether we have funding to make effective changes. Successful implementation relies on workers, carers, children, young persons and families becoming familiar with the operation of the new legislative provisions, and this will require a period of adjustment.

Proclamation will proceed in three carefully planned stages to allow the communication strategies to be implemented and for training to be completed. It is intended that the first stage will be operational in July, the second stage in December, and the third and final stage in March 2004. I take this opportunity to inform honourable members that priority is being given to the proclamation of the sections affecting the operation of the Office of the Children's Guardian to minimise the level of risk to children and young people, and to protect the rights of children, families and carers. I have also asked the chair of the Ministerial Advisory Committee, Leonie Manz, to undertake some specific consultation with regard to the voluntary care provisions of the Children and Young Persons (Care and Protection) Act, and to consult specifically with representatives of the disability sector who will be most significantly impacted on by the voluntary care provisions. I await that advice from the Ministerial Advisory Committee, via the chair.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I ask a supplementary question. Does the Minister's answer mean that the Government does not intend to implement chapters 8 and 10 of the Act? Does the Government not see a conflict in the Department of the Community Services being both the service provider and the agency with ultimate responsibility?

The Hon. CARMEL TEBBUTT: As I have made clear on a number of occasions, the Government intends to move forward with the proclamation of chapters 8 and 10, based on advice provided by the Ministerial Advisory Committee and subsequent decisions that take that advice into account. It may well be that minor amendments are needed to some aspects of chapters 8 and 10 in order to make the role of the Children's Guardian effective and useful, and to achieve the goal of the legislation, which is improvement for children in out-of-home care. The Children's Guardian will have a significant role in developing standards and accrediting providers of out-of-home care—both government and non-government—and ensuring that those standards are met and that children in out-of-home care have the benefit of proper monitoring and oversight.

LOCAL GOVERNMENT BOUNDARIES COMMISSION

The Hon. RICK COLLESS: My question is directed to the Minister for Local Government. How can residents and ratepayers of councils affected by proposals before the Local Government Boundaries Commission be assured that they will be treated in a totally non-partisan and fair manner, especially as two of the three appointed members, including the chair of the commission, have strong connections to the Australian Labor Party?

The Hon. TONY KELLY: That is a ridiculous question, which I answered in the last week that this House sat. The boundaries commission comprises one member from the Shires Association of New South Wales, one member from the Local Government Association of New South Wales, one member from the Department of Local Government, and only one member that I appoint.

MULTICULTURAL DRUGS STRATEGY

The Hon. IAN WEST: My question is directed to the Special Minister of State. How is the Government helping multicultural communities to deal with drug abuse?

The Hon. JOHN DELLA BOSCA: Honourable members will be aware that this is Drug Action Week, the aim of which to raise awareness about drug and alcohol issues, promote the achievements of those who work to address and reduce the damage caused by drugs, and promote public debate and good practice initiatives for reducing drug abuse in Australia. Last week, in the lead-up to Drug Action Week, I had the pleasure of launching a new program to help tackle drug abuse in non-English-speaking communities. Representatives from a number of multicultural communities attended the launch, held here in Parliament House.

Over two million Australians speak a language other than English at home, and nearly one-third of all people living in New South Wales were born overseas. Honourable members are no doubt aware that drugs are a community issue. They can affect families and community members of all language and cultural groups. That is why access to important drug information in community languages is becoming increasingly important. It was certainly encouraging that leaders from the various non-English speaking communities were very keen to offer their support and take the time to be spokespersons and champions for the Government's multicultural drugs strategy.

Language and cultural issues can make it difficult for families to talk openly about drugs. A limited understanding of English can make it more difficult for parents to discuss such a sensitive issue with their children and to access appropriate information. Yet open and honest communication between parents and children is the best way to handle drug-related problems. The new program will use ethnic community leaders, drug and alcohol experts, and real-life stories to promote drug prevention and education messages. Eighteen community leaders have agreed to lend their support, including Dr Jamal Rifi from the Arabic community, Dr Tony Goh from the Chinese community, Dr Nou Vary from the Khmer community, Dr Kiro Ristevski from the Macedonian community and Dr Veronica Jakovic from the Croatian community.

We know that parents can play a crucial role in influencing drug-taking behaviour, and it is important that we provide them with all the necessary information. The Government's new program will provide parents with information about where they can seek help or advice. Also, information in eighteen community languages will be widely distributed in those communities. Further, during Drug Action Week the Government's new anti-cannabis youth radio advertising campaign will be modified specifically for non-English speaking audiences. Versions have been recorded in Cantonese, Mandarin and Vietnamese, along with English-language versions recorded by actors of Arabic, Greek, Italian, Pacific Islander and Spanish backgrounds. These initiatives form a small but important part of the Carr Government's comprehensive drug policy. It is a \$230 million plan of action of drug prevention, education, treatment and law enforcement.

GREY NURSE SHARK PROTECTION

Mr IAN COHEN: My question is directed to the Minister for Agriculture and Fisheries. Has the Minister been informed that a two-metre-long female grey nurse shark was seen by divers just over a week ago inside a critical habitat zone off Maroubra with a fishing spear lodged in the back of its head? Is the Minister aware that this shark is one of only six resident sharks in that protected habitat zone? Can the Minister inform the House what steps, if any, he has taken to investigate and prosecute the perpetrator of this crime? Can the

Minister also inform the House of the steps, if any, he will take to locate the shark and to investigate how the spearing could have occurred inside a critical habitat zone? Does the Minister accept that the Government's 200-metre critical habitat zone has failed to protect the grey nurse shark, a species that is in rapid decline?

The Hon. IAN MACDONALD: I thank the honourable member for his question. I am aware that on 14 June scuba divers at Magic Point, Maroubra, reported seeing an object protruding from a grey nurse shark. Photographs provided to NSW Fisheries by one of the divers suggest that the object is a spear. Magic Point is a popular location for spear fishing. However, we do not know whether the injury occurred at that location, or even how long ago. NSW Fisheries has received no reports of illegal spear fishing that could give us a clue on where to start looking for the culprit. Magic Point is also a grey nurse shark critical habitat, and special rules on fishing and scuba diving apply to the area to better protect the grey nurse shark. The shark is a female and is around two metres in length. NSW Fisheries is continuing its investigation into the matter and will advise me of any further developments.

I remind honourable members that penalties of up to \$220,000 apply to anyone who illegally harms a grey nurse shark. As the honourable member would be aware, I recently announced a review of protection measures for the grey nurse shark following the results of a two-year tagging study which shows that the population is critically low—between 300 and 500—and that a certain proportion of sharks found have hooks in their mouths, which in some instances can lead to death. So we are looking at measures currently in place to protect the ten critical habitats and the treatment of sharks within those areas. Within a week or so I will release an options paper on measures to protect the shark. There will be a period for public consultation and for submissions to be placed before the department. I have commissioned Dr John Stephens, an international expert on sharks, to review this evidence with the purpose of reporting to me by the end of the year in relation to the current measures and their efficacy.

Mr IAN COHEN: I ask a supplementary question. Will the Minister offer a \$10,000 reward for information about the perpetrator of this crime—as the Premier did for the spearing of Bluey the groper at Clovelly Bay in January 2002?

The Hon. IAN MACDONALD: I am at a loss to know whether I have the power to issue reward notices. If Mr Ian Cohen wishes to pursue this matter, I suggest he take it up with the Premier and the Treasurer.

BUDGET PAPERS INFORMATION

The Hon. DAVID CLARKE: Will the Assistant Treasurer give the House an undertaking to provide all members of the Legislative Assembly with budget summary information specific to their electorates on the same day, in direct contrast to his Government's previous practice of providing electorate-specific information quickly to Government members and days later to Coalition members?

The Hon. JOHN DELLA BOSCA: According to longstanding convention, such a question about administrative arrangements in relation to the budget must be asked of the Treasurer after the budget speech has been delivered.

MINISTER FOR THE HUNTER MINISTERIAL RESPONSIBILITIES

The Hon. SYLVIA HALE: I direct a question to the Minister for the Hunter. Will the Minister outline to the House just what being Minister for the Hunter entails? What are his ministerial responsibilities? What type of question will the Minister answer, given that he has declined to answer questions about the Hunter flood plain, the Newcastle Port environs concept, the Hunter estuary wetlands region, the public denigration of Cessnock residents, rail services to Newcastle and the Gan Gan Army base at Port Stephens?

The Hon. MICHAEL COSTA: I can inform the honourable member that one of the responsibilities of the Minister for the Hunter is to make sure that workers get paid their full entitlements.

The Hon. Patricia Forsythe: Madam President.

The PRESIDENT: I call the Hon. Patricia Forsythe.

The Hon. Sylvia Hale: I wish to ask a supplementary question.

The PRESIDENT: Order! I have on many occasions reminded members who wish to ask supplementary questions that they must rise and seek the call immediately after the Minister concludes the answer.

LONG HAUL TRUCKING INDUSTRY OCCUPATIONAL HEALTH AND SAFETY

The Hon. PATRICIA FORSYTHE: My question without notice is addressed to the Special Minister of State, Minister for Commerce, Minister for Industrial Relations, Assistant Treasurer, and Minister for the Central Coast. Will the Minister confirm that WorkCover New South Wales, in its prosecuting of a South Coast trucking company under section 3 of the Occupational Health and Safety Act 1983, is seeking to define a road as a workplace? If so, how does the Minister justify what appears to be an attempt to make haulage companies responsible for the poor state of New South Wales highways?

The Hon. JOHN DELLA BOSCA: I am afraid the Opposition is confused about this issue. For some time now one of the difficulties besetting the long-distance road haulage industry has been the chain of supply enforcement. For instance, we have witnessed a passing of responsibility down the chain of production to the truck driver, who often has imposed on him or her—almost always him in the case of the trucking industry—unrealistic, inappropriate and impossible working hours and other requirements. The form of words used by the honourable member in her question—which, I admit, is one I have frequently used and one that has been used widely by people during this debate—is that the road is a workplace for the purposes of the occupational health and safety Act. That has excluded drivers, in particular, of heavy and long-distance haulage vehicles and other vehicles from the normal provisions of the Act that impose upon employers and principal contractors obligations for the health and safety of such drivers.

I have to acknowledge that in the question the member has hit upon a critical issue of public interest relating to occupational health and safety in the road haulage industry. The fact of the matter is that the workplace of that industry, if one likes, is a public conveyance. When people are asked to perform dangerous work under dangerous conditions in trucks and in the cabins of heavy trucks while boring down our freeways and highways, they in fact are in a workplace that is used as a public conveyance by the rest of us who are not professional drivers. This is one of those cases in which occupational health and safety issues have a very clear and significant public interest element to them.

There has been recent media coverage of a particular prosecution that is currently before the courts concerning the tragic death of a driver, Darri Haynes, in September 1999. It is not appropriate for me to comment on the specific details of the case but, as I said, I am able to advise that occupational health and safety legislation requires employers to ensure safe systems of work for their employees and others in the workplace. This is not a new obligation, but in the trucking industry it means that employers have a responsibility to ensure that delivery timetables, rosters and working hours are realistic and allow appropriate management of fatigue to protect drivers and, in doing so, other road users.

LEGISLATION REVIEW COMMITTEE DELEGATION POWERS

The Hon. MALCOLM JONES: My question is directed to the Special Minister of State in the absence of the Treasurer, who represents the Premier. What is the current status of the Legislation Review Committee? Is it true that this committee is unable to perform its duties relating to the assessment of bills because of its lack of authority to delegate consultative work?

The Hon. JOHN DELLA BOSCA: I thank the honourable member for his question, which I will take on notice to ascertain an answer from the Treasurer. I expect to be able to do that fairly promptly.

BALLINA AIR SERVICES

The Hon. MELINDA PAVEY: My question is directed to the Minister for Transport Services. When the Minister claimed earlier this month that air passengers would have to go to Coolangatta following the decision by Qantas to reduce its services to the region, was he aware that Regional Express flies 37 times a week between Sydney and Ballina? As the Minister for Transport Services, can he understand the concerns of Regional Express about his comments?

The Hon. MICHAEL COSTA: Absolutely not. Once again the Hon. Melinda Pavey has not done her homework. I never made the claim suggested by the honourable member in her question. I claimed there would be a reduction in services to Ballina. She has not done her homework. This is up there with her wooden sleepers question!

The Hon. Melinda Pavey: You said people would have to go to Coolangatta.

The Hon. MICHAEL COSTA: No. We said that there would be a reduction in services and because of that reduction people would have to travel to Coolangatta.

The Hon. Michael Gallacher: To Coolangatta.

The Hon. MICHAEL COSTA: That is right, because there would be a reduction in services. The honourable member has got it wrong again; she should have done her homework. I am able to update the House on the matter: I met with Qantas on this question and proposed that Qantas should reconsider its decision. Unfortunately Qantas has indicated that it is not prepared to reconsider its decision. We are holding discussions with Qantas about extending the time before its withdrawal to enable a tendering process to be undertaken to fill the gap in services that will arise if Qantas withdraws without the provision of additional services.

Unfortunately, I believe that in this case Qantas has not done the right thing and it is appropriate that it should be criticised. I am optimistic though that Qantas will come back to me with an extended time frame so that there can be an orderly transition to other providers. As the honourable member would be aware, because she mentioned this in her question, Regional Express has expressed interest in this matter.

The Hon. JOHN DELLA BOSCA: If honourable members have further questions, I suggest they place them on notice.

WINE MARKETING

The Hon. IAN MACDONALD: On 22 May the Hon. David Oldfield asked me a question relating to vigneron licensing arrangements. I provide the following response:

1. A vigneron licence allows wine to be sold from a winery to the public by way of traditional cellar door sales, or remote orders taken by mail, facsimile, and in recent years, via the internet.
2. Vignerons have the capacity under the current legislation to make remote sales via the Internet.
3. The Minister is aware of submissions made by the NSW Wine Industry Association, in terms of the National Competition Policy review.
4. Consideration is being given to reform of the Liquor Act in the context of the Government's National Competition Policy review.

MEDICAL PRACTITIONERS PATIENT INFORMATION DISCLOSURE

The Hon. JOHN DELLA BOSCA: On 6 May the Hon. Dr Peter Wong asked me a question relating to the statutory protection of doctors in disclosing health information to partners and spouses whose lives would be at risk without this information. The Minister for Health has provided the following response:

NSW has a statutory framework in place that aims to balance the public interest in patient confidentiality against the public interest in preventing the spread of serious sexually transmissible diseases.

Although all medical practitioners owe a common law duty of confidentiality to their patients, the *Public Health Act 1991* imposes obligations on medical practitioners to disclose certain conditions in limited circumstances.

Pursuant to the *Public Health Act*, if a medical practitioner believes that a patient is suffering from a sexually transmissible condition, the medical practitioner must inform the patient about treatment options and the means of minimising the risk of infecting other people. The medical practitioner must inform the patient that if they fail to take reasonable precautions against spreading the condition or knowingly have intercourse with another person, unless that person is aware that they have a sexually transmissible condition and has accepted the risk, they are guilty of an offence.

The *Public Health Act* also **requires** medical practitioners to notify the Director General of the NSW Health Department if they believe that they are treating a patient suffering from certain medical conditions, including AIDS.

When a medical practitioner notifies the Director General that a patient has AIDS, they do not report the name of the patient.

However, pursuant to Clause 10 of the *Public Health (General) Regulation 2002*, the name of a patient suffering from AIDS can be disclosed to the Director General if the medical practitioner has reasonable grounds to believe that failure to provide the information could place the health of the public at risk.

The Public Health Regulations allow the Director General to notify a person whom the Director General believes may have been in contact with a person suffering from certain medical conditions, including AIDS, of measures to be taken and activities to be avoided in order to minimise the danger of the first person contracting the condition or passing it to a third person.

NSW also has statutory provisions in place to protect doctors working in public health facilities from actions for breach of patient privacy, should they disclose confidential patient information in order to prevent a serious or imminent threat to the life or health of their patient or another person. This provision is section 19(1) of the *Privacy and Personal Information Act 1998*.

The *Health Records and Information Privacy Act 2002* (which has not yet commenced) will also protect health professionals working in the NSW public health system from actions for breach of privacy, if the public health organisation believes that the disclosure is necessary to lessen or prevent:

a serious and imminent threat to the individual's life, health or safety, or
a serious threat to public health or safety.

Private General Practitioners are regulated by the *Commonwealth Privacy Amendment (Private Sector) Act 2002*. The Commonwealth Act allows disclosure on similar terms to the *Health Records and Information Privacy Act*.

These provisions operate alongside common law duties of confidentiality, general common law duties of care, and other statutory provisions to balance the public interest in patient confidentiality against the public interest in preventing the spread of serious sexually transmissible diseases. Under this framework, medical practitioners will be protected, should they disclose confidential patient information in certain circumstances and when required to do so by law.

SEVERE ACUTE RESPIRATORY SYNDROME

The Hon. JOHN DELLA BOSCA: On 7 May the Hon. Dr Peter Wong asked me a question relating to severe acute respiratory syndrome. The Minister for Health has provided the following response:

Since early April 2003 there have been a number of measures put in place to detect people with Severe Acute Respiratory Syndrome (SARS).

These measures include:

- Announcements about SARS and its symptoms are made to all passengers on flights arriving from SARS affected countries.
- Airlines are required to inform quarantine of any unwell passengers on board prior to landing.
- Two nurses have been placed at Sydney International Airport to monitor the health of incoming passengers. These nurses meet every flight arriving from SARS affected countries.
- Any unwell passenger is referred to the nurses. The nurses have the expertise of infectious diseases physicians and the NSW Chief Quarantine Officer available to them at any time of the day or night.
- Customs Officers provide passengers with SARS information cards.

If passengers have a fever greater than 38 degrees, respiratory symptoms and have travelled from a SARS affected country, they will be referred for medical assessment. This would apply to people meeting the definition for possible SARS even if it eventuates that they have influenza rather than SARS.

M5 EAST TUNNEL AIR POLLUTION REPORT

The Hon. JOHN DELLA BOSCA: On 8 May Ms Sylvia Hale asked me a question relating to air pollution in the M5 East tunnel. The Minister for Health has provided the following response:

NSW Health is undertaking two investigations related to the M5 East tunnel. A report on the pollutant exposure of motorists in the tunnel is nearing completion. An investigation of health complaints from the community around the exhaust stack commenced in April 2003.

In any epidemiological investigation it is necessary to define a study population and a study area. A radius of 700 metres was selected as the definition of the study area for the first phase of this investigation. The choice of this area does not reflect NSW Health's view of the likely extent of any impacts, however it is likely that it would include most people likely to be impacted by any stack emissions.

CHILD PORNOGRAPHY

The Hon. JOHN HATZISTERGOS: On 21 May Reverend the Hon. Fred Nile asked a question regarding child pornography. On 22 May the Hon. Malcolm Jones asked a similar question. On behalf of the Attorney General I provide the following response:

The Australian Federal Police charged Mr Featherstone with the importation of pornography under section 233BAB (5) of the Commonwealth Customs Act 1901 and possession of child pornography under section 578B of the NSW Crimes Act 1900.

The Commonwealth DPP conducted the prosecution as the importation of child pornography is a federal offence.

I can confirm that both the Commonwealth DPP and the NSW DPP have made a decision to appeal the sentence imposed on Mr Featherstone. As this matter is before the court, it is inappropriate for me to comment.

It is the role of NSW Police to investigate any allegations of possible child molestation or sexual abuse.

DEFERRED ANSWERS

The following answers to questions without notice were received by the Clerk during the adjournment of the House:

GOVERNMENT AGENCIES RESTRUCTURE

On 8 May 2003 the Hon. Ian Cohen asked the Minister for Transport Services, representing the Minister for Infrastructure and Planning, and Minister for Natural Resources, a question without notice concerning Government agencies restructuring. The Minister for Infrastructure and Planning, and Minister for Natural Resources provided the following response:

I am advised that since departing in 2001, Ms Kemp has not been engaged by the former Department of Land and Water Conservation or the current Department of Sustainable Natural Resources to advise on restructuring issues.

KING BROS BUS GROUP

On 6 May 2003 the Hon. Melinda Pavey asked the Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests) a question without notice concerning King Bros Bus Group. The Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests) provided the following response:

I am advised, in late February 2003, there were unconfirmed reports of the Kings Bros Group experiencing financial difficulties. At this time the Transport Co-ordination Authority was in the process of a review by consultants Deloitte Touche Tohmatsu of payment irregularities to the Group under the School Student Transport Scheme. Consequently, the Transport Co-ordination Authority changed the School Student Transport Scheme payment regime to the Group from monthly advance to weekly in arrears.

On 28 March 2003 the Transport Co-ordination Authority received a formal declaration from the company's accountant that AP King Investments Pty Limited had the financial capacity to operate 350 vehicles in such a way as to meet the government's standards of passenger and public safety and vehicle maintenance. I understand the receivers informed the Acting Director General of their appointment on 8 April 2003.

MENANGLE BRIDGE CLOSURE INDEPENDENT COMMISSION AGAINST CORRUPTION INVESTIGATION

On 30 April 2003 the Hon. John Ryan asked the Minister for Transport Services a question without notice concerning the Menangle Bridge closure Independent Commission Against Corruption investigation. The Minister for Transport Services provided the following response:

There is an audit of wrought iron bridges being conducted by the Co-ordinator General of Rail, Vince Graham in consultation with the Rail Safety Regulator.

I have also asked the Co-ordinator General to examine the asset management planning processes across all safety critical infrastructure.

P-PLATE DRIVERS PASSENGER RESTRICTIONS

On 6 May 2003 the Hon. John Tingle asked the Minister for Transport Services, representing the Minister for Roads, a question without notice concerning motor vehicle crashes involving P-Plate drivers. The Minister for Roads provided the following response:

I am advised that the study by the Monash University Accident Research Centre analysed the crash risk of 16-19 year old drivers in America and identified that the risk of injury increases with each additional passenger present in the vehicle. The research explores the role and relationships of parents and peers as passengers. The fatal crash risk for young drivers appears to increase if the additional passengers are male peers.

Some state jurisdictions in the United States, New Zealand and Canada have introduced passenger and night time restrictions for novice drivers, with the nature of restrictions imposed varied. All jurisdictions are evaluating the implementation of such restrictions to determine the road safety benefits for their communities. In a number of these countries licensing occurs in early adolescence at 15 years of age, two years before a provisional licence is issued in NSW.

It should be noted that the Roads and Traffic Authority (RTA) introduced the Graduated Licensing Scheme (GLS) in July 2000. This Licensing process requires that a NSW novice driver pass through four tests and three licensing stages before obtaining an unrestricted licence. As of July 1, 2003, the first group of drivers fully licensed under the GLS will emerge.

However, the NSW Government is serious about reducing the over-representation of young people in the road toll. I have therefore asked that the RTA review the research on passenger restrictions for novice drivers and provide recommendations if appropriate for NSW.

NEWCASTLE AND HUNTER EVENTS CORPORATION

On 6 May 2003 the Hon. Charlie Lynn asked the Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests) a question without notice concerning Newcastle and Hunter Events Corporation. The Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests) provided the following response:

The Newcastle and Hunter Events Corporation has not ceased operations.

State Government funding of \$500,000 was spent on initiatives including the successful *Trans Tasman Masters Games*, held in Newcastle in March 2003.

The Newcastle and Hunter Events Corporation continue to work hard seeking, attracting and promoting events to the region.

INVERELL TO SYDNEY RAIL SERVICE PROPOSAL

On 7 May 2003 the Hon. Richard Colless asked the Minister for Transport Services a question without notice concerning the proposed Inverell to Sydney rail service. The Minister for Transport Services provided the following response:

I am advised the rail line from Inverell to Moree closed in 1994, under the previous Coalition Government.

The Government will continue to monitor public transport requirements between Sydney and Inverell and has commenced an inquiry into current funding, community transport, fares and investment options for train, bus and ferry services. The inquiry will look at options for better targeting the funding and delivery of transport services to meet the needs of different groups in the metropolitan and non-metropolitan communities, including rural community and health transport needs.

WATERFALL RAIL ACCIDENT COMPENSATION

On 30 April 2003 the Hon. Dr Arthur Chesterfield-Evans asked the Minister for Transport Services, Minister for the Hunter and Minister Assisting the Minister for Natural Resources (Forests) a question without notice concerning the Waterfall rail accident victims compensation. The Minister for Transport Services, Minister for the Hunter and Minister Assisting the Minister for Natural Resources (Forests) provided the following response:

I am advised that the decision taken at the time to remove the restriction of the Motor Accidents Compensation Act in assessing compensation was made given the extraordinary circumstances of this matter.

I recognise the support for this approach offered by the Hon Arthur Chesterfield-Evans.

In relation to broader questions regarding the Motor Accidents Compensation Act, I will be referring the matter to the relevant Minister, the Special Minister of State, and will provide further advice in due course.

JEWISH COMMUNITY SECURITY COSTS

On 8 May 2003 Reverend the Hon. Fred Nile asked the Treasurer a question without notice concerning the security costs for the Sydney Jewish community. The Minister for Police provided the following response:

NSW Police has advised me:

The Eastern Suburbs Local Area Command and the Counter Terrorist Co-ordination Command of New South Wales Police supply security on a needs basis, based on a risk assessment on premises, people and events, at no cost to the Jewish Community.

ASIAN WOMEN SEXUAL EXPLOITATION

On 6 May 2003 Reverend the Hon. Fred Nile asked the Minister for Justice, representing the Minister for Police a question without notice concerning Asian women sexual exploitation. The Minister for Police provided the following response:

The Minister for Women has recently announced the establishment of a Working Party to look into the sex slave trade. The working party will identify the extent of the problem in New South Wales, make recommendations on actions the Commonwealth government may take to offer assistance to women and children who are victims of this trade and identify means of bringing criminals in this trade to justice.

MOTOR VEHICLE EXHAUST EMISSION INSPECTIONS

On 8 May 2003 the Hon. Peter Wong asked the Minister for Justice and Minister Assisting the Premier on Citizenship representing the Minister for the Environment a question without notice concerning motor vehicle exhaust emission inspections. The Minister for the Environment provided the following response:

1. The Government is well aware of the continued operation of older cars on our roads and the impacts of their emissions on air quality.
2. Rather than restrict or phase out use of older cars, the Government—through its Cleaner Vehicles Plan which includes the Cleaner Car Benchmarks initiative—aims to help and encourage vehicle owners and fleet operators to upgrade to cleaner cars. At the same time, the Government has in place already a number of successful programs to address emissions from older vehicles.
 - In 2001/02, roughly 2050 penalty infringement notices were issued under NSW's Smoky Vehicle Program. Since January 1 2002, a website has also enabled the public to report smoky vehicles via the Internet.
 - NSW worked with other State and Territory governments and the Commonwealth to develop the National Environment Protection Measure (NEPM) for diesel vehicle emissions, and is implementing the NEPM

through initiatives such as the existing Smoky Vehicle Program and development of the Roads and Traffic Authority's program of fleet emission testing for in-service diesel vehicles.

- As part of NSW's Clean Fleet Program, the Roads and Traffic Authority has developed audited maintenance guidelines to ensure emissions from diesel vehicles in private bus and truck fleets do not exceed in-service standards.

NATIONAL PARKS AND WILDLIFE SERVICE FEDERAL BUSHFIRES COMMITTEE SUBMISSION

On 8 May 2003 the Hon. Malcolm Jones asked the Minister for Justice, and Minister Assisting the Premier on Citizenship representing the Minister for the Environment a question without notice concerning the Select Committee on Australian Bushfires. The Minister for the Environment provided the following response:

1. No.
2. Not applicable.

SYDNEY CITY COUNCIL BOUNDARY CHANGES

On 20 May 2003 Ms Sylvia Hale asked the Minister for Local Government a question without notice concerning the Sydney City Council boundary changes. The Minister for Local Government provided the following response:

Section 232 of the Local Government Act 1993 provides that the role of councillors is, as elected persons, to represent the interests of the residents and ratepayers, provide guidance and leadership to the community and facilitate communication between the community and the council. There is nothing to suggest that the councillors of the City of Sydney will not fulfil these obligations.

The Local Government Act requires, as a general rule, meetings of councils and council committees to be open to the public. Apart from attending public meetings of councils, members of the public may influence council decisions concerning matters by making submissions including comments on or objections to proposals relating to those matters. There is nothing to prevent residents who have been added to the City of Sydney by council boundary changes from exercising their rights in this manner.

The City of Sydney is a local government area that is not divided into wards. Section 210 of the Local Government Act allows a council to divide its area into wards but it must first receive approval to do so by way of a constitutional referendum.

The general position is that no council may increase or decrease the number of its councillors without first obtaining approval to do so at a constitutional referendum.

Section 15 of the Local Government Act defines a constitutional referendum as a poll initiated by a council. The Act does not allow either myself or the Department of Local Government to direct a council to hold such a poll. The City of Sydney Council may decide whether or not to hold a constitutional referendum and seek approval from its electorate to either divide its local government area into wards and/or alter the number of its councillors.

If the City of Sydney holds such a constitutional referendum, it will be bound by the decision of such a referendum until that decision is changed by a subsequent constitutional referendum.

CANOLA SEED STOCKS GENETICALLY MODIFIED ORGANISMS CONTAMINATION

On 7 May 2003 the Hon. Richard Colless asked the Minister for Agriculture and Fisheries a question without notice concerning genetically modified canola. The Minister for Agriculture and Fisheries provided the following response:

I am advised by my Department that they have no information along the lines of the question the member raised. If the honourable member has specified information on this matter, I ask him to provide it, and I will provide a full response.

NON-CUSTODIAL FATHERS COUNSELLING SERVICES

On 8 May 2003, the Hon. Dr Gordon Moyes asked the Minister for Community Services, Minister for Ageing, Minister for Disability Services and Minister for Youth questions without notice regarding community services. The Minister for Community Services, Minister for Ageing, Minister for Disability Services, and Minister for Youth provided the following response:

1. Cause of suicide is a complex social research issue. The Australian Bureau of Statistics (ABS) the Australian Institute of Health and Welfare (AIHW), the Research Centre for Injury Studies (Flinders University) and the Australian Institute of Family Studies have been consulted on this issue. None of the agencies could identify Australian research that has addressed this specific issue.
- 2 and 3. The responsibility for Family Law and associated services is the responsibility of the Federal Government. I am advised that the Family Court Counselling Service was available to voluntary clients and non-custodial fathers could access the service if distressed by the decisions made by the Court. I understand that the Court Based Counselling Service is now available only to current applicants before the Family Court and, in a small number of cases, to people whose orders have been finalised but the Court has made an order for counselling to continue. I am further advised that the Federal Government approves and funds non-Government organisations to provide this kind of counselling and support. For example, Unifam and Centacare provide this service within the Sydney Metropolitan Area.

Non-custodial fathers in crisis and distress can also access Family Support Services across New South Wales that are funded by the Community Services Grants Program through the Department of Community Services. The total funding for these services in 2002-03 is \$20.1M.

DOCS is also a partner in the NSW Suicide Prevention Strategy, a Whole-of-Government approach. This Strategy, launched in 1999, identifies existing strategies and co-ordinates them with new suicide prevention initiatives supported with funding of \$15M each year.

POLITICAL ACTIVISM IN SCHOOLS

On 6 May 2003 the Hon. David Oldfield asked the Minister for Community Services, representing the Minister for Education and Training, a question without notice concerning political activism in schools. The Minister for Education and Training provided the following response:

Government schools continue to commemorate Anzac day, as they always have done.

The New South Wales curriculum comprises both broad outcomes and explicit subject matter within each stage of learning. In Stage 3 (Years 5 and 6), ANZAC Day is listed to be taught within the Human Society and its Environment K-6 Syllabus.

All Australian primary schools have received a teaching kit, *We Remember*, produced by the Commonwealth Department of Veterans' Affairs, containing a large teaching book for classroom use and other support materials that focus on remembering those Australians who served in war. A large proportion of this material is devoted to World War I, ANZAC Day and Remembrance Day. The material supports the *Discovering Democracy* unit of work *We remember*, which considers all the major days of remembrance for Australians.

In secondary schools, students learn about ANZAC Day in detail through their mandatory study of history in Year 9. The topic *Australia and World War I* specifically incorporates the Gallipoli campaign and the ANZAC legend.

Students' learning is reinforced by school assemblies during the last week of Term 1 to commemorate ANZAC Day. Schools often invite to these assemblies special guests from the community who have served in war.

Primary schools are also the main contributors to the state database of war memorials. They collect all the names and other data from local war memorials and photograph them for inclusion in the State Library web site at www.warmemorialsnsw.asn.au/. This site is building a composite picture of all New South Wales war memorials.

New South Wales primary and secondary schools continue to visit the Australian War Memorial in Canberra to further their studies of Australians at war. The Premier has encouraged all schools to visit this resource-rich exhibition and memorial to Australians at war, and the Government has provided assistance to some schools and teachers to make the visit.

The Government does not support teachers encouraging students to attend rallies in school time. The Department as recently as February this year advised principals that they were expected to discourage students from attending rallies and demonstrations in school time.

The Department of Education and Training has a number of policies in place to ensure that the discussion of controversial issues occurs within a context where schools remain neutral grounds for rational discourse and objective study. The Government believes they should not become arenas for political or other views.

These policies include *Controversial Issues in Schools*, *leading and managing the School*, the *Professional Responsibilities of Teachers* and the *Revised Code of Conduct*. The Department has comprehensive procedures in place to deal with parent or community complaints regarding school-based decision-making or action through its *Responding to Suggestions, Complaints and Allegations* policy.

UNIVERSITY OF WESTERN SYDNEY PSYCHOLOGY DEGREE

On 6 May 2003 the Hon. Dr Arthur Chesterfield-Evans asked the Minister for Community Services representing the Minister for Education and Training, a question without notice concerning University of Western Sydney psychology degrees. The Minister for Education and Training provided the following response:

The University of Western Sydney, like other New South Wales universities, is essentially autonomous, with full control over its internal academic and administrative affairs. The Minister understands that the University has indicated that it has an overriding policy of honouring any undertakings for courses set out in its official documentation, and it will meet its commitment in this case.

The University has advised that it is currently offering two 4th year Psychology courses, both of which are accredited by the Australian Psychological Society. They are the 4th year Honours Psychology Program and the Postgraduate Diploma of Psychology, both run from the Bankstown Campus.

The University has also advised that four postgraduate subjects are currently taught at Hawkesbury and this situation will continue for the foreseeable future. Hawkesbury students will also be able to undertake the Diploma course at the Bankstown campus. In 2005, the 4th year Honours Program will be extended to run also across the Penrith/Hawkesbury Campuses.

BRIGALOW BELT SOUTH BIOREGION

On 20 May Mr Ian Cohen asked the Treasurer, as the Premier's representative in the Legislative Council, a question without notice relating to the national terrestrial biodiversity audit report. The Premier has provided the following answer:

The Government is presently considering options for the Brigalow Belt South bioregion. A decision will be made after relevant information has been carefully considered.

CHILD PROTECTION

On 20 May the Hon. David Oldfield asked a question without notice of the Minister for Community Services, representing the Minister for Education and Training, about child protection policies. The following response was provided:

The Minister for Education and Training, the Hon Andrew Refshauge MP, has advised me that the child protection policies used by the Department of Education and Training are largely influenced by the requirements of external legislation such as the *Ombudsman Act 1974* and the *Commission for Children and Young People Act 1998*. This legislation requires employers to report certain child protection matters to central agencies and to collect information and conduct investigations in a certain way. The Premier has asked the Director-General of The Cabinet Office to review the child protection procedures and to provide advice about any changes required. A Working Group is also assisting the Commissioner for Children and Young People to address outstanding issues associated with reporting matters to the Commission for employment screening purposes. The Commissioner is due to report to the Premier shortly.

Male teaching numbers have historically been lower than the proportion of female teachers. It would be difficult to directly relate any decline in male teacher numbers to child protection policies.

RAIL INFRASTRUCTURE CORPORATION RAIL SAFETY AUDIT REPORT

On 20 May 2003 the Hon. Charlie Lynn asked the Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests) a question without notice concerning the Rail Infrastructure Corporation Rail Safety Audit Report. The Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests) provided the following response:

I am advised the 2000 & 2001 safety audit reports of the Rail Infrastructure Corporation (RIC) by the Rail Safety Regulator were released in December last year.

I am awaiting formal receipt of that report and will release it in due course.

WATERFALL RAIL ACCIDENT INQUIRY

On 28 May 2003 the Hon. Catherine Cusack asked the Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests) a question without notice concerning the Waterfall Rail Accident Inquiry. The Minister for Transport Services, Minister for the Hunter and Minister Assisting the Minister for Natural Resources (Forests) provided the following response:

I am advised:

Justice McInerney has not informed the transport agencies whether an interim report will be provided with respect to the current inquiry into the Waterfall rail accident. I am further advised Justice McInerney has not informed the Premier whether an interim report will be provided.

WINDSOR ROAD UPGRADE

On 20 May 2003 the Hon. Dr Peter Wong asked the Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests) representing the Minister for Roads, a question without notice concerning the Windsor Road upgrading. The Minister for Roads provided the following response:

The \$323 million Windsor Road upgrade program is progressing well, with the widening of four lanes to Windsor on target to be completed by the end of 2006. I am advised that traffic signals on Windsor Road form part of the Sydney Co-ordinated Adaptive Traffic Systems (SCATS) and conditions are constantly monitored, including through new CCTV cameras installed as part of the Windsor Road upgrade, to ensure that the route operates as efficiently as possible given the volume of traffic using the road.

Questions without notice concluded.

BUDGET ESTIMATES AND RELATED PAPERS**Financial Year 2003-04**

Copies of Budget Speech—Budget Paper No. 1, Budget Statement—Budget Paper No. 2, Budget Estimates Volumes 1 and 2—Budget Paper No. 3, and State Asset Acquisition Program—Budget Paper No. 4, tabled.

Ordered to be printed.

The Hon. JOHN DELLA BOSCA (Special Minister of State, Minister for Commerce, Minister for Industrial Relations, Assistant Treasurer, and Minister for the Central Coast) [4.06 p.m.]: I move:

That this House take note of the Budget Estimates and related papers for the financial year 2003-04.

Madam President, the 2003 Budget, which I have the honour to present today, has one overarching aim—and that is to keep faith with the people who honoured us with their decisive judgment just three months ago.

We were restrained in the commitments we made. We didn't pretend that everything was perfect. Nor did we promise that everything could be made perfect.

Steady progress, steady improvement, step-by-step and year-by-year was the commitment we made. And it's a commitment we will keep.

Our promises were financially modest and carefully targeted to high priority needs.

Today I confirm not only our determination to do what we said we'd do, but to do more still. We're determined during the term of this Parliament to deliver much more than we promised.

This Budget keeps faith:

- ♦ by strengthening the State's social fabric and financial position;
- ♦ by allocating substantial additional resources for our schools, hospitals, transport, community safety and community services; and
- ♦ by investing strongly in the modernisation and renewal of the State's social and economic infrastructure.

In the coming year the Government will be aiming for its eighth successive balanced budget.

Seven years ago the achievement of a balanced budget made the headlines—after all, it had only been achieved on two previous occasions in the State's recorded financial history.

This year, I'm almost pleased to predict that an eighth balanced budget, unprecedented for any government in Australia, will hardly rate a mention.

It's the prudent financial practice that people and the media now take for granted from a prudent Labor administration during times of relatively good economic growth and solid revenues.

Even the Coalition, which, to give them their due, achieved one balanced budget during their history, claims to have learnt the lesson.

During the election campaign, the Leader of the Opposition vowed that a coalition government would never, ever let the budget go into deficit, even during a recession.

Once again, the Opposition has learnt the wrong lesson.

One of the key reasons that budget surpluses are good in good times is so that we're in the position to take the bad times in our stride.

Recessions mean lower revenues. To keep the budget in balance in those circumstances would require significant tax hikes and significant service cuts, causing social hardship and dislocation and applying the wrong economic medicine at the wrong time.

While we're confident that Australia's economic prospects in the foreseeable future remain positive, none of us can be certain. That's why we have to be well-prepared.

There is, as the Commonwealth Treasurer has pointed out, "a larger than usual element of risk surrounding the near-term outlook for Australia".

There are, believe it or not, some things on which I agree with Peter Costello.

I agree with him that Australia is in a position to weather potential shocks much better than comparable countries.

That's thanks to almost two decades of essential reforms—well and truly predating the election of the Howard Federal Government.

Australia also has much greater fiscal and monetary latitude to cope with potential economic adversity.

The condition of public finances in Australia—at local, state and federal levels—is the envy of most of the world.

Here in New South Wales, as a result of eight years of living within our means and putting aside something for the future, our general government net debt has been reduced from 7.4 per cent of Gross State Product in 1995 to only 1.5 per cent now—from \$12.2 billion to only \$4 billion.

The goal of completely wiping out our general government net debt is now within reach—much earlier than the initial target date of 2020.

Meanwhile, our total net financial liabilities in the general government sector have been reduced from 19.9 per cent of Gross State Product in 1995 to only 9.9 per cent now.

For the total State Sector, which includes our government owned businesses, they've fallen from 26.7 per cent of Gross State Product to 16.4 per cent.

These figures are not just of some abstract, academic, accounting interest.

They are of real, practical importance to every person in New South Wales.

They represent our security against possible tough times.

They represent our underlying financial strength, our capacity to ride out the tough times without the need, currently being experienced by most of the major American cities and states, to savagely cut services or impose crippling tax hikes.

It is now almost inconceivable that any series of events could occur of such magnitude or for such duration that our relative levels of debt and liabilities would ever be back where they were in 1995.

Even with the scenario of a decade of zero nominal economic growth, it would take accumulated net lending deficits of \$25 billion over that time to return our relative financial position to 1995 levels.

But instead, we expect our financial position to keep on improving, enabling us to deliver more and better services and facilities each and every year.

And that, of course, is the first responsibility of government and especially of Labor Governments. And it's certainly what we will be doing this year and over the next four years.

Restructured Agencies

Delivering more and better service does not depend solely on our financial strength.

It also depends on government being constantly prepared to question how those services are delivered, being prepared to challenge itself to find better ways to deliver services, and in being prepared to shift resources into the areas of highest priority.

The restructuring of Ministerial portfolios and the departments within these portfolios reflects this commitment.

Better delivery of education, natural resource management, health, transport, public works and infrastructure is the goal.

As I announced some time ago, while this Budget contains financial aggregates for all agencies, detailed financial statements for the agencies affected by the restructure are not yet complete, but are expected to be issued on 26 August.

Expenses

For 2003-04, General Government expenses will total \$34,912 million.

Some of the major components include:

- ◆ \$8,159 million for the Department of Education and Training—an increase of \$542 million over last year's Budget;
- ◆ \$9,267 million for the Department of Health—an increase of \$920 million;
- ◆ \$803 million for the Department of Community Services—an increase of \$162 million;
- ◆ \$1,276 million for the Department of Ageing, Disability and Home Care—an increase of \$109 million; and
- ◆ \$1,816 million for NSW Police—an increase of \$143 million.

New Public Works and Investments

In addition to our annual running costs, the Government will continue to invest strongly in new public works and assets.

A strong public works and investment program not only provides jobs now, but also bolsters our prospects for a strong economy and a strong society into the future.

Today, I announce a massive \$29 billion four-year program for new public works and investments.

That's equivalent to building more than 20 new Sydney Opera Houses in today's prices.

But instead of the one icon at the one location, this \$29 billion will be invested throughout the length and breadth of the State.

In 2003-04 alone, the total State asset acquisition program will amount to \$7,138 million—an increase of over \$700 million on last year's Budget.

In addition, an estimated \$1.1 billion will be spent by the private sector on major public private partnership projects—an increase of approximately \$820 million on 2002-03 levels.

These projects include the Cross City Tunnel, the Western Sydney Orbital, the Lane Cove Tunnel and an alternative waste treatment facility at Eastern Creek.

In total, therefore, the value of asset acquisitions and public infrastructure funded or sponsored by the New South Wales Government will exceed \$8,200 million in 2003-04, sustaining approximately 124,000 direct and indirect jobs.

In the general government sector, \$3,499 million is being allocated to non-income earning but nevertheless vital social and economic infrastructure such as schools, hospitals, roads and public transport improvements.

In accordance with our plan to eliminate general government net debt, these public works will be funded up-front, without recourse to debt.

In addition to the general government public works program, in 2003-04 our government owned business enterprises will undertake approximately \$3,640 million of new income earning investments, mainly in electricity, transport, water and housing.

Over the next four years, the total new investment by these businesses is estimated at \$15,451 million.

This will be financed by approximately \$9.7 billion in grants from the general government and the businesses' own cash flows and financial assets and approximately \$5.8 billion in the businesses' own commercial borrowings.

Over the last four years the Government's net equity in these businesses has risen by \$8 billion, from just over \$42 billion to \$50 billion.

Over the next four years, our net equity in them is projected to grow by another \$9 billion.

Helping People in Need

Last year's Budget provided \$641 million in expenses for the Department of Community Services. That was almost double the provision before we first came to office.

Notwithstanding this enormous increase, the Department is still under severe stress due to the increasing number of reports of child abuse and the growing number of children in out-of-home care.

Child protection reports rose by 119 per cent between 1999-2000 and 2001-02. In 2003-04 there will be an estimated 185,000 reports. Similarly, the number of children in out-of-home care has risen by 40 per cent in the last four years.

In response to this need the Government announced in December last year an increase of \$1.2 billion over five years to boost child and family services.

This includes:

- ◆ an additional 875 caseworkers and associated managers at a cost of almost \$260 million over the five year period;
- ◆ an additional \$186 million for new systems and support for frontline workers;
- ◆ an additional \$156 million for additional early intervention services; and
- ◆ an additional \$580 million for out-of-home care.

I am pleased to report that each of these commitments is funded in full in this year's budget and forward estimates.

I'm also keen to point out that these increases would not have occurred if the Opposition had had its way.

On 20 March, two days before polling day, as the media coverage of the election was closing down, as all the media were focused on the outbreak that day of the war in Iraq, the Opposition slipped out that these measures would be dumped if they were elected to government.

And what's more the tactic worked.

There was minimal media coverage of this cowardly, last minute ploy to give some skerrick of financial credibility to the Opposition's completely reckless and unaffordable raft of election promises.

But the Opposition's betrayal of children in danger will not be forgotten. The Opposition will wear it forever like the mark of Cain.

There is nothing that distinguishes the Government and the Opposition more starkly than the priority that we give to child protection and family support and the disregard they have for some of the most vulnerable in our community.

In the coming year the Government will also provide substantial additional resources to assist older people, people with disabilities and their carers.

The expenses of the Department of Ageing, Disability and Home Care will total \$1,276 million—an increase of \$109 million on last year's Budget.

Additional funding of \$28 million over four years, with \$2 million in 2003-04, will be provided for additional personal care services for people with physical disabilities.

A further \$11 million has also been allocated over the next four years for additional respite care places for people with disabilities and their carers.

In 2003-04, the Government's contribution to the Home and Community Care Program—a joint Commonwealth-State program to assist frail older people and people with a disability to continue to live independently—will total \$160 million, a \$19 million or 14 per cent increase on last year's Budget.

Health and Hospitals

The provision of hospital and health services is another area which stakes out the difference between Labor and Coalition Governments.

The Federal Coalition Government is hell-bent on the gradual dismantling of Medicare.

We see it in the proposed changes to funding arrangements for visits to local general practitioners, which will inevitably lead to greater pressure on the emergency departments of public hospitals.

And we see it also in the billion dollar cut in federal funding to public hospitals which the Howard Government is trying to foist on the States.

Here, in New South Wales, equal access to high quality health and hospital services remains Labor's highest expenditure priority.

Today I announce an increase over last year's Budget of \$920 million for health and hospital expenses.

In 2003-04 total expenses for the Department of Health will amount to \$9,267 million—an 11 per cent increase on last year's Budget.

These additional resources will help fund higher activity levels to meet the growing demands of an ageing population, substantial salary increases to health staff amounting to \$530 million per annum since 1 January 2003, and a number of important new health care initiatives.

Over the next four years, \$205 million will be allocated to the new Cancer Institute, including \$5 million in 2003-04, \$35 million in 2004-05, \$65 million in 2005-06 and \$100 million in 2006-07, to ensure that New South Wales is a leader in cancer research and in the provision of cancer services.

An additional \$77 million will be allocated over four years to improve and extend radiotherapy services.

An additional \$124 million over four years will be allocated to emergency departments in our public hospitals.

An additional \$96 million over four years will be allocated for specific rural health initiatives, including the provision of an additional 230 ambulance officers outside Sydney, measures to help keep doctors in rural areas, the expansion of renal treatment in country areas, and the extension of the country Mobile Surgical Bus Trial.

In 2003-04, the State's area health services will receive an average increase in cash funding of 11.1 per cent over last year's Budget, ranging from 8.7 per cent for the Central Sydney Area Health Service to 14.6 per cent for the Wentworth Area Health Service.

The cash allocations to Area Health Services in 2003-04 are as follows:

- ◆ \$261 million for the Central Coast Area Health Service—an increase of 14.2 per cent on last year's Budget;
- ◆ \$677 million for the Central Sydney Area Health Service—an increase of 8.7 per cent;
- ◆ \$67 million for the Far West Area Health Service—an increase of 10.2 per cent;

- ◆ \$233 million for the Greater Murray Area Health Service—an increase of 9.4 per cent;
- ◆ \$566 million for the Hunter Area Health Service—an increase of 11.1 per cent;
- ◆ \$298 million for the Illawarra Area Health Service—an increase of 12.6 per cent;
- ◆ \$115 million for the Macquarie Area Health Service—an increase of 12.6 per cent;
- ◆ \$250 million for the Mid North Coast Area Health Service—an increase of 8.8 per cent;
- ◆ \$188 million for the Mid Western Area Health Service—an increase of 11.4 per cent;
- ◆ \$138 million for the New Children's Hospital at Westmead—an increase of 9.5 per cent;
- ◆ \$176 million for the New England Area Health Service—an increase of 11.3 per cent;
- ◆ \$267 million for the Northern Rivers Area Health Service—an increase of 9.4 per cent;
- ◆ \$605 million for the Northern Sydney Area Health Service—an increase of 11.7 per cent;
- ◆ \$158 million for the Southern Area Health Service—an increase of 9.5 per cent;
- ◆ \$951 million for the South Eastern Sydney Area Health Service—an increase of 11.1 per cent;
- ◆ \$615 million for the South Western Sydney Area Health Service—an increase of 11.4 per cent;
- ◆ \$260 million for the Wentworth Area Health Service—an increase of 14.6 per cent; and
- ◆ \$689 million for the Western Sydney Area Health Service—an increase of 11.3 per cent.

The Ambulance Service will also receive cash funding of \$217 million in 2003-04, an increase of 12.1 per cent on last year's Budget, and Corrections Health will receive \$54 million.

During 2003-04, \$456 million will also be invested in new health and hospital facilities, including:

- ◆ \$9 million on ambulance infrastructure;
- ◆ \$6 million on the Blue Mountains Hospital redevelopment;
- ◆ \$11 million in Bourke;
- ◆ \$69 million on the Central Coast;
- ◆ \$16 million in central Sydney;
- ◆ \$4 million for the Coledale Hospital upgrade;
- ◆ \$4 million in Dubbo;
- ◆ \$6 million in Hay;
- ◆ \$5 million in Henty;
- ◆ \$6 million in Hornsby;
- ◆ \$13 million in the Illawarra;
- ◆ \$7 million in Kyogle;
- ◆ \$17 million in Liverpool;

- ◆ \$8 million in the Macarthur region;
- ◆ \$4 million at Milton-Ulladulla;
- ◆ \$7 million at Nepean Hospital;
- ◆ \$16 million in the Hunter;
- ◆ \$3 million at Prince of Wales Hospital;
- ◆ \$10 million at Royal North Shore;
- ◆ \$4 million in Ryde;
- ◆ \$2 million at Shellharbour Hospital;
- ◆ \$3 million at Sutherland Hospital;
- ◆ \$8 million at Westmead; and
- ◆ \$8 million for the Young Hospital and Mercy Health Services co-location.

Education and Training

In 2003-04, the Department of Education and Training's expenses will total \$8,159 million—an increase of \$542 million on last year's Budget.

Recognising the importance of the early years of schooling, over the next four years capital funding of \$107 million and additional recurrent funding of \$222 million will be allocated for class size reductions in Kindergarten, Year 1 and Year 2.

There will be a significant increase in resources for school based professional development including increased funding of \$39 million over the next four years.

Forty-one million dollars over the next four years will also be provided for schools experiencing special problems or needs.

Other features of the Education Budget over the next four years include \$492 million for continuation and expansion of the State Literacy and Numeracy Plan, and \$846 million for technology initiatives including the upgrade of bandwidth and the roll-out of e-learning accounts for staff and students.

Over the next four years, \$56 million will also be allocated to improving the range of placement and support options for disruptive students, including \$8 million of new funding for the establishment of 20 new suspension centres.

In 2003-04, capital funding of \$333 million has been allocated for construction and enhancement of school facilities.

Work will continue on over 70 major projects, commenced in previous years, at a cost of \$163 million in 2003-04.

Over \$51 million will also be allocated for the first year costs of a number of new projects with an estimated total cost of \$247 million.

New schools or major school upgrades will commence in 2003-04 at Banora Point, Bega, Berala, Blakehurst, Granville, Bulahdelah, Jesmond, Chatswood, Eastwood, Dulwich Hill, Harbord, Helensburgh, Merrylands, Broadmeadow, Jindabyne, Maroubra Junction, Marrickville, Mount Colah, Pennant Hills, Fairfield West and Westmead.

In 2003-04, a further \$34 million will be spent on privately financed projects for the construction of new public primary schools at Horsley, Kellyville, Mungerie Park and Stanhope Gardens and a new special needs school at Kellyville.

Facilities at TAFE colleges will benefit from \$72 million of capital expenditure in the coming year.

New TAFE works will commence at Chullora, Belmont, Wentworth Falls, Grafton, Granville, Meadowbank, Mount Druitt, Mudgee, Brookvale, Orange, Ultimo, Wagga Wagga and North Wollongong.

Roads

In the coming year, over \$2,220 million will be spent on road maintenance and the construction of new roads.

During the year, funds will be allocated for planning and/or construction of major road projects at Lane Cove, Baulkham Hills, Kellyville, Vineyard, Sydney, Haberfield, Arncliffe, Ingleburn, Leppington, Linden, Woodford, Lawson, Wentworth Falls, Katoomba, Medlow Bath, Green Square, Bangor, Menai, Cecil Park, Mosman, Hoxton Park, Bossley Park, Fairfield, Glenwood, Turrella, Mt White, Sandgate, Teralba, Cessnock, Beresford, Salt Ash, Mayfield, Wyong, Erina, Wamberal, Kincumber, Bulli, Dunmore, Kiama, Albury, Kurri Kurri, Black Mountain, Armidale, Karuah, Napiac, Jones Island, Coopers Creek, Kew, Kempsey, Macksville, Bonville, Coffs Harbour, Woolgoolga, Halfway Creek, Ballina, Billinudgel, Ardlethan, Parkes, Moree, Wallerawang, Port Macquarie, Alstonville, Gerogery, Queanbeyan, Wingaree, Grafton, Corowa, Euston, Echuca, Nowra and Bulahdelah.

Public Transport

As members will be aware the Government has commenced major reforms to improve the safety, reliability and cleanliness of the public transport system.

The Government expects better value and better services for the significant amount of money that the taxpayer subsidises and invests in rail services.

In 2003-04 State Rail will receive \$959 million—an increase of \$150 million, or nearly 20 per cent on last year's Budget to help fund CityRail and Countrylink services.

In addition, capital investment in the rail system will total \$999 million in 2003-04, compared to \$801 million in the 2002-03 Budget.

This includes \$337 million from the State Rail Authority, \$227 million from the Rail Infrastructure Corporation, and \$420 million on the Parramatta Rail Link Project.

Rail maintenance expenditure in 2003-04 will total \$828 million—an increase of \$57 million since last year's Budget.

The State Transit Authority's capital program includes:

- ◆ \$24 million for 60 new diesel buses;
- ◆ \$17 million for the first of 80 new high capacity compressed natural gas buses; and
- ◆ \$3 million to complete the contract for 30 new buses for Newcastle.

Safer Communities

NSW Police expenses will total \$1,816 million in the coming year—an increase of \$143 million, or 9 per cent on last year's Budget.

The Government's commitment to increase police numbers by 1,000 has been met ahead of schedule.

Additional funding of \$93 million over four years is also being allocated to meet specific election commitments, including:

- ◆ \$15 million to continue the high visibility Operation Vikings;
- ◆ \$8 million for more functional police uniforms;
- ◆ \$4 million to attract officers to serve in remote locations; and
- ◆ \$24 million for additional crime scene investigators.

In 2003-04, \$21 million is also being allocated for new works with an estimated total cost of \$49 million, including:

- ◆ the replacement of police stations at St Marys, Armidale and Redfern;
- ◆ a new Forensic Research and Investigative Science Centre;
- ◆ additional in-car video units to improve officer safety;
- ◆ prisoner modules and screens for police vehicles; and
- ◆ upgraded educational facilities, including the Goulburn Police Academy.

Over \$9 million has also been allocated in 2002-03 and 2003-04 for counter-terrorism equipment.

The community's safety depends not only on protection from crime but also from fires and floods and other natural disasters.

New South Wales is superbly served by our emergency service personnel, both full-time and volunteer.

This Budget provides \$440 million for the New South Wales Fire Brigades, \$144 million for the Rural Fire Service and \$33 million for the State Emergency Service.

Environment and Natural Resources

As the Premier said in his recent policy speech, this Government has moved environmental protection to the heart, not the fringe, of politics.

This Budget funds \$125 million of new environmental and resource management initiatives over the next four years.

These include \$23 million for floodplains, estuary and coastal management, and \$48 million for National Parks and Wildlife Service initiatives, including funding towards the creation of an unbroken chain of parks and reserves from the Hunter Valley to the Victorian border.

The recent establishment of the new Department of Infrastructure, Planning and Natural Resources is a landmark reform in environmental and natural resource management.

It gives us the opportunity to get the balance right and to drive, co-ordinate and streamline planning and natural resource management throughout the State.

Protecting our environment, building on an already strong and diverse state economy and ensuring sustainable employment for people in both city and country are the underlying directions for the new department.

Involving people outside traditional government structures to review and improve government policies and programs will underpin the Department's operations.

Already, those principles have been put into practice with the establishment of the Sinclair Committee, working on native vegetation and the implementation of the Wentworth Group Report—farmers, environmentalists, scientists and government, both Commonwealth and State, working together.

Planning processes can often be a regulatory maze with single-issue departments producing single-issue regulations or legislation, with too little attention to what the total impact of all the good intent might be.

For the first time, the new department will bring the majority of the regulations and statutes relating to land-use management into one place.

This creates the opportunity to:

- ◆ better link natural resource management and urban development;
- ◆ simplify the structures of government and the layers of policy and regulation to reduce complexity and duplication;
- ◆ improve service levels;
- ◆ reduce the costs of administration and redirect those funds to service delivery; and
- ◆ better link vital infrastructure, particularly transport, to communities both now and in the future.

The new department has the additional responsibility of assisting the Government in reconciling the programs of the major infrastructure agencies. The goal is to deliver individual agency programs within a more co-ordinated, strategic framework.

Country New South Wales

For a number of years now I have provided the House with the proportion of total capital works and road maintenance spending that is allocated to country areas.

This is information that previous coalition governments never dared divulge, because the National Party could never adequately deliver.

That's why the members for Bathurst, Dubbo, Tweed, Northern Tablelands, Murray-Darling and now Tamworth, Port Macquarie and Monaro are in the other place.

Twenty-six per cent of the State's population lives outside Sydney, Wollongong, Newcastle and the Central Coast.

This Budget provides them with more than 36 per cent of the State's capital works and roads maintenance budget.

Nearly 90 per cent of the State remains in drought.

While there are encouraging signs that weather patterns may have changed, the rain is yet to fall everywhere it's needed and may not for some time.

The Government will stand by drought affected farmers until the drought ends.

This financial year expenditure on drought assistance measures is expected to reach \$81 million.

In the next six months we expect to spend a further \$47 million, maintaining the current high levels of spending on drought assistance.

Administrative Savings

Substantial additional resources have been made available from the Budget to help fund all of our new expenditure initiatives.

Approximately \$100 million per year will also be funded from modest savings all agencies will be expected to make in their non-labour related operating expenses.

Revenues and Taxes

I now turn to the government's revenues which are estimated to total \$35,936 million in 2003-04.

This represents only a 2.1 per cent increase over the estimated revenue in the current financial year. However, this increase comes on top of strong revenue growth in 2002-03, which is 4.6 per cent higher than last year's Budget estimates, and 4.3 per cent higher than actual revenues in 2001-02.

According to the most recent data, our revenue per person in New South Wales is the third lowest of all eight States and Territories.

There are two other interesting statistics which I should draw to the attention of the House.

As a proportion of Gross State Product, in other words of the value of the State's economic output, New South Wales revenues are falling from 13.7 per cent in 1998-99 to an estimated 13 per cent in 2003-04 and to a projected 12.4 per cent by 2006-07.

This reflects the significant reductions in tax rates announced in the previous five Budgets, which even after the tax changes I will announce today, have reduced our tax revenues by more than \$1,300 million each year.

For every dollar New South Wales' taxpayers pay to the State Treasury, they pay five to the Commonwealth Treasury.

Even after Federal grants to the States are taken into account, the State receives only one dollar for every two New South Wales tax dollars received by the Commonwealth.

Yet it is the States which have the primary responsibility for delivering most of the services and infrastructure, both social and economic, on which the well-being of our economy and society depends.

While all the States suffer from this imbalance, in the case of New South Wales, Victoria and Western Australia, insult is added to injury by being short-changed in our share of Commonwealth grants to the States.

Compared to what we contribute, in the coming year the subsidy from New South Wales to the mendicant States will rise to \$2.5 billion.

Compared to an equal per capita share, the subsidy in 2003-04 will amount to over \$1.4 billion.

Again compared to an equal per capita share, Queensland will get \$90 million of our money, Tasmania will get \$296 million, South Australia will get \$302 million, the Northern Territory \$677 million and the ACT \$63 million.

The Budget contains new tax measures which will raise an estimated \$32 million in the coming year, and \$80 million in 2004-05.

These include:

- ◆ \$2 million in 2003-04 by increasing the parking space levy from \$800 to \$840 a year in the Sydney, North Sydney and Milsons Point business districts, and from \$400 to \$420 in St Leonards, Chatswood, Parramatta and Bondi Junction. All moneys raised by this levy are hypothecated to public transport improvements;
- ◆ \$30 million from amendments to the Duties Act to overcome Stamp Duty avoidance practices by some unit trusts and corporations; and
- ◆ \$10 million per annum by broadening the payroll tax base to cover remuneration provided in the form of shares and to include termination payments to non-executive directors.

From 1 January 2004, new trainees will be granted the same exemption from payroll tax that applies to apprentices, replacing the current payroll tax rebate system for trainees.

This change will cost the revenue \$9 million a year, but will be offset by reduced expenditure on the rebate.

While employers of apprentices in New South Wales pay workers' compensation premiums, the employers of trainees have, since 1997, had their premiums paid for them by the New South Wales Government.

The cost of premiums met by the Government has risen from \$4 million in 1997-98 to a projected \$47 million in 2003-04.

The incentive is open to abuse, with some employers enrolling existing, and in some cases long-term employees as new trainees.

From 1 January next year employers of trainees will be required to pay their workers compensation premiums, putting trainees and apprentices on the same footing.

Since 1998 there has been a moratorium, initially for three years, on changes to poker machine tax rates.

In 2001, the moratorium was extended for a further three years as part of a number of reforms including a cap on the total number of poker machines, a cap on the number of machines per venue, a requirement for clubs with machines in excess of the venue cap to forfeit machines over time, and the introduction of a three and six hour per day shut-down of poker machines.

Current New South Wales club gaming tax rates are around half, and hotel gaming rates around a third lower than the average of the rest of Australia.

In keeping with the agreed moratorium with the club and hotel industry, there will be no changes to tax rates in 2003-04.

From 2004-05, however, new tax scales will be phased in over seven years which will bring New South Wales rates closer to the national average.

The new rates will extend the progressive tax scale so that clubs and hotels with larger gaming operations contribute more tax revenue.

Under the new arrangements, most clubs, around two thirds in fact, and around 38 per cent of hotels will actually pay either no tax, or less tax than they pay under current tax rates.

The new rates will raise an additional \$46 million in 2004-05.

Over the longer term they will add even more significantly to the State's revenue base, while at the same time leaving the club and hotel industry on average more lightly taxed than the average of the other States.

Budget Results and Net Worth

I now turn to the Budget results and the State's financial position.

There are three measures of the Budget result—the operating result, the cash result and the net lending result.

The operating result, which indicates whether the year's Budget operations have reduced or added to the Government's net worth, is an estimated surplus of \$1,024 million.

The cash result, which indicates whether the year's Budget has added to or reduced the State's debt, is an estimated surplus of \$78 million.

The fiscal or net lending result, which New South Wales regards as the main Budget result and which indicates whether the year's Budget has added to or reduced the State's net financial liabilities, is a surplus of \$43 million.

New South Wales is the only Australian state to again budget for a surplus on all three measures.

The level of the State's net financial liabilities and net worth is affected not just by the year's Budget, but also by the operations of the government's business enterprises, and changes in the current valuations of assets and liabilities.

Over the last year, the level of net financial liabilities has risen substantially in nominal terms in both the general government and the total State sector, mainly due to upward revaluation of the liabilities of the defined benefit superannuation schemes and a reduction in the assets of those schemes as a result of negative earnings following large declines in world equity markets.

Overall, however, the value of our assets has risen much more strongly than the value of our liabilities, with the result that the Government's net worth has risen by an estimated \$2 billion during the current financial year.

Over the next four years the value of the total State sector's net financial liabilities will rise further, in nominal terms by approximately \$6.4 billion, but in relative terms will decline from 16.4 per cent of Gross State Product to 15 per cent.

The main reason for this projected increase is that commercial borrowings will fund almost \$6 billion of the estimated \$15.5 billion the government's businesses will be investing in new income earning assets over the next four years.

In the general government sector, where the cost of servicing debt has to be met from tax revenues and not by the earnings of government businesses, we have already slashed net debt by \$8 billion.

And in this Budget we are getting on with the job of reducing net debt further, down to \$2.4 billion by 2007.

Cutting general government debt has helped reduce our interest payments by \$1 billion a year since 1995, a saving that we have ploughed back into better hospitals, schools and other services.

Overall, the net worth of the Government is expected to increase by about \$15 billion over the next four years, reaching almost \$115 billion by June 2007.

This will further strengthen our State's already very strong financial position.

Our current net worth of just over \$100 billion is by far the highest of any Australian government, including the Federal Government, which has a negative net worth of \$101 billion.

In other words, our assets exceed our liabilities by \$100 billion, while the Federal Government's liabilities exceed their assets by \$101 billion.

It's almost an identical figure—\$100 billion against \$101 billion—but oh what a difference a plus or minus sign can make.

The Budget I have presented today delivers on our commitments.

It's a budget from a Government honoured and invigorated by our renewed mandate.

It's a budget that will help New South Wales get steadily further ahead—step-by-step, year-by-year.

And it's a budget that is socially responsive and financially responsible.

In other words, it's a Labor Budget every inch of the way.

I commend it to the House.

Debate adjourned on motion by the Hon. Michael Gallacher.

STANDING COMMITTEES

Membership

The PRESIDENT: I inform the House that the Clerk has received the following nominations for membership of committees according to paragraph 9 of the resolution adopted by the House on Wednesday 21 May 2003.

Standing Committee on Law and Justice

Government members: Mr Burke
Mr Obeid
Ms Robertson

Opposition members: Mr Clarke
Mr Pearce

Crossbench member: Ms Rhiannon

Standing Committee on Social Issues

Government members: Ms Burnswoods
Ms Griffin
Mr West

Opposition members: Ms Cusack
Ms Parker

Crossbench member: Dr Chesterfield-Evans
Revd Dr Moyes

Standing Committee on State Development

Government members: Mr Burke
Mr Catanzariti
Ms Robertson

Opposition members: Ms Forsythe
Mrs Pavey

Crossbench member: Mr Cohen

STANDING COMMITTEE ON SOCIAL ISSUES**Membership**

The PRESIDENT: According to the resolution of the House establishing the standing committees, I advise that crossbench members have not reached agreement about representation on the Standing Committee on Social Issues. The following members have written to the Clerk nominating themselves for crossbench membership of the committee: Dr Arthur Chesterfield-Evans and Reverend Dr Moyes. In the absence of agreement, the crossbench representation on the committee is to be determined by the House.

Ballot**Motion by the Hon. Tony Kelly agreed to:**

That the crossbench member to serve on the Standing Committee on Social Issues be chosen by ballot in accordance with Standing Order 236.

The President informed members of the procedure to be adopted for the conduct of the ballot pursuant to Standing Order 236.

[The ballot was conducted.]

Declaration of Ballot

The President declared Dr Arthur Chesterfield-Evans, he having received the greater number of votes in the ballot, as the crossbench member of the Standing Committee on Social Issues.

PARLIAMENTARY COMMITTEES**Chairs and Deputy Chairs**

The PRESIDENT: Order! I inform the House that the following members have been nominated by the Leader of the Government and the Leader of the Opposition as Chairs and Deputy Chairs of Legislative Council standing committees according to paragraph 10 of the resolution adopted by the House on Wednesday 21 May:

Standing Committee on Law and Justice

Chair: Ms Robertson
Deputy Chair: Mr Pearce

Standing Committee on Social Issues

Chair: Ms Burnswoods
Deputy Chair: Ms Parker

Standing Committee on State Development

Chair: Mr Burke
Deputy Chair: Mrs Forsyth

BUSINESS OF THE HOUSE**Postponement of Business**

Business of the House Notice of Motion No. 1 postponed on motion by Ms Lee Rhiannon.

Government Business Notice of Motion No. 3 postponed on motion by the Hon. Tony Kelly.

Government Business Orders of the Day Nos 1 to 9 postponed on motion by the Hon. John Hatzistergos.

AUSTRALIAN CRIME COMMISSION (NEW SOUTH WALES) BILL**Second Reading**

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [5.07 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 permits the full operation of the new Australian Crime Commission in New South Wales.

Other such legislation will be enacted in all State and Territory jurisdictions this year.

The Australian Crime Commission (ACC) was established on 1 January 2003 under the Commonwealth *Australian Crime Commission Act 2002*. The head of the ACC is former NSW Police officer Alistair Milroy.

The Australian Crime Commission amalgamates the National Crime Authority (NCA), the Australian Bureau of Criminal Intelligence (ABCI) and the Office of Strategic Crime Assessments (OSCA).

The NCA was a national agency with special powers tasked to investigate organised crime in Australia.

ABCI was an intelligence organisation supported by all jurisdictions which collected, analysed and disseminated intelligence information.

OSCA was a section of the Commonwealth Attorney-General's Department which produced strategic assessments of crime trends.

Following the terrorist attacks in America on 11 September 2001, a Leaders' Summit of the heads of all Australian governments was held on 5 April 2002 to review Australia's national response to organised crime and terrorism.

At the Summit, Commonwealth, State and Territory Government leaders agreed that to improve the response to organised crime the NCA should be replaced with the ACC.

All jurisdictions acknowledged the important role played by the NCA in fighting organised crime since it was established by national agreement in 1984.

NCA was effective in that it had special powers to summon persons before it to be questioned.

Also, by virtue of complementary legislation at Commonwealth, State and Territory level, the NCA was able to function as a truly national (as opposed to Commonwealth or State) law enforcement agency, establishing taskforces of its own personnel, police and officers of other agencies such as the Australian Taxation Office or the Department of Immigration.

Nevertheless, it was accepted that the NCA system could be improved to make it more responsive. This led to the establishment of the ACC.

It was agreed the ACC should have three main functions:

Firstly, to provide improved intelligence gathering, analysis and distribution services;

Secondly, to identify national law enforcement intelligence priorities, and

Thirdly, to initiate, manage and participate in national investigative taskforces.

National leaders also agreed on a range of other matters relating to the ACC.

Firstly, the ACC would retain the NCA's capacity to use special powers, including telecommunication interception and the power to summon persons to be questioned by the ACC.

The Chief Executive Officer of the ACC would not exercise the power to summon persons or compulsorily question them. This would be done by specially appointed examiners. This change keeps the CEO focussed on managing the ACC.

Secondly, the ACC would retain an in-house investigative capability, in addition to the capability provided by seconded police or under joint task forces.

Thirdly, the process for obtaining authority to investigate a matter through a reference would be streamlined. This was a key concern about the NCA. References were obtained through a complicated process of approval by Commonwealth, State and Territory Ministers.

Instead of this process, control of the ACC would be invested in a Board comprising: State and Territory Commissioners of Police, the Commissioner of the AFP, the CEOs of the Commonwealth Attorney-General's Department, Customs, the Australian Securities and Investments Commission and ASIO and the CEO of the ACC.

This broader membership is appropriate given the complex nature of organised and transnational crime. The involvement of these agencies in guiding the ACC will assist with forming joint taskforces and sharing intelligence.

The Board will give direction to the ACC and authorise its intelligence operations and investigations.

The Board will also determine the national criminal intelligence priorities and authorise dissemination of intelligence assessments made by the ACC.

Ministerial oversight would be maintained via an Intergovernmental Committee comprising Commonwealth, State and Territory Ministers—in NSW, the Minister for Police.

Finally, a Joint Committee of the Commonwealth Parliament will report to the Commonwealth Parliament on the ACC.

All the above functions are set out in the Commonwealth's *Australian Crime Commission Act 2002*.

The purpose of the present Bill is to give full effect to the ACC in New South Wales in the terms set out in that Act.

As I noted before, although the ACC is a Commonwealth agency, it investigates crime nationally, as did the NCA. This is essential when confronting sophisticated criminal groups who operate across domestic and international borders.

To ensure this can occur to the fullest extent, State and Territory legislation is required to support the operation of the ACC in each jurisdiction.

I will now describe the main features of the Bill.

Firstly, the Bill is what is known as applied legislation.

This means that it imports into New South Wales law the Commonwealth Act. This is achieved by clauses 5 and 7 of the Bill.

In other words the law under which the ACC must operate in New South Wales is the text of the Commonwealth Act.

This is a common approach with collaborative Commonwealth/Territory schemes.

This does not mean that New South Wales surrenders control of the ACC's activities in New South Wales.

Clause 6 of the Bill makes it clear that New South Wales may make a regulation modifying or nullifying any aspect of the Commonwealth Act or regulations made under it.

So, if the Commonwealth amends the Commonwealth Act, and we support that, we do not have to do anything. The ACC gains the benefit of the amendment instantly for the purposes of its investigations in New South Wales.

If New South Wales wishes to alter or nullify the effect of the amendment, this can be done very rapidly by making a regulation.

The alternative to the applied form approach is a long form, where the New South Wales Act would stand alone. This would mean that if the Commonwealth amended its Act, a New South Wales response would require amending legislation to be passed, which inevitably takes time which is not always available in responding to organised criminal activity.

The applied provisions approach taken in the Bill maintains New South Wales' control over the ACC in New South Wales and makes our reaction to any Commonwealth amendment as fast as possible.

Division 2 of the Bill permits the conferral of functions on the ACC by both Commonwealth and New South Wales legislation.

Division 3 of the Bill relates to offences in respect to the ACC.

The offences are provided for in the Commonwealth Act and relate to such matters as providing false or misleading evidence to the ACC, threatening its staff or hindering its investigations.

Clauses 14, 15 and 16 mean that breaches of these offence provisions, when committed in New South Wales, are treated as offences against Commonwealth law.

Clause 17 is a double jeopardy provision making it clear that if the same act or omission by a person is an offence under both the Commonwealth ACC Act and New South Wales imported version, then the person can only be charged with an offence against the Commonwealth Act.

Part 3 of the Bill contains miscellaneous provisions.

Clause 18 permits the New South Wales Minister responsible for the ACC, the Minister for Police to establish intelligence sharing protocols with the Commonwealth Minister to facilitate the exchange of intelligence between Commonwealth and State agencies.

Clause 19 permits arrangements to be made allowing officers of NSW Police or other State agencies to be made available to the ACC. Such cooperative activity in joint taskforces is critical in modern law enforcement.

Clause 20 permits judges of New South Wales courts to issue search or arrest warrants to the ACC.

Clause 22 is a general regulation making power.

Clause 24 repeals the *National Crime Authority (State Provisions) Act 1984*, which was the equivalent of the Bill under the NCA cooperative scheme. This Act is no longer required as the NCA has ceased operation.

Clause 26 provides for statutory review of the Bill by the Minister for Police. The review is to commence as soon as possible after a period of 5 years from the date of assent of the Bill.

The report of the review is to be tabled in Parliament within 12 months after the 5 year period from the date of assent.

Schedule 1 of the Bill makes numerous machinery amendments to New South Wales legislation which refers to the NCA. These references are replaced with references to the ACC.

An example is the *New South Wales Crime Commission Act 1985*. The Bill will amend section 24 of that Act which deals with membership of the NSW Crime Commission Management Committee. The Chair of the NCA was ex officio a member of that committee.

This function will now be performed by the Chair of the ACC Board. This will facilitate intelligence sharing and taskforce cooperation between the ACC and the NSW Crime Commission.

Schedule 2 of the Bill contains various savings and transitional provisions which facilitate the transition of the NCA into the ACC in New South Wales.

Schedule 2 also contains important provisions to validate the actions of the NCA and ACC in light of the High Court of Australia decision in *R v Hughes*.

This decision endangered the validity of certain actions undertaken as part of cooperative Commonwealth/State legislative schemes, such as the NCA and the ACC.

Any exercise by the NCA, being a Commonwealth agency, of a power conferred by a State law, where there was a duty on the NCA to exercise the power, was vulnerable to challenge if there was no connection to a head of Commonwealth legislative power under the Commonwealth Constitution.

The *National Crime Authority Act 1984 (Cth)* was amended in consequence to validate the actions of the NCA in such situations.

In addition, the Intergovernmental Committee of the NCA tasked the Parliamentary Counsels' Committee to draft model legislation to amend the NCA State Provisions legislation to similarly validate the past and future actions of the NCA in light of this case.

Clause 12 of Schedule 2 of the Bill incorporates this model legislation to validate the past actions of the NCA in New South Wales.

The past and future actions of the ACC are similarly validated by Division 2 of Part 2.

I commend the Bill to the House.

The Hon. DAVID CLARKE [5.08 p.m.]: The Opposition does not oppose the Australian Crime Commission (New South Wales) Bill. As a result of the international campaign of terrorism unleashed by the horrendous events of September 11 2001, the Prime Minister, John Howard, announced during the last Federal election campaign that he would convene a meeting of the Commonwealth and the States to focus on a co-ordinated response to the globalisation of crime and the new methods used by international terrorism and

transnational crime. In keeping with that promise, a Commonwealth-initiated meeting of Federal and State governments agreed that three Federal bodies—the National Crime Authority, the Office of Strategic Crime Assessments and the Australian Bureau of Criminal Investigation—would be replaced by a new body, the Australian Crime Commission [ACC], and that it would operate with enhanced and streamlined procedures.

It was agreed that the ACC would be constituted under Commonwealth legislation as a Commonwealth law enforcement agency, and would be supported and facilitated by complementary State and Territory legislation. To bring that about, the Commonwealth enacted the Australian Crime Commission Act 2002. The Australian Crime Commission (New South Wales) Bill will facilitate the operation of that Act within New South Wales. The bill will allow the new Australian Crime Commission to pursue terrorism and organised crime in our State in a more effective way than previously and to combat, detect and defeat the new methods used by organised crime and organised terror. The bill aims to, and indeed will, streamline intelligence gathering and minimise duplication of effort and resources.

The Federal Attorney-General, Daryl Williams, said, when moving the Federal legislation, that the ACC will provide an enhanced national law enforcement capacity through improved criminal intelligence collection and analysis, through setting clear national criminal intelligence priorities and through conducting intelligence-led investigations of criminal activity of national significance, including the conduct and/or co-ordination of investigative and intelligence task forces as approved by the ACC board. An overview of the bill states that the bill's object is to complement the Commonwealth Australian Crime Commission Act 2002 by making provision for the operation of the ACC in New South Wales in respect of relevant criminal activity insofar as serious and organised crime is, or serious and organised crimes are or include, an offence or offences against the law of the State irrespective of whether they have a Federal aspect.

The bill does that by applying the Commonwealth Act and regulations, directions and guidelines under it, with power to modify those where appropriate, as a law of New South Wales. The bill also repeals the National Crime Authority (State Provisions) Act 1984 and includes provisions for the transition of the operations of the National Crime Authority to the ACC in New South Wales. The Commonwealth Act and the State bill that complements it will result in a major improvement brought about by a new, simplified and faster procedure by which approval to use special coercive powers will be sought from the ACC board rather than the present intergovernmental oversight committee. It should be borne in mind that the Commonwealth Act and this bill do not deal with day-to-day crime, but with more complex criminal activity—with international crime and crime that operates across borders.

As the Federal Attorney-General has said, modern criminal entrepreneurs pay no heed to national and international boundaries, and thus society is facing new and emerging threats. The board of the ACC will comprise 13 voting members—that is, the eight State and Territory police commissioners and five Commonwealth agency heads—as well as one non-voting member, being the chief executive officer. The ACC will maintain the current combined staffing of the three bodies that it replaces and virtually all the funding will be provided by the Commonwealth. It will operate in a way that will complement rather than compete with existing law enforcement agencies and it is proposed that an early priority will be illegal handgun trafficking both into and within Australia. The bill also provides for a statutory review by the Minister for Police after five years from the date of assent.

All in all, the Federal Howard Government should be congratulated on its initiatives in bringing the Federal and State governments together in this admirable and truly bipartisan way. That is because this process, achieved by unanimous agreement of State and Federal authorities to revamp and streamline the old National Crime Authority structure, is for the good of Australia and for the people of New South Wales. The National Crime Authority has served us well, but the spread of terrorism and globalisation of crime dictate that procedures be streamlined and, therefore, made more effective. The Commonwealth legislation does that in a major way and in complementing that legislation so does this bill. The people of New South Wales will be well served by its passage. It should, of course, be understood that the Commonwealth legislation and this bill are very specific in the area of crime that is sought to be targeted.

The legislation is not meant as a cure or quick fix for the ever-increasing and frightening levels of crime that New South Wales is experiencing. To deal with that problem we need something new from the State Government; we need a more systematic and serious approach to New South Wales crime and less reliance on public relations spin. The first and basic duty of any government is to protect its citizens, to protect their lives, their safety and their property. The bill is not designed as an all-encompassing bill to do that. We need other initiatives from the State Government to deal with crime such as armed robbery, which is up 58 per cent since 1995; or assaults, up by 111 per cent; or attempted murder, up by a massive 167 per cent. Those are not fantasy figures—they are supplied by the Australian Bureau of Statistics.

Clearly, something needs to be done by the State Government to stem the rising tide of crime that is not targeted by the bill. Something needs to be done to give our Police Force the staffing and funding it needs to properly do its job. There is a need to come up with new initiatives. Just as the Federal Government has inspired a non-partisan approach to the globalisation of crime through the Australian Crime Commission and its streamlined powers, maybe it is not too much to ask the State Government to consider initiating a bipartisan approach to other areas of crime control. Accordingly, the Opposition will not oppose the bill. In doing so, it is to be hoped that the State Government may begin to appreciate that a more bipartisan approach on its part to other crime prevention measures will result in positive and substantial benefits for the citizens of New South Wales.

Reverend the Hon. FRED NILE [5.16 p.m.]: The Christian Democratic Party is pleased to support the Australian Crime Commission (New South Wales) Bill. This is a most important bill—one which, in many ways, is long overdue because of the concern of many people about the operation of the National Crime Authority. Although the authority did some good it seemed to lose its sense of direction at one point. Therefore something had to be done to either reinvigorate it or, as is happening, to establish a new body with new approaches, particularly in relation to what matters it will investigate, what references it will have and so on. The bill will bring together Federal and State legislation to permit the Australian Crime Commission [ACC] to fully operate in New South Wales, as agreed by the Commonwealth, State and Territory Ministers. I add my congratulations to those of other honourable members to the Federal Government, particularly the leadership of the Prime Minister, John Howard, on establishing this new body.

The Australian Crime Commission had a difficult birth, particularly in meeting the issues raised by New South Wales. It appears that other States were more positive and ready to move forward. At one stage it appeared that the whole venture was in danger. I am pleased that following discussions the ACC was established. No doubt the threat of terrorism has given a new sense of urgency to the establishment of such a crime body. The bill makes a number of references to terrorism, which seems to be a major threat to our society. In the past 24 hours there have been new threats, allegedly from Osama bin Laden and others, which refer directly to Australia. I hope those threats do not lead to deeds. Threats highlight the need for this body, which, because of its aims, should be called the national crime and terrorism commission. If it were so named it would not appear to be moving from its agenda, its main task, should it be involved with terrorism.

Organised crime—such as bank robberies, illegal drug importation or sale, or the more recent development of organised prostitution using young Asian girls as sex slaves in brothels—is something we all clearly understand. But, until now, terrorism has not been part of the brief. I do not propose to draft an amendment, but consideration should be given to adding the word "terrorism" to the name of the Australian Crime Commission—it should be called the Australian crime and terrorism commission. I have no doubt that the attack in New York on 11 September 2001 and the Bali bombing on 12 October 2002 have brought home to us the shocking results of terrorist attacks on civilians. Terrorism targets civilians in towns and cities in other countries, and that danger is now facing Australia.

I understand when two armies conflict, as occurred recently in Iraq. I thank God that the Iraqi army failed to fulfil its threats and the bloody war came to a rapid conclusion. However, I find it difficult to comprehend and accept an attack by one armed force on vulnerable innocent civilians going about their daily lives. The development of the Australian Crime Commission is something we hoped was not necessary, but terrorism is a reality. Raids recently conducted by the Australian Security Intelligence Organisation, which found signs of the planning of attacks, were necessary, despite some criticism, to identify potential terrorist attacks or individuals participating in that sort of activity. The Christian Democratic Party is pleased to support the bill. The Government and the Commissioner of Police have given it their full support. They are working in co-operation with other State police commissioners and the Federal police commissioner. I wish the commission all the best for the future.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [5.23 p.m.], in reply: I thank honourable members for their contributions to the debate. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

CRIMES LEGISLATION AMENDMENT (PAROLE) BILL**Second Reading**

Debate resumed from 28 May.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [5.25 p.m.]: I thank the Minister for Justice for his indulgence in allowing me to continue my contribution to the second reading debate on the Crimes Legislation Amendment (Parole) Bill. Before the debate was adjourned I referred to the resources of the Parole Board and its difficulty in supervising drug tests. I outlined my involvement in supervising drug tests and I said it was a poor show that the Government got doctors on Medicare to supervise drug tests at considerable personal risk and without remuneration. That is an unsatisfactory situation. Tests should be supervised by doctors anonymous to the patient and within a structured system, rather than in a doctor's surgery. The success of the prohibitive approach to drugs is another issue.

The Hon. John Hatzistergos: They don't do it any more.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I note the Minister's interjection that it is no longer done. It was of no use. I am not sure whether supervised drug tests are the best way to manage the problem—the supervision must be carried out differently. The prohibitive approach to drugs is a hydra that causes problems everywhere. A more enlightened approach is needed with respect to parole to avoid prisoners going through the revolving door because of their drug addiction. One of my friends, a former member of the Australian Labor Party, supervised prisoners on parole doing bush regeneration in Nambucca Heads. They were not great workers and they had to be dragged out of bed. The parole officer threatened that they would go back to gaol if they did not get out of bed, so they did the best they could. They were putting something back into the community and they were proud of their bush regeneration efforts.

Unfortunately, they were not sufficiently supervised. My friend had to provide the names of the people who did not turn up, some of whom were returned to prison. Two burly police officers had to get the prisoners and take them back to Grafton, where they had to spend time. It usually involved a shift, sometimes more than a shift. The resources required to take the prisoners back to gaol and the money spent on gaol were greater than what would have been required to get them out of bed to serve the community service orders, as supervised by the Parole Board. Therefore, the Parole Board's lack of resources cost taxpayers a huge amount of money, reduced the number of available police in Nambucca Heads and was most unproductive. The money saved on the parole service was penny wise and pound foolish.

In order to stop former prisoners from reoffending, from going through the revolving door, we need to provide them with accommodation, income support and drug treatment—many of them leave gaol at least as drug dependent as they were when they went in. Justice Action has pioneered good work by giving former prisoners jobs. To its credit, it has a good take-up rate of jobs by prisoners who never reoffend or return to gaol. Ray Jackson has done wonderful work in providing accommodation for people coming out of gaol, which is extremely important. I learned through a committee—I think it was the Select Committee on the Increase in Prisoner Population—that a religious group was providing a rehabilitation service through the prison chaplain. The prison chaplain linked former prisoners with religious church communities to ensure that when they were released they had accommodation and friends. Good results were achieved by those who availed themselves of the services of the chaplain in gaol. All power should be given to that group, which received a Government grant.

People who are not religious should get the same type of service, with ongoing care and liaison arranged for them outside prison. A lot of relationships fall apart while a person is in prison. For the most part, when people are admitted to gaol their accommodation is rented and is subsequently lost. When they are released from prison they have great difficulty getting a job because of our high rate of unemployment. If people are poorly literate—like many people in prison—drug dependent and have their connections undermined, it is difficult for them to get a job. It leads to the same pattern of behaviour that put them in gaol.

This requires a through-care model that considers whether someone who commits a crime can be diverted, because of the need for drug treatment—rather than simply applying a penal model—once they are in care, and plans what will happen to them not only in gaol but beyond gaol. That was the theoretical system in place at Grafton, but when I looked at that centre it was obvious that in practice it did not have a life-plan model that looked at where individuals would be on leaving gaol, or what happened to them, or what would be done to

ensure they did not reoffend. That issue must be considered and resourced. Having heard of these plans and listened to the fine words spoken at Grafton by a person elaborating on the types of plans that were supposedly in place pursuant to policy, we asked, "How many people are actually implementing this plan?" The response was, I think, that there were one and a half people—of a custodial staff of about 120! That was the extent of counselling and ongoing care resources for persons within prisons. I think the parole system has been under-resourced.

I note the presumption in the bill in favour of parole supervision. That is fine, as long as it means supervision of parole as against unsupervised parole. We would like the supervision of parole to be regarded in a helpful sense, rather than as an extension of gaol. We would also like the presumption of parole to mean that the person will have supervised parole rather than ongoing incarceration—in other words, provision of support to prevent reoffending. In that framework, I support the bill. I am not entirely convinced that that is what is proposed. I am concerned that it means that when parole is granted, reasons have to be given, suggesting that the person granted parole will be in trouble if he or she reoffends.

There has to be a closer look at the systemic reasons that people reoffend, rather than simply hitting the Parole Board on the head if a paroled person reoffends. Simply keeping people in gaol longer may damage their personalities, make them much unhappier, and thus increase their likelihood of reoffending. They may be more angry towards society, better trained for crime, but less well prepared for their return to the community. We must take a holistic view of crime in a social context. I hope the bill in fact means there will be more money for parole authorities to do that, rather than the converse.

The Hon. CHRISTINE ROBERTSON [5.33 p.m.]: I support the Crimes Legislation Amendment (Parole) Bill, which is an important part of the Government's commitment to Labor's Public Safety Plan, targeting repeat offenders. Already the Parole Board is required to give reasons when it refuses to make a parole order. This is, of course, a very important justice issue, one that allows for transparency in the refusal process. All of the decisions of the board need to be transparent—for public perception and as a further measure to ensure that the public is protected, as well as ensuring that individual prisoners receive the necessary support to assist in reducing the incidence of reoffending. But it is important also that reasons be given when the board makes a positive parole order.

The Parole Board's job is not easy. There is considerable information from various professionals that in considering the overriding principle in section 135 of the Crimes (Administration of Sentences) Act 1999, the public interest is of primary importance. In 2001 the board made 1,162 parole orders and refused parole in 323 cases. The board revoked 1,165 parole orders. This is an enormous workload. The board is also responsible for revoking periodic detention orders and home detention orders.

It is very sad that we do not herald the many success stories from decisions by the Parole Board and the backup of the Department of Probation and Parole. They are rarely reported. We hear only about offenders who betray the trust conferred on them and in some way further harm the community. In north-western New South Wales many families and first or maybe even second and third time offenders will greatly benefit from the extra resources in the probation and parole system—not only to make our communities safer but also to give our young people a better chance.

Proper reporting of the Parole Board's decisions when parole requests are supported will provide upfront information for both the parolee and the parole officers to deliver constructive programs and support for continued rehabilitation, while delivering clear guidelines on parole conditions for policing individual parolees. The issues that parole officers must deal with in the country do not relate only to ensuring ongoing treatments for drug offenders; in many cases they ensure access to medical officers for basic mental health drugs, which has been a major problem with the lack of bulk billing in the country. The implementation of this bill, which will result in the provision of not only reasons for the refusal of parole but also reasons for the approval of parole, will help the public to understand the difficult job that the board does. I commend the bill.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [5.36 p.m.], in reply: I thank all honourable members who have participated in the debate. One problem with debating issues such as parole and corrections generally is that the debate offers an opportunity for persons to ventilate issues that already have been ventilated on a number of occasions. In particular I refer to the Hon. John Ryan, who made a somewhat intemperate speech and referred to many issues that frankly are not related to the bill. A number of his comments were a blistering attack on the Commissioner for Corrective Services, Mr Ron Woodham. Ultimately, Reverend the Hon. Fred Nile got it right when he said:

From memory, the Hon. John Ryan has been making consistent attacks on a particular individual by way of some kind of crusade. This House is not the appropriate place in which to do that.

Last year a committee looked at other allegations concerning the Commissioner of Corrective Services, and only today the House was advised of the receipt of a letter from the Independent Commission Against Corruption, which after investigation found that those allegations had no substance. There has to come a time when the House must take some action against those who abuse its procedures and processes by making such attacks when ventilating these issues.

The Hon. Greg Pearce: Point of order: The Minister is using his speech in reply to the second reading debate to criticise a member of this House and suggest that the member used his speech on this bill to ventilate non-related issues. The Minister is proceeding to do exactly what he accused the member of doing. I ask that the Minister be directed to return to speaking in reply to the debate on the bill.

The Hon. JOHN HATZISTERGOS: On the point of order: In speaking in reply to the debate I am entitled to address issues ventilated during the debate.

The DEPUTY-PRESIDENT (The Hon. Tony Burke): Order! The Minister is in order in responding to comments made during the debate.

The Hon. JOHN HATZISTERGOS: There has to come a point in time when the House will consider whether it will allow its processes to be abused in the way that they have been, culminating in an investigation that cost taxpayers thousands of dollars but resulted in no corrupt conduct being found and no action being taken. Indeed, I might add that the commissioner was the same person who served a Coalition government for a number of years in senior positions. The honourable member made a number of allegations about the commissioner that I will not deal with, but one allegation he made that I will address is that in 1996 an employee of the department's Indigenous Services Unit made allegations against Mr Woodham. At that time Mr Woodham was the assistant commissioner.

The allegations were that Mr Woodham had discriminated against the employee on grounds of race and disability and that the department had victimised the employee in employment. That issue was investigated by the President of the Anti-Discrimination Board and found to have no substance. Notwithstanding that finding, the employee applied to the Equal Opportunities Tribunal for a review, and the tribunal upheld the allegation of race discrimination but made no other findings. The department then appealed to the appeal panel of the Administrative Decisions Tribunal, which, in its final decision, found, "The complaint of discrimination on the ground of race is dismissed."

I am pleased that the Hon. John Ryan was discreet enough not to have participated in the Wynyard coffee shop incident with the shadow Minister for Justice and the former Minister for Corrective Services on the weekend with the witness, W22, who was apparently dressed in a trench coat and dark sunglasses. However, it is important that persons upon whom the Opposition chooses to rely in its attacks are screened in some way to ascertain whether their allegations have substance and are not being used and bandied about in a hit-and-miss exercise, for which the Hon. John Ryan is well known.

Let me now address the details of the speech by the Hon. John Ryan that focused on the bill. He claimed that essentially the introduction of the bill largely related to events that took place on 22 January at the John Morony Correctional Centre. He then referred to the tragic death of an Aboriginal inmate that occurred some days after that inmate should have been released. I do not deny that one of the motivations underlying this bill and the Government's introducing it is to address some of the circumstances which led to that tragedy, but I trust that the House will accept that even if that tragic death had not occurred we would nevertheless now be debating a parole bill.

As I said during my second reading speech, the bill is designed in part to implement two clear Government election promises: to introduce a presumption in favour of parole and to require the Parole Board to give reasons when it makes a parole order. The Hon. John Ryan said that the Department of Corrective Services resisted telling the parents of the inmate who committed suicide that the inmate's sentence had expired. It is true that when the department discovered the error in the calculation of the sentence, it did not tell the inmate's family immediately, but within a few hours of the death having occurred, one of the department's welfare officers went to the home of the mother of the inmate and informed her of her son's death. That action was in stark contrast to the disgraceful way in which, in 1989 when Michael Yabsley was the Minister for Corrective Services, a mother was rung on the telephone to be told that her son had died in gaol.

Immediately upon being informed in March of the circumstances of the death of the Aboriginal inmate early this year, I instituted an inquiry. The inquiry was conducted by Mr Vern Dalton, who is a former chairman of the Corrective Services Commission, as it was formerly known. I have already implemented three of the nine recommendations made by Mr Dalton. The passing of this bill will implement another of his recommendations, namely, the appointment of another judicial member to the Parole Board and the removal of the secretary of the Parole Board from signing warrants of commitment.

I have discussed at length with the Commissioner of Corrective Services the structure and the staffing of the Parole Board secretariat. The commissioner has allocated two trained officers of the department's sentence administration branch to supervisory roles in the Parole Board secretariat. All clerical and administrative functions of the secretariat are being reviewed in line with the Dalton report and recommendations. I have asked the inspector-general to oversee the process. I want to see a thoroughly professional and highly trained Parole Board secretariat.

The Hon. John Ryan referred obliquely to the Privacy and Personal Information Protection Amendment (Prisoners) Act 2002 and said that rather than require the Department of Corrective Services to apologise to various people for breaches of privacy, the Government marched into Parliament to change the law on privacy to abolish any obligation to protect the privacy of even family members of people in the custody of the Department of Corrective Services. First I note that in this place on 3 December 2002 the Opposition—in fact, the Hon. John Ryan—expressed support for that legislation. Second, the honourable member was of the view that the legislation was unnecessary. He described the bill as "nothing less than an outrageous stunt". He claimed that it sought to "address a problem that simply does not exist". Despite these ridiculous claims the honourable member went on to state:

I accept that the payment of even one dime to Mr Milat, his family, Mr Skaf or members of his family would be totally inappropriate and a travesty of justice.

For the Hon. John Ryan to now criticise the Government for having amended the Privacy and Personal Information Protection Act 1998 on that occasion is curious indeed. The Leader of the Opposition said that the Hon. John Ryan had "spent some time going through the fine details and implications of the legislation". It is a pity he did not spend a bit more time doing that. The Hon. John Ryan stated:

If we pass this legislation, there will no longer be an onus in favour of parole. Any mistake made in the future will not be considered seriously, as it previously was. A person's sentence will not be regarded as having expired, as it now is.

At that point I interjected and said "That does not make sense." I repeat that: It does not make sense. The bill does not interfere with the presumption in section 44 of the Crimes (Sentencing Procedure) Act 1999. The bill does not create a presumption against parole; it creates a presumption in favour of parole supervision. I said during my second reading speech that at present there are between 800 and 900 offenders on parole through court-based parole orders. I want to clear up one thing: they are people whom the courts have indicated at present do not require parole supervision. While welcoming the proposal that only a judicial member may sign a warrant of commitment, the Hon. John Ryan queries how such a change will make any difference. On 10 April 2003 I received a letter from the Chairperson of the Parole Board, the former Chief Magistrate, Ian Pike, which said:

It has now been arranged that the judicial member of the board will sign all warrants of revocation of parole. This will of course involve accepting responsibility for calculation of the balance of parole still to serve.

The logic of having a judicial member sign all warrants of commitment is that the judicial member concerned accepts the responsibility for the calculations. The Hon. John Ryan queried the extent to which the Probation and Parole Service indicates in its pre-sentence report whether the courts could require parole supervision. Judges and magistrates frequently but not always require information about an offender to assist them in determining an appropriate sentence. When a court requests it to do so, the Probation and Parole Service prepares a pre-sentence report which provides verified information regarding an offender's relevant social background, an analysis of the underlying causes behind the person's offending behaviour, and assessments of the available sentencing alternatives.

The determination of an appropriate sentence is clearly a matter for the courts. The Hon. John Ryan asked about the cost of introducing a presumption in favour of parole supervision. In my second reading speech I said that the Government had allocated \$7.5 million over the next four years to implement this change. The yearly allocation is \$500,000 in 2003-04, \$1.5 million in each of the years 2004 and 2005, and \$4 million in 2006-07. The Probation and Parole Service estimates that when the full effect of this change is felt—which should be in 2006-07—the service may need to employ up to 43 additional probation and parole officers. But

the expense is worth it. It is simply commonsense that an offender who has the guidance of a probation and parole officer while on parole is better placed to adapt to normal community life than an offender who has no such guidance. The Hon. John Ryan asserted that the introduction of a presumption in favour of parole supervision "might minimise the capacity for inmates to get parole" and that, as a result, "some inmates will spend longer in gaol".

The Hon. John Ryan: It is good to know that you read my speech on the bill.

The Hon. JOHN HATZISTERGOS: Only to show the honourable member how much he does not know.

[Debate interrupted.]

DISTINGUISHED VISITORS

The DEPUTY-PRESIDENT (The Hon. Tony Burke): Order! I announce the presence in the President's Gallery of the Honourable Peter Lewis, Speaker of the House of Assembly of South Australia, and Mr David Bridges, Clerk of the House of Assembly of South Australia.

CRIMES LEGISLATION AMENDMENT (PAROLE) BILL

Second Reading

[Debate resumed.]

The Hon. JOHN HATZISTERGOS: The Hon. John Ryan does not fully understand the way the sentencing system works. If an offender is sentenced to three years or less, the offender automatically goes on parole at the end of the non-parole period, whether or not the court-based order requires supervision. There is no likelihood that the presumption in favour of parole supervision will keep offenders serving sentences of three years or less past the expiry of their non-parole period. Finally, I refer to something the Hon. John Ryan said with which I actually agree. In his concluding remarks he said:

We should be spending the taxpayers' money where it does the most good.

The \$7.5 million allocated by the Government for parole supervision will do a lot of good. Reverend the Hon. Fred Nile put it well when he said:

... it may be seen to be in the interests of both the prisoner and the community that he or she be supervised by a parole officer.

On 23 May I attended a policy meeting of the Parole Board, at which most members were present. I took the opportunity of speaking to them about the existing legislation and this bill. I emphasised that parole is a privilege, not a right. I spoke frankly about the way in which community expectations change, and that the community today probably has higher expectations than, say, 10 years ago. I think the members appreciated my frankness. I assured them that the board's independence is to be respected, as is the legislation, which places the public interest as being of primary importance.

Lee Rhiannon foreshadowed a number of amendments that she proposes to move in Committee, and I will not trouble the House by responding to them at this time. The Government agrees with the Hon. Dr Arthur Chesterfield-Evans that through care is needed. That is why the department has appointed a director of through care. At present she is working to establish better connections between prison programs and community-based post-release programs. I commend the bill to the House.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 5 agreed to.

Schedule 1 agreed to.

Schedule 2

The Hon. JOHN RYAN [5.55 p.m.]: I move Opposition amendment No. 1:

No. 1 Page 4, schedule 2. Insert after line 25:

- (3) Within 24 hours of recording its reasons for a parole decision under this Part, the Parole Board must:
 - (a) publicly release those reasons (including making them publicly available on the website of the Department), and
 - (b) provide those reasons:
 - (i) to the offender to whom the decision relates, and
 - (ii) to any victim of the offender and any immediate family of the victim.

This amendment relates to the publication of the reasons for parole decisions. The Opposition believes that decisions made by the Parole Board, as with decisions made by other tribunals, should be readily available to the public and, for that matter, to the parties involved, be they the victim or the offender, so that they may be readily scrutinised. The Opposition's proposal is that within 24 hours of recording its reasons for a parole decision, the Parole Board must publicly release the reasons, make them publicly available on the department's web site, and provide the reasons to the offender to whom the decision relates and to any victim of the offender or the immediate family of the victim. Presumably the reasons would be provided in some form of hard copy.

People who are affected by the decision should be entitled to a copy of the decision that they can keep, scrutinise, provide to their legal representatives, and so on. This is a common procedure for tribunals such as the Administrative Decisions Tribunal. Given the vital issues involved in granting parole, and the conditions under which parole operates, there is no reason why the Parole Board, having created and recorded its reasons, should not release them. Presumably the Parole Board, if it is like the courts, reads its decisions. The software is available readily to allow decisions to be created in a computer document which can be easily made available on the web. The web is increasingly becoming the source for people to find such information.

The Opposition calls on the Government to make these important documents, which affect the community, and in which the community has a great deal of interest, available to the public to read and scrutinise. How often have decisions of the Parole Board been discussed in the media without people having ready access to them? If these decisions are readily made available they are more likely to be discussed with intelligence and informed reasoning. Indeed, there is more likely to be rational discussion in the community about them. I cannot see any reason why the Government would object to the Opposition's suggestion. Privacy is not an issue, because the offender has already been publicly paraded in the courts and convicted, and all the issues surrounding the crime are already available publicly.

The Opposition is suggesting that the administrative decisions for parole and the reasons surrounding them should be readily available for anyone to read and quickly comprehend. I look forward to the response from the Government. The Opposition is suggesting a level of transparency that, I concede, the Department of Corrective Services is not always used to.

The Hon. John Hatzistergos: Come on, you've had a bad day already today. Do you want to discuss the ICAC report? How much money was wasted on your reference to ICAC? Are you going to pay back to the taxpayers the hundreds of thousands of dollars you wasted on that reference?

The Hon. JOHN RYAN: I do not think we have wasted one cent.

The Hon. John Hatzistergos: You fell flat on your face.

The Hon. JOHN RYAN: The Minister suggests that I fell flat on my face. It was not something I intended to discuss, but the Minister has raised it in his interjections. I hope the details of the Independent Commission Against Corruption [ICAC] report given today will be discussed by the Parliament.

The Hon. John Hatzistergos: Will you apologise?

The Hon. JOHN RYAN: I will not apologise at all.

The Hon. John Hatzistergos: Do you have faith in the ICAC? Do you have confidence in the ICAC? You do not have confidence in the ICAC, do you?

The Hon. JOHN RYAN: I do not think it is a question of whether I have confidence in the ICAC.

The Hon. John Hatzistergos: It is a simple question. It is either yes or no.

The Hon. JOHN RYAN: No, it is not, and the Minister knows that.

The Hon. John Hatzistergos: Obviously, you do not.

The Hon. JOHN RYAN: If the Minister wishes to join in that sort of spin, he should feel free to do so.

The Hon. John Hatzistergos: You've had a bad day.

The Hon. JOHN RYAN: I have not had a bad day at all. The brutal truth is that both the Minister and I were members of the committee that made the reference to the ICAC. I suspect that the Minister, unlike me, has not read in any detail the documentation from the inspector-general that is in the Clerk's office.

The Hon. John Hatzistergos: Move on!

The Hon. JOHN RYAN: I will not move on. The Minister mentioned it. He is going to get it with both barrels.

The Hon. John Hatzistergos: Go ahead!

The Hon. JOHN RYAN: I do not think the Minister has read the information that is upstairs in the Clerk's office. I suspect that he has not.

The Hon. John Hatzistergos: You haven't read the ICAC report.

The Hon. JOHN RYAN: What, all four pages of it?

The Hon. John Hatzistergos: That's right.

The Hon. JOHN RYAN: There is a bit more upstairs than four pages. The Minister knows as well as I that the ICAC did not report on a couple of issues that were germane to the matters it was supposed to examine, one of which was whether Commissioner Woodham declared his conflict of interest.

The Hon. John Hatzistergos: Why don't you get some credible source?

The Hon. JOHN RYAN: Is the Minister suggesting that Mr Smith, the victim of that complaint, was not a credible source of information?

The Hon. John Hatzistergos: I don't know who your sources are. I just suggest that you get some credible ones.

The Hon. JOHN RYAN: Is the Minister suggesting that Mr Barry Cumberland was not credible? That is not what the ICAC said. It made no comment about the credibility of witnesses. But, apparently, it is all right by the Minister that Mr Barry Cumberland should be criminally investigated by a police officer that he did not even know existed, simply because he had the audacity to make a complaint.

The Hon. John Hatzistergos: Point of order: The honourable member is not debating the amendment before the Committee. Let's get moving on it. He's had a bad day.

The Hon. JOHN RYAN: I do not think the Minister made a point of order. All he did was interject.

The Hon. John Hatzistergos: Yes, I have taken a point of order. We are debating a specific amendment, which the honourable member should now address.

The Hon. Don Harwin: To the point of order: The Minister opened the door. All that the Hon. John Ryan is doing is replying to the Minister's repeated and disorderly interjections.

The TEMPORARY CHAIRMAN (The Hon. Christine Robertson): Order! I remind members that all interjections are disorderly. I ask the Hon. John Ryan to confine his comments to the amendment under consideration.

The Hon. JOHN RYAN: I look forward to a debate that we might have in this Chamber in relation to other matters.

The Hon. John Hatzistergos: Were you at the coffee shop?

The Hon. JOHN RYAN: I do not know what the Minister is referring to. I have no idea what he is talking about.

The TEMPORARY CHAIRMAN (The Hon. Christine Robertson): Order! Members should confine their remarks to a consideration of the amendment before the Committee.

The Hon. JOHN RYAN: I would be grateful if, Madam Chair, you would call the Minister to order. His continual interjections are disorderly. If I am going to be castigated for simply replying to his interjections, he should be given some instruction with regard to proper behaviour.

The Hon. John Hatzistergos: Sorry, I was provoked. I apologise for it.

The TEMPORARY CHAIRMAN (The Hon. Christine Robertson): Order! All interjections are disorderly. I request the Hon. John Ryan to address his amendment.

The Hon. JOHN RYAN: As I was saying, I am not sure that the Department of Corrective Services is entirely used to the idea of public scrutiny. But the twenty-first century has woken up to it. I do not see any reason why the Parole Board, particularly given its record and the comments by the Minister about its conduct, should not be the subject of simple scrutiny. Its decisions, and reasons for those decisions, should be published and made available for public scrutiny. The amendment will introduce well overdue reform that will make available for scrutiny frequently debated matters of concern to the public. The amendment would provide at least an edition of the facts as opposed to someone's assertion of the facts. I commend the amendment to the Committee.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [6.04 p.m.]: The Government opposes the amendment. Immediately after the Parole Board has considered whether to release an offender on parole the presiding judicial member of the Parole Board states the decision of the board and its reasons. That statement is delivered extempore. It is not a written statement. The extempore statement is sound recorded for transcription at a later date, if required. As the statement is extempore, it is not feasible to place it on the web site of the Department of Corrective Services within 24 hours of its having been made. The Attorney General's Department has advised that it does not place on the web site extempore decisions of the courts.

The Attorney General's Department places on the web site only written judgments. A victim, an offender or any member of the public may obtain from the Parole Board a copy of the transcript of any decision. The transcript includes reasons for the decision. The Opposition's proposal is not feasible, and it is unnecessary. In the event of this amendment being carried—requiring decisions of the Parole Board to be placed on the Internet—the department would have to employ reporting resources equal to the quality of the reporting resources of Hansard. The Government does not intend to expend significant resources merely to institute Hansard-style reporting of Parole Board decisions. I repeat, any person may obtain a copy of the transcript of the decision of the Parole Board.

The Hon. JOHN RYAN [6.05 p.m.]: The Minister has given in his answer the very reason that this is logistically possible. I am perfectly aware that decisions of the Parole Board are made extempore. However, they are sound recorded. Software exists, and it is used by this Parliament to record *Hansard*, that would make it possible to create an electronic record of an extempore judgment by the Parole Board and make it readily available. Software is immediately available whereby someone's spoken words are transcribed into an electronic-typed recording. It would require a little bit of checking and correction, but it would not take long.

The Hon. John Hatzistergos: No court or body does that automatically. Which court publishes an uncorrected version of its judgments on a web site?

The Hon. JOHN RYAN: The Fair Trading Tribunal makes many of its decisions available.

The Hon. John Hatzistergos: Really? Published on its web site within 24 hours, uncorrected?

The Hon. JOHN RYAN: It does. This Parliament's *Hansard* is available almost on the day of the proceedings.

The Hon. John Hatzistergos: That is different. That is not the corrected version.

The Hon. JOHN RYAN: I suspect that many of the decisions made extempore are based on some written notes that could easily be reduced to writing. One aspect of the amendment that the Government would not have difficulty comprehending is making available the details of the Parole Board's decision. They ought to be available. I cannot imagine that the reasons exist only in some sort of vaporous transcript on a sound recording. Written documents should be available for scrutiny. The Opposition has suggested that they be available for public scrutiny. The public has a right to see them. This amendment has been available to the Government for it to consider but, obviously, the Government is not interested. Apparently the Government has every interest in providing a detailed response to matters I raised in this House two weeks ago, but it has been unable to consider amendments that have been circulated for some time and to suggest other solutions, if the amendments are not workable. The truth is that the Government does not have the will to make such things work. It is not interested in making available to the public the decisions of the Parole Board. It would rather have what currently exists: a sound recording, if one is prepared to ask and pay for it.

The Hon. John Hatzistergos: You can get a transcript.

The Hon. JOHN RYAN: Not without charge, I suspect. And not just any one can get a written copy of such transcripts. In fact, such is the secrecy with which decisions of the Parole Board are made that many would not be aware that it had made a decision. The Opposition is suggesting a policy initiative and a way forward. Decisions of the Parole Board should be available immediately or within a reasonable time for the public to see and scrutinise. The reasons for such decisions are particularly important, and they ought to be available for scrutiny. If the Minister wanted more than 24 hours, I am sure the Opposition would be more than happy to discuss what those details might be. I cannot imagine how anyone would quibble with making decisions of the Parole Board available for the public to see and scrutinise. The Minister has not given one good reason why the public should not have access to this information. Again, I commend the amendment to the Committee.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [6.09 p.m.]: So far as I am aware, no tribunal provides on its web site uncorrected transcripts of reasons for its decisions. Such decisions are not documents that we should decide flippantly to put on the web site for later correction. Rights flow from reasons, particularly with regard to decisions on parole. Appeal rights may be available to the parties involved.

When those reasons are transcribed and issued it is important that they accurately reflect the basis upon which the parole decision has been made. As I have indicated, this new initiative has been costed and the department is funding it from provisions put aside. It is not possible or feasible, economically or otherwise, to do what the Opposition has proposed. The Opposition wants an uncorrected version of the reasons to be published on the Internet within 24 hours of its being handed down. Subsequently those reasons could be changed. The Government will not make decisions on the run; it will do things properly. People are entitled to such transcripts in the same way as transcripts of other bodies are made available: they will be provided on request.

Reverend the Hon. FRED NILE [6.10 p.m.]: I wish to have clarified the impact of the amendment. I gather from the wording of the amendment that its intention is to inform any victim or members of the immediate family of the victim of the reasons for the granting of parole. That focuses on the rights of victims. Taken literally, the effect of the amendment would be that the Parole Board would have to make available any decision for not releasing an offender on parole. The board would have to publish on its web site all its reasons for releasing or not releasing a person to parole. Part of the community's agitation has been to know when such decisions have been made. If the amendment were agreed to, all decisions, including those for refusing parole, would have to be published. Proposed subsection (3) provides that information must be made available on the web site. That does not make sense to me. Why would reasons have to be publicised for not giving a person parole? That would not be of concern to the victim; the victim would be pleased just to know that the offender was not given parole. There does not seem to be much point to the amendment.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [6.12 p.m.]: If I may clarify one matter: if there is a refusal of parole, reasons are given. However, no reasons are given if a decision is made to grant parole. Victims who may have been involved in a matter in

which the decision was made to refuse parole can, if they request, obtain a copy of the reasons free of charge. It is the intention of the department to make sure that any victim who asks for the reasons for the granting of parole be given them. There is no issue with that. The amendment proposed by the Hon. John Ryan is to require reasons to be published on the Internet within 24 hours in a form the accuracy of which cannot be guaranteed by the Government, and which would require resources that are not available to us within the constraints of this policy. The proposal will defeat the purpose for giving reasons. The Government cannot support the amendment. We want the Parole Board to be more accountable and to give reasons for its decisions. To some extent the board already does that and we are now extending that provision to other cases. We hope that that measure will improve the function of the board and make it more accountable to victims, the community and, of course, the person who is the subject of the parole decision.

The Hon. DON HARWIN [6.13 p.m.]: I have been listening carefully to the debate. To assist the Committee I propose an amendment to the amendment. I move:

Omit the words "Within 24 hours of". Insert instead the words "As soon as practicable after".

The Hon. JOHN RYAN [6.14 p.m.]: It is not as if the Opposition does not listen! If there is any logistical difficulty about releasing decisions within 24 hours, the Opposition has solved that problem by allowing the release to be made as soon as practicable. I cannot believe that the decisions of the Parole Board could not be made available on the web site in a practicable manner for people to scrutinise. The Opposition would prefer that to be done quickly, but we cannot see why it should not be done at all. We have amended our amendment to at least provide that it will be, in one respect, a matter of discretion, but at least it will be done within a practicable time. Basically, any concerns of the Government about the logistics of this proposal should evaporate. I am sure that the reasons for parole decisions are accurately kept in final form somewhere. Surely they do not remain as a tape recording, stored somewhere. If they are to be of any use, they will need to be available.

In response to the comments of Reverend the Hon. Fred Nile, a primary reason that the Opposition is interested in moving its amendments relates to the needs of victims, and the public, to obtain that information. It would be unfair if the person for whom these matters were determined did not have equal access to that material. This is a continuing process that makes the procedure fair. Once the reasons are made available they should be available to all. This is simply a procedural matter and the principles of natural justice require that all decisions of the Parole Board be made available. I cannot imagine that it would be inordinately expensive for the material to be made available in the manner that the Opposition has put before the Committee.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [6.16 p.m.]: The Opposition should address a number of other matters that I did not mention earlier. The proposal of the Hon. Don Harwin requires that the Parole Board must release reasons and place them on the department's web site. The Parole Board is an independent statutory authority. Under its constitution it does not have the capacity to, nor should it be required to, use the department's web site to publish its decisions. I have not consulted the Parole Board about whether it wants to set up a web site to include decisions of that kind. It is an independent authority and I do not believe that it should be obligated to do so. No doubt those reasons could be made available somewhere—perhaps in the Attorney General's library, where people could trawl through them. I do not have a problem with the Parole Board providing reasons to the offender or the victim in the form proposed by the Hon. John Ryan in his amended amendment. However, I oppose the Opposition's amendment to publicly release reasons on its web site.

The Hon. Duncan Gay: So they have addressed your concerns, but you are still not happy?

The Hon. JOHN HATZISTERGOS: I cannot agree to paragraph (a) of the Opposition's amendment; it is unworkable.

Reverend the Hon. FRED NILE [6.18 p.m.]: To assist with this issue, I move that Opposition amendment No. 1 be amended in the following terms:

That the word "must" be deleted. Insert instead the words "where possible".

The Hon. Duncan Gay: You might as well not have the provision if you do that.

Reverend the Hon. FRED NILE: The Minister said that the Parole Board is an independent body. Under its protocol should it be requested to do this, or should we say it must be done?

The Hon. John Hatzistergos: You should delete the words "publicly available on the web site".

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [6.19 p.m.]: Again, I do not know how it will be possible for the Parole Board to publicly release reasons and place them on the department's web site. The whole thing is a nonsense. Reverend the Hon. Fred Nile is asking the board to do something with someone else's facility.

The Hon. JOHN RYAN [6.20 p.m.]: The Parole Board asks the Department of Corrective Services all the time to do lots of things with its resources, including to gaol people and assign staff. I should have thought that to seek to use its web site would be a very small ask.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [6.20 p.m.]: I will accept the amendment of Reverend the Hon. Fred Nile.

Reverend the Hon. FRED NILE [6.20 p.m.]: It would be simple for a direction to be given relating to a web site. The Minister for Justice must have a web site.

The Hon. John Hatzistergos: I do not.

The Hon. John Ryan: The Parole Board tells the department to do many things, the least of which would be to make its web site available.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [6.20 p.m.]: The Government will accept the amendment.

Amendments of amendment agreed to.

Amendment as amended agreed to.

Ms LEE RHIANNON [6.23 p.m.], by leave: I move Greens amendments Nos 1, 2 and 5 in globo:

No. 1 Page 5, schedule 2, lines 2 to 5. Omit all words on those lines. Insert instead:

Omit section 180 (2) (a). Insert instead:

(a) is to be signed by a judicial member of the Parole Board (as referred to in section 183 (2) (a)), a senior member of the Parole Board (as referred to in section 183A) or the Secretary of the Parole Board, and

No. 2 Page 5, schedule 2, line 11. After "(a)", insert "or by a senior member of the Parole Board (as referred to in section 183A)".

No. 5 Page 5, schedule 2. Insert after line 26:

[8] **Section 183A**
Insert after section 183:

183A Senior members
Any non-judicial member of the Parole Board who:

- (a) in the case of a community member - has previously held office for one term (as specified in clause 4 of Schedule 1), or
- (b) in any other case - has been a member of the Parole Board for at least 5 years, is to be designated as a senior member of the Parole Board.

This raft of amendments seeks to broaden the accountability of the Parole Board. The Greens want a complete overhaul of the justice system, and the Parole Board should not be excluded from that overhaul. The Greens acknowledge that the amendments will not create a perfect system, but they will provide a significant and necessary advance on the present system if the bill is enacted. We seek to expand the Government's proposed special category of judicial member. I hope that the Minister has an open mind about this issue, irrespective of his view with regard to other proposals. We propose the establishment of a new category of senior member. A senior member of the board could be an indigenous person or a person with a particular perspective or expertise that should be given importance. Senior members must have served for five years on the Parole Board. It is important to have people other than judges with this higher status because the board exercises significant powers. For example, it should be treated as a serious and sensitive decision, requiring proper community

expertise, when the board issues a warrant committing an indigenous person to a correctional centre. These amendments will allow a senior indigenous member to have this particular perspective granted special status. I look forward to hearing the Minister's response to these amendments. Acceptance of them will go some way towards restoring some justice to the legislation.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [6.25 p.m.]: The Government opposes Greens amendment No. 1, which would allow a so-called senior member of the Parole Board to sign a warrant requiring a person to attend before the board. The Government does not wish to create a category of senior member of the Parole Board. Apart from the proposed function of signing a warrant, there is no function for a senior member to perform. One of the consequences of this proposal would be to make a police member on the board a senior member who would be able to sign the warrants. We are very clear that we want to have the judicial member carry out that function, not some other member designated by this title of "senior member".

The Government opposes Greens amendment No. 2, which would allow a so-called senior member to sign a warrant of commitment to a correctional centre. One of the main thrusts of the bill is to ensure that only judicial members of the Parole Board sign warrants of commitment. The Government is of the view that the signing of a warrant to commit a person to a correctional centre is of sufficient importance that only a judicial member of the board should have such a responsibility. The Government opposes amendment No. 5, which would create a new title of "senior member". There is no need to distinguish between members of the Parole Board on the basis of how long they have sat on the board because the board has no function that needs to be performed by a long-standing community member. It should be noted that the amendment deals with one function only, and there is no need for any person other than the judicial member to sign such warrants.

The Hon. JOHN RYAN [6.26 p.m.]: The Opposition has listened to the debate thus far, and is inclined to agree with the Government. A strong case has not been made for the development of this person called the "senior member". We would be somewhat concerned that the person doing the task that ultimately is to be done by the Parole Board, that is, determining whether a person is in or out of custody, is appropriately decided by a person who is not a judicial officer. If that occurs, I imagine the sorts of concerns which the Greens have with regard to their removal from office, and so on, are also likewise addressed, unless the Greens have a particularly strong argument to make as to why a police officer ought to do the job. One imagines that the Government has enhanced scrutiny and responsibility by making the person who does these things a judicial officer. It seems odd to have a person who is not a judicial officer carry out these very vital functions.

Reverend the Hon. FRED NILE [6.28 p.m.]: I gathered during the debate that one of the major reasons for this bill was to introduce the concept of a judicial member because of a past sad occurrence. These amendments would weaken the Government's proposal. The proposal of the Greens is not for a police officer to have this responsibility, but for an indigenous person as a senior member to have the responsibility. It would be strange if it were their intent to give more power to a police officer. The Government's approach with regard to a judicial member is the preferred one. It is a very serious responsibility. A member who has served for five years on the board would not be automatically equipped with the necessary knowledge to perform the duty. A judicial officer, however, would act in a serious and responsible manner.

The Hon. JOHN RYAN [6.29 p.m.]: It has been clarified that the purpose of these amendments is to engage the indigenous community in such matters.

I am sure I speak on behalf of the whole Opposition when I say I look forward to the day when more of our judicial officers have an indigenous background. I am sure our criminal justice system would be much better if that were so. I know many Aboriginals hold the relevant legal qualifications, so I am mystified why more indigenous people have not been appointed to the bench. Sometimes, sadly, one of the largest portfolios with responsibility to the Aboriginal community is that of the Minister for Justice.

The Hon. John Hatzistergos: Not as much as juvenile justice.

The Hon. JOHN RYAN: Perhaps not as much as juvenile justice, but I am sure the Minister would express regret that way too many people of an indigenous background find their way into the criminal justice system and are more likely to find themselves incarcerated. The Coalition supports the sentiment of greater involvement of the indigenous community in the criminal justice system. However, the Opposition cannot share the honourable member's view as to how that would be achieved.

Amendments negatived.

[The Temporary Chairman (The Hon. Christine Robertson) left the chair at 6.32 p.m. The Committee resumed at 8.00 p.m.]

Ms LEE RHIANNON [8.00 p.m.], by leave: I move Greens amendments Nos 3, 6 and 7 in globo:

No. 3 Page 5, schedule 2, line 14. Omit "the following members". Insert instead "at least 22, but not more than 30, members as follows".

No. 6 Page 6, schedule 2. Insert after line 13:

[13] Schedule 1, clause 4

Omit "3". Insert instead "5".

No. 7 Page 6, schedule 2. Insert after line 13:

[13] Schedule 1, clause 6

Insert after clause 6 (2):

- (3) If an appointed member is removed from office by the Governor under this clause, the Minister is to cause the reasons for the removal to be tabled in both Houses of Parliament.

These amendments protect the independence of the Parole Board. They protect the Parole Board from a mass stacking by government in the event of a tabloid-driven outcry over a particular parole decision. We have seen that occur time and again, and that is why the Greens have come forward with this amendment—a safety mechanism that clearly is needed. The Greens have moved amendment No. 3 because we argue that the Parole Board must have a minimum of 22 members and a maximum of 30 members to limit the ability of the Government to stack the board with anti-prisoner members and thereby influence the outcome of decisions. The Greens are trying to address this clear concern. Currently the board has 17 members.

The problem is not with the Parole Board but with the Government's law and order legislation that creates a massive new workload for the board and the penal system generally. Recently some parts of the judiciary stopped work owing to overload resulting from the crazy workload that is being created by laws that have been passed by this Parliament. The Greens say that the Government has not thought through the whole process. There is a populist side as well as a downside to this legislation, not only from the point of view of prisoners and those who become victims of the law but also from the point of view of people who work in the administration of parole. The Greens have been advised that setting a maximum number of board members will help to stop stacking, which is meant to bring the board into line with media campaigns on law and order.

Amendment No. 6 strengthens the independence of the Parole Board by ensuring that members are appointed for a term that is longer than the term of a government. Having a member appointed for five years instead of three years makes the board less vulnerable to the whim of the Executive. The Greens believe that the amendment will assist in cushioning the Parole Board against the influence of the Executive. We realise that people come under pressure, particularly when their jobs are on the line, and we believe that this amendment will help to alleviate that problem. The Greens believe that this amendment moves this legislation closer to the position of the courts where proper judicial independence is maintained by lifetime appointments. The Greens are not suggesting lifetime appointments, but appointments for five years instead of three years will break the pressure arising from a State election.

Amendment No. 7 is designed to increase the independence of the Parole Board by requiring the Minister to table in both Houses of Parliament the reasons for dismissing a member of the Parole Board. We acknowledge that the Government has the power to dismiss people, but that can be political—such action needs to be transparent. I commend Greens amendments Nos 3, 6 and 7 to the Committee and I look forward to the consideration of them.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [8.07 p.m.]: The Government is unable to support Greens amendment No. 3. The amendment seeks to set a minimum and a maximum number of members of the board. The bill removes the ceiling on the number of members of the Parole Board, thereby giving maximum flexibility in the appointment of persons to the board. However, the bill does not change existing provisions relating to the number of members of the board who may attend a board meeting. Thus the proposal in the bill to remove ceilings on the number of members of the board will not lead to a blow-out in costs or result in a huge number of persons sitting on a particular case. There is no need to set maximum and minimum limits on the number of members of the board. If such a provision were in force the Governor would have to appoint another four persons to the board immediately, as there are currently 18 persons on the board—three judicial members, one police officer, one probation parole officer, one secretary and 12 committee members.

The Government opposes Greens amendment No. 6, which would increase from three to five years the period of office of a judicial member of the Parole Board. The amendment is arguably beyond the scope of the bill. In any event, the existing three-year period is a sufficient length of time. The current fixed three-year period was inserted into the legislation following the release in 1996 of the Law Reform Commission's report No. 79 entitled "Sentencing". Recommendation 57 of that report stated:

Members of the Parole Board should be appointed for a fixed term of three years.

The commission stated:

Our observations and understanding of the duties of members lead us to confirm that three years is the appropriate length for the term. Duties are onerous, and regular renewal of personnel will be invigorating to that body.

The Government opposes Greens amendment No. 7, which would require the Minister to table in Parliament the reasons for the removal by the Governor of New South Wales of a member of the Parole Board. The amendment is arguably beyond the scope of the bill. In any event, I do not know of any other piece of legislation that requires that, if the Governor removes a person from office, the relevant Minister must table in Parliament the reasons for the Governor's decision. If reasons are to be given in relation to the removal from office of a judicial member or a community member of the Parole Board, it is arguable that, whenever the Governor removes a person from office, reasons for the removal should be given in Parliament. No doubt I, as the accountable Minister, would be making the recommendation to the Governor. I could be questioned in Parliament for any decision that I might make in that regard. As this question is extremely wide it is not appropriate for it to be debated in the context of a bill relating to the making of parole orders and the constitution of the Parole Board.

Amendments negatived.

Ms LEE RHIANNON [8.13 p.m.]: I move Greens amendment No. 4:

No. 4 Page 5, schedule 2. Insert after line 26:

- (2A) At least 2, but not more than 6, members of the Parole Board are to be Aboriginal persons or Torres Strait Islanders within the meaning of the *Aboriginal Housing Act 1998*.

This amendment follows the recommendations of the Royal Commission into Aboriginal Deaths in Custody by setting a minimum, and a practical maximum, number of indigenous members of the Parole Board. I hope that all members of the major parties support this amendment. There are already two indigenous members on the Parole Board—the result of good appointments in the past and not a legislative requirement. The Greens are concerned that future governments may not maintain that level of indigenous representation. I hope that the Minister, in his wisdom, supports this amendment which, as I said earlier, follows the recommendations of the Royal Commission into Aboriginal Deaths in Custody.

This quite simple requirement is something that is desperately needed. When I became a member of Parliament I was privileged to serve on the Select Committee on the Increase in Prisoner Population. My committee colleagues and I had the shocking experience of going to gaol—if only for a few hours. We have heard the figures and we have read the statistics that reveal how many young Aboriginal men are in gaol. I was deeply disturbed when I saw so many young black men in gaol. This amendment will bring a bit of balance to what I believe to be an unjust and wrong system. I commend Greens amendment No. 4 to the Committee.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [8.14 p.m.]: The Government opposes this amendment, which would require that at least two, but no more than six, members of the Parole Board are Aboriginal or Torres Strait Islanders. The Government agrees that Aboriginal or Torres Strait Islanders should be represented on the Parole Board. Currently two Aboriginals are community members of that board. It is my intention to appoint at least that number, if not more, to the board. The Government does not want to be bound by artificial formulas, nor does it want to encourage other groups in the community who may be numerically larger than the Aboriginal community—and represented in the prison population—claiming that they should have special guaranteed representation on the Parole Board. Section 183 (2) (e) of the Act already provides that community members of the Parole Board should "reflect as closely as possible the composition of the community at large". I think that provision deals appropriately with the honourable member's concerns.

Question—That the amendment be agreed to—put.

The Committee divided.

Ayes, 5

Mr Cohen
Ms Hale
Ms Rhiannon

Tellers,
Mr Breen
Dr Chesterfield-Evans

Noes, 23

Mr Burke
Ms Burnswoods
Mr Catanzariti
Mr Clarke
Mr Colless
Mrs Forsythe
Ms Griffin
Mr Hatzistergos

Mr Jones
Mr Lynn
Reverend Dr Moyes
Reverend Nile
Mr Oldfield
Ms Parker
Mrs Pavey
Mr Pearce

Mr Ryan
Mr Tingle
Mr Tsang
Mr West
Dr Wong
Tellers,
Mr Harwin
Mr Primrose

Question resolved in the negative.

Amendment negatived.

The TEMPORARY CHAIRMAN (The Hon. Christine Robertson): Order! I have received advice that Opposition amendment No. 2 is outside the leave of the bill. Sentence calculation is not a function of the Parole Board. The Crimes Legislation Amendment (Parole) Bill is:

A Bill for

An Act to amend the *Crimes (Sentencing Procedure) Act 1999* to make further provision for the inclusion of parole supervision conditions in parole orders made by the courts; to amend the *Crimes (Administration of Sentences) Act 1999* to provide that the Parole Board is required to record its reasons for releasing offenders on parole and to make further provision with respect to the constitution of the Parole Board; and for other purposes.

I therefore rule the amendment, which relates to calculations of sentences, out of order as being outside the leave of the bill.

Schedule 2 as amended agreed to.

Schedule 3 agreed to.

Title agreed to.

Bill reported from Committee with an amendment.

Adoption of Report

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [8.27 p.m.]: I move:

That the report be now adopted.

Motion by the Hon. Peter Primrose agreed to:

That the question be amended by omitting all words after "That" and inserting instead "this bill be now recommitted with a view to further consideration of schedule 2."

In Committee (Recommittal)**Recommitted schedule 2**

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [8.30 p.m.]: I move:

Page 4, schedule 2, subsection (3) of proposed section 131A (being subsection (3) as inserted by amendment No. 1 on sheet C-050A)

Omit subsection (3) as inserted by the Committee.

The Hon. JOHN RYAN [8.31 p.m.]: The Government has moved to omit the words because it opposed the amendment in the first instance. However, if the Committee does not agree to the Minister's amendment it does not mean that the grammatical error in the original amendment cannot be corrected. If the Minister's amendment is defeated and the words we inserted earlier remain, I will move an amendment to insert the words "is to" in subsection (3) so as to correct the grammar in my earlier amendment. One reason the Minister might argue for support of the deletion of the words is that the amendment is grammatically wrong.

The Hon. Jan Burnswoods: Why is that?

The Hon. JOHN RYAN: First, the amendment was drafted during Committee while the Opposition was trying to listen to submissions to the Government and refine the amendment accordingly. The Opposition believes that the Parole Board should be required to publish its decisions as soon as practical so that the public and interested parties can scrutinise and consider them. Our arguments in favour of our original amendment are the same: There is no good reason that decisions of the Parole Board should not be available and open to public scrutiny. Second, we debated the bill out of order because the Government reordered business, which made it necessary to make some decisions on the run.

We met the convenience of the Government, so I do not want to hear any nonsense from the other side about the amendment being drafted on the run; yes, it was drafted on the run. The Opposition is committed to making the amendment workable, and it has the means to do it. By defeating the Minister's amendment, we will commit to the proposal that the Parole Board should publish its decisions and make them available and accessible—there is no point if they are available but not accessible—to the public and interested parties to scrutinise and discuss. It is no secret that the public wishes to examine and discuss the decisions of the Parole Board. Decisions of the criminal courts and comments of judges are available for discussion.

When these things are discussed in the public domain the remark made frequently to anyone who criticises a decision is, "Go and read the transcript of the judge's decision!" We are trying to give people the same opportunity in the parole process. When reasons for decisions of the Parole Board are available and the public is able to scrutinise and understand them, the public will understand them and be more likely to accept them. The likelihood is that it will create less controversy, not more. The earlier arguments of the Opposition remain the same: decisions of the Parole Board should be available for public scrutiny, and they should be circulated and discussed.

Reverend the Hon. FRED NILE [8.35 p.m.]: When I moved the amendment to remove the word "must" and replace it with the words "where possible", there was no reference to a verb. It has been suggested that the words "is to where possible" should be inserted after the words "Parole Board". I am happy to do that.

The Hon. John Ryan: If we do not leave the words in, we lose the intent of our amendment. We should vote against the Minister's amendment and then do what you suggest.

Reverend the Hon. FRED NILE: I give notice that I will move that amendment at the right time.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [8.36 p.m.]: I have stated the reasons for the Government's position. I do not need to go through them again. I am happy for the Committee to resolve it and deal with the other issue if we reach that point.

Question—That the amendment be agreed to—put.

The Committee divided.

Ayes, 23

Mr Breen	Ms Fazio	Ms Rhiannon
Dr Burgmann	Ms Griffin	Ms Tebbutt
Mr Burke	Ms Hale	Mr Tingle
Ms Burnswoods	Mr Hatzistergos	Mr Tsang
Mr Catanzariti	Mr Jones	Dr Wong
Dr Chesterfield-Evans	Mr Kelly	<i>Tellers,</i>
Mr Cohen	Mr Macdonald	Mr Primrose
Mr Della Bosca	Mr Oldfield	Mr West

Noes, 13

Mr Clarke	Reverend Dr Moyes	Mr Ryan
Mrs Forsythe	Reverend Nile	
Mr Gallacher	Ms Parker	<i>Tellers,</i>
Mr Gay	Mrs Pavey	Mr Colless
Mr Lynn	Mr Pearce	Mr Harwin

Pairs

Mr Egan	Ms Cusack,
Mr Obeid	Miss Gardiner

Question resolved in the affirmative.

Amendment agreed to.

Bill reported from Committee secundo with a further amendment and passed through remaining stages.

BAIL AMENDMENT BILL**Second Reading**

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [8.46 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 not granted.

The Government is pleased to introduce the Bail Amendment Bill, which amends the Bail Act 1978 to provide for three things: first, to prevent a person who is accused of murder from being granted bail other than in exceptional circumstances; second, to prevent a person who is accused of a serious personal violence offence and who has previously been convicted of a serious personal violence offence from being granted bail other than in exceptional circumstances; and third, to introduce a procedure whereby a decision of a magistrate or an authorised justice to grant bail to a person accused of a serious offence is stayed or deferred pending a review of that decision by the Supreme Court. The bill continues our ongoing reform of bail law, which began last July with the introduction of the Bail (Repeat Offenders) Bill.

These amendments build on those reforms to further protect victims and the community, particularly women, from serious personal violence offenders. Honourable members will remember the tragic murder of Patricia van Koeverden at Newcastle in April this year by her estranged husband, Toni Bardakos. The community was rightly outraged that he was granted bail, and, tragically, the fears of those who knew him were realised. This bill has been drafted with the input of police and the Attorney General's Department. It will ensure that the court's attention is focused on the elements of serious personal violence in future cases, thus providing greater protection for victims and the community in general. Domestic violence is an endemic problem in our community: a great many cases of domestic assault come before the courts every day.

Anecdotal evidence suggests that domestic violence cases account for more than 30 per cent of Local Court and police time. In 2002 in New South Wales, 24,667 domestic violence assaults were recorded. Across Australia, between 1989 to 1999, male offenders were responsible for killing approximately 94 per cent of adult female victims, and 61 per cent of those killings occurred in an intimate relational context. Approximately 90 per cent of adult women victims of lethal violence who were killed within an intimate context were killed as a result of altercations of a domestic nature, referring to general domestic arguments, desertion or termination of an intimate relationship, and jealousy and/or rivalry. Many researchers have reported that women who attempt to terminate relationships with men are at a greater risk of becoming homicide victims.

To ensure that proper regard is had to matters of domestic violence it is now proposed to amend the Bail Act to strengthen the provisions in relation to personal violence offences. The tragic van Koeverden case has accelerated our bail reform program in relation to serious violent offenders in two respects. Schedule 1 [2] to the bill inserts two new sections into the Bail Act. New section 9C provides that bail should not be granted to any person charged with murder unless there are exceptional circumstances. New section 9D provides that bail should not be granted to any person with a previous conviction for a serious personal violence offence who is subsequently charged with a further serious personal violence offence unless there are exceptional circumstances.

A serious personal violence offence will include a personal violence offence with the same meaning as that in the Crimes Act 1900, which carries a maximum penalty of 10 years imprisonment. It will include manslaughter, kidnapping, sexual assault and serious assaults. Exceptional circumstances will be left to the court to decide on an individual, case-by-case basis. However, as a general guide it might include cases involving a battered wife, or a strong self-defence case or a weak prosecution case. It might also include a case in which the defendant is in urgent need of medical attention or has an intellectual disability, or a case in which the court is satisfied that the offender poses no further threat to the victim or the community.

To ensure sufficient coverage of offences committed outside New South Wales, the definition will be extended to include a similar offence under the law of the Commonwealth or of another State or Territory or of another country. In addition, police are developing a domestic violence checklist for bail which will be handed up to the court when bail is sought in cases involving alleged domestic violence. The checklist will provide a history of the offender that will offer more information than the standard criminal record of the offender and will provide the court with a more comprehensive basis for risk assessment. The checklist will be developed with experts in domestic violence to particularly highlight the risk of harm to the complainant.

Factors that might be included are first, criminal record or intelligence, including whether any previous convictions of assault were for domestic violence; second, the number and frequency of apprehended violence orders made; third, indications of escalating violence; fourth, threats to harm themselves, their partner or their children; fifth, possession of firearms; sixth, mental health issues; seventh, drug and alcohol issues; and eighth, whether the victim is particularly vulnerable, for example, due to pregnancy or recent separation. Those matters will greatly enhance the court's ability to make a more accurate assessment of the history of the offender and the risk of re-offending whilst on bail.

The above proposal does not dilute or replace the existing factors that must currently be considered by the court under section 32 of the Bail Act when determining bail. It is in addition to those factors. Section 32 criteria must still be considered, including the probability of the accused appearing at court, the interests of the accused and the likelihood of the accused committing another serious offence. If people charged with assault are deemed to be at risk of committing more violent offences, this will be captured in the assessment of the person against the present section 32 criteria.

I turn now to the provisions for a stay of proceedings. The Government's second major reform in this bill is to introduce a stay of proceedings to allow bail decisions of magistrates to be suspended until the Supreme Court has reviewed the magistrate's decision. Those stays will be available only in relation to certain serious charges. That reform fulfils an election commitment announced by the Premier on 2 May 2003.

Schedule 1 [3] to the bill inserts a new section 25A in the Bail Act to stay or defer a defendant's release pending review by a Supreme Court judge when a defendant comes before the Local Court on his or her first appearance for a charge of murder, an offence carrying a life penalty, or a serious child sex offence; when the magistrate or authorised officer decides to release that person on bail; or when a member of the police force or counsel appearing on behalf of the Director of Public Prosecutions [DPP] immediately indicates to the court that an application for a review of the decision will be made under this part. Serious child sex offences are defined as sexual offences that relate to children under the age of 16.

The period of deferral ends when the review by the Supreme Court is completed, or a member of the police force or the DPP files with the bail authority a notice that the prosecution does not desire to proceed with the review; or three business days have elapsed from the commencement of the stay, whichever first occurs. If a person is released because the prosecution does not pursue the review or because of the lapse of time, the conditions of bail are those that would have applied had the person's release not been deferred; that is, the magistrate or authorised justice's original determination stands. Police must seek prior written approval from the Commissioner of Police or his delegate to seek a review if bail is granted.

A protocol between the police and the DPP will be developed whereby the DPP becomes involved in the original bail application wherever possible. This will ensure not only that the best possible case is made for refusal of bail but that the DPP has prior warning that the matter might be stayed pending a review in the Supreme Court. The duration of the stay will be three business days. This will balance the rights of the person to have a swift bail review with the needs of New South Wales Police, the DPP and the Supreme Court to expedite the hearing. The three-business-day proviso overcomes problems that might be caused by weekends and public holidays, while still providing a set and certain time period.

The stay procedure will be available only for the first time bail is granted; that is, if the Supreme Court upholds the bail decision and the person later breaches his or her bail condition or fresh evidence is found, police will be required to go through normal bail review channels and a stay will not be allowed again. The Supreme Court will be able to expedite a bail review in those circumstances. The Government will not simply throw a blanket over the whole issue of bail, as the Coalition's bill attempted to do. It is my view and the view of the Government that the Opposition's proposals were blunt and essentially unworkable. In addition, there was no guarantee under the Coalition's proposals that bail would have been refused in circumstances such as the tragedy that eventually involved the death of Patricia van Koeverden.

The Government's bail reforms are underpinned by the principle that the more serious the alleged offence, the harder it will be to secure bail. The bill addresses this issue more directly by concentrating on people who have been charged with serious violence and have a history of serious violence or have committed an earlier offence and are believed to be likely to do so again. The community is right to expect that it will be protected but, as I have said elsewhere, that has to be done in a framework that continues to observe fundamental principles, such as the presumption of innocence. It is impossible to provide a system of bail determinations that is failsafe unless one dispenses with the presumption of innocence altogether and equates any charge with guilt. That type of injustice would undoubtedly produce effects that would significantly outweigh any narrow benefit.

Charges are not convictions. Not everybody charged with an offence is found guilty, and some charges do not even proceed. This bill will balance the tensions that are evident in any bail reform process. As I said earlier, this bill continues our ongoing reform of bail law which began in 1998 to tighten bail criteria in relation to serious offenders and was further built upon last July with the introduction of the successful Bail (Repeat Offenders) Bill 2002. The reforms proposed in the present bill do not address the same concerns as last year's successful repeat offender bail laws, which especially targeted offenders who committed frequent but generally less serious offences. Those offenders generally fitted within the presumption-in-favour-of-bail category and therefore were often granted bail.

Our repeat offender provisions removed that presumption in favour of bail, irrespective of the type of offence, if the offender had a previous history. The rise in the remand population and other anecdotal evidence indicate that those changes are having a strong impact. For instance, the number of accused persons on remand has risen by 300 since July 2002. In the six years to the end of 2001 there was a 97 per cent rise, or virtual doubling, in the number of people whose bail was refused in the Local Court. Bail remains a matter of ongoing community concern. The proper balance between the protection of the community and the rights of the accused, who is legally presumed to be innocent, is an important matter that warrants regular monitoring.

The Bail Act has undergone several piecemeal changes since 1978, and has become a complex piece of legislation. In January 2003 the Bail Interdepartmental Working Party was reconvened by officers in the Attorney General's Department to examine the operation of the Bail Act. Members of the working party include representatives from New South Wales Police, the Legal Aid Commission, the Ministry for Police, the New South Wales Office of the Director of Public Prosecutions, Public Defenders, the New South Wales Law Society, the Commonwealth Director of Public Prosecutions, the Deputy Chief Magistrate and senior registry officials from the Supreme Court. The working party is currently preparing a discussion paper that will explore proposals on how to improve the Bail Act, including the simplification and rationalisation of the Act, specific bail provisions relating to juveniles and other categories of vulnerable defendants, and bail regimes in other jurisdictions.

The working party is closely scrutinising proposals to amend the laws pertaining to bail to ensure that the basic principles of justice are adhered to, with a particular emphasis on simplifying the operation of the legislation and improving police procedures. This rationalisation of the Bail Act will also assist the community in understanding bail determinations by the court, and will lead to greater transparency in bail determinations. It is expected that the working party will report its findings in July 2003, with further substantive amendments to the Bail Act to be progressed in the 2003 spring session. I commend the bill to the House.

The Hon. GREG PEARCE [9.00 p.m.]: The Opposition will not oppose the Bail Amendment Bill. However, I should put on the record the correct history of the evolution of the bill. In the lead-up to the March election the Coalition announced the creation of a presumption against bail for repeat offenders as part of bail reform policy. Certainly, the Government has made some attempts to reform bail policy. However, it appears that those attempts have largely been unsuccessful. It has been a quite clumsy effort by the Government in this very important area.

The issue became topical after the election when, in May this year, Patricia van Koeverden was murdered at the hands of a repeat offender who was out on bail. The shadow Attorney General, the honourable member for Epping, Mr Andrew Tink, introduced into the Parliament a private member's bill that sought to create a presumption against bail for violent repeat offenders. He did so because the Government's so-called reforms of last year had not worked, and had certainly not worked to prevent that very unfortunate murder. It was in that circumstance that the Opposition took the initiative and attempted to deal with this very sad and difficult problem. On 22 May the Coalition bill was defeated by the Government on party lines.

Prior to the election the issue had also been highlighted in one of the daily newspapers. It gave a great deal of coverage to an offender named Adam Speyer, who, according to a report in the *Daily Telegraph* of 27 January this year, was repeatedly granted bail even though in three years he had amassed 34 charges, 13 convictions and 7 restraining orders. The Government's 2002 legislation clearly had failed to deal with somebody like Mr Speyer, who not only had an incredible record of charges, convictions and restraining orders, but also thumbed his nose at the Government in the daily newspapers and became something of a commentator on the failure of the Government's laws.

Now the Government has introduced further legislation which, while effectively creating a presumption against bail for repeat offenders, fails to tighten the laws regarding repeat property offenders. This is a matter of grave concern to the Opposition, and a matter that we have marked as needing to be addressed as quickly as possible. Introducing this type of legislation is quite typical of the Carr Government's performance. We have seen it before. The Government is interested in conning the public, usually with a flurry of activity but, as with this bill and the Crimes Legislation Amendment (Parole) Bill, it has not necessarily addressed the real issues.

In May, when the unfortunate murder of Patricia van Koeverden occurred, we witnessed a typical response from Premier Carr. He moved straight onto the attack, blaming the judges for failing to ensure that the murderer was not released on bail. Mr Carr was very strong in his criticism of the judiciary and in his claim at that stage that the Government had already tightened the bail laws and that there was no excuse for a judge making the sort of decision that was made in the case of the murderer of Patricia van Koeverden of Newcastle. So the initial response of the Premier was to claim that his earlier laws were already tough enough, and to attempt to blame the judges—in fact, to blame anyone he could. At that time the shadow Attorney General made it very clear that, in the view of the Opposition, strong legislation was needed to address the problem, and that is why the Coalition proceeded with the private member's bill.

During the election campaign the Premier and a number of other Labor Party members of the lower House used the issue of "bail and jail" as one of their most significant campaign lies. A number of new Labor members, including Paul McLeay and Angela D'Amore, issued brochures—produced, I think, at the public expense—which, among other things, proclaimed that they would "make sure repeat offenders get jail, not bail". Many of the brochures that were distributed included claims that the Government's 2002 legislation would ensure that offences such as the Newcastle murder would not occur again. Well, that legislation was a failure. We have reached the stage where, with just a few weeks remaining before the working party reports on the review of the Bail Act, the Government is rushing through this deficient measure in an attempt to deal with the problem. It is clearly deficient when it does not attempt to deal with something as important as repeat property offenders.

The progress of the Bail Amendment Bill through the other House was quite interesting. It was not introduced by the Attorney General; it was introduced by the Parliamentary Secretary. The Attorney General

only became involved late in the debate. It seems clear that the Attorney did not have his heart in the bill, which really appears to have emanated from the Cabinet Office as part of the Premier's response to being caught out in the election and caught out again in May when the very unfortunate murder that I have referred to occurred. When the Attorney did enter the debate he made a number of statements in which he referred to statistics that he did not substantiate. I wonder whether the Minister in this House might enlighten us on those figures. The Attorney General claimed that as a consequence of last year's legislation 300 extra property offenders were in prison on remand. I wonder where the Attorney managed to get that figure, and how he can attribute it to the Government's legislation.

Also in that context, the Attorney claimed that in 2001 some 100,000 people appeared in courts on bail applications and that more than half of those had a proven offence against them within the previous five years. Those figures appear quite extraordinary when considered against the latest paper I have been given—a document prepared by the Bureau of Crime Statistics and Research entitled "Absconding on Bail". I will not take up a great deal of the time of the House making references to that. If the Attorney cares to look at those figures, he might care to tell me how he reconciles his reference to 100,000 people appearing in courts on bail applications with information I have received that about 40,000 appeared in Local Courts and just under 4,000 appeared in higher courts on bail applications in the circumstances which the Attorney described. I ask the Minister to address those figures and give the House a better idea of the extent of the problem. In the other House the shadow Attorney General moved amendments to the bill that were designed to deal with repeat property offenders. I will move identical amendments in Committee later tonight.

I ask the Minister to address the practicability of this legislation, in particular the three-day stay process and the need to have a letter from the Commissioner of Police or the Director of Public Prosecutions at the time the decision on bail is made, and whether the Commissioner of Police or the Director of Public Prosecutions will be in a position to address those matters prior to a hearing. Will standard letters be issued? If so, I foresee considerable problems with the operation of this legislation because the process appears to be difficult. As I have mentioned, I will be moving amendments at the Committee stage. This legislation does not reflect well on the Government; rather, it confirms that its earlier attempts at bail law reform, particularly last year's attempts, have not been successful. It also does not reflect well on the Government's claims prior to the election regarding repeat offenders. This legislation has been introduced in an attempt to plug a glaring gap.

Ms LEE RHIANNON [9.11 p.m.]: In considering this bill the Greens are guided by a simple principle: innocent until proven guilty. We have all grown up with this concept. It is a fundamental tenet of our democratic system of government. Yet this Parliament, which is supposedly the very heart of the democratic system of this State, is proposing to abandon this fundamental democratic principle. At present, if a judge believes that someone accused of a violent crime may commit another crime if set free, the judge can refuse bail. That power already exists, and we should remember that. Sometimes judges make mistakes and a person who is given bail commits another offence. That is indeed tragic, but so is this Government's solution.

To avoid such mistakes, no matter how rare they are, this Government is proposing to trample on the rights of accused people. No matter how the Government dresses it up, no matter what type of spin is used when the Government is away from the tabloid press and tries to soften its focus, this Government will not be able to get away from the fact that fundamental rights are being abused. This bill will remove the discretion of judges and put an end to a system that by and large has been functioning adequately. A person charged with murder or a person charged with violent crimes will have virtually no chance of getting bail under this bill, yet these people may be innocent. Under the present system each year at least 10 per cent of people on remand for serious crimes are found innocent.

One person in ten is innocent, one person in ten has to spend time in gaol, and one person in ten will suffer enormously when this legislation is passed. Under the proposed new system, even more innocent people will be refused bail than is currently the case. Under the new system, people who are refused bail will remain in gaol. Their trial may be more than a year away—perhaps even two years away—and they will spend the whole of that time in prison. If they are not hardened criminals before they are put into gaol, they will more than likely become hardened criminals after a year or more on remand. In all probability they will lose their jobs and their relationships, and their children will not be able to see them. They will become part of the gaol culture; they may be raped or even die.

No evidence is required; no case has to be made that accused people are a danger to the community. People will be denied bail simply because they have been charged with a crime. Not only does this bill contravene the rule of law and the principles of democracy on which our society is built, but also it may be

unconstitutional. Some lawyers are arguing that this bill breaches the separation of powers because the Legislature is removing the power of judges and handing that to a non-judicial person. The Greens hope that the Government has addressed the separation of powers issue and is certain of its legal advice—to date, that has not been made clear—otherwise it faces a potentially costly battle in the High Court. The Greens also wonder whether the Government has actually examined the statistics on how often people on bail commit another serious crime. In the lower House, the debate focused on just one case.

One wonders how many cases the Government has found to illustrate its point. If this bill is a response to that single case—tragic as that case may be—it is an example of poor, reactionary policy-making on the run. But that is no surprise. When it comes to beating the law and order drum, the Labor Party is as noisy and as enthusiastic as a heavy metal band. I have lost count of the number of times I have stood in this House and responded to yet another repressive, counterproductive law and order bill. Despite Labor's noise and enthusiasm for tough law, those bills have not made much impact on crime rates. I am pleased that some members of the Labor Party do not seem to be willing to go along with the charade. As matters stand, they seem to be trying to have an each-way bet. In recent weeks some encouraging noises have been made. The Premier even spoke of rehabilitation measures and the Attorney General is examining the abolition of prison terms for sentences under six months. The Greens are pleased to note that some sections of Labor are singing our tune.

The Hon. Christine Robertson: I beg your pardon!

Ms LEE RHIANNON: However, I should also note that it seems to be all rhetoric. The backbench member who interjects does not have to be too worried about the similarity between some sections of Labor and the Greens. Labor's policies seem to have been all rhetoric to date, but clearly Labor is able to get away with this scam and does not have too much to worry about. The Greens remain positive, especially when we hear that the days of the law and order agenda should be over. As recently as this morning I learnt that members of this House are set to debate another pair of get-tough bills. Although the rhetoric addresses reform, we are yet to see it crystallise and become reality. In common with most government bills, these law reform bills are populist window-dressing designed to keep the *Daily Telegraph* and talkback radio at bay. That is how this Government works.

The Greens will not support the current bill or any bill of a similar type that either makes purely cosmetic changes so that the Government can say that it is still being tough or curtails basic civil liberties. Such legislation does not give the people of New South Wales a safer society, a fairer society or a just society—a commitment that we so often hear being made by the leaders of the major parties as a reason for bringing forward law reform legislation. Once again the Greens call on this Government to change its direction with this legislation. I acknowledge that there is not much hope of that happening at the moment, but I am a great believer that everything changes. One day the reality will dawn on this Government that its approach does not deliver what the major parties say they want, namely, a safer society.

Reverend the Hon. FRED NILE [9.19 p.m.]: The Christian Democratic Party supports the Bail Amendment Bill, which will amend the Bail Act 1978 specifically to target serious violent offenders in two distinct ways—by introducing a stay of proceedings in certain circumstances and by tightening provisions relating to personal violence offences. Ms Lee Rhiannon spoke earlier about the fundamental rights of an accused, but we must also take into account the fundamental rights of victims. Recently there was an outcry in the community following the tragic murder of Patricia van Koeverden at Newcastle in April this year by her estranged husband.

There is community concern about other serious cases, such as people accused of rape committing another rape while on bail. People released on bail can sometimes pose a serious threat to society or to their victims. The Government introduced this legislation to enable courts and judges to implement its policy. The Government is attempting, through this legislation and through other amending legislation to the Bail Act, to ensure that courts and independent judges implement its policy. Ms Lee Rhiannon referred earlier to a good family man who had never done anything wrong in his life who might be affected by this legislation. One of the objects of the bill is:

- (a) to prevent a person accused of murder from being granted bail except in exceptional circumstances.

No-one would regard murder as a trifling matter; it is a most serious crime. The second object of the bill is:

- (b) to prevent a person accused who is accused of a serious personal violence offence and who has previously been convicted of a serious personal violence offence from being granted bail except in exceptional circumstances.

So the legislation is not as black and white as was suggested earlier by Ms Lee Rhiannon, that an accused person is innocent until proven guilty. This legislation is designed, in the main, to protect vulnerable women who might have already experienced serious personal violence from a husband, de facto partner, or male associate. The third object of the bill is:

- (c) to provide for a temporary stay of a decision by a magistrate or justice to grant bail to a person accused of a serious offence pending a review of that decision by the Supreme Court...

That appears to me to be quite a reasonable provision. We constantly see reports of domestic violence in New South Wales and in other States. Anecdotal evidence suggests that domestic violence takes up more than 30 per cent of Local Court and police time. In 2002 in New South Wales 24,667 domestic violence assaults were recorded. Across Australia, for the period 1989 to 1999, male offenders were responsible for killing approximately 94 per cent of adult female victims, and 61 per cent of those killings occurred in an intimate relationship context.

Approximately 90 per cent of adult women victims of lethal violence who were killed in an intimate context were killed as a result of altercations of a domestic nature, referring to general domestic arguments, desertion or termination of an intimate relationship, and jealousy and/or rivalry. This legislation will apply to accused persons who have a track record of violent behaviour. Recently, some women who broke off their relationships were stalked and threatened by men who were said to be crazy—a condition completely contrary to their normal behaviour. If an accused person exhibits a propensity for such violence, bail should be refused or there should be a stay of proceedings. The Christian Democratic Party supports the bill.

The Hon. PETER BREEN [9.25 p.m.]: The Bail Amendment Bill was introduced after the tragic murder of Patricia van Koeverden at Newcastle. It would be difficult to argue that there should not be some response to such an offence. However, in my opinion, the Government's response—in the form of the present bill—is an overreaction. I say that for a couple of reasons. As I understand it, following the situation that arose in Newcastle that has been referred to, the police applied for an apprehended violence order against the offender, Mr Tony Bardakos. However, in applying for that apprehended violence order, I do not believe police conveyed to the magistrate the seriousness of the offence.

After the apprehended violence order was dealt with police then applied for bail. In fairness to the magistrate who dealt with the apprehended violence order and was asked to deal also with the bail application, I think it was a bit much for him to have to make two decisions about the same matter. So the matter was then referred to the Supreme Court. The judge in the Supreme Court was again faced with the question of the apprehended violence order. That was the issue that the judge dealt with, and it was on that basis that the offender was released. It was an exceptional circumstance. Given the number of appeals from bail decisions, it seems to me that this circumstance was extraordinarily unusual.

According to information provided by the Law Society, in 2001 there were only four reviews of bail decisions in matters prosecuted by police and 14 in matters prosecuted by the Director of Public Prosecutions [DPP]. In 2002 there were 11 reviews of bail prosecuted by police and 17 in matters prosecuted by the DPP. Given the number of bail applications in those two years—in 2001 there were about 53,000 bail applications, and in 2002 there were about 55,000 bail applications—the number of appeals against bail decisions is minuscule. As there are approximately 120 magistrates in the State, it means, on those figures, that only once in a magistrate's lifetime would there be an appeal against a bail decision made by that magistrate. To change the law in the way that the Government is seeking to change it through this bill is, in my opinion, a serious overreaction.

Proposed section 25A refers to a stay of proceedings. Some way down the track there will be a decision about whether or not this provision infringes on the judicial power in the Commonwealth Constitution as it enables someone who is not a judicial officer to apply to the court for a stay of proceedings. I do not know enough about the judicial powers of the Commonwealth to be able to make an informed decision about that, but it has been raised by a number of people and it raises a question about whether or not this Parliament is entitled to make laws that impinge on the judicial power of the Commonwealth.

The problem with the law and order debate that has ensued over the last few years is that there must be a point at which the courts will say, "There are limitations on the power of the Parliament to pass these kinds of laws, which can have serious impacts on people who are in custody and who might have reasonable expectations that they would be entitled to the presumption of innocence." The presumption of innocence and the presumption in favour of bail have been completely reversed by this bill. In those circumstances it seems that some questions about judicial power will be raised.

Only last Friday I was in the High Court in relation to a matter involving legislation that this House passed in 2001, the Crimes Legislation Amendment (Existing Life Sentences) Act. There was an application for leave to appeal to the High Court about the impact of that legislation on certain prisoners in New South Wales. I am pleased to say that the court granted leave to appeal in that case on the basis primarily of the question of whether there was an infringement of the judicial power of the Commonwealth. That is one case that is going to Canberra, and this is likely to be another case. The point I simply make is that if we go down this track—the idea that we can pass any law we like without considering the implications of that law in relation not only to people in custody but also to the rights of citizens generally—there will be a point at which the courts say, "Enough is enough." Given the minuscule number of bail appeals that have taken place in the past two years, this legislation seems to be an overreaction, and I urge honourable members to oppose it.

The Hon. Dr PETER WONG [9.31 p.m.]: We live in uncertain times. Our world as we knew it has changed a great deal in the time that I have served in this House, which is just four years. Even here in the once safe State of New South Wales we are advised that our Parliament may be the focus of a terrorist threat. History tells us that in uncertain times there is a tendency to legislate according to that fear, and it is in this context that I view the law and order legislation before us today from the Government in the form of the Bail Amendment Bill. This uncertainty breeds fear in the population, and governments like to be seen to assure people that they have their interests at heart. Amendments such as these simply erode the powers and principles that are basic to a healthy parliamentary democracy.

The great Western legal tradition of the common law system is built on a number of important principles, one of which is that an accused is innocent until proven guilty. The preservation of these principles is paramount to the proper functioning of a healthy democracy and respect for the rule of law. More importantly, the doctrine of the separation of powers preserves the separation of power between the Government and the judiciary. This amendment represents an interference on the part of government with judicial independence, which goes to the heart of the doctrine of the separation of powers. The Government must not be allowed in any capacity to dictate to the judiciary the outcome of cases before the courts. This is one of the most important preservations in our democracy; without a separation of these powers a dictatorship becomes possible. On that basis the Bail Amendment Bill is unacceptable. I prefer to leave these matters to the judicial officers who are appointed and given the power to deal with them.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [9.34 p.m.]: I oppose the Bail Amendment Bill as I believe it is simply another example of the Government's silly populism. The Government is busy rewriting both the civil law and the criminal law in New South Wales, and not for the better. The criminal law is returning to the dark old days of Liberal rule, for those who have memories of that. We had a rare period of enlightenment under Attorney General Jeff Shaw. Now we are winding the clock back to the dark ages of the 1950s, just as John Howard is doing federally. I congratulate Bob Debus on not reading the second reading speech for this bill in the lower House. I wonder whether he was ashamed of it.

These reforms to the bail laws have been brought on as a result of the death in Newcastle of Trish van Koeverden, who was killed by her estranged husband who had been released on bail. The facts of this case were spoken about by my colleague the Hon. Peter Breen. The police sought an apprehended violence order [AVO]. The defence consented to an AVO. The police then opposed bail, but their arguments were refused. In a sense the magistrate was conditioned in his mind by the fact that the police had only sought an AVO previously. The magistrate granted bail but wanted \$5,000 in cash. The defendant appealed to the Supreme Court on the grounds that he did not have \$5,000. The question at issue for the Supreme Court was not the bail but the \$5,000.

The defendant put up as security his daughter's house and his daughter-in-law's engagement ring. On that basis, bail was granted. The man then went and killed his wife before shooting himself. Presumably the mistake was that the police should not have requested the AVO, which in fact weakened the case when police then asked for bail to be refused. The police should have refused bail in the first place. This legislation will not solve that problem because fundamentally what was asked for was possibly the wrong thing and the judiciary was perhaps not at fault after all.

This legislation is taking power from the judiciary and giving it to the police. It is most unfortunate when mistakes are made. However, I do not believe we should simply put everybody in gaol on the assumption that it is better to have more people in gaol than to let anybody out. Of course, there is a downside to gaol. Aboriginal deaths in custody and the incredible violence in prisons need to be considered. Some 20 per cent of crimes are committed by people already in gaol. Given that relatively small population, it shows the high incidence of crime. The brutalisation of that makes it much more difficult for people coming out of gaol to fit back into a normal society.

This bill seeks to do three things: first, to prevent a person accused of murder from being granted bail, other than in exceptional circumstances; secondly, to prevent a person accused of a serious personal violence offence who has been previously convicted of a serious personal violence offence from being granted bail, other than in exceptional circumstances; and, thirdly, to introduce a procedure whereby a decision by a magistrate or an authorised justice to grant bail to a person accused of a serious offence is stayed or deferred pending a review by the Supreme Court. Effectively, it reverses the onus of proof. Some 14 solicitors from Marsdens Law Group wrote me a letter stating:

The object of this legislation is to provide a temporary stay of a maximum of three (3) business days after the day on which the decision was made in relation to the accused person's bail. This, in effect, would mean that if a person is arrested on a Friday evening and refused bail and placed before the Court on a Monday, then they do not have to be released until 4.00 p.m. on the following Thursday. This would be, in effect, six (6) to seven (7) days in custody. If the period of incarceration is over a long weekend then it would be even longer and one can continue to give examples of even longer periods depending on the time of the year that the relevant incarceration applies.

We, the solicitors at Marsdens Law Group, strongly express our grave reservations in respect of this legislation. This legislation relates to murder allegations and serious personal violence offences. It does, however, reverse the onus of proof. It turns our whole judicial system upside down and it fails to acknowledge, as we all know, that there have been many people charged by the Police in relation to violent offences, or the like, who have not been guilty and have had their lives ruined by being held in custody for unnecessary and lengthy periods of time.

The Law Society made the point that there were 55,000 bail applications in 2001. From about 120 magistrates, in 2001 there were four reviews of bail decisions in matters prosecuted by the police and four in matters prosecuted by the Director of Public Prosecutions [DPP], which is eight in total. In 2002 there were 11 reviews of bail by police and 7 in matters prosecuted by the DPP, which is 18 in total. So in 2002 there were 18 reviews of bail out of 55,000 bail applications, which works out at about one in the working life of each magistrate. That is how rare it is. Yet we are changing the entire rule book on the basis of one case.

Another issue to consider is deaths in custody. There is a sad history of deaths in custody, mainly of Aboriginal prisoners both in New South Wales and in other States. In January this year a 23-year-old Aboriginal inmate died in the John Morony Correctional Centre at Windsor. The man should not have been in custody but his sentence had been miscalculated. There is a parallel with this legislation, in that the appeal mechanism this bill seeks to put in place would put a person in custody who perhaps should not be in custody.

A person may be innocent and subsequently released on bail, confirming the decision of the magistrate. In the meantime there is a finite danger that the person may die in custody. The legislation is anecdotally driven. It is easy enough, as Reverend the Hon. Fred Nile did, to take an extreme case and define the facts very much against bail, or find a case in which a mistake was made and then wax lyrical about how everyone should be locked up—from the particular to the general. On 27 May, in his answer to a question from the honourable member for Wakehurst, Mr Carr claimed that the number of remand prisoners has increased from 719 to 1,080, which proves how tough he is on bail. The money needed to maintain those 1,080 in gaol, if it is a constant number, is \$60 million year. It would be better to use that money to help the victims of violence, better assess violent people, and provide better support for wives and kids.

Money used in that way would provide far more widespread benefits than the brutalisation of being scared by a single mistake that was not entirely due to the judiciary. This is a knee-jerk and foolish response. The reversal of the onus of proof, as if the judiciary were fools, is a very bad thing. When we were debating the Crump legislation people with a video of John Laws lobbied me to overrule judges in 14 cases, because 14 cases were affected by the legislation. I am pretty good, but I would not pit myself against 14 proper judicial hearings based on evidence I had from a John Laws tape. The idea that we know that much better than the judiciary is an arrogance that ill becomes us. The Government should be ashamed of itself. It should stop the populism. It should start to think about how to prevent crime and use our money wisely. The separation of legislation and the judiciary is extremely important. The Government should return to that principle post haste. The Australian Democrats do not support the bill.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [9.41 p.m.], in reply: I thank honourable members for their contributions to the second reading debate. The proposals contained in the bill are measured responses to target serious offences and offences of personal violence at the higher end of criminality. The determination of bail is a delicate balancing procedure between principles that are the foundations of the rule of law and the protection of the community. The community has a right to expect that it will be protected, but it must be done in a framework that continues to observe the fundamental principles such as the presumption of innocence. It is impossible to provide a failsafe system of bail determinations unless one dispenses altogether with the presumption of innocence and equates any charge with guilt. That type of injustice would, undoubtedly, produce effects that would outweigh significantly the narrow benefits.

The Government has made it clear that the bill is stage one of the reforms to the Bail Act. Officers in the Attorney General's Department have reconvened a bail interdepartmental working party to examine the operations of the Act. The working party will scrutinise closely proposals to amend the laws pertaining to bail to ensure that the basic principles of justice are adhered to, with particular emphasis on simplifying the operation of the legislation and improving police procedures. The rationalisation of the Bail Act will assist the community to understand bail determinations by the court, and will lead to greater consistency in bail determinations. It is expected that the working party will report its findings next month, and that further substantive amendments to the Bail Act will be progressed in the 2003 spring session. The Government's changes to the bail regime will ensure that this State has the most rigorous legislative framework for the administration of bail in this country.

The Hon. Greg Pearce referred to Mr Adam Speyer, a repeat offender. I am glad to hear that he is preparing debate on this important and serious matter by drawing attention to something that appeared in two clippings of the *Daily Telegraph*. Both here and in another place undue emphasis has been placed on the case of Adam Speyer. The shadow Attorney General in the other place went so far as to describe Mr Speyer as one of the most notorious repeat offenders in the history of the State. Needless to say, that is an astounding overexaggeration, even if one allows for rhetoric. The case has been raised here in a similar vein. Mr Speyer did not have a long criminal history. A large portion of the convictions recorded against him were for driving offences. Many of the charges on his criminal history were duplicated or withdrawn. He did have some fail to appear charges, but the *Daily Telegraph* neglected to report that on a previous occasion Mr Speyer surrendered himself at the Kings Cross police station when he knew that warrants were out for his arrest.

Some of the charges against Mr Speyer related to incidents arising from the breakdown of a dysfunctional family. He was treated for mental disorders. Mr Speyer was a petty criminal, not the most notorious repeat offender in the history of the State. Ultimately, he was convicted and punished with a term of imprisonment. To put Mr Speyer's case in context, it is one bail case in more than 100,000 that is determined by the court. Reference was made to an extra 300 people on remand. The Department of Corrective Services supplies these figures. The Bureau of Crime Statistics and Research [BOCSAR] supplied a figure of 100,000 bail determinations. The repeat offender database kept by the bureau supplied the Attorney General with a figure of 50,000 who would be affected by the Opposition's amendments. The bill continues our ongoing reform to the bail laws. The number of accused persons on remand has risen by 300 in accordance with the information I have been provided. In the six years to the end of 2001, the number of people whose bail was refused in the Local Court has increased by 97 per cent—a virtual doubling.

Ms Lee Rhiannon made a number of observations about bail, which need a response. Bail is not a form of punishment. The bail system operates alongside two cardinal principles of the rule of law—the presumption of innocence, and the right to freedom and liberty. Both those principles mark us as a modern, democratic, civilised society governed by the rule of law. Deprivation of a citizen's freedom is one of the worst penalties that can be imposed on an individual. Bail hearings do not consider the guilt or innocence of an accused. The majority of these hearings take place at a very early stage in the proceedings when the evidence, which will later be put to trial, has not been tested. Charges are not convictions. Not everyone charged with an offence is found guilty. Sometimes charges do not proceed. Innocence or guilt is determined by a court and anyone found guilty is then liable for full punishment under the law, including deprivation of liberty in the form of imprisonment. In this way, bail determinations balance real rights of the presumption of innocence and the rights of freedom against the interests of the community of having persons charged with offences turning up at court, and the need to protect victims, witnesses and the general community against harm.

The Hon. Peter Breen raised the possible unconstitutional nature of the bill in light of the decision of the High Court in *Kable's* case. It has been suggested in some circles that the bill, particularly the State power in proposed section 25A, is unconstitutional. These arguments are based on part 3 of the Commonwealth Constitution of the High Court decision in *Kable v Director of Public Prosecutions*, reported in 1996, 186 CLR, page 51. In short, the argument is that the bill confers judicial power on a non-judicial person in contravention of the Constitution. Advice has been received from the Solicitor General about this aspect. His advice is that no doctrine of separation of powers is applicable to the States as it is at the Federal level and, therefore, it would not be sufficient to invalidate State legislation to establish that the State court has been given a non-judicial function. In any case, proposed section 25A—the State power—does not impose a non-judicial function on the court. It simply provides for a stay of operation of statute of the decision of a magistrate or justice pending a decision. The court is not required to do anything. In these circumstances, even if the decision in *Kable* had any application to proposed section 25A, which, in the opinion of the Solicitor General it does not, it is difficult to see how this provision could give rise to a question under the principles referred to in *Kable*.

The Hon. Dr Arthur Chesterfield-Evans raised numerous concerns about the number of persons who might be affected by the legislation. In relation to the State power, it will apply to persons who are charged with serious offences. Serious offences are defined in the bill. The Bureau of Crime Statistics and Research was able to provide figures on the impact of its recommendations. Those figures indicate that 592 persons fell within the defined offences in 2002. Of those, 255 were already bail refused and in custody. Therefore, 337 persons would be potentially the subject of the stay. As the stay power is to be used only in serious cases, only a percentage of the 337 matters would be stayed and reviewed by the Supreme Court. A protocol is to be developed between the Director of Public Prosecutions and the police as to which types of cases would be suitable to apply for the stay. South Australia has such a protocol and its details reveal that 20 to 30 cases come within the provisions of the kind to which I have referred.

In relation to the number of persons who may be affected by the repeat serious personal violence provisions, the Bureau of Crime Statistics and Research was able to provide figures of offences of personal violence from its repeat offender database. BOSCAR has the ability to track criminal history in the Local Court and High Court dating back to 1995. In 2001, 3,743 persons appeared in courts for offences of personal violence. Of those, 2,073 had a previous offence within the previous five years and 395 had a previous proven personal violence offence in the previous five years. Of those 395, 49 were bail status unknown, 29 had bail dispensed with, 129 were on bail, and 188 were bail refused and in custody. The number of persons affected by the repeat violent offender provisions may be higher than the 395 indicated in the BOSCAR analysis as persons who had committed a serious personal violence offence before 1995 and who will also be caught by these provisions. I commend the bill to the House.

Question—That this bill be now read a second time—put.

The House divided.

Ayes, 26

Mr Burke	Mr Jones	Ms Robertson
Ms Burnswoods	Mr Kelly	Mr Ryan
Mr Catanzariti	Mr Lynn	Ms Tebbutt
Mr Clarke	Reverend Dr Moyes	Mr Tingle
Mr Colless	Reverend Nile	Mr Tsang
Ms Cusack	Mr Oldfield	Mr West
Ms Fazio	Ms Parker	<i>Tellers,</i>
Ms Griffin	Mrs Pavey	Mr Harwin
Mr Hatzistergos	Mr Pearce	Mr Primrose

Noes, 6

Dr Chesterfield-Evans
Ms Hale Ms Rhiannon
Dr Wong
Tellers,
Mr Breen
Mr Cohen

Question resolved in the affirmative.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 3 agreed to.

Schedule 1

The Hon. GREG PEARCE [10.10 p.m.], by leave: I move Liberal Party amendments Nos 1 to 9 in globo:

No. 1 Page 3, schedule 1 [1], line 6. Omit "9A, 9B or 9D". Insert instead "9A , 9D or 9E".

No. 2 Page 3, schedule 1 [1]. Insert after line 6:

[2] Section 9 Presumption in favour of bail for certain offences - exceptions

Omit "or 9B" from section 9 (1) (a).

[3] Section 9 (3)

Omit " and section 9B (1) (e)".

[4] Section 9B Additional exceptions to presumption in favour of bail

Omit the section.

No. 3 Page 3, schedule 1 [2], lines 9 and 10. Omit all words on those lines. Insert instead:

Division 3A Further limitations on the grant of bail

No. 4 Page 4, schedule 1 [2]. Insert after line 15:

9E Presumption against bail for repeat offenders

(1) An authorised officer or court is not to grant bail to a repeat offender accused of an offence unless the repeat offender satisfies the authorised officer or court that bail should not be refused.

(2) The requirement for bail cannot be dispensed with for a repeat offender and section 10 (2) does not apply with respect to any repeat offender.

(3) Section 9 does not apply in respect of a grant of bail to a repeat offender in respect of an offence.

(4) For the purposes of this section, a person is a *repeat offender* if:

(a) the person has previously been convicted of one or more indictable offences (whether dealt with on indictment or summarily) or an offence against section 51, or

(b) at the time of the offence is alleged to have been convicted, the person, in connection with any other offence:

(i) was at liberty on bail, or

(ii) was on parole, or

(iii) was serving a sentence but was not in custody, or

(iv) was subject to a good behaviour bond or an intervention program order (within the meaning of the *Crimes (Sentencing Procedure) Act 1999*), or

(v) was in custody.

(5) This section does not apply to the granting of bail to a person in respect of the offence of murder or to the granting of bail to a person to whom section 9D applies.

No. 5 Page 5, schedule 1. Insert after line 28:

[4] Section 32 Criteria to be considered in bail applications

Omit "section 9B (3)" from section 32 (1) (b) (vi).

Insert instead "section 9E (4) (a)".

No. 6 Page 5, schedule 1[4], lines 31 and 32. Omit "9C or 9D". Insert instead "9C, 9D or 9E".

No. 7 Page 6, schedule 1 [5], line 14. Omit "Section 9D, as inserted by the amending Act, extends". Insert instead "Sections 9D and 9E, as inserted by the amending Act, extend".

No. 8 Page 6, schedule 1 [5], line 15. Omit "a serious personal violence". Insert instead "an".

No. 9 Page 6, schedule 1 [5], lines 19 and 20. Omit "9D to a conviction for a serious personal violence offence". Insert instead "9D or 9E to a conviction for an offence".

These amendments were moved and debated in the other place, so I will not take up much of the time of the Committee repeating the arguments for them. Essentially they are intended to effect a presumption against bail for repeat offenders, particularly property offenders. The Opposition believes that the failure of the Government

to deal with that issue as one of the defects in this bill, just as it believes that government legislation has failed in the past to address this issue, which is of great concern to the community. We believe that the bill will be improved by the amendments, and I commend them.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [10.01 p.m.]: The Government cannot support the amendments. The Government will not throw a blanket over the whole issue of bail, and the amendments proposed by the amendment do that. Last year, more than 100,000 people appeared in court on bail applications. More than half of them, that is 50,000 people, had a prior proven offence within the past five years. The Opposition amendments would catch those 50,000 people. The Government's bail reforms are underpinned by the principle that the more serious the alleged offence, the harder it will be to secure bail. The bill addresses this issue more directly by concentrating on persons who have been charged with serious violence and have a history of serious violence.

The community has a right to expect that it will be protected but, as I said, that has to be done in a framework that observes fundamental principles such as the presumption of innocence. It is impossible to provide a system of bail determination that is failsafe unless one dispenses with the presumption of innocence altogether and equates any charge with guilt, and that type of injustice would undoubtedly produce effects that would significantly outweigh any narrow benefit. Charges are not convictions. Not everybody charged with an offence is found guilty, and some charges do not even proceed. The bill will balance the tensions that are evident in any bail reform process.

Amendments negatived.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [10.30 p.m.], by leave: I move Government amendments Nos 1 to 3 in globo:

- No. 1 Page 3, schedule 1 [2], line 32. Omit "35". Insert instead "35 (2)".
- No. 2 Page 4, schedule 1 [2], lines 1 and 2. Omit "(if the offence is committed against a person under the age of 16 years)".
- No. 3 Page 4, schedule 1 [2], line 4. Omit "195, 196". Insert instead "195 (b), 196 (b)".

These amendments relate to the definition of "serious personal violence offence" and will clarify the relevant offence under sections 35, 195 and 196 relating to an aggravated form of those offences rather than the implicit offence. The first amendment will insert section 35 (2) so that the definition of "serious personal violence offence" applies to "maliciously wounding" or "inflicting grievous bodily harm in company", with a maximum penalty of 10 years imprisonment. The third amendment will insert sections 195 (b) and 196 (b) so that the definition of "serious personal violence offence" applies to "maliciously destroy or damage property by means of fire, explosives or with an intent to injure a person", with a maximum penalty of 10 and 14 years imprisonment respectively.

As I said in my second reading speech, the definition of "serious personal violence offence" should be at the upper end of the defence scale and carry a maximum penalty of 10 years or more imprisonment. The second amendment will remove the qualification of section 73 for the purpose of committing an offence against a person under the age of 16. This bill was drafted before the Crimes Amendment (Sexual Offences) Act 2002 came into force on 13 June 2003, and the recently amended section 73 was not included in the definition. By removing the qualification, section 73 will be captured

The Hon. GREG PEARCE [10.05 p.m.]: The Opposition does not oppose these amendments.

Amendments agreed to.

Schedule 1 as amended agreed to.

Title agreed to.

Bill reported from Committee with amendments and passed through remaining stages.

CANCER INSTITUTE (NSW) BILL

Second Reading

The Hon. TONY KELLY (Minister for Rural Affairs, Minister for Local Government, Minister for Emergency Services, and Minister Assisting the Minister for Natural Resources (Lands)) [10.09 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.

The bill introduces a key plank of the New South Wales Government's health policy for the March 2003 election, namely, the establishment of a cancer institute for the people of New South Wales. Cancer accounts for 28 per cent of all deaths, and almost 30,000 new cases of cancer are reported in New South Wales each year. Such a toll has a devastating impact on our community, and clearly warrants a focussed and co-ordinated response. Guiding our efforts in the drafting of the bill has been the principle that our efforts in the struggle against cancer should be not only caring but also clever. The bill equips us with a new weapon in this battle, the New South Wales Cancer Institute, which will become the tip of our spear in the fight against cancer.

The concept of a cancer institute for New South Wales was first considered almost 60 years ago when the then Premier, Sir William McKell, allocated £350,000 for that purpose. On his appointment as Governor-General the idea lapsed. Today the time has come for William McKell's proposal for a New South Wales Cancer Institute to become a reality. The concept of cancer control in the legislation encompasses a very broad range of activities, including research, prevention, diagnosis, care and treatment. The proposed institute will place itself at the heart of all aspects of cancer-related activities. It will become the State's driving force to tackle cancer head on, and that is clearly spelt out in the objectives for the institute.

Clause 5 sets out the objectives, which are to increase the survival rate for people with cancer, to reduce the incidence of cancer in the New South Wales community, to improve the quality of life for cancer patients and their carers, and to provide an expert resource on cancer control. We want to see less cancer, fewer deaths from cancer and better care for those with cancer. I stress that our goal is focused on outcomes. The success of the bill will not be measured by the amount of money invested in these efforts, but in the number of lives saved and the improvements we deliver to the lives of those suffering from the disease.

In fulfilment of the Government's commitment, the bill establishes the Cancer Institute as a separate statutory corporation with a governing board of up to 11 members, including the institute chief executive, who will be titled the Chief Cancer Officer. The board will be accountable, through the Minister, to the New South Wales community. Appointments to the board will provide not only a mix of skills, including clinical and research professionals, but also people with consumer and patient perspectives. The board's primary focus will be on how the cancer effort can deliver better outcomes for the people of New South Wales.

Clause 8 of part 2 of schedule 1 to the bill will ensure the transparency and probity of board decision making through appropriate management of any potential conflicts of interest. In addition, to enhance the objectivity and independence of the institute's activities the Minister may, under clause 21, establish an independent panel of experts, including people drawn from outside New South Wales, to review and report to the Minister on the institute's performance in achieving its objectives. It is the Government's intention that an international review panel will be convened to review periodically the institute's performance.

Consistent with the need for accountability to the people of New South Wales, the institute will be required to provide an annual report to the Minister within four months of the end of each financial year for tabling before Parliament. The reporting requirements demanded of the institute are explicit. Its annual report to Parliament must include details of the outcomes achieved from the institute's initiatives during the financial year; details about trends in the incidence, mortality and survival rates of cancer; and an overview of cancer-related research and philanthropy in New South Wales during the previous financial year.

This annual report will be in addition to the annual financial reporting requirements required of statutory bodies receiving funding through the Health appropriation. Clause 6 of the bill provides a set of guiding principles for the institute in undertaking its functions. These principles recognise that accountability, equity, the optimal use of resources and appropriate linkages both inside and outside New South Wales are essential to the success of the overall cancer effort. Most importantly, they recognise that at the centre of the cancer effort, regardless of its form, is the cancer patient.

The role of the institute will involve the promotion of efficiency in clinical and research practices. The supply of funds is not limitless and, although some areas of activity will receive resource enhancement, the Government would expect value-for-money testing of programs and services to optimise the use of public funds. The provisions dealing with the functions of the institute are set out in clause 12. The institute will have broad functions in relation to all aspects of cancer research. The establishment of the institute offers an opportunity to identify current resources going to cancer-related research and advice on future priorities for research in this area.

Although the institute will be able to conduct its own research where appropriate, it will also commission and sponsor research by other organisations. The institute will play a key role in fostering collaboration and co-operation across the various bodies involved in cancer research. To achieve a more comprehensive understanding of the cancer research effort in New South Wales and maximise the benefits of available research funds, it is proposed that the institute establish a publicly available register of bodies and individuals contributing to the cancer research effort.

Participation in the register will be voluntary, and participants will be able to provide a broad outline of their area of research, be it epidemiological, clinical or molecular. Strong evidence suggests that best practice principles applied consistently in cancer control will significantly reduce death rates from cancer. For example, the application of screening programs and better treatment for breast cancer in the past two decades has led to a 15 per cent increase in survival rates for breast cancer sufferers. A major role for the institute will be keeping abreast of the very latest developments and improvements in cancer control both in Australia and overseas, and disseminating these improvements and developments to organisations and practitioners in the field in a manner that ensures their comprehensive uptake.

Ensuring that the best health care is provided involves a systematic approach to the dissemination of relevant information. The bill allows the institute to develop clinical guidelines and protocols for use by health professionals and other health service providers or, where appropriate, to endorse a guideline or protocol developed by another body whether in Australia or overseas. The institute will be able to accredit cancer control programs that meet specified standards. This form of benchmarking will encourage excellence in cancer control.

The Institute will also be able to sponsor innovative programs within the public health system as well as work with the Department of Health and the public health system for the further promotion of a patient-focused, seamless multidisciplinary approach to cancer care. Another priority for the institute will be to foster improvements in the prevention and early detection of cancer. Prevention can include both promotion measures, such as programs to reduce the incidence of smoking, as well as campaigns for sun protection.

The institute will play a role in identifying and disseminating the latest developments in cancer screening, such as recent developments in screening for bowel cancer, and cancer genetics screening. It will be given a wide-ranging brief to review and evaluate existing programs and services, as well as new initiatives and pilots within the public health system. Recommendations of the institute for improvements to existing programs or new initiatives can be implemented by way of incorporation into the performance agreements between public health organisations and the director-general under the Health Services Act 1997.

It is also proposed to confer on the institute a policy, planning and review role in respect of cancer control. The bill sets out a specific and ambitious deadline by which the institute, in conjunction with the Department of Health, must develop a State cancer plan. It is envisaged that the plan will encompass the full spectrum of cancer control activities to be undertaken across New South Wales. This will include clinical initiatives and research projects, as well as prevention and information strategies. A State cancer plan is necessary to ensure an integrated statewide approach to cancer control. The 30 June 2004 time frame for the initial plan will give the necessary impetus for the institute to get on with the task of enhancing the State's cancer control effort.

The public funds which the institute will administer in each financial year will include not only its own operating budget. The institute will also have available funds for allocation to a range of cancer control activities such as research, innovative clinical programs and screening trials. One of the functions of the institute under clause 12 will be to submit recommendations to the Minister on how the funds it will administer in a particular financial year should be allocated. The establishment of the institute will enhance the expertise on cancer available to Government and the people of New South Wales. The institute will become a focal point for advice on all cancer-related matters. It will be able to receive specific references from the responsible Minister or the Director-General of Health, to provide advice and to undertake assessments of particular programs and services within the public health system.

The institute will also have a role in co-ordinating and managing statewide cancer data collection and analysis. It will be able to manage and utilise data collections based on identified patient data established under the notification provisions of the Public Health Act 1991. In addition, it is expected to review existing data collections with a view to identifying any gaps or other inadequacies. Where appropriate, it will be able to establish and maintain its own data collections, subject to relevant privacy considerations, and to utilise information from other sources in undertaking its own epidemiology, research and policy work. In recognition of the increasing use of complementary therapies by cancer patients, the institute will be specifically empowered to investigate and evaluate these therapies.

Complementary therapies, when properly applied, may enhance the quality of life for cancer patients. The institute will assess both their effectiveness and safety and provide patients and doctors with better advice on their use. Other functions proposed for the institute in relation to cancer control include the dissemination of advice and information to the public, and the training and education of health personnel. The success of the institute in achieving its objects will depend, in large part, on a consultative and collaborative approach across all sectors which recognises the institute's diverse range of stakeholders and the need to forge strategic partnerships and undertake joint ventures as part of its overall approach. Given its importance, a specific function related to consultation and collaboration has been included.

Honourable members will be well aware that community participation and fundraising provides an important component of the overall resources devoted to the fight against cancer. While the institute will itself be able to engage in such activities, more importantly it will foster such activities across the community by other organisations. In turn, the institute may be the recipient of funds raised by community organisations or funds otherwise donated or bequeathed to it for cancer-related purposes. There are a plethora of bodies engaged in philanthropic activities associated with cancer relief. In order to maximise the benefits to cancer patients and their carers of the funds derived from charitable fundraising for cancer relief, it is desirable to harness the energies of these various bodies to achieve co-operative outcomes and a transparent and comprehensive picture of how cancer charity dollars are applied. To that end—and similar to the proposal for a publicly available research register—the institute will be able to establish a voluntary register of such bodies and will be required to provide an overview of cancer-related philanthropic activities in its annual report.

As the institute will be undertaking its own research and conducting and managing important databases, it will be required to establish its own institutional ethics committee as part of its administrative arrangements. It is also recognised that delays can occur in obtaining ethical approval for multi-centre research, including cancer-related research. The institute will have the opportunity to take a leadership role in developing more streamlined systems of ethical review for multi-centre and other cancer research. The institute will be involved in the allocation of funds for cancer-related research, prevention and detection, and health service enhancements across New South Wales.

In undertaking its functions the board will need to draw upon a wide range of appropriate clinical and other health-related expertise, including from the New South Wales health system. To that end, under clause 9 of the bill it is proposed that the institute establish a number of expert advisory committees with members drawn from across various cancer-related fields and areas of practice. For example, the Clinical Services Advisory Committee offers the opportunity, through its membership, to draw on the skills and experience of health and related professionals practising in a variety of areas, including primary care, rural practice and paediatrics.

It is clear from the foregoing outline of the role and functions of the proposed institute that, in the absence of appropriate adjustment of the Cancer Council's role and functions, there is potential for overlap and duplication between the two bodies. The New South Wales Cancer Council, established under the New South Wales Cancer Council Act 1995, currently has a very broad range of cancer-related functions, some of which the council has not in practice been in a position to discharge. In practice a large part of the very valuable role it plays is in the areas of advocacy and patient support, fundraising, education and research. Another significant activity of the Cancer Council currently is the management of two NSW Health registers, the Pap test register and the Cancer Register, under a contract with the Department of Health.

Both registers are established under the Public Health Act 1991. Recognising the need for an adjustment of its role to complement that of the proposed institute, as well as the opportunity for restructuring and repositioning which the establishment of the institute represents, the board of the Cancer Council has indicated that it wishes to alter its legal status to that of a not-for-profit company limited by guarantee. This will enable it to better focus on its existing well-established role as a community charity capable of operating in a competitive commercial environment.

The New South Wales Cancer Council, along with seven other State voluntary cancer bodies, is now a member of the Cancer Council of Australia. A fundamental strategic direction for the council is greater integration with its national partners to lower costs, improve effectiveness and leverage international funding sources. It envisages that its future role—being focused on fundraising, community education and advocacy, and philanthropic activities for cancer patients and their families—would appropriately and usefully complement the role of the proposed institute. A future structure under the Corporations Law would provide the Cancer Council with the flexibility necessary to build on its current position as the premier cancer charity in New South Wales.

Given the Cancer Council's unique history as a statutory body with a strong existing partnership with government, and the cancer-related purposes of both the council and the institute, it is envisaged that these two bodies will develop a close strategic partnership and working relationship in the future. The Commonwealth Corporations Act 2001 provides a mechanism for statutory corporations such as the Cancer Council to become registered as companies and operate in future within the corporate framework. These provisions enable a seamless transition from statutory corporation to registered company. It is proposed that the date of deemed registration of the council would be fixed by ministerial order, thereby enabling the timing of the transition to be set by the Minister, taking into account the readiness of the Cancer Council and the institute for the transition.

Repeal of the Cancer Council Act will take effect simultaneously with, or at a date subsequent to, the deemed registration of the Cancer Council under the Corporations Law. Before transition to registration under the Corporations Law there is a need for a due diligence process to be undertaken to identify the current assets and liabilities of the Cancer Council in its current form as a public body. This will form the basis for working with the Cancer Council to develop appropriate transitional arrangements in respect of the transfer of assets, liabilities and staff of the Cancer Council. Under clause 25 of the bill comprehensive transitional regulations to provide for such transfer can be made.

Honourable members should note that there has been significant public consultation on the proposals for the institute since they were announced before the March election. A copy of the proposed cancer strategy, which includes the establishment of the institute, has been available on the Department of Health's web site for public comment. Submissions from interested organisations and individuals were considered by the department in developing the bill's provisions. Over the past two months I have visited all the major hospitals treating cancer and the key research institutions to discuss this proposal and hear the views of staff.

Forums attended by researchers, clinicians, consumers and other key stakeholders have also been convened to discuss the proposed role and functions of the institute. Furthermore, the proposed arrangements for the future of the Cancer Council are consistent with the Cancer Council's own desired future direction.

This bill represents a great leap forward in the fight against cancer. In the years to come the New South Wales Cancer Institute will play a major role in cancer control in this State. Indeed, I believe that the New South Wales Cancer Institute is a first for Australia. I want to specifically thank all those who have provided input into this initiative and who played a role in its development, in particular my ministerial colleague Craig Knowles, who had the foresight to push this onto Labor's election platform and, of course, the Premier for his vision in giving it his full support. I also thank the many people who were involved in the consultations on the bill. The Cancer Institute's aims are bold and its functions broad. But it cannot achieve those aims in isolation. To fully realise its potential requires the continued co-operation and goodwill of the many organisations and individuals across the State that are involved in the cancer effort. I urge them to support this historic initiative. I urge honourable members to lend their support. I commend the bill to the House.

The Hon. ROBYN PARKER [10.09 p.m.]: On behalf of the Opposition, I support the bill. Government funding for cancer research is welcome, so undoubtedly the community would greatly support this initiative. Cancer is the second-most common cause of death, with one-third of the population being diagnosed with cancer at some stage and a quarter of those diagnosed dying from the disease. This is a significant health issue for Australian people and it is good legislation that supports further research into the disease. I commend the Government for including funding for that research in the budget presented today.

The purpose of the bill is to establish a Cancer Institute with the stated aims of promoting cancer research, treatment and care. Work to be done to reduce the impact of the disease is the paramount objective of

the Cancer Institute, which was the key promise made in the Government's "plans for better cancer care", launched just before the State election. The Cancer Council was concerned about its identity and relationship with the new institute, but it will be given a new structure as a company limited by guarantee, and that has satisfied the concerns the Cancer Council had.

The bill sets out the framework for the establishment of the Cancer Institute. It does not specify a location, but it does specify a board structure and the establishment of a number of committees, for example, the Ethics Committee, Clinical Services Advisory Committee, Quality and Clinical Effectiveness Advisory Committee, and Research Advisory Committee. A Chief Cancer Officer to be appointed by the Minister will be part of the board. The Opposition did have some concerns about the appointment of the board and the provision that the Minister would appoint the board. Those concerns have been addressed, and we now feel comfortable with the selection process for the board.

The institute's objectives will be to increase the survival rate for cancer patients and reduce the incidence of cancer, to improve the quality of life of patients and their carers, and to provide a source of expert advice on cancer control. The guiding principles will be partnerships between public and private sectors and the general community, the utilisation of resources for the maximum benefit for the greatest number of people, and an evidence-based, patient-centred approach to cancer care and treatment.

I think nearly everyone's lives have been touched in some way by cancer. Most of us have someone very close to us who has suffered from cancer, so there is a great deal of empathy for those with this condition. Research is improving all the time, but cancer is still a great challenge facing the medical and science communities. Therefore, incorporating a research function within an institute will be a huge advantage. It will be better for patients, and it will result in a better co-ordination of individual research groups, as well as enhancing and co-ordinating efforts to prevent and treat cancer and provide palliative care for cancer patients. Most of the 38 submissions the Government received supported this bill and acknowledged the work that has been done in cancer research. The Opposition wishes to acknowledge and support that research.

The Opposition had some concern about the creation of yet another bureaucracy, but as this legislation has progressed, some of those concerns have been allayed. We also had some concerns about the duplication of research within institutes and the implications of that for funding. Those concerns have been addressed. However, I would stress the need for transparency in the appointment of the board in a way that takes into consideration the qualifications of its members, ensures their skills and experiences are complementary, and ensures that the membership of the board brings together a broad cross-section of the best skills and experience in the field. Our support is dependent upon that process being as transparent as possible to ensure public accountability, a necessary benchmark.

There needs to be an independent panel that reviews the functions and performance of the board and the structure of the institute. In conclusion, might I say that I think this bill will improve the current system. I think it will support and encourage further research, and more co-ordination of research work and funding. The Cancer Institute will be a focal point in bringing together the research of the medical profession. It will agree on protocols, set strategies, and advise the Government on priorities so we can enhance our efforts towards gains in the war against cancer. I support the bill.

Ms SYLVIA HALE [10.15 p.m.]: The Greens support the Cancer Institute (NSW) Bill and the Government's commitment to increase funding for cancer treatment and research. It is important, however, that the proposed Cancer Institute does not focus solely on clinical treatment. Funds distributed by the institute cannot be permitted to allow drug and pharmaceutical companies to get rich, while ignoring the contribution of natural and preventative medicine. Over half the community uses complementary and alternative therapies, so practitioners from the traditional school of medicine should not make judgments about the efficacy and practices of those in other health philosophies such as naturopathy, homoeopathy, and psychosocial disciplines. For this reason the Greens would like the membership of the institute's governing board to include representation from alternative health professions.

To tackle cancer seriously we must move from treating the symptoms to addressing the underlying causes of the disease. The links between cancer and diet, environment, and lifestyle factors are well documented, but none more so than the link between cancer and smoking. Every year approximately 6,500 people die in New South Wales from smoking-related illnesses. Most of them are cancer deaths. More than 80 per cent of lung cancers can be attributed directly to smoking. In 1989 the New South Wales Health Services Research Group undertook a study that estimated that New South Wales spent \$144 million on tobacco-related

hospital admissions every year. That was more than 10 years ago. Since then, smoking rates have fallen only marginally. If the figure was \$144 million 13 years ago, it is almost certainly approaching, or exceeding, \$205 million today. This means that New South Wales spends more money every year on hospitals beds to treat tobacco-related illnesses than this bill is proposing for cancer research over the next four years.

If the Government is serious about reducing cancer, it must reduce the incidence of smoking. One of the simplest ways to achieve this is to introduce a total smoking ban in clubs and pubs. But the Government has consistently failed to do this. It has pandered to the gambling and hotel industry, and the result is anti-smoking legislation in New South Wales that is weak and ineffective—legislation that will do little to reduce smoking, and almost nothing to reduce the appalling high rate of smoking-related cancers. The Greens support the Cancer Institute Bill, but if the Carr Government is serious about tackling cancer it must introduce legislation that bans smoking in pubs and clubs outright.

Reverend the Hon. FRED NILE [10.19 p.m.]: The Christian Democratic Party supports the Cancer Institute (NSW) Bill. This important bill will establish the Cancer Institute with the aim of enhancing cancer research, care and treatment, and other aspects of cancer control. The Cancer Institute will be a statutory authority and a professional research organisation. Its objectives are to increase the survival rates of people with cancer, reduce the incidence of cancer in the New South Wales community, improve the quality of life of people with cancer and their carers, and to be a source of expertise on cancer control. I note from the briefing paper that the Government has acceded to the wishes of the board of the Cancer Council of New South Wales for the council to be registered as a company that is limited by guarantee. The New South Wales Cancer Council Act 1995 will be repealed when the council becomes a company.

I hope, as the Government indicated, that the Cancer Institute (NSW), the Cancer Council and the New South Wales Department of Health will enter into discussion to determine the ongoing role of the Cancer Council and the relationship between the three organisations prior to the commencement of the process to register the council as a company. One might say that the Cancer Council is the consumer side of the equation, and I hope that the focus upon the Cancer Institute does not unintentionally undermine the work of the Cancer Council.

I note that the Government has allocated \$290 million for the establishment of the State's first Cancer Institute ever, of which \$205 million will be expended over four years to fight cancer in New South Wales. I hope that the Cancer Council's funding requirements will continue to be met and that the two organisations will operate along parallel lines—one dealing with research and the other dealing with cancer patients and preventive programs, such as anti-tobacco smoking campaigns. I hope that the legislation will be implemented along those lines.

The DEPUTY-PRESIDENT (The Hon. Patricia Forsythe): Order! Before giving the call to the next speaker, I remind members that if they wish to seek the call they should rise to do so. Indeed, they must be present in the Chamber to do so. If no member seeks the call, I will call the Minister in reply.

The Hon. Dr PETER WONG [10.22 p.m.]: I am pleased to note this worthwhile initiative. However, my understanding is that the Cancer Institute will be not necessarily a research institute but, rather, a co-ordinating body that will be responsible for the implementation of new methods and new technology. I think that is also worthwhile. I note that the Minister consulted many stakeholders and I note also that Dr Andrew Penman is supportive of the bill. There is always a concern for patient care when resources are stretched.

As a practising doctor I find it unacceptable that this institute is set to address the needs of future patient care when so much could be done right now to save thousands of patients who currently are suffering from cancer. I and, I am sure, many other honourable members have friends and know of friends of friends who wait two weeks, six weeks and sometimes up to eight weeks for chemotherapy and radiotherapy. The devastating toll on our community to which the Minister referred in his second reading speech could be addressed right now by expanding services for cancer patients who are suffering currently and who are in desperate need of services.

The 30,000 people who are diagnosed each year in New South Wales as cancer sufferers are in need of services. I cannot see how this institute will immediately address their needs. It is true that fewer patient deaths is the desire of the Minister, the Governments and me. However, the Government could act now and do more by providing more financial support for chemotherapy and radiotherapy services, particularly for people living in rural areas who have suffered greatly as a result of the shortage of services.

While I hope that the Cancer Institute will be very successful, I remind honourable members that the Cancer Council of New South Wales has done a magnificent job as a community organisation. I wish to see the Cancer Council continue to grow and to receive support from the Government and the community. I will be very concerned if the Cancer Institute competes with the Cancer Council of New South Wales in fundraising activities.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [10.25 p.m.]: As someone who has watched a great number of people die, I should be jumping with delight at this bill. Unfortunately, I am not. This bill is another case of hope, but the basic priorities of this Government and the direction of the bill severely overlook prevention. It is true that prevention is mentioned in the bill, but not with the same enthusiasm and the same dynamism as treatment is mentioned.

The bill will establish the first cancer institute in New South Wales and will repeal the New South Wales Cancer Council Act, clarifying that the Cancer Council of New South Wales will remain a non-government organisation. The Cancer Institute will have a budget of \$205 million over four years and will carry out 19 functions in relation to cancer research. After the commencement of the Act, the institute will also assist in the formulation of a State cancer plan by 30 June 2004. The institute will support and manage cancer-related research, foster best practice and evidence-based approaches to cancer control, undertake or commission innovative cancer programs or accredit them, maintain a search register, provide the Minister with expert advice, and evaluate the role of complementary therapies. The Cancer Council of New South Wales and Cancer Voices NSW both support the establishment of the institute. The institute has also received overwhelming support from Professor Bruce Armstrong, who is the head of the school of public health.

I turn now to the reservations that I have about this bill. In the guiding principles set out in clause 6 and in the general functions of the Cancer Institute set out in clause 12 there is a notable omission of cancer prevention policy, which is critical in tackling the increasing rate of cancer. The Minister said in his second reading speech that the focus of the institute is on prevention:

It is quite clear that prevention is a major aim of the bill, because the second object of the bill is explicitly to reduce the incidence of cancer.

I am concerned that there is no specific reference in the bill to tobacco control. If the Government is serious about cancer control, that is very amazing. Annual funding of \$3.3 million will be allocated to implement a tobacco action plan in New South Wales as part of a tobacco control and anti-smoking strategy. That sum includes \$1.5 million for the enhancement of tobacco control strategies. In addition, an estimated \$2.7 million will be allocated by area health services to tobacco control activities. However, I always wonder what that actually means. There is good evidence that the best way to control tobacco use is by well funded Quit campaigns. Individual quitting efforts are far less cost effective because it takes far more money per case to achieve a success rate that is not commensurate with the amount of effort involved. Each day in New South Wales 12 people die from illness caused by tobacco. There is an obvious flaw in the idea of a cancer plan not being produced until 30 June 2004 when blind Freddy can see that something could be done tomorrow to prevent 12 people dying each day for the next 12 months—more than 4,000 cancer deaths.

One person in every three should not die in agony from cancer. I would be amazed if 4 out of 12 beds in a cancer ward were empty. If we had sensible tobacco control policies, those four beds would not be occupied by people with cancer. We are obsessed with the treatment of cancer, but it does not get a mention in this bill. If the Government intends to deal with this matter in the future, why does the current budget provide for five linear accelerators and five replacement linear accelerators over the next five years? No quick budget has been worked out for the next five years. I seek leave to incorporate in *Hansard* an editorial written in March 2003 by Dileep G. Bal, Donald O. Lyman and David F. Veneziano in the *Medical Journal of Australia* entitled "Tobacco control in Australia: what aren't you doing and why aren't you doing it?"

Leave granted.

Editorials

Tobacco control in Australia: what aren't you doing and why aren't you doing it?

Dileep G Bal, Donald O Lyman and David F Veneziano

MJA 2003; 178 (7): 313-314

The anti-smoking crusade in Australia is in a sorry state, say

the leaders of California's Tobacco Control Program

FEAR COMES IN MANY FORMS. At the turn of the 20th century, our grandparents were terrified by tuberculosis and polio (to mention only a few of the hideous communicable diseases that plagued the human race). We pulled out all the stops and gladly spent millions to "conquer" the responsible infective agents, at least in the resource-rich nations. As a result, the "plagues" which now terrorise the industrialised world are cardiovascular disease and cancer. These two categories of disease alone are responsible for a majority of all deaths, illnesses, disabilities and the lion's share of medical care costs. The leading responsible agent for these is tobacco. Yet, we tolerate this agent, subsidise it with government funds, and passively accept the tobacco industry argument that our societal ethos accepts its use (that is, it's "normal" and "expected"), and those who oppose its use are, by implication, "intolerant" and "puritanical". There are few examples of so deadly an error in human history. We need to recognise that this problem is caused by an agent (tobacco) as virulent as the tubercle bacillus or the poliovirus. Furthermore, this agent is being skilfully marketed by an industry which is, sans hyperbole, an immensely profitable organisation that has grown by strategically buying social and political influence. An egregious example of this is the relationship between the big tobacco lobbyists and most of the major political parties in Australia.

Tobacco use remains the single largest underlying preventable cause of death in Australia. The tragic irony is that these deaths are so very preventable. Yet tobacco control measures in Australia have stalled, primarily due to a monumental paucity of funds and political will. Sadly, the Australian crusade is actually a non-crusade. Because of complacency, you are falling far short of what could be achieved if you were once again to become global leaders in tobacco control. Needless to say, tobacco companies are constantly and very effectively working behind the scenes to diminish the gains that have been made to date. Tobacco use in Australia will probably fail to decline, and could even increase, unless a proactive campaign to regenerate your flagging efforts is undertaken.

To that end the Cancer Council of New South Wales invited us to visit in November 2002 to transfer some of the California Tobacco Control Program's expertise, irreverence, passion and technology to our Australian counterparts.

From 1988 (the year before the California program was launched) to 2001, annual per capita consumption of cigarettes in California declined by 60% to 50 packs per capita. During the same period, annual per capita consumption in the entire nation (including California) declined by only 34%, to just over 100 packets per capita (twice the rate in California).² The comparable statistic for Australia is currently derived to be about 75 packs per capita annually. From 1988 to 1997, the decline in lung and bronchial cancer rates in California was five times the rate of the decline in the rest of the nation.³ Furthermore, prevalence rates of youth tobacco use in California declined 47% (from 11.2% in 1997 to 5.9% in 2001).⁴ What worked in California will also work in Australia.

The California experience demonstrates that a comprehensive approach designed to change social norms and expectations around tobacco use will reduce both its use and tobacco-related morbidity and mortality. This approach involves media-supported advocacy for laws and voluntary policies that discourage tobacco use, especially at the community level. The objective of this approach is to change the social environment in such a way as to make tobacco use less desirable, less acceptable, and less accessible to adults and youth. The four broad priority areas, or policy themes, of the California program are:

- Protecting people from exposure to secondhand tobacco smoke;
- Exposing and countering tobacco industry influences in Californian communities;
- Reducing the availability of tobacco by regulating tobacco retailers; and

Providing support for smoking cessation services.

Having studied the dynamics of your political and governmental system, we identified four areas for Australia to work on.

Firstly, the insidious influence of the tobacco industry on both sides of your parliamentary aisle is a huge drawback. The fact that a former premier of New South Wales is currently the chairman of your biggest tobacco company says it all.

Secondly, your allocation of funds to tobacco control is ludicrous. Our largest State, California, has spent over US\$1 billion in 12 years to achieve these results. In your largest State, New South Wales, you spent less than US\$2 million last year.

Thirdly, your governmental bureaucracy needs to be infinitely more agile and aggressive. Throughout our trip, we were complacently assured by government officials that some of these interventions "would not work" in Australia. We used to hear the same arguments in California. We just ignored them and pushed ahead aggressively to become the first major governmental organisation to take this "legally constituted tobacco industry" head on, by publicly ridiculing them for their falsehoods (as to the addictive, atherogenic, mutagenic and carcinogenic properties of tobacco smoke) and questioning their amoral marketing practices. You must give the leaders of your tobacco control program permission to be caustically critical of the tobacco industry and its surrogates as an official government policy.

Lastly, your constituency of anti-tobacco control advocates is too civil by far. Even as we enjoyed success after success, we were continuously and usefully criticised, prodded and even pilloried by an ever-vigilant anti-tobacco constituency to do more and more, to good avail.

In expressing these criticisms, we speak as respectful co-labourers in the field of tobacco control. Our own efforts were inspired by Australia's pioneering initiatives in tobacco control 20 years ago. Australia has had phenomenal success in the implementation of certain measures like advertising bans and point-of-sale restrictions (price and pack warnings being good examples of these), but none of these is a fundamental threat to the operation of the industry. Thus, having seen your once-proud effort diminished considerably, we have ventured to speak frankly in the hope that this may contribute to restoring your tobacco control efforts to their former glory.

Our best advice?

- The allocation of funds to tobacco control in Australia is negligent, bordering on the farcical. At a minimum, you have to spend \$50 million per year in New South Wales and well over twice that for all of Australia. This could fund an aggressive tobacco control program capable of producing a sea change in community norms around tobacco use.
- Your focus should be on increasing the tax on all tobacco products, as well as promulgating a total ban on smoking in all indoor venues, including bars, pubs and clubs. Smoking bans are, contrary to the tobacco industry's propaganda, good for health reasons, good for business, and good politics, as has been amply illustrated in California.⁵⁻⁷ A key point to remember is that a good adult campaign is also a good youth campaign.
- There is a clear divide between your political leaders "cosying up to" the tobacco industry and the preferences of your population, as expressed by polling and survey data.⁸⁻¹⁰ During our visit, we were repeatedly confronted with the question as to why your political leaders were not responding to these expressed needs.

In conclusion, we do not delude ourselves that this will be easy to achieve given the organised opposition of the monolithic tobacco industry behemoth and its front groups and political influence in Australia. However, there is no shortage of anti-tobacco control expertise in Australia, where some of the world's leading tobacco control experts reside. You have the talent and technical expertise for an effective program. So, why are Australian authorities emulating the ostrich and sticking their heads in the sand? The anti-tobacco constituency needs to sound the clarion call: "In tobacco control in Australia: what aren't we doing and why aren't we doing it?"

1. Australian Electoral Commission 2003. 2001/2002 Annual political disclosure returns. Available at: <http://search.aec.gov.au/annualreturns/> (accessed Feb 2003).
2. California Department of Health Services. A model for change: the California experience in tobacco control. Sacramento, Calif: CDHS, October 1998: 1.
3. Declines in lung cancer rates—California, 1988-1997. MMWR Morb Mortal Wkly Rep 2000; 49(47): 1066-1069. <PubMed>
4. California Department of Health Services. California tobacco control update. Sacramento, Calif: CDHS, November 2002: 12.
5. Eisner MD, Smith AK, Blanc PD. Bartenders' respiratory health after establishment of smoke-free bars and taverns. JAMA 1998; 280: 1909-1914. <PubMed>
6. Glantz SA, Smith LRA. The effect of ordinances requiring smoke-free restaurants on restaurant sales. Am J Public Health 1994; 84: 1081-1085. <PubMed>
7. Glantz SA, Smith LRA. The effect of ordinances requiring smoke-free restaurants and bars on revenues: a follow-up. Am J Public Health 1997; 87: 1687-1693. <PubMed>
8. National Heart Foundation (NSW Division). Overwhelming support for smoke-free venues. Media release. 1997; 16 April.
9. Australian Institute of Health and Welfare. 1998 National Drug Strategy Household Survey: first results. Canberra: AIHW, 1999.
10. Australian Institute of Health and Welfare. 2001 National Drug Strategy Household Survey: State and Territory supplement. Canberra: AIHW, 2002.

(Received 21 Jan 2003, accepted 17 Feb 2003)

California Department of Health Services, Sacramento, California, USA.

Dileep G Bal, MD, MS, MPH, Chief, Cancer Control Branch; and Past-President of the American Cancer Society (National); Donald O Lyman, MD, DT, DTPH, Chief, Chronic Disease and Injury Control Division; and President-Elect, American Cancer Society (California Division).

American Cancer Society (California Division), Oakland, California, USA.

David F Veneziano, MPA, Chief Operating Officer.

Reprints: Dr Dileep G Bal, Chief, Cancer Control Branch, California Department of Health Services, 601 North 7th Street, MS 662, Sacramento, CA 95814. dbalATdhs.ca.gov

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: That editorial states, in part, that \$50 million a year should be spent on tobacco control in New South Wales. The Californian model that was to be used would have involved spending large amounts of revenue on a quit smoking campaign. However, the model that was actually used in California was a model from the Victorian Health Promotion Foundation, which cut tobacco tax

revenue into health sponsorships because the Billboard-Utilising Graffitiists Against Unhealthy Products [BUGA-UP] program totally discredited tobacco advertising and its fellow running dog, tobacco sponsorship. The question was: How should that be replaced without disadvantaging sport—that well-known sacred cow? Victoria demonstrated the cost effectiveness of its Quit campaign, which was then used in California.

California, which did a better cost-effectiveness analysis, obtained dose response curves relating to quit smoking advertising and rates and then told us what we should be doing. Up until that stage we had been doing practically nothing. Sadly, this Government, like the Howard Government, is doing practically nothing. Why do Government members not read the editorial published in the March 2003 *Medical Journal of Australia*—the most prestigious and widely read journal in Australia? How many lives have been lost as a result of tobacco industry donations to Labor's coffers—or should that be coffins? Most people in the socioeconomic groups who are smoking and dying are supposedly Labor voters—although some of us think that those voters have been deserted by Labor. The Minister in the other place said:

Further funding and possibilities are the very thing the institute will calibrate against other priorities, such as whether more money should go into the tobacco-reduction effort. In that regard I make the point that I think the strategies against tobacco are probably most effective if they are conducted on a national basis.

That is a fine sentiment from someone who is living in New South Wales. With regard to the Quit campaign I remind honourable members that the chairman of British American Tobacco is a former Premier, the secretary of the Liberal Party is a former head of the Tobacco Institute, and the Liberal Party allowed Philip Morris to pay for its annual conference dinners a number of years after tobacco sponsorship of sport had been banned. It appears as though the New South Wales Government is waiting for a lead from Canberra—a lead that will never come. The Minister might not have thought through this legislation. Perhaps the institute can deal with some of its interstate and national counterparts to help formulate a more comprehensive tobacco reduction program. I remain sceptical.

Over the years tobacco action plans have come and gone. Sadly, Australia has been inactive in this regard—a factor pointed out in the editorial published in the *Medical Journal of Australia*. In the early 1980s Australia, and New South Wales in particular, led the world in this regard. The Quit program was seen as a major priority—a task that was given to social marketers and not health bureaucrats. Perhaps it died because health bureaucrats could not bear to see others get their money. Mid-level managers without a clue about tobacco rotated through the tobacco control sections of the health department, each timidly looking at the prospect of progress up the slippery public service hierarchy, and each without a clue.

There was no innovation, spending on the Quit program fell and it is now a national joke. A couple of million dollars a year is now spent on the prevention of cancer. People have suggested that we should work with the pro-tobacco Federal Government—one of the worst governments we have seen in years. The Federal health Minister even offered to delay the ban on tobacco sponsorship for the Australian Formula 1 Grand Prix—which had already had about a seven-year extension—so that the event could continue its promotion of tobacco throughout the world. Unfortunately, the Cancer Council has not been without blame in all this. Historically, it has been quite a timid organisation. Though tobacco causes one-third of all cancer, the Cancer Council spends only a couple of hundred thousand dollars on tobacco advocacy or tobacco control.

The Cancer Council is largely a honey pot for researchers. We could argue that there are few honey pots for researchers, especially as governments in Australia have let medical research languish by world standards. But, by the same token, anyone looking at the managerial aspect of how to control cancer would say, "Where are cancers occurring? Which cancers are most preventable? Let us prevent those cancers." The Wills report recommended that with regard to research public institutions should co-operate with the private sector. Of course, that report was written by someone in the private sector. The idea is that we should simply go along with a savvy marketer, find a research project that is likely to show financial dividends and then cleverly ride along with that marketer. However, that misses the point that research priorities set by the private sector include only those that show a relatively short-term return. The private sector does not necessarily look at the broad questions.

If eating carrots prevented cancer, it would never be discovered by this sort of research. Of course, we cannot patent carrots! The report of Peter Baume—a former Senator and currently Professor of Community Health at the University of New South Wales—addressed research spending in the Cancer Council. His report shows that junior laboratory assistants at the Cancer Council were asking for research grants when more often than not their bosses were on the assessment panel. Another problem that was identified in the Baume report related to research money being given out on the basis of grant applications. Instead of asking, "What questions

do we want answered in New South Wales?" and saying, "Let us tender to get someone to answer these questions", the Government has said, "What has come in? What research-generated questions are there? Which researchers do we reward with funding?"

There was some consistency in those funding patterns in that some projects were given long-term funding, and that is to be praised. However, Peter Baume said that more research needed to be undertaken to obtain a bigger reduction in the incidence of cancer. The corollary of that is that tobacco prevention would have given a large return for investment, but it has never really been taken seriously. If one considers that, it is a question of parameters. If the Cancer Council has said what should be done, it is not the council's fault if that is not done.

The Canadians have taken a much tougher line. It might be noted that the Canadian Cancer Society took a stronger line only after it was severely attacked in the media by the Non-Smokers Rights Association in Canada. At that time the Non-Smokers Rights Association was run by a chap named Garfield Mahood, who was fortunate enough to marry a brewery heiress with a large amount of money and was able to run national advocacy advertisements in the *Globe and Mail*. Of course, his marriage gave him access to a large amount of money, which he and his good wife used basically for public good. His criticism of the tobacco companies was effective. He criticised the Cancer Society for being too treatment and research oriented and for not taking a strong advocacy position. After that criticism the Cancer Society did much better.

The Cancer Council of New South Wales has not been called to account for its spending in this regard. The people who understand the politics of that say that the Cancer Council is a treatment and research organisation. That is all very well, but if we are giving money to non-government organisations they should be required to achieve the maximum drop in cancer rates achievable in accordance with the research they carry out. So what is the answer? I say prevention first. The best cancer is one that does not occur. It would not be a spectacular or visible outcome. However, the science of epidemiology would reach the point at which we could say that the cancer rate has dropped, that a certain number of cancers have not occurred. Of course, that has immense resource implications, particularly in terms of the increasing cost of linear accelerators, nasty drugs and so on.

The side effect of having a strong Quit program, which reduces a third of all cancers, is that a quarter of arterial diseases also do not occur. The Cancer Council must take an advocacy role. Perhaps this is played down when the Cancer Council is about to receive funding. In terms of advocacy, every day the environmental movement, the farmers lobby and the Law Society stalk the corridors of this Parliament; however, the people trying to prevent cancer do not stalk the corridors—although they should on this issue.

Other matters must be looked at on different levels. For example, the problem of diesel fumes in the air must be considered. The Government has reduced the budget allocation for the Environment Protection Agency [EPA], although it previously had very little money for inspections. At an inquiry into an oil spill at Greenwich I asked an expert about the level of benzene in the air after the spill. The expert replied that the level had not changed. Closer questioning showed that the level was measured at one point south of the harbour at a time when a southerly wind was blowing. In other words, the only place in Sydney where the level was measured was upwind of the spill. Yet the answer given to me was that the level did not change and that I should not be silly. I must confess that I made it clear whom I thought was silly.

Not content with that, the expert then said that he had measured the level thoroughly on the Thursday. The spill was on the Sunday, but he measured the vapour four days later! Leaving aside the silliness of the expert who was trying to snow us, the point was that the EPA had limited resources to measure what I thought was a significant pollution event in Sydney. The EPA now has even less funding than it had previously. If the Government is serious about its commitment to cancer, it should take a more holistic view.

If that were not enough, just before the Olympics the Carr Government announced with great fanfare the introduction of the Smoke-free Environment Act 2000, which would give us smoke-free indoor air. Section 10 of the Act held owners of establishments responsible for ensuring that the air in those establishments was smoke free. That section has still not been proclaimed to this day. A committee was established, supposedly by consensus, basically to implement that legislation. I am all for consensus when it can be achieved, but the fact is that smoking was shown to cause lung cancer in 1950. In 1962 the Royal College of Physicians was concerned that no progress had been made in 12 years and issued a report asking for more action to be taken. In 1964 the American Surgeon General was concerned that after 14 years no progress had been made and issued a paper stating that there must be more action on tobacco.

In 1991, 12 years ago, WorkCover suggested that indoor air should be smoke free as a matter of urgency. Despite all that, some people now say that this measure should not be phased in too quickly. Clubs New South Wales, the Australian Hotels Association, the unions, Star City Casino—that wonderful harbour of smoking—the Department of Gaming and Racing, WorkCover and New South Wales Health have produced a document entitled "Share the Air"—smokers and non-smokers share the air! Presumably piddlers and non-piddlers share swimming pools. Will that happen by extending non-smoking areas in licensed venues?

When the question was asked as to when these measures would come into effect, it was announced with great fanfare in the media recently that by 1 July 2003 licensed venues are to ban smoking at all counter areas, including where liquor is served—other words, within one metre of where bar staff are standing, that a non-smoking area is to be designated in a bar area, and that in licensed venues where more than one bar area exists proprietors are encouraged to give strong consideration to making one bar area totally smoke free. In other words, our contribution for the next 12 months is to ask bar proprietors to give consideration to the proposals. If they have been considering this issue for 53 years, why should they stop considering and act? Basically, the Government has backed off from proclaiming section 10 of the Smoke-free Environment Act—which, to be frank, is quite weak—despite the fact that the June 2000 issue of the *Cornell Hotel and Restaurant Administration Quarterly* showed that smoke-free regulations in New York State were not associated with adverse economic outcomes in that state's restaurants and hotels. Anne Jones of Australia's SmokeFree 2003 coalition is reported to have said:

This latest study shows the doom and gloom claims by the Australian Hotels Association (AHA) that smoking bans will harm business in both NY and Australia continue to be based on fear, not objective facts ...

The study flatly contradicts the scare-mongering we've seen all over the world and within Australia on this issue. It confirms the findings of an international review of almost a hundred studies worldwide, which showed that not one single objective independent study had shown any evidence of economic harm from smoke bans—and some had shown actual benefit.

The NY study assessed changes in taxable sales and employment in restaurants and hotels in five locations in New York State that have implemented smoke-free dining regulations since 1995.

The Hon. Amanda Fazio: Point of order: My point of order relates to the relevance of the Hon. Dr Arthur Chesterfield-Evans' comments on the bill, to which I have listened intently. He is actually speaking to other legislation relating to a smoke-free environment that was enacted some time ago. Whilst I acknowledge that, as the honourable member said earlier, one-third of all cancers are related to smoking, I still do not believe that the focus of his comments is appropriate, given the wide-ranging nature of cancer-causing agents that the Cancer Institute has been researching. I ask that he be brought back to the bill before the House.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: To the point of order: The issue is the Government's important initiative of reducing cancer. The question is: Is that initiative being handled in the most optimum way? My contention is that it is not, and I am using current events—indeed, this item on tobacco control in pubs was on the news only yesterday—that relate to cancer control and to the Government's actions. I contend that what I am saying is extremely relevant to this bill and to priorities in cancer control in New South Wales. If the Hon. Amanda Fazio does not like it, that is too bad.

The DEPUTY-PRESIDENT (The Hon. Patricia Forsythe): Order! Although the bill focuses on the constitution objectives of the Cancer Institute, it also refers to the functions of the Cancer Institute, to which the member is speaking. Accordingly, the member is in order.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: The New York study assessed changes in taxable sales and employment in restaurants and hotels that had implemented smoke-free dining regulations since 1995. The authors concluded that business managers should welcome the opportunity to protect the health of their workers and patrons by going smoke free without fear of loss of patronage or revenue. The benefits will include safer workplaces, reduced risks of litigation from people suffering from the effects of second-hand smoke, and lower costs for cleaning and airconditioning of smoke-filled air. Unfortunately, the New South Wales Government's task force is very slow. I believe it is cowardly.

The membership of the working group was dominated by representatives of the Australian Hotels Association [AHA]. As a result they delayed matters—as they have for the past 40 years—and withdrew from the working group, only to return under sufferance. The working group has delayed things since the bill was passed in 2000, just before the Olympics. It is interesting to note that British American Tobacco is a silver patron of the AHA. One becomes a silver patron by giving \$60,000 plus GST to the Australian Hotels Association. In my long study of this issue over some years, I have never been able to find a significant

difference between the position of the AHA and that taken by the Tobacco Institute. On 26 February I issued a press release demanding, yet again, that the State Government finally enforce current measures under the Smoke-free Environment Act 2000, which has not been proclaimed.

A report released by the Victorian Department of Health and the Centre for Tobacco revealed that pubs and clubs in Victoria with smoke-free areas do not lose business. Hoteliers and the tobacco lobby have set the public agenda for far too long. It is all very well for the Government to introduce legislation purportedly to reduce the incidence of cancer, but in reality it does very little to bring about such an outcome. Questions I have asked about diesel fumes from ferries have been greeted by jeers and the comment that only silvertails travel on ferries. People walking from ferry wharves and past bus depots have to walk through diesel smoke. The enforcement of the law relating to diesel emissions from cars, trucks and ferries is very poor. On 11 May I received the following response to a letter I wrote to the Premier:

My Government is already working on a number of the strategies in your five-point plan, under the umbrella of the *NSW Tobacco Action Plan 20001-2004*. These include:

- regulating the marketing and promotion of tobacco products (we are cooperating with the Commonwealth on the current review of the *Tobacco Advertising Prohibition Act*);
- providing support to those wanting to quit smoking; and—

I draw attention to the fact that we are spending \$2.7 million, when it is recommended that we should spend \$50 million—

- providing community awareness and education programs.

I presume that they are included in the \$2.7 million and the \$1.5 million provided to the area health services. The Premier continued:

We have also put in place strategies to reduce exposure to tobacco smoke in public places, such as the *Smoke Free Environment Act 2000* and the *Share the Air* campaign to extend non-smoking areas in licensed premises.

As I said, the Smoke-free Environment Act 2000 has not yet been proclaimed. The Parliament is effectively being ignored: the Government is refusing to implement laws that it has passed. With regard to the Share the Air campaign, smoke is in a volume not an area. One cannot smoky and non-smoky air: everyone breathes the same air. The title given to the campaign—Share the Air—is absolutely fatuous. It is a campaign designed to do as little as possible. The campaign documentation states:

By July 1st 2004

- Where more than one bar room exists in a licensed venue, one bar room is to be made non-smoking.

However, it does not state that there has to be any separation. If there are two bar areas the smoke will contaminate the air in both bars, and if there is not more than one bar room the area will remain smoky until some indefinite future time. That is exactly what the tobacco industry and the AHA want—not much happening. It is commendable to co-ordinate cancer control and conduct research into cancer, but it is no carrying out doing research on cancer if the conclusions are not implemented. Tobacco is the most researched subject in the history of medicine: more than 60,000 research papers have been written on it. The problem is the simple implementation of recommendations. We have to take away the smoke. It worries me that New South Wales does not do that. We cannot trust the doctors because they always see the results of prevention that has failed.

The Hon. Robyn Parker: Aren't you a doctor?

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Yes, I am a doctor. If prevention had not failed, people would not have needed to visit the doctor. Doctors put much less store in prevention than they should. Anyone managing cancer in society must give high priority to preventing cancer from exposure to industrial processes, pollutants in the environment like diesel fumes, and tobacco. Given that these concerns screamed from the editorial of the most prestigious medical journal in Australia three months before the bill was introduced, we really could have expected a better effort. Although I understand that the Minister who has carriage of the bill is motivated by personal experience—and good luck to him for moving the Government—I must ask that it be leavened by a better prevention outcome. It is hoped that the Cancer Council, which, on its track record, has not done well, will do better and put some teeth into prevention in New South Wales. I am saddened that prevention was not mentioned in this year's budget or enumerated by Minister Sartor in his second reading speech as a big-ticket item. New South Wales must make a better effort.

The Hon. TONY KELLY (Minister for Rural Affairs, Minister for Local Government, Minister for Emergency Services, and Minister Assisting the Minister for Natural Resources (Lands)) [10.57 p.m.], in reply: I thank the Hon. Robyn Parker, Ms Sylvia Hale, the Hon. Dr Peter Wong and the Hon. Dr Arthur Chesterfield-Evans for their contributions. The bill contains specific provisions to examine complementary therapies and their effectiveness, particularly clause 12 (2) (m). The board will be chosen on merit and expressions of interests sought in a transparent and publicly accountable process. One of the four objectives in clause 5 is the reduction of the incidence of cancer, and that clearly relates to prevention.

Cancer control is defined to include prevention. Six of the guiding principles are related to cancer control, including prevention. Some 13 of the 18 functions specified in the bill relate to cancer control, including prevention. Tobacco control is a vital, but not the only, aspect of cancer prevention. The department recognises that tobacco control is vital in preventing a range of diseases, which is recognised by a tobacco control strategy. The Government's action plan 2001-2004 sets out the Government's commitment to preventing and reducing alcohol-related harm. Funding of \$3.3 million has been allocated annually to implement the plan, including a \$1.5 million enhancement to fund tobacco control strategies.

In addition, an estimated \$2.7 million is also allocated by area health services for tobacco control activities, and that is well above the national average. For some years the Government has been systematically tightening arrangements in public places—restaurants, pubs, clubs, et cetera. The process to reduce smoking in the workplace and in other premises is inexhaustibly continuing. The Premier said at the launch of the legislation that the day would come when clubs and pubs would be smoke free. It is a matter of getting there in stages so that the industry can adjust and so that people can be eased out of their smoking habit and addiction without disrupting their normal social lives. We are heading in that direction.

Further funding possibilities are the very thing that the institute will calibrate against other priorities, such as whether more money should go into the tobacco reduction effort. In that regard, I make the point that the strategies against tobacco are probably the most effective if they are conducted on a national basis. Perhaps the institute can deal with some of its interstate and national counterparts to help formulate a more comprehensive tobacco reduction program. I would not wish to pre-empt the institute's decision as to where the money is best spent in the short term. As noted, the bill is the result of wide consultation and has the support of experts. The Minister Assisting the Minister for Health (Cancer), the Hon. Frank Sartor, has received a letter of support from Professor Bruce Armstrong from the University of Sydney on behalf of 16 professors. The letter stated:

Dear Minister

... We consider that the bill gives the proposed institute the independence, scope and power to "become the State's driving force to tackle cancer head on", as stated in your second reading speech. We congratulate you on it and the process of consultation that contributed to its content.

We support the initiative you are taking and would be pleased to do whatever we can, collectively or individually, to help advanced it.

I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

FIREARMS AMENDMENT (PROHIBITED PISTOLS) BILL

Bill received and read a first time.

Motion by the Hon. Ian McDonald agreed to:

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

Second reading to stand as an order of the day.

GAMING MACHINES AMENDMENT (SHUTDOWN PERIODS) BILL**Second Reading**

The Hon. IAN MACDONALD (Minister for Agriculture and Fisheries) [11.04 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.

Gaming machine provisions for hotels and clubs are contained in the Gaming Machines Act. This Act contains extensive harm minimisation measures that must be adopted by hoteliers and registered clubs. A number of major initiatives have been introduced by the Government in recent years to minimise gambling abuse and provide safety nets for problem gamblers.

On 26 July 2001 the Carr Government announced a major plan for gaming reform in New South Wales. As part of the plan, it was announced that gaming machine operations in clubs and hotels would be required to close down for six hours each day.

Under the Gaming Machines Act 2001, the Government allowed for a phasing-in period from 2 April 2002 until 30 April 2003, during which time clubs and hotels were required to turn off their gaming machines for only three hours each day, between the hours of 6 a.m. and 9 a.m.

From 1 May 2003 the general shutdown period was increased to the full six hours, from 4 a.m. to 10 a.m. Clubs and hotels are permitted to apply to have the mandatory shutdown period on Saturdays, Sundays and public holidays reduced to three hours from 6 a.m. to 9 a.m., subject to the agreement of the local consent authority. Also, clubs and hotels that can satisfy the Liquor Administration Board that they had a history of trading as early openers prior to 1997 are permitted to apply for a different closure period to the standard.

Since the commencement of the three-hour shutdown, Clubs NSW and the Australian Hotels Association have reported that some of their members are experiencing significant financial difficulties as a result of the three-hour shutdown. Representations have also been made by the New South Wales Liquor Trades Division of the Liquor, Hospitality and Miscellaneous Workers Union, which has indicated the effects on its members.

In response to these reports, a review of the impact of the three-hour shutdown to date was commenced earlier this year.

A very preliminary examination of available data has been undertaken by the Department of Gaming and Racing, and indicates that a few 24-hour trading clubs appear to have experienced a decline in gaming machine profits since the commencement of the three-hour shutdown.

In view of the possibility that a small number of clubs and hotels may be experiencing considerable hardship from the shutdown, it is proposed that the legislation be amended to provide that clubs and hotels may apply to the Liquor Administration Board for exemption on hardship grounds from the general increase to the current three-hour shutdown period.

It is further proposed to require the Board to take specified guidelines into account in considering whether or not to exempt a particular club or hotel from having to shut down gaming machines for more than three hours. The guidelines will be developed in consultation with the club and hotel industries, and with relevant community representatives.

While the proposal to allow exemptions on hardship grounds may mean that a small number of clubs and hotels will be permitted to continue to close down their gaming machine operations for only three hours per day, seven days a week, for the vast majority of clubs and hotels the full six-hour shutdown will apply, subject to the existing variations that are provided for under the Act.

One of these variations allows clubs and hotels to apply for approval to shut down gaming machines for only three hours on Saturdays, Sundays and public holidays. The Board is not to approve such an application unless the local consent authority has agreed. The requirement to obtain local consent authority (council) agreement is in direct contrast to section 209 of the Gaming Machines Act, which essentially removes any power from local consent authorities to regulate or restrict gaming machine operations through development consents or other planning powers.

It is clear from recent reports that many local consent authorities are having some difficulty with the new requirement to provide agreement to a shorter shutdown period.

Local consent authorities are not the most appropriate level of government to make important decisions about gaming operations. It is not appropriate to split the control and regulation of gaming operations between local and State governments. The bill will correct this anomaly by removing the requirement for local consent authority agreement to a three-hour shutdown on Saturdays, Sundays and public holidays.

The bill will commence on a day or days to be proclaimed.

The gaming machine shutdown has excited some interest in certain sections of the media in recent times. At this stage the Government is unable to say whether or not the three-hour shutdown has been effective in minimising the harm associated with problem gambling.

Nevertheless, the Government is not prepared to back away from the introduction of the general six-hour shutdown. At the same time, it is important that a pragmatic approach be taken to the increased shutdown period, and that those venues that are able to demonstrate genuine hardship be given the opportunity to apply to retain the current three-hour shutdown.

It is important to remember that the shutdown is not the only aspect of our gaming harm minimisation policy.

Major initiatives have included: the number of poker machines frozen in clubs, from March 2000, and hotels, from April 2001, along with a statewide cap of 104,000; the requirement for venues to undergo a social impact assessment before new machines can be installed; hotels and clubs with gaming machines being prohibited from being established in shopping centres; a primary-purpose test established for hotels to prohibit hotels being conducted as gaming dens; consumer information—Play Smart brochures—on chances of winning being available to patrons in all gambling outlets; funding of the G-line problem gambling helpline; the allocation of over \$56 million for gambling counselling services; the allocation of over \$1 million to promote the G-line service; the commissioning of a \$3 million gambling research program, including an annual contribution to national research; and the launch of a new framework for a more equitable distribution of casino community benefit fund [CCBF] counselling funding.

Specific statutory measures include 24-hour gaming in pubs and clubs being banned; poker machine signs and advertising being banned; a prize limit of \$1,000 on poker machine promotions; venues required to implement counselling and self-exclusion programs for patrons; the requirement for gambling warning/G-line notices to be displayed in venues; cash chequing restrictions of \$400 per person per day adopted; poker machine prizes of more than \$1,000 required to be paid by cheque; ATMs and EFTPOS machines not to be located in gaming areas of hotels and clubs; gambling inducements—free or cheap alcohol and free credits—banned; all gaming staff required to be trained in the responsible conduct of gambling; and enabling disciplinary action to be taken where a venue allows activities likely to lead to gambling abuse.

Whilst a lot has been done in harm minimisation, we can always do more. The Minister for Gaming and Racing will be consulting over the next 12 months with all stakeholders—community, industry, social welfare sector, unions and others—as part of a comprehensive review of harm minimisation policy measures. It is vital that credible research and reviews of policy measures be undertaken.

The Minister for Gaming and Racing wants to see an evidence-based framework for social policy decisions within the gaming and racing portfolio. It is anticipated that recommendations will be developed for consideration by the Government to ensure that we have the best possible combination of harm minimisation measures to tackle the issue of problem gambling.

I commend the bill to the House.

The Hon. MELINDA PAVEY [11.04 p.m.]: The Opposition supports the Gaming Machines Amendment (Shutdown Periods) Bill. The Gaming Machines Act 2001 commenced operation in April 2002 and required registered clubs and hotels to shut down gaming machines for three hours, from 6.00 a.m. to 9.00 a.m. The Act provided for the automatic extension of the shutdown to six hours, from 4.00 a.m. to 10.00 a.m., from 1 May 2003. The Act contains provisions that apply to the Liquor Administration Board to reduce the shutdown to three hours on weekends and public holidays if there is support from local government. However, the bill seeks to remove the requirement of support from local government in any application for reduction of shutdown powers to the Liquor Administration Board. That is a sensible change. Increasingly, the Carr Government has put burdens on local government across New South Wales without consideration of the financial impact. It is an abrogation of the Government's responsibilities and it should be removed.

In future the Liquor Administration Board will be required to consider yet-to-be determined ministerial guidelines. The Opposition has just received the guidelines for an application to have the automatic six-hour extension reduced. It is unfortunate that the guidelines have come through at the last minute and were not part of the bill when it was debated in the other place. I agree with the shadow Minister in the other place that it is not good legislative practice for the Opposition to pass a bill *carte blanche*. In respect to costs associated with an application to determine an exemption, the Opposition has been given an assurance that the guidelines will take into account the argument that clubs or hotels already suffering hardship cannot afford thousands of dollars in application fees to have hardship assessed. The Opposition has received a letter from the chief executive officer of Clubs NSW that raised four important issues in respect to the guidelines. The first concern is with respect to paragraph 2.2 of the draft guidelines. Clubs NSW believes that the loss of revenue from either the three-hour or six-hour shutdown warrants consideration for limited shutdown periods.

Second, the organisation is concerned about suggestions in paragraph 3.3 of the draft guidelines and suggest it should be reworded to exclude refurbishments or renovations as factors that prevent the board from granting limited shutdown periods. The third concern is about section 4 of the draft guidelines. It is the view of Clubs NSW that the board has the right to impose any conditions and to revoke any approval by notice in writing at any time it is satisfied that the conditions under which the original exemption was granted have changed. If that is agreed to there is no need for paragraph 3 of section 4. Should a clarification be seen as necessary, suggested wording such as "the board may grant an approval for all or part of a week" would cover the situation. The fourth concern relates to paragraphs 1.2 and 1.3 of the draft guidelines, which state that board approval can be given only if the club complies with the requirements on both Saturdays and Sundays. It is suggested that the words "Saturdays and Sundays" be deleted and "Saturdays or Sundays or public holidays" be inserted.

The Opposition has led the Government to commonsense solutions. I note my National Party colleague and shadow Minister in the other place has helped the Government enormously in applying commonsense to these amendments and future guidelines. As the Minister for Gaming and Racing said, the shadow Minister has been outstanding in regard to his meticulous attention to the detail of the bill. The Minister went on to say that when compared with initial advice received, the shadow Minister was 100 per cent accurate. Industry and the wider community are indeed fortunate to have such a talented and committed shadow Minister who is dedicated to commonsense outcomes and who understands at a practical level the impact of poor policy.

The shadow Minister is committed to responsible gaming and harm minimisation, which complements the Opposition's support of responsible service of alcohol changes. Clubs and hotels across New South Wales are a vital part of the social recreation of our citizens, especially in coastal and country communities. The Opposition has made some very sensible suggestions in relation to the review proposed by the Government. We must ensure that excessive prohibition does not drive gambling underground.

The previous Minister promised to redress the anomaly of the shutdown period affecting veterans attending Anzac Day commemoration services. A veteran wanting to put a few bob in a poker machine between the dawn service and the traditional march is clearly not at risk of problem gambling. To date, nothing has been done on that front and we ask the Government to rectify that matter. The State's 1,560 registered clubs and 2,050 hotels represent a substantial part of the economy. Seniors, in particular, enjoy the entertainment, food and social interaction our clubs provide. The Coalition's policy prior to the election was to conduct an evidence-based review of the existing three-hour shutdown, to either extend or not extend that shutdown period to six hours. Considering that the shutdown period has been in operation for 18 months there would have been ample scope for a review of the success of the shutdown policy.

However, instead of assessing the success or otherwise of the shutdown period, the Government went to the election. It did not agree to a review; it decided to proceed with a six-hour shutdown effective from 1 May, which is what exists now. Since the election, like so many other issues, the Government has changed its position. It has now given its consent to an evidence-based review, a commonsense approach. The Opposition has been given the terms of reference of that review. The shadow Minister has told me that he is reasonably happy with what he has seen, which has not yet been made public as it has to be ticked off by the Premier.

The Opposition supports effective harm minimisation policies that work, not just for public relations purposes, to fix problems. I agree with the Hon. Dr Arthur Chesterfield-Evans that the Government is obsessed with a quick public relations policy fix. Paul Symond of BetSafe consultancy has said there is no evidence to suggest that the proposed reduction in hours will have any effect on problem gambling. He should know because he is working in this area, and it is poor policy if his advice is not sought. We must take advice from experts in the field. The identification of problem gamblers and a responsible gaming ethic are important, and are supported by the Coalition and responsible clubs and hotels. The bill will give clubs, particularly those in country New South Wales, the ability to reverse the existing three-hour shutdown. That is why the Coalition went to the election with a policy to have an evidence-based review. In conclusion, the Opposition looks forward to seeing the terms of reference of the guidelines in the public forum. The Opposition is pleased to support this bill.

Reverend the Hon. FRED NILE [11.12 p.m.]: The Christian Democratic Party supports the Gaming Machines Amendment (Shutdown Periods) Bill, which makes further improvements in restricting the impact of gambling—we prefer to call it gambling rather than gaming—on our community. We are pleased that the shutdown has a value in helping to break the compulsive addiction of some gamblers who, almost in a hypnotic state, become oblivious to the time and to the money they put through the machines. Increasing the shutdown period will greatly help those gamblers. Honourable members know that, under the Gaming Machines Act 2001, from 2 April 2002 to 30 April 2003 clubs and hotels were required to shut down their gaming machines for three hours each day from 6.00 a.m. to 9.00 a.m.

Under this bill and other provisions the general shutdown period has been increased to six hours, from 4.00 a.m. to 10.00 a.m. Clubs and hotels are permitted to apply to have the mandatory shutdown period on Saturdays, Sundays and public holidays reduced to three hours, from 6.00 a.m. to 9.00 a.m., subject to the agreement of the local consent authority. Also, under the previous legislation, clubs and hotels that could satisfy the Liquor Administration Board that they had a history of trading as "early openers" prior to 1997 were permitted to apply for a different closure period to the standard. This bill will tighten up exemption clauses. It will now remove the local consent authority—the council—from the exemption process and replace it with the Liquor Administration Board, a group of magistrates operating outside of government and free from political considerations.

We want to monitor the effectiveness of the Liquor Administration Board. If it does not respond adequately to community interests, a review should be conducted. Perhaps local councils that represent the community should be involved, as they would have stronger views on these matters than the Liquor Administration Board. We hope that the board, which will operate as a legalistic body with magistrates, will represent community concerns in accordance with the Minister's guidelines, which will be part of the legislation. It may not be possible with this bill, but in the future greater distinction should be made between gambling in clubs and gambling in hotels. I have not been influenced by discussions with club representatives, but I want tougher restrictions to apply to hotels as distinct from clubs. Many honourable members would agree that clubs provide community services for their members and their community, whereas hotels provide large profits for owners. I do not know of any community that owns a hotel. The Government's previous legislation that was supported by both sides of the House, but opposed by the Christian Democratic Party, provided for more than 27,000 poker machines in hotels.

Mr Ian Cohen: Opposed by the Greens.

Reverend the Hon. FRED NILE: Yes. It provided a bonus for hotel owners. I understand that the value of hotels doubled. As a result of that legislation, if hotels were estimated to be worth \$1 million they were then worth \$2 million. For that reason, it would be consistent and good policy to develop two streams of regulations: one for clubs and one for hotels. This legislation and all other legislation treats hotels and clubs as the same. I am sure that the new Minister for Gaming and Racing, the Hon. Grant McBride, will consider that matter. I recommend that the Government do so. We are pleased with the Minister's strong stance on these issues. In his second reading speech in the other place he said, "I put on the public record my commitment to socially responsible government." He said he would endeavour to apply that approach in his role as Minister. We are pleased that he has already made some positive decisions in the liquor area, particularly in relation to companies seeking to sell liquor in milk products. We urge the Minister to have the same vigilance in relation to gambling. He has our complete support.

The Hon. Dr PETER WONG [11.19 p.m.]: I am pleased to speak to the Gaming Machines Amendment (Shutdown Periods) Bill and to the progress of gaming reforms in general. I will briefly recap the genesis of existing legislation. For New South Wales and its recent gaming history the 1990s had a dual significance: the instalment of the Carr Government in 1995, followed closely by a rising incidence and awareness of problem gambling. The two events can hardly be dismissed as a coincidence. Honourable members should consider that at the time of that fateful election, poker machines in New South Wales totalled just over 62,000. In the eight years since, the number of gaming machines in hotels and clubs alone has almost doubled—that is, there were more than 101,000 as at the end of June 2002.

Although overwhelming in themselves, these statistics translate into a range of social consequences that drive the need for gaming reform. Of the many groups affected, the most immediate and devastating impact has been for problem gamblers and their families, who are estimated to carry as much as one-third of total national gambling losses. The source of this material is the Productivity Commission. In Sydney alone this group comprises about 30,000 to 40,000 individuals who are struggling with a gambling addiction. Both directly and indirectly, the community also shares in the burdens of gambling addiction, whether it be family breakdown or depression, lost productivity or unemployment. The gaming reform package became the major vehicle for addressing those and other concerns, delivering measures such as a State cap on the total number of gaming machines; preparing social impact assessments when acquiring and transferring machines; and harm minimisation initiatives such as restrictions on advertising, signage and prizes, as well as formal arrangements for counselling services.

In addition, a general mandatory shutdown was introduced to limit 24-hour gaming. Legislated to commence from 1 May 2003, the six-hour mandatory shutdown was considered critical to curbing the compulsive behaviour that underpins gambling addiction. From its inception, however, this key provision has been progressively diluted, no doubt with the motive to offset excessive industry losses. Some local councils have been implicated as championing this cause through their endorsement of exemptions, sometimes despite community opposition. As many honourable members are aware, clubs and hotels contribute sizeable financial support—in the order of hundreds of millions of dollars—to charity and community organisations. They also fund many local sporting facilities, including golf courses, cricket pitches, and tennis and squash courts. Registered clubs have even been known to sponsor meeting venues for political parties.

It is easy then to imagine the enormous influence clubs and hotels can wield over local authorities. I view these abundant and competing pressures on councils as a significant source of bias, and thus I cannot

support this bill in its application to remove local councils from the exemption process. Although commendable in this regard, the bill then becomes problematic in introducing a new hardship exemption that will operate outside the current limits—that is, on weekends and public holidays only. While I agree that concessions are needed as a matter of business adjustment and adaptation, this expansion of exemptions, accompanied by what can only be described as lax administration guidelines, amplifies the concerns I have. This is well depicted in a number of suggested assessment criteria, one of which is a requirement to demonstrate loss of revenue following the introduction of the shutdown provisions. The rationale behind this seems unclear, since shutdown would logically entail some loss of patrons, resulting in a subsequent fall in revenue.

This same laxity is demonstrated in regard to the duration of shutdown exemptions, which under the bill in its current form could be supported indefinitely. Within such a regulatory vacuum, I fear that there is a greater tendency toward exemptions potentially becoming a crutch for businesses that are fundamentally uncompetitive, or unsound, rather than act as an adjustment aid. Some community leaders have expressed the concern that expanding exemptions will jeopardise the initiative to limit 24-hour gaming, as it adds to the opportunity for problem gamblers to shop around for venues and gaming machines. It is imperative, I believe, that appropriate amendments be moved at the Committee stage.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [11.23 p.m.]: On previous occasions I have spoken at length about the problems associated with gaming and gambling in this State and the Carr Government's feeble attempts to mitigate social costs associated with problem gambling. The Tasmanian Gaming Commission produces a very comprehensive statistical analysis for government revenue generated from gambling and makes State-by-State comparisons. The November 2000 edition of the Australian gambling statistics shows that New South Wales government revenue from gaming has had a relatively minor increase in gaming revenue. In 1998-99 it was \$1.214 billion, in 1999-2000 it increased to \$1.35 billion, and in 2000-01 it was \$1.055 billion. Some 88.6 per cent of government revenue generated from gambling comes from gaming machines as opposed to just 11.3 per cent from racing. Table 12 of the report I have mentioned shows that since 1998-99 there has been a 2 per cent increase in gambling revenue generated from gaming, with a corresponding decrease in racing.

I would be very interested to know whether the 104,000 statewide poker machines introduced under the 2001 Act will have any significant effect. A report entitled "Vanishing Acts: An inquiry into the state of live popular music opportunities in NSW", a joint research project by the Australia Council and the New South Wales Ministry for the Arts, has a very interesting analysis of the live music scene. The report was completed in July 2002. However, it was not publicly released until May this year—yet another fine example of Carr Government transparency and accountability! Statewide, 93 per cent of hotels operated poker machines, yielding an average of 13 machines per hotel. While only 84 per cent of metropolitan hotels operated poker machines, compared to 99 per cent for non-metropolitan hotels, this group had a higher than statewide average number of poker machines, with 19. Some 99 per cent of clubs surveyed in this report operated poker machines, yielding a statewide average of 67 machines per club, and the average was higher in metropolitan areas at 98 machines. So have the recent reforms really worked? The jury is still out, and the Minister has indicated that the department intends to undertake a comprehensive review of gaming and harm minimising beginning around July.

One thing the Minister should consider in this review is the compulsory installation of AAPPS, or automated assisted patron protection systems, which display onscreen information such as credit amounts in real dollars, the amount of time and money spent by the player and the amount of money won or lost by the player. Other functions can include a restricted function of play through on auto gamble, a message display of help services for problem gamblers and a time delay when a significant win is made, allowing players to access their winnings and leave. This method of reality basing is one of the best help therapies available, and having such technology as a compulsory standard installation on all gaming machines in New South Wales would be a great benefit.

The problem with this bill basically is that it relies on, but in fact is only mitigating, the shutdown period as the only method of counteracting gambling's influence. Some years ago I went on a political study tour with young political leaders to Las Vegas, where the big message to the hayseed politicians from down under was: Let us run our little businesses with no government interference. Well might they say that because, just as the tobacco industry was going to look after children, the gambling industry will not stop trying to take more money per machine per hour unless it is forced to do so. The industry will not co-operate in the implementation of measures to reduce gambling.

In the foyer of a building recently I ran into a man involved in the gambling world who said, "Oh yes, responsible gaming is the way to go. There are a lot of things happening. The software development is really critical, and I come from an IT background," et cetera. The fact is that the term "responsible gaming" slips easily from the tongue—just like "responsible smoking", "mild" and so on. But these are just words. Basically, it must be recognised that the gambling industry will not stop people from gambling. It is up to governments to regulate gambling, and they are not doing a very good job of that. Restricting gambling time—or, in the case of this bill, weakening restrictions on shutdown periods—is only one available technique, and it is not a very effective or evaluated one. Yet that is all we have before us.

When I suggested amendments to the previous Gambling Amendment Bill the response from the Hon. Ian Macdonald at that time was, "That's very new, Arthur. We will consider it next time this issue comes around." Well, the issue has come up again, but the Government has given not the slightest consideration to those amendments. In fact, the Government has chosen the narrow option of restricting shutdown periods and is not considering other options at all.

I turn now to deal specifically with the provisions of the bill. The Gaming Machines Amendment (Shutdown Periods) Bill amends the Gaming Machines Act 2001, under which clubs and hotels operating gaming machines are required to close down their machines for six hours between 4.00 a.m. and 10.00 a.m. Under section 40 the Liquor Administration Board may approve hotels or clubs having a three-hour shutdown period between 6.00 a.m. and 9.00 a.m. on each day on or after 1 May 2003 that is a Saturday, Sunday or public holiday. The Minister stated in his second reading speech:

Since the commencement of the three-hour shutdown, Clubs NSW and the Australian Hotels Association have reported that some of their members are experiencing significant financial difficulties as a result of the three-hour shutdown.

We are talking at most about 60 clubs and pubs that will be affected by this bill. I hate to keep harking back to tobacco, but we have been worrying about the health of the tobacco industry and the health of tobacco farmers while 10 times the number of people whose livelihood was the subject of concern were being killed. We were considering the tobacco industry while all its customers were dying, and now we are considering the financial position of clubs, whereas it is the gamblers who are going broke and suffering real hardship. The whole paradigm is the wrong way round. What is the intention of this legislation? Is it designed to help problem gamblers, or to help pubs and clubs keep in the black? The question is not rhetorical; the answer is perfectly clear. The Government does not care about the gamblers. It is looking after the pubs and clubs.

Although according to the Productivity Commission only 2.3 per cent of the population has a gambling problem, the Carr Government announced that \$7 million will be provided to help problem gamblers. Family breakdown and personal debt associated with problem gambling affects thousands of families and is a burden that the State has to bear in welfare costs and human misery. Surely if we want to help problem gamblers we should not adopt such a slack approach. The Productivity Commission's report on gambling states:

Restrictions on opening time would probably have few significant positive effects, unless made draconian by current standards.

The economic hardship for problem gamblers is still significant. An article by Geesha Jacobsen headed "Poorest area puts twice as much into pokies" in the *Sydney Morning Herald* on Tuesday 3 June 2003 stated:

One of Sydney's most socially disadvantaged councils today called on the NSW government to break the cycle of poverty caused by gaming machines.

Councillor Thang Ngo said residents in the Fairfield City Council area gambled more than a quarter of a billion dollars every year on the 3,898 poker machines.

"This equates to \$1,915 for every adult resident in the Fairfield Council area and is double the State average of \$906," he said.

Mr Ngo called on the NSW government to legislate to reduce the number of pokies in Fairfield - which has one for every 34 adults - and other socially disadvantaged areas.

"The government should consider 'regional caps' to stop the disproportion concentration of pokies," he said.

He said while Fairfield residents were losing money to pokies at double the state average, they could least afford to gamble.

In the 1996 Socio-Economic Index of Disadvantage, which took into account income, educational attainment and unemployment, Fairfield scored lowest of all Sydney metropolitan councils," Mr Ngo said.

Fairfield residents spent 6.37 per cent of gross average income on pokies compared to the NSW average of 2.64 per cent, he said.

Locals gambled a "frightening" amount, he said. "Residents spend 6.4 per cent of gross average income on pokies compared to the NSW average of 2.6 per cent."

The Social Impact Assessment submitted to the Liquor Administration Board says the Fairfield local government area has about 9,200 problem gamblers.

So what is the Government going to do about that? Under this bill, pubs and clubs can now apply for a limited shutdown period of three hours between 6.00 a.m. and 9.00 a.m. on their hardship grounds. By item [7] of schedule 1, new section 40A (3) will enable the Liquor Administration Board to approve a hotel or a registered club having a three-hour shutdown period if the premises "will suffer hardship to the extent specified in the guidelines approved by the Minister for the purpose of this section if its approval is not given". I thank the Minister's staff for providing a draft copy of the limited shutdown hardship guidelines. The guidelines are fine, but they really do not have any legal enforcement. I understand that there needs to be a consultation period with relevant stakeholders on the adequacy of the guidelines.

However, compared with other States, this Government has a poor record of proclaiming legislation, and guidelines have an even more dubious status. I prefer guidelines to become regulations after a thorough public consultation process has been undertaken. Subsequently the guidelines could be disallowed if they were found to be unsatisfactory. It is a pity this Parliament does not pay the same amount of attention to sustaining live music as it pays to pokies. Again I refer to the vanishing acts report. Key findings of the report state:

There has been a significant reduction in live music venues in NSW over the last several years, and in a significant number of venue cases, live music operations have been displaced by gaming facilities.

The report shows that 11 per cent of all hotels and 16 per cent of all clubs that were surveyed had affirmed that gaming areas had displaced areas formerly dedicated to live entertainment. For metropolitan clubs this figure rose somewhat—to 23 per cent—yet remained stable across hotel categories. However, much to my surprise the report also stated:

The causes of the reduction extend beyond the liberalisation of gaming legislation and in fact gaming has proven to be a means of subsidising live music.

Both noise complaints and security requirements were other contributing factors. The report also recommended that the legislative structure of the New South Wales Casino Community Benefit Fund be amended to devote a portion of the funds to live music infrastructure. Since that recommendation was made, infrastructure has been largely destroyed by poker machines.

Overall, this bill is a weak attempt by this Government to tackle the social problems associated with gaming. A far more comprehensive approach should have been adopted by incorporating the use of new technologies and publicly funded electronic pathways that are now used to link poker machines for jackpots. As a broadcast medium, that technology could be reversed to send messages to gamblers across the State. That technology was funded by taxpayers, not by the Totalizator Administration Board [TAB], and the practice may come under the broadcasting Act. The alternative is the use of cards to collect information about a gambler. Technology could be used to tell a gambler that he or she has a problem, or at least the amount that is being lost, to at least confront the gambler with the extent of the problem that he or she has.

In Committee I will move an amendment to try to strengthen this bill. The effect of the amendment will be to ensure that a club or pub's claim of hardship will have to be considered in a broad social context. I will not speak at length to the amendment at this stage. Suffice it to say that this bill is another missed opportunity and will be of far more benefit to the clubs than to the poor old gamblers, who are at the bottom of the pile in this Government's priorities.

Debate adjourned on motion by the Hon. Peter Primrose.

ADJOURNMENT

The Hon. TONY KELLY (Minister for Rural Affairs, Minister for Local Government, Minister for Emergency Services, and Minister Assisting the Minister for Natural Resources (Lands)) [11.39 p.m.]: I move:

That this House do now adjourn.

SCHOOL STUDENTS DEBATING TRAINING

The Hon. TONY BURKE [11.39 p.m.]: This evening I wish to discuss the level of training that over many years has—and, to some extent, has not—been given to school students to assist them in acquiring the capacity to do what members of this Parliament take for granted, namely, the capacity to advocate. I will cite a very simple example that confronted me during my first year at the University of Sydney. I tried out for the

debating team and found that the team places were awarded to students from Riverview, Riverview and Aloysius. That was the make-up of the University of Sydney firsts.

The Hon. Henry Tsang: Impressive, surely.

The Hon. TONY BURKE: They may well be impressive schools but that indicated from the start the predominance of training opportunities for students to learn the skills of advocacy and for students to be able to assert themselves verbally through debating. As I examined this matter further, I realised that the position was actually worse. Things have improved from what they were 15 years ago, but we still have a long way to go. The first point that honourable members may not be aware of is that for many years only a limited number of schools were invited to try out for the State debating team. Almost all the schools that were sent invitations had only male students. The vast majority of them were private schools. Those that were not private schools were either selective schools or almost exclusively schools on the North Shore. Country schools simply did not make the grade in any way whatsoever.

Because debating has always been regarded as an extracurricular activity, it did not really hit the radar and has not generated concern among people. However, a watching brief should be maintained. It is true that in recent years there have been some improvements. It is true that the Department of Education and Training sends university debaters to provide training for school students. That training is provided to a number of schools where previously there was no focus on training in advocacy and debating.

From time to time State team try-outs are sent to a broader number of schools but, in the end, the same schools are selected and the vast majority of those who represent this State are male debaters. Some people might say, "Why does it matter?" I put it to honourable members that the capacity to advocate a position is not just important in jobs like ours: the capacity to advocate a position has a huge impact on where power lies in society these days. I mentioned in this House once before that I realised that when I was involved in a public speaking club at Goulburn Correctional Centre. The capacity to learn, to say what one believes, and to be able to argue for or against a position is an extraordinarily important skill.

When I was training union delegates in my role as an organiser in the Shop, Distributive and Allied Employees Association, I established that there is a difference in the number of people who go through the education system from schools that are not favoured. People should look at the list of schools that are favoured and schools that are not favoured before they invite students to try out for the State team. Various union delegates who have gone through this process and who did not choose debating as an extra curricular activity were not given any training in it at all. This training, which should be given at schools, should not be seen as an extracurricular activity but as an integral part of that training. People are taught at length how to express themselves in writing, but how much more common is it in today's society to find oneself in a situation where one's results are contingent not on one's written skills but on one's verbal skills? However, by and large, many of those activities are extracurricular.

Some gains have been achieved and some of the problems with which I was confronted 15 years ago have been resolved. I was told not to bother to continue to try to participate in debating teams as I had not gone to the right school and that only debating schools would do well. I was not told that by some cynical person; I was told that by someone who was affirming the wisdom and justice of that system. We have moved on since then. Even taking into account the teams that are coming through and the skills that are being learned, the capacity to advocate is still a critical part of power in today's society. We are a long way short of providing those skills on an equitable basis.

BROKEN HILL COMMON BOUNDARY CHANGES

The Hon DUNCAN GAY (Deputy Leader of the Opposition) [11.43 p.m.]: Tonight I raise an issue that I first raised in the adjournment debate early in December last year. It relates to a bungled bureaucratic process that has seen the property of Chuck and Gail Cresswell included in the boundaries of Broken Hill City Council. It is perhaps timely that I raise this issue when the Minister for Local Government is going hell for leather to redraw local government boundaries in other parts of the State. Chuck and Gail Cresswell's property, Gum Paddock, was brought into the Broken Hill city boundaries following the boundary realignment to bring large parts of Broken Hill Common into the council area.

The Cresswells' property was not included in the original exhibited plans for the new boundaries, and they were somewhat shocked to find that their property was included as rateable land after the proclamation of

the new boundaries. Somewhere along the line the exhibited plans changed and what was finally gazetted was different from what was advertised. There was a bungle and that bungle still needs resolution. The end result is that the Cresswells are now faced with rates on their property through no fault of their own. They have been trying to resolve the matter through negotiation but, as is often the case, the matter has found its way into the courts. I believe it can be and should be fixed. I urge the Minister for Local Government to do the right thing and to act on this issue. The situation has become an exercise in buck-passing.

The council stated that it is not its responsibility to fix the problem because it did not make the final decision on the boundaries. The Director-General of the Department of Local Government said that it is a matter for council to resolve. The Government's response has been less than helpful, to say the least. Last year I assisted the Cresswells to prepare a formal letter and petition to the former Minister for Local Government requesting that he exercise his power under the Local Government Act and initiate a boundary change proposal. The former Minister, through a senior policy adviser, said to the Cresswells that he would not and could not take that course of action, putting the ball back in their court. In short, they received no help at all.

However, the irony is that last month the new Minister put a significant proposal to the Boundaries Commission proposing the dissolution of the entire shire of Yarrowlumla. On one hand the new Minister put forward a proposal to get rid of a whole shire but, on the other hand, the former Minister refused to intervene to correct a bureaucratic bungle that could leave the Cresswells thousands of dollars out of pocket. My message to the current Minister is this: If he cannot help the Cresswells by initiating a boundary change, he should withdraw his proposal to the Boundaries Commission relating to Yarrowlumla shire. If he is initiating proposals to do away with Yarrowlumla, there is no reason why he cannot assist the Cresswells by initiating a boundary change proposal to fix this mistake.

I suspect that the Department of Local Government will argue that any change initiated by the Minister will set a precedent that could severely financially disadvantage other councils. My response is simple. Broken Hill council began this process to capture rates from some of the major mining companies around the city. It did not go down this path to catch landowners in the unincorporated area. This is a plea to the Minister to fix a simple mistake, and to not set a major precedent. The Cresswells have been seeking a meeting with the new Minister in an effort to try to find a resolution to, and to try to sort out who has responsibility for, fixing this problem. They received an email response from the Minister's office advising them that the Minister will not meet with them because this is a matter for them to sort out with Broken Hill City Council. That contradicts what council told the Cresswells, so they are back to square one.

I sent an urgent fax to the Minister's office nearly two weeks ago asking him to meet with the Cresswells. Members of my staff have spoken to the Minister's advisers in relation to this issue. To date, there has been no positive response. This has gone far enough. It is time to draw a line in the sand and to resolve this issue. I ask the new Minister to meet with the Cresswells. That is not a major ask. He is ready to make boundary change proposals affecting whole shires, so surely he should be prepared to resolve this issue along those same lines.

REFUGEE DETENTION POLICY

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [11.48 p.m.]: Last Sunday I spoke at a rally of 1,000 people who marched from Hyde Park to Belmore Park to support refugees in Australia. They believe that refugees are being treated most cruelly by the Federal Government. Carmen Lawrence, who attended the rally, was embarrassed by the policies that are being pursued by the Labor Party—"small target" policies that do not differ very much from the Howard Government's refugee policies. Bob Brown from the Greens and Thomas Keneally—who recently wrote a book on this subject—also attended the rally.

One of the other speakers was a public prosecutor from Tehran whom I met while he was still at the Villawood detention centre. At the rally he read some poetry. It was unfortunate he did not tell his own story as he thought it would be too egotistical. In his early thirties he did very well as a public prosecutor in Tehran. However, he soon realised that many of the people he was prosecuting were innocent. He pointed that out to people around him who also recognised that fact. He then protested that it was bad to prosecute people who were innocent. When he did that he effectively crossed the Rubicon, and he was arrested and put in gaol. He was subsequently released on bail and he then fled the country. He spent almost two years at Villawood. The suggestion was that he would be sent back, but he was eventually granted asylum and he is staying in Australia after being given a permanent visa. He is aware of the situation in Iran and that innocent people are being prosecuted in Tehran. Obviously, that is a great danger for people who are sent back there. The deal with Iran is being discussed in terms of what will happen to the refugees in Australia.

I put it to the Government that Villawood is in New South Wales. The mental health problems of refugees in Australia are well documented, and children are getting a bad deal. How bad a deal is hard to assess. I believe they are now getting schooling but not what we would regard as normal, complete schooling. When I went to Villawood I met a very nice 12-year-old boy who seemed perfectly normal, but he had only just arrived a couple of weeks before. I wonder how he is now, some 12 months later. I believe Villawood detention centre is this State's responsibility. If the people in Villawood are traumatised, we will wear the problem on our consciences. We will wear the results of their trauma in their relationships with their families, their future families, and the community as a whole.

If they sue us, as the stolen generation has, what defence will we have? I believe that we are culpable by not doing what we should do to help these people. The Minister told me that she has a departmental opinion to the effect that it is the responsibility of the Department of Immigration and Multicultural and Indigenous Affairs [DIMIA], and that she must ask the DIMIA for permission to intervene if she has evidence of children being harmed in Villawood Detention Centre. I do not think that is the case. I challenged her to get a Solicitor General's opinion rather than a departmental opinion. I do not believe that a departmental memorandum of understanding, which I have not seen and which I do not believe goes to this issue, can override the constitutional responsibility of the New South Wales Government for Villawood detention centre.

It is time there was an inquiry, that we look at what is happening in Villawood, that we accept that this Parliament is responsible, that we do not think that a memorandum between two Government departments—if it does or does not exist—can override the Constitution and override the fact that this Government is responsible for what happens in this State. The Carr Government cannot hide behind the Howard Government. It cannot simply make a small target and say, "We can blame it on the Howard Government. We don't go into the constitutional aspects of who is responsible for Villawood too closely." We cannot simply say, "It is all up to the DIMIA. We can't do anything." I have a number of opinions from reputable lawyers from the refugee cause who believe that Villawood is the State Government's responsibility and something should be done about it. We must stop turning our backs on these people. It is time we had a New South Wales Government inquiry into what is happening to refugees in Villawood detention centre, and the sooner the better.

INTERNATIONAL JUSTICE FOR CLEANERS DAY

The Hon. IAN WEST [11.52 p.m.]: On International Justice for Cleaners Day, Monday 16 June, I was pleased to have the opportunity to join a rally of contract cleaners, including cleaners from Westfield shopping mall in Parramatta, along with their union representatives from the Liquor, Hospitality and Miscellaneous Workers Union [LHMU]. The cleaners at Westfield Parramatta are fed up with having their wages, entitlements and conditions being abused by contractors. Westfield management appears to have adopted a strategy of increasing profits by engaging the cheapest tenderer, who in turn makes his profits off the backs of the underpaid cleaners. Not only are the cleaners underpaid; they are not provided with enough time, materials or safe equipment to do the job properly. The meeting to celebrate International Justice for Cleaners Day made a number of essential and reasonable demands on Westfield by passing the following resolution:

That shopping centre owners have an ethical responsibility to ensure that the companies that they contract for cleaning services treat the cleaners fairly. That means:

- Respecting the right of cleaners to belong to their union;
- Paying award rates including superannuation;
- Providing job security on change of contract;
- Compliance with health and safety laws; and
- Proper support for injured workers.

It is a damning indictment on Westfield that cleaners should have to make demands for treatment that is required under New South Wales industrial laws. Westfield relies heavily on its clean image but is not prepared to protect workers who maintain that image every day and night. The reality is that the contract cleaning companies that win tenders by underquoting for cleaning Westfield shopping malls are unwilling or unable to regularly pay wages on time or to provide to their workers the simple conditions required by law. At least in New South Wales workers have some industrial rights left and get protection from their unions through freedom of association and collective bargaining.

Many of these contract companies attempt to take advantage of their workers by failing to ensure a safe workplace. Often the cleaners are women from non-English speaking backgrounds, and many are recent migrants who do not have the literacy or industrial skills to understand how inferior their conditions are within Australia's legal framework. Westfield is directly benefiting from this immoral and often illegal behaviour. It has a responsibility as a corporate citizen to ensure that its contractors operate legally and ethically.

The hypocrisy is further demonstrated in the recent actions of Westfield's Australian chief executive officer, Frank Lowy. Recently Frank has made much of his humble beginnings in Australia, arriving in the 1950s in search of a better life. However, when it comes to pay and conditions for the so-called invisible work force of cleaners, many of whom are also migrants in search of a better life in Australia, Frank goes silent. He gets paid \$11 million per year—that is the equivalent of what 400 cleaners are paid each year. Frank would argue that he is a generous man, and no doubt he is. He is putting \$30 million of his own money towards a think tank on international policy. However, the cleaners in his shopping malls from Parramatta to Perth, and in America, Canada, New Zealand and the United Kingdom get no benefit from the wealth he parades, which would not be possible without their hard work.

Westfield shifts the blame for poor treatment of cleaners onto the contract companies. But it is Westfield that engages the contractors who act in the name of Westfield in the shopping malls. Westfield should develop an international protocol on service sector tendering that ensures that contract companies abide by the law in relation to pay and conditions. A protocol, policed and guaranteed by Westfield, would be an effective way to ensure a clean image for the company worldwide while ensuring that the workers get what they deserve. I will be writing to Frank Lowy recommending that he adopt such a protocol.

If Mr Lowy wants to memorialise the immigrant success story that his life is he should make his shopping malls better places to work, where cleaners from all walks of life can take steps to achieve their own dreams. I congratulate all the cleaners and the LHMU on organising and celebrating International Justice for Cleaners Day in Australia at the Parramatta town hall on 16 June. I look forward to having an opportunity to talk to Frank Lowy about introducing this protocol.

GAN GAN ARMY CAMP SITE SALE

RAYMOND TERRACE POLICE STATION AND LOCAL COURT CLOSURE

The Hon. ROBYN PARKER [11.57 p.m.]: I am disappointed about two issues relating to the Port Stephens electorate. First, the former Gan Gan Army Camp, surrounded by Tomaree National Park, has been sold without the Government taking advantage of the tender on offer. The army camp is 98 hectares, only some 15 hectares of which have been disturbed or developed. Other than the boundary on a map, it is hard to distinguish this land from the surrounding national parkland. The Preliminary Flora and Fauna Constraints Assessment for the Department of Defence land at Gan Gan army camp, prepared for GHD Pty Ltd by Ecotone Ecological Consultants, leaves no doubt that there are serious environmental concerns about this area of land. The Government's failure to lodge an application for a priority of sale for the land, or even an expression of interest before the tender closed on 30 May this year—this was an extension of the closing date for tenders—culminates in this disappointing outcome. It follows a number of events and meetings between council and other interested groups, of which I have been made aware. Indeed, discussions about the acquisition under priority sale of this pristine piece of land were initially held with Port Stephens Council in 2002.

On 29 May I noted in this place that the Federal member for Paterson, Bob Baldwin, had written to the Premier urging him to consider this project. At that time I also called for the State Government to act quickly. Time was of the essence. With only hours remaining before the close of tender applications, the State Government had not taken any action. Plenty of talk, but no action.

The Hon. Henry Tsang: But doesn't that belong to the Federal Government?

The Hon. ROBYN PARKER: No, it has now been sold to a private developer. The Port Stephens community has considerable support for the proposal, as demonstrated by a public meeting held by the Hands off Gan Gan Committee. I was pleased to attend the meeting—which was attended also by Ms Sylvia Hale—but I was disappointed that, despite its importance, not one representative of the New South Wales Labor Government was present. All talk, but no action. It was of interest to many of us. During the meeting, Bob Baldwin tabled a letter from the Parliamentary Secretary to the Minister for Defence, Fran Bailey, stating that as at 28 May no request had been made by the New South Wales Government to acquire the land. Two days later, when tenders closed, I believe that was still the case. The sale of Gan Gan army camp, apparently without an attempt by the New South Wales Carr Government to secure it, bitterly disappoints not only me but also the community as a whole.

When I heard recently the Federal Treasurer say that the New South Wales Government has received an increase of 40-odd per cent in stamp duty on land transactions to its benefit, I could not understand how the

Government could say that it does not have the money to purchase the land. Perhaps price was not the issue; perhaps it is disregard for the community's wants that lies at the heart of the problem. I hope I am proved wrong, but records available to me to date show that the New South Wales Government made no formal application for acquisition of this land. Letters have bounced backwards and forwards between offices, but never was a formal application made. I am disappointed, as are members of the Port Stephens community who have campaigned long and hard for this land to become a national park. We are none the wiser about the Government's reasoning. I called on the local member of Parliament, John Bartlett, to clarify what action, if any, he took on behalf of his constituents to encourage the Government's purchase of the land.

I wish also to refer to the fate of plans for Raymond Terrace police station and courthouse, and the temporary reprieve of plans by the Government to close both facilities. This afternoon I listened very closely to the Budget Speech. It was only a matter of weeks ago, prior to the temporary reprieve, that the Minister for Police, John Watkins, admitted that the Government's plans for a new station had been dumped. Today I noted that no money was allocated for a new police station and no money was allocated to upgrade the cells at Raymond Terrace courthouse. Clearly, the people of Port Stephens have been dealt another blow. I am not sure what the future of the courthouse will be. However, I know that the wonderful police at Port Stephens are working under terrible conditions. I call on the Government and the local member to do something about it.

DEATH OF MR JOHN SELWYN McDONALD

The Hon. PETER BREEN [12.02 a.m.]: I report to the House the tragic and untimely death on 14 June of Campbelltown resident John Selwyn McDonald. John is survived by his wife, Christel, his daughters, Lisa and Michelle, his sons, Adam and Darren, and his brothers, Ron and Bruce. John moved to Campbelltown in the early 1950s when he was aged nine. He grew to be a legend in the Campbelltown community. Last Thursday 1,500 people attended St John's Catholic Church for his funeral. After the service 800 attended a farewell drink for John at Wests Leagues Club at Lumeah, where he had been a director for the past eight years. Like John, I moved to Campbelltown in the 1950s as a child. I lived in a War Service home in the St Elmo estate. John was one of the big kids in those days and, in a sense, all his life he remained a kid with a big heart.

John's most endearing quality was his extraordinary ability to relate to people from a wide cross-section of the community. You received the same treatment from John McDonald no matter who you were or where you came from, and that treatment was always generous and sympathetic. I believe he was genuinely interested in everybody he knew, and he gave you the feeling that he cared about you and wanted to know how you were getting on. Last year I attended a breakfast for politicians at the Campbelltown Catholic Club and made myself unpopular by suggesting in a speech that a picture of the Pope ought to be removed from the foyer of the club. John is a staunch Catholic, and he was not too pleased about what I said about the Pope's picture. But he let it go through to the keeper.

Instead of castigating me in the foyer of the club about the Pope, John congratulated me on something else I said in my speech. I pointed out that as a young man growing up in Campbelltown I had the benefit of cheap housing, free education and full employment—a privilege that many young people in Campbelltown do not enjoy today. John McDonald kept slapping me on the back and congratulating me on my speech because he knew that he had enjoyed the same privileged upbringing in Campbelltown. Like me, he lamented the fact that many kids today are not so privileged. When we met over the following months he often spoke about the importance of helping kids. I had seen quite a bit of John in the past 12 months because my sister, Janette, and her husband, Roy Warby, moved into the house next to John and Christel at Glen Alpine.

Before the Warbys moved into the house at Glen Alpine I had a bet with John McDonald that they would move elsewhere, but John insisted that his mate Roy Warby, also a Campbelltown resident since the early 1950s and director of Wests Leagues Club, would move into the house next door. Sure enough, the Warbys moved in, John McDonald won the bet and I had to buy him lunch at Parliament House. I regret that I never performed my part of the bargain. John reminded me several times, but I never got around to setting a date. We never imagine that our friends might die suddenly without collecting on their wagers. I take this opportunity to express my personal condolences to Christel, who has lost her husband, and Adam, Lisa, Michelle and Darren, who have lost their father.

John was a surveyor in Campbelltown for 30 years. The staff of John S. McDonald and Associates have lost their boss. He was a fine man, loved by everyone who knew him. Father Chris Sarkis from St Andrews parish celebrated John's Requiem Mass with the assistance of Father Michael Healey, the Parish Priest at Campbelltown. You could not buy a seat in the church. The crowd spilled out onto the street. Inevitably, we

think about our own mortality when our friends die. We wonder about our legacy and how we will be remembered. To be remembered as John McDonald is remembered, as a man who cared about other people, is perhaps the highest accolade that anyone can receive at the end of his life. On the front cover of the Mass book for John's funeral service, directly under a recent photograph of his smiling face, his family wrote the following words:

May the kindness of his heart live on through all of us.

John McDonald will be remembered through the lives of his family and friends. The kindness of his heart is a timeless legacy, and his smiling face an unforgettable and treasured memory.

DEATH OF MR CEC McKINLESS

The Hon. AMANDA FAZIO [12.07 a.m.]: I note the passing of Mr Cec McKinless of Tenterfield. Cec was a life member of the Australian Labor Party [ALP]. Two years ago life membership of the party was conferred on both him and his wife, Beth, at the ALP country conference in Coffs Harbour. Cec was a very kind gentleman. His beliefs in the trade union movement and the Labor movement were very strong. He had been very active in the ALP in both Queensland and New South Wales. About 14 years ago Cec and Beth retired to Tenterfield, where both became very active in the local community. Beth is the mainstay of the Diabetes Association in Tenterfield, and Cec, until his health inhibited him, was also a very strong community activist. Thankfully, Cec had been ill for only a few months before he passed away last week. He will be greatly missed by his many friends in the Tenterfield branch of the ALP, the regular patrons of the Tenterfield Bowling Club and, particularly, his widow, Beth. They were a very close and loving couple. I extend my condolences to Beth McKinless and her family.

Motion agreed to.

**The House adjourned at 12.09 a.m. on Wednesday 25 June 2003 until
11.00 a.m. the same date.**
