

LEGISLATIVE COUNCIL

Wednesday 15 October 2003

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

The Clerk of the Parliaments read the Prayers.

PREVENTION OF CRUELTY TO ANIMALS AMENDMENT (PENALTIES) BILL

Bill received, read a first time and ordered to be printed.

Motion by the Hon. Tony Kelly 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 ordered to stand as an order of the day.

BUSINESS OF THE HOUSE

Precedence of Business

Motion by the Hon. Tony Kelly agreed to:

That on Wednesday 15 October 2003 General Business take precedence of Government Business until 6.00 p.m.

UNPROCLAIMED LEGISLATION

The Hon. John Hatzistergos tabled a list detailing all legislation unproclaimed 90 calendar days after assent as at 14 October 2003.

SERIOUS OFFENDERS REVIEW COUNCIL

Report

The Hon. John Hatzistergos tabled the following paper:

Crimes (Administration of Sentences) Act 1999—Report of Serious Offenders Review Council for the year ended 31 December 2002

Ordered to be printed.

NATIONAL PARTY NAME CHANGE

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [11.07 a.m.], by leave: I desire to inform the House that effective from yesterday, 14 October 2003, the New South Wales National Party has changed its name to The Nationals. In future I wish to be referred to as the Leader of The Nationals and the Hon. Jennifer Gardiner shall be referred to as Deputy Leader of The Nationals. The Hon. Rick Colless is to be referred to as The Nationals Whip.

PETITIONS

Local Government Boundary Changes

Petition objecting to any boundary changes that will force amalgamations of local councils, received from **the Hon. Dr Peter Wong**.

Gaming Machine Tax

Petitions opposing the decision to increase poker machine tax, received from **the Hon. Duncan Gay** and **the Hon. Rick Colless**.

Gaming Machine Tax

Petition praying that the House repeal the new gaming machine tax and undertake a review before further tax increases are considered, received from **the Hon. Charlie Lynn**.

BUSINESS OF THE HOUSE

Postponement of Business

The PRESIDENT: Order! Under new Standing Order 45, at the conclusion of formal business each day I will give members the opportunity to postpone items of business that appear on the notice paper, of which they have charge. Members should note that this does not preclude postponing items at the time they are called on.

STANDING COMMITTEE ON PARLIAMENTARY PRIVILEGE AND ETHICS

Reference

The Hon. PETER BREEN [11.15 a.m.]: I move:

That the Standing Committee on Parliamentary Privilege and Ethics inquire into and report on the following matters:

- (a) whether any breaches of the immunities of the Legislative Council or contempts were involved in the execution of a search warrant by the Independent Commission Against Corruption on the Parliament House office of the Honourable Peter Breen on 3 October 2003,
- (b) what procedures should be established, such as the appointment of an independent arbiter, to examine and determine whether any of the documents and things seized by the Independent Commission Against Corruption are immune from seizure under the warrant by virtue of parliamentary privilege,
- (c) any other matters that the committee considers relevant.

As honourable members will know, the Independent Commission Against Corruption raided my office on 3 October 2003. My office has been in chaos ever since. My personal assistant, Adriana Sammartano, finally got her computer up and running just yesterday. Ms Sammartano lived through the Franca Arena matter. She has lived through a number of prison matters as my personal assistant, and she tells me she gets much more abuse over prisoners than she ever got about the Franca Arena matter. That indicates the values of contemporary society.

Today the good people from Building Services rehung a painting that the ICAC investigators pulled off the wall of my office as they searched for secret and nefarious activities. I wish I could have been there to witness the search and seizure operation. Apart from identifying material covered by parliamentary privilege, I could have directed the attention of the ICAC officers to the files they would need for a proper investigation of my affairs. To begin with, I would have identified two files in the top drawer of my filing cabinet, since both of them are essential to a proper understanding of my activities and interests.

The Hon. David Oldfield: Why weren't you there, then?

The Hon. PETER BREEN: Is the honourable member representing the Independent Commission Against Corruption?

The Hon. David Oldfield: No, I am asking you a question. You said you wish you could have been there. Why weren't you there?

The Hon. PETER BREEN: I was not there because my diary had me at another commitment at 4.00 p.m.

The Hon. David Oldfield: Which was more important than being at the place to clear yourself when your office was being raided?

The Hon. PETER BREEN: It was much more important that I was not there when my office was being raided by the ICAC. And when your office is raided by the ICAC you should get legal advice about the same thing.

The Hon. David Oldfield: If it is raided by the ICAC, it will only be at your instigation.

The Hon. PETER BREEN: If I could instigate an ICAC inquiry into your affairs, I would gladly do so. As a matter of fact, I received a letter from Pauline Hanson just yesterday about your affairs, and you might be interested in some of the things she has to say. Now is not the time to say what they are.

The Hon. David Oldfield: Perhaps you should visit her in gaol and represent her as well.

The Hon. PETER BREEN: I would like to visit her in gaol some time and get further information about your activities.

The Hon. David Oldfield: Put the air fare on your logistic support allocation.

The Hon. PETER BREEN: The air fare would be properly deductible from my logistic support allocation, if it were in the course of my affairs and representations as a member of Parliament.

The Hon. David Oldfield: It would be outside your constituency.

The Hon. PETER BREEN: You would not know what the rules are. You are so busy out in the field trying to get members into your party, robbing them from the Shooters Party, that you do not have time to attend to your parliamentary affairs.

The Hon. David Oldfield: Why is there a fax machine only on your home phone number?

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

The Hon. PETER BREEN: As I was saying, the ICAC investigators missed the two most important files. Here they are. One is called "Advance Australia Fair Marketing" and the other is called "Angelus Association". The Angelus Association is a Catholic Church charitable organisation that I helped to found in 1996. This organisation operates from my house in Lismore. The other file, labelled "Advance Australia Fair Marketing", sets out in painful detail how I spent all my money writing books. Another book that I wrote while a member of this Parliament was a new edition of a letter writing book, a complimentary copy of which I gave to the Hon. David Oldfield, but in view of his activities since then I would ask him to return it, because he obviously does not use it.

I am sure the ICAC would be interested to know that the new edition of my book *Advance Australia Fair* cost \$5,053 to publish, particularly since it was paid for by the New South Wales Parliament. Here in the front of the file marked "Advance Australia Fair Marketing" is an invoice from Southwood Press Pty Ltd, a company operated by Ms Sylvia Hale. The ICAC could investigate the question: Why does a member of Parliament have an invoice on his file from another member regarding the printing of a book for the total sum of \$5,053? That issue is worthy of investigation. But the ICAC missed it; it missed the whole file. It took a whole lot of other documents, such as personal files and tax returns. The Leader of the Opposition is scowling.

The Hon. Dr Arthur Chesterfield-Evans: You are going to get raided again.

The Hon. PETER BREEN: The point is I do not need to get raided. I have no secrets. The ICAC can come to my office any day of the week and I will give them whatever files they want. They are most welcome to come and take these two files with or without a search warrant. As I said, the invoice from Southwood Press for the printing of my book is the first document on the file. I also make this point: Not only is the invoice from a company owned by Ms Sylvia Hale, but the foreword to the book is written by Senator Bob Brown. That is another issue the ICAC might like to investigate.

The Hon. David Oldfield: It sounds like Malcolm's defence, the way you are rambling.

The Hon. PETER BREEN: Unfortunately Malcolm Jones did not get the opportunity to put his defence because he resigned. Had he not done so, he may well still be a member of this House. Eight ICAC investigators descended on my office, according to the *Sydney Morning Herald*, and none of them could locate the two best files in the top drawer of my filing cabinet. As I have repeated ad nauseam, there are no secrets in my life. If the ICAC or anyone else would like to inspect my files, they are free to do so. My office is always open and the pictures on my walls will soon be mounted on hinges for easy inspection.

Last night I consulted my legal adviser, the Hon. Dr Peter Wong. I did not want to make the same mistake as Malcolm Jones did and rely on hopeless legal advice. The House should be aware that the former member for Auburn is suing the *Sun-Herald* because he is not under investigation by the ICAC. An article in the *Sun-Herald* wrongly claimed that Peter Nagle is under investigation by the ICAC, and Mr Nagle is now suing for defamation. That is a case of the pot calling the kettle black. I asked the Hon. Dr Peter Wong about my legal position. I particularly wanted to know whether some flyers I laid out on the office computer during the March 2003 election might constitute unauthorised political activity by a member of Parliament.

The Hon. Dr Peter Wong consulted his law books and came up with the advice that expressing an idea cannot be classified as unauthorised political activity. When I said "Please explain," the Hon. Dr Peter Wong reminded me that the Reform the Legal System party and the Unity party both used the same printer for our election flyers and that he had substantially altered the draft of the flyers at the printer's office because they were a load of rubbish and completely lacking in substance and appeal.

Honourable members should not think that I do not take the ICAC investigation seriously. I have been worried sick about it. I think it was Socrates in the fifth century who said, "The life unexamined is not worth living." Socrates could never have contemplated the arrival of the ICAC. To have one's life examined in minute detail is terrifying. In my case I do not know my accusers or the allegations against me and I have not laid eyes on one investigator, even though they have raided my office and my home and carted away what they believed were my important documents and files. Furthermore, the only contact I have received from anyone at the ICAC is a mobile phone message to please ring if I would like to know anything about the ICAC procedures. Needless to say I deleted the message and said, "Get stuffed".

Having said that, I did have contact with three ICAC officers, including Commissioner Irene Moss, just two days before the raid on my office. We were attending a conference in Perth for parliamentary oversight bodies. I represented the honourable member for Liverpool, Mr Paul Lynch, who is chairman of the Committee on the Office of the Ombudsman and the Police Integrity Commission, and presented a paper to the conference on his behalf. No doubt the three ICAC officers hung on every word I spoke. Reverend the Hon. Fred Nile also attended the conference and at one point raised a question about the security of members' offices. Irene Moss later informed me that she thought Reverend the Hon. Fred Nile was a bit paranoid. I do not think so.

The question of the security of members' offices goes to the heart of our democracy. As journalist Alex Mitchell reminded me this morning, the Parliament and its offices belong to the people, and we as members are the people's representatives. If the confidence of the people in the security of members' offices is undermined, then democracy itself is undermined. Members rarely get elected to Parliament without first undergoing intense public scrutiny. Once elected, they are accountable for everything they do. They cannot be involved in corrupt or illegal activity without going to great lengths to cover their tracks. To suggest that members are likely to keep anything incriminating in their parliamentary offices is simply ludicrous. I wrote to the President requesting her determination about the question of privilege as required by Standing Order 77. In my letter I said:

I emphasise that I have no difficulty with the ICAC investigating suspected corruption, including by way of lawfully executing properly obtained search warrants. Members have no immunity from properly conducted corruption

investigations. The point is that this search was not properly conducted and as a result the immunities of the Legislative Council have been infringed.

At the time the search was undertaken I was in conference with Will Hutchens of the Prisoners Legal Service and John Basten, QC. I am appearing *amicus curiae* on behalf of some prisoners in the High Court case of *Baker v The Queen*, which I expect will be heard in January or February next year. If members would like to know more about the case, I refer them to pages 7068 to 7074 of *Hansard*, which is attached to my letter to the President requesting this motion.

One of the prisoners I represent is Stephen "Shorty" Jamieson, who I believe was wrongly convicted of the murder of Janine Balding 15 years ago. Honourable members will recall that it was Mr Jamieson's case that caused police Minister Watkins to suspend the operations of the Innocence Panel. Apparently the idea that the Innocence Panel might actually find someone innocent was too hard to deal with. One of the documents removed from my office by the ICAC was a transcript of two tape recordings taken at Goulburn gaol on 12 November 2002 and 28 November 2002 in which Stephen Jamieson explains how he was allegedly verballled by corrupt police officers and forced to sign a false record of interview. Material from the first of these two tape recordings was used by me in preparing a speech to the House on 20 November 2002, and that is the basis on which I claim parliamentary privilege over the transcript.

I also used the transcript to prepare material for a complaint lodged with the Police Integrity Commission [PIC] about allegations of corrupt police conduct involving Mr Jamieson, although it appears that the commission is sitting on its hands with regard to that issue. Today I sent a formal complaint to the Inspector of the PIC, Judge Ireland, about the way in which the commission has handled my material. Other material removed from my office by Independent Commission Against Corruption officers is almost certainly subject to parliamentary privilege but, without knowing what the ICAC has, I would only be guessing about that. The search and seizure record left on my desk by the ICAC officers runs to 10 pages, but it would take a week to list every document removed. Without examining such a list or the documents themselves, I cannot say what is covered by parliamentary privilege. That is the reason for the motion, which I ask honourable members to support.

Reverend the Hon. FRED NILE [11.30 a.m.]: As a member of the Standing Committee on Parliamentary Privilege and Ethics I believe that this issue should be referred for the committee's consideration. Many honourable members have expressed concern about the matters raised in the motion, particularly paragraph (b), which refers to the procedures that should be established, such as the appointment of an independent arbiter to examine and determine whether any of the documents and things seized by the ICAC are immune from seizure under the warrant by virtue of parliamentary privilege. Parliamentary privilege should be clarified. Paragraph (c) allows the committee some flexibility given that it includes the words "any other matter that the committee considers relevant". This inquiry would assist the good operations of the Legislative Council.

The Hon. Dr PETER WONG [11.31 a.m.]: I also support the motion. I am sure that every honourable member has private correspondence in his or her office. I have documents referring to medical matters and constituents, and confidential letters written to Ministers on behalf of constituents. Under no circumstances would I wish that material to be made known to anyone else. That is important to me as a medical practitioner. The ICAC should have access to material if it has evidence of or suspects criminal or corrupt activity, but going on a fishing trip is a different issue. This House should determine what rights honourable members have and do not have. If anything else were to happen, our offices would no longer be ours. I am not saying that the ICAC should not be able to search honourable members' offices. However, there must be protocols and evidence that the honourable member concerned has been involved in corrupt activity. If any other approach is taken, our offices will no longer be private.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [11.32 a.m.]: The Government does not oppose this motion. Indeed, it supports a consideration of the matters raised in paragraphs (b) and (c) because it will provide guidance about the handling of these matters. It is important that there be clarity on this issue to protect the legitimate privileges of this Parliament and to ensure that investigative bodies are not impeded when dealing with matters that have been properly entrusted to them by the Parliament. No-one should be under any illusion that from time to time when matters are investigated investigators may inappropriately stray across boundaries.

The Independent Commission Against Corruption has been sensitive to questions of parliamentary privilege in the past. Honourable members will recall that when this House decided to refer to it the conduct of officers of the Department of Corrective Services, Commissioner Irene Moss wrote to the House indicating that because the committee process that led to that request was covered by parliamentary privilege there were limitations on her capacity to access material and evidence before the committee. Although she was anxious to comply with the House's request, she would have to obtain that material from other sources.

Issues relating to parliamentary privilege and investigative bodies have arisen during past committee inquiries, and in some cases the investigative bodies have desisted from their inquiries as a consequence of those issues being drawn to their attention. To clarify my position and my consistency on this matter, I draw to the attention of the House a Police Integrity Commission [PIC] issue that arose before I became a Minister. During the last Parliament, in my role as a member of General Purpose Standing No. 3, I chaired an estimates committee charged with examining various matters relating to the then Commissioner of Police, Mr Peter Ryan. In the course of the hearing the Hon. Michael Gallacher asked:

Considering the results that restorative justice has had in Wagga Wagga, Nowra and other pilot areas around New South Wales, are you in a position to tell the Committee why Mr O'Connell's restorative justice and behavioural changes unit was axed in October last year?

Mr Ryan responded that it had not been axed and he then explained the situation. Operation Malta produced a report earlier this year, and to my great astonishment paragraph 10.39 stated that the PIC investigated whether Mr Ryan's answer to that question was accurate and determined that he gave truthful evidence to the committee.

It was never the PIC's job to inquire into the debate between the Hon. Michael Gallacher and Mr Ryan. I immediately drew that issue to the attention of the oversight committee, of which I was a member. Madam President wrote a letter to the PIC Commissioner, Mr Griffin, on 26 February 2003 expressing her concern that the PIC was inquiring into matters before this Parliament. The commissioner responded that he was obtaining advice on the matter and asked that the President defer any action until he received it. In the meantime, he referred the matter to the Inspector of the PIC.

The advice was obtained and forwarded to the President on 11 April 2003. The commissioner apologised unreservedly for the PIC's actions, indicating that it was sensitive to issues of parliamentary privilege and that it had put in place appropriate mechanisms "to prevent questioning before any future hearing of the commission from infringing upon the privilege or, should that remain a possibility, to invite the Speaker of the relevant House to make submissions on the matter". I am concerned about that qualifier. The commissioner has obtained the Crown Solicitor's advice, which came down in favour of the view that this was most likely a breach of privilege and that there may be a small doubt. The PIC has indicated that in future it will invite the House to make submissions on these matters.

The Hon. Duncan Gay: Is that the Government's position or your position?

The Hon. JOHN HATZISTERGOS: I am raising this because clarity of parliamentary privilege must be resolved.

The Hon. Duncan Gay: Is that not the purpose of the motion? Should you be pre-empting it?

The Hon. JOHN HATZISTERGOS: That is why I believe it is appropriate that the committee investigate these issues. It should produce a workable solution so that investigators are not impeded in their proper inquiries. At the same time, parliamentary privilege should be properly protected for the purpose for which it was given, and for no other purpose.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [11.39 a.m.]: On behalf of the Opposition I indicate at the outset that we will not oppose the motion moved by the Hon. Peter Breen. As we heard earlier in the debate, undoubtedly the specific aspects of the matter involving the Hon. Peter Breen will be tested in future. However, following on from the point the Government made, as part of the ongoing evolution of the rights and responsibilities of members of this House, as well as the ongoing evolution of accountability, transparency and community acceptance, it is hoped that clarity will be achieved in regard to what constitutes parliamentary privilege. What constitutes a breach of parliamentary privilege therefore needs to be examined, and for that reason the Opposition believes that the Standing Committee on Parliamentary Privilege and Ethics should inquire into the matters referred to in the motion, to give members, and indeed the community, a greater understanding of what is acceptable and what is not, and what constitutes parliamentary privilege in the modern day.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [11.41 a.m.]: I support the motion because it is important that thorough boundaries between public and private information and interest be clearly defined. The general position I take with regard to government information is that it should be made public unless there is a very good reason to keep it private. It is a little anomalous for someone who is asking for Cabinet minutes to be made public, as occurs in New Zealand, to suggest that a file of a member of Parliament should be generically protected. On the other hand, with access to information via a database I believe the privacy issue will become one of the major political issues of the next decade.

Certainly the aspects of privacy that were drawn to everyone's attention by Chris Puplick—whose role, unfortunately, is about to be subsumed into the Ombudsman's Office—need a lot of attention. Chris Puplick pointed out that cameras around the city taking photographs up to 50 times a day of people simply walking around town would mean that anyone who was having an affair, meeting people or indeed associating with people could be tracked, particularly with the assistance of face-recognition software. He also pointed out that people who are photographed in their cars by speed cameras may have photographs taken of them from the front, showing who they are driving with, which is extremely invasive. In Holland, speed cameras must take photographs from behind vehicles, so that people are not identified.

The issue of medical confidentiality was highly regarded for some time. It is now clear that the courts can break medical confidentiality fairly easily. I am not sure about the status of confessionals with priests; I gather that is still sacrosanct. It seems that legal client privilege is relied on heavily, as was shown in some of

the tobacco company cases, in which the heinous things they were doing were revealed in part. It would appear that the motivation of the Independent Commission Against Corruption's inquiry involving the Hon. Peter Breen does not involve privacy issues with regard to other individuals, and that it simply relates to the honourable member's activities with regard to, presumably, writing books and so on. One wonders about the origin of the allegations, which obviously will become clearer with the passage of time.

I have concerns about the independent arbiter being appointed in a non-testable way. Indeed, one would say that the Independent Commission Against Corruption by its name suggests that it is independent. However, it has taken an inquisitorial role in all of this, a matter to which the Hon. Malcolm Jones drew attention. I have looked at some of the documents that were given privilege by Sir Laurence Street, and I believe that at least one of them should not have been given privilege. The document does not relate to a huge issue, but it does mention an individual in a relatively trivial fashion, and for that reason was given privilege. I did not make a big deal of it, but it crossed my mind that perhaps the document should not have been given privilege. I wondered about the system of appeals in New Zealand, where, under the Official Information Act, all government information is made public unless the Government applies for it to be kept private in the national interest. In that country there is an appeal mechanism from the Ombudsman through the Supreme Court.

At the moment, as parliamentarians we are very much under attack for having privilege. Obviously, we would want to have more privilege than is necessary in doing our job. However, by the same token individuals would not like to think that anything they write to us as members of Parliament may immediately appear on the front page of the newspaper. There is a prurient interest in things that is extremely destructive for individuals and the credibility of the system. It is good to have this looked at, but I urge that the public interest be well considered.

The Hon. PETER BREEN [11.46 a.m.], in reply: I thank honourable members for their contributions. I believe that members of Parliament ought to be accountable in exactly the same way as are other members of the community in relation to their activities. If there are allegations or evidence about corrupt activities, they ought to be investigated. I am simply suggesting that the Standing Committee on Parliamentary Privilege and Ethics may consider that special circumstances apply in relation to members of Parliament, given the work they do, and the fact that for many people a member of Parliament is the only person with whom they can raise serious allegations that might have implications for them in the community in which they live. We are their representatives, and we have to fearlessly argue their causes when they come to us.

In several cases I have been lobbied and approached by whistleblowers, and I am often placed in a very difficult position. But the reality is that I have to pursue anything that I believe has substance and needs to be investigated further. I do not apologise for this, and I will hopefully continue to do it in the future. However, my own office needs to be subjected to some kind of rules and procedures in relation to investigations from organisations such as the Independent Commission Against Corruption. I believe that protocols can be put in place so that members are still properly accountable but privileged material is protected. I would hope that the committee is able to examine what happens in other jurisdictions and provide recommendations to the House. I commend the motion.

Motion agreed to.

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

PORTS FREIGHT STRATEGY

The Hon. MICHAEL GALLACHER: My question without notice is directed to the Minister for Transport Services. Did the Government, at the instigation of the Minister's predecessor, convene a New South Wales ports forum comprising Government, the Ports Corporation and industry representatives on 2 August 2001, the intended outcome of which was to develop and finalise a ports freight strategy by the end of 2001? Did Transport NSW ever produce a ports freight strategy document following this forum, and was the document ever publicly released?

The Hon. MICHAEL COSTA: I am not aware of the issue referred to by the Leader of the Opposition. I will obtain advice and come back to the House.

The Hon. MICHAEL GALLACHER: I ask a supplementary question. If the Minister finds that the forum took place and that a strategy was released, will he table the document in Parliament?

The Hon. MICHAEL COSTA: I refer to my previous answer. I will find out whether a forum occurred and then come back to the House on the matter.

DAIRY INDUSTRY

The Hon. PETER PRIMROSE: My question is directed to the Minister for Agriculture. Will the Minister update the House in relation to the dairy industry in New South Wales, particularly the release of the dairy futures initiatives that have been announced?

The Hon. IAN MACDONALD: I find it remarkable that yesterday the Deputy Leader of the Opposition stood before this House and criticised the efforts of the Carr Government to help dairy farmers when his government pushed dairy deregulation in the first place. I ask him to recall that New South Wales dairy industry deregulation started in 1993 when the Coalition Government deregulated the milk distribution sector.

The Hon. Michael Costa: Was that the National Party or The Nationals?

The Hon. IAN MACDONALD: It might have even been the Country Party—whatever the party used to call itself. In 2000 New South Wales dairy leaders asked the State Government for further deregulation in response to the decision by Victorian producers to deregulate its industry. With conditions stipulated by the Commonwealth Government, the New South Wales Government reluctantly deregulated the New South Wales dairy industry in July 2000. Nearly four years later farmers are struggling to survive this continued drought. During a recent trip to the Hunter I spoke directly to many dairy farmers. I was not there for one hour, but for more than two hours. I had to catch a plane to deliver a paper to the stock and station agents in relation to the National Livestock Identification Scheme. I saw firsthand how some dairy farmers are facing 100 per cent increases in feed costs, from \$150,000 to \$300,000 per year. I could stand here and blame the Commonwealth Government for some of the issues our dairy farmers face—namely, deregulation and the structural adjustment program.

The Hon. Melinda Pavey: Are you going to blame them for the drought? You blame them for everything else.

The Hon. IAN MACDONALD: No. I am not going to do that because rather than point fingers the Labor Government, the New South Wales Department of Agriculture and organisations such as the New South Wales Farmers Association have pulled together to support this resilient industry. My department has worked hard to help drought-affected dairy farmers gain access to exceptional circumstances [EC] assistance—the Federal Government's policy. As a result of these efforts, more than 800 New South Wales dairy farmers are in areas that have been EC declared, including farmers in the Riverina, eastern Riverina, Grafton-Kempsey, Casino, Forbes, Moss Vale-South Coast and other EC areas. This assistance will help put food on their tables—

The Hon. Melinda Pavey: How much?

The Hon. IAN MACDONALD: It is at the Centrelink rate. Farmers will be able to access interest rate subsidies on new and existing loans. Unfortunately, I am advised that the Federal Government's drought task force has not referred the Hunter-Maitland-Gloucester application for assessment as it considers the case to be marginal, despite the fact that over the past year the Hunter Valley has had one of the lowest rainfalls in history. The Commonwealth Government has asked us to go back and get more information about the region; it has requested more information for this application. My department is working closely with the drought task force, the rural lands protection boards and local farmers to move this forward. Instead of coming in here and grandstanding on these issues as he did yesterday, the Deputy Leader of the Opposition should look at the Federal Government: it did a lot to demolish dairy farmers in this State. He should be trying to ensure that they get EC assistance, which they are not receiving.

HORIZON AIRWAYS VOLUNTARY ADMINISTRATION

The Hon. DUNCAN GAY: My question is directed to the Minister for Transport Services. Does the Minister recall that just three months ago he awarded Horizon Airways the licence to operate between Sydney and Grafton? Is the Minister aware that an administrator was appointed to Horizon on Monday night? Will the

Minister inform the House how long he was aware that Horizon was experiencing financial difficulties? What moves has the Minister made to assist the airline and to ensure that this important air service remains available to the Clarence Valley? Did the Minister's department, the Australian Transport Council, undertake a thorough assessment of Horizon's financial records and ability to fulfil such a commitment before awarding it, over Rex airlines, the licence to operate between Sydney and Grafton?

The Hon. MICHAEL COSTA: The Deputy Leader of the Opposition has asked an important question. I understand that today either Horizon Airways or the administrator has issued a press release indicating that the company is in voluntary administration. We need to be circumspect when discussing the financial position of a private company, particularly in these circumstances.

The Hon. Patricia Forsythe: Your role.

The Hon. MICHAEL COSTA: I heard that interjection. We are discussing serious matters that could potentially affect airlines. The interjection was probably a little bit out of place at the moment.

The Hon. Melinda Pavey: Not at all. It is your role to provide the service.

[Interruption]

The Hon. MICHAEL COSTA: No, it is not the role of the Department of Transport to manage the corporate financial affairs of a company. I also heard an interjection regarding Kings Bros. The Government is operating under the same rules that the Opposition operated under when it was in office. The Government does not regulate the financial affairs of corporations in Australia.

The Hon. Catherine Cusack: You selected the operator.

The Hon. MICHAEL COSTA: That interjection is extraordinary. The Opposition's level of ignorance in relation to these matters is extraordinary. If the Opposition would give me the opportunity, I would go through this matter. Companies collapse every day in Australia. The Federal Government has responsibility for regulating corporate affairs. I would not be silly enough to come into this House and hold the Federal Treasurer responsible for the financial affairs, the operating affairs, of every company in Australia. I hope the Opposition is not silly enough to do the same thing in relation to this issue. The Opposition is displaying extraordinary ignorance in relation to these matters. It is quite embarrassing to stand here and listen to the Opposition put these positions. Let me go through this important issue. I was asked specific questions and I will address them.

As I said, we need to be circumspect about these matters because the company is in voluntary administration, which gives it an opportunity to trade out of its current difficulties. All of us accept the proposition that we ought to be supporting the company in trading out of its difficulties. I was asked when I was aware of this matter. I can confirm that I met the majority shareholder of Horizon last Wednesday and we had a discussion about some of the difficulties that he was involved in. I arranged for him to have further discussions that same day with the Department of State and Regional Development to see what sort of assistance could be provided in relation to that matter. The Ministry of Transport and the Department of State and Regional Development are closely monitoring the situation. Route services of less than 50,000 passengers—this is the regulatory issue—are no longer subject to State Government licensing fees. Horizon indicated to me, through the majority shareholder at that meeting, that it was confident it could trade its way out of difficulty.

The Hon. Duncan Gay: Why was Horizon selected over Rex?

The Hon. MICHAEL COSTA: We went through the appropriate tender process. The State Government has a process, as the Deputy Leader of the Opposition would be well aware, that enables people to make an application for particular routes. Our regulatory regime relates to providing a competitive framework that sustains these airlines. That is the only reason the State Government is involved in this. It is involved in it because it is logical that where there are under 50,000 passengers— [Time expired.]

The Hon. DUNCAN GAY: I ask a supplementary question. Did the Minister indicate in his answer that the Australian Transport Council should have no cognisance of the financial situation of the airline to which it is granting a licence? Is the Minister aware that the Monarch crash at Young was because a licence was given to an unfinancial airline? Does the Minister accept that he has a responsibility for the safety of the people of New South Wales in that his department should establish whether a company has the financial ability to service

and maintain its planes? Can the Minister explain why this company was selected over a more financially adept airline company, such as Rex?

The Hon. MICHAEL COSTA: I do not know what the honourable member is referring to because I did not say anything of the sort, and *Hansard* will show that.

The Hon. Duncan Gay: You did. You said you had no role in the finances.

The Hon. MICHAEL COSTA: I did not say that at all.

The Hon. Duncan Gay: You did. *Hansard* will show that.

The Hon. MICHAEL COSTA: *Hansard* will show very clearly what I said and I will clarify it again for the honourable member. The principal responsibility for regulating corporate affairs in this country lies with the Federal Government.

The Hon. Duncan Gay: You grant the licences.

The Hon. MICHAEL COSTA: Let me finish. Do you want the answer or not? Certainly, we have a responsibility, in relation to a number of the contracts, to make initial assessments. Those assessments are made through a proper tender process and I went through all of this.

The Hon. Melinda Pavey: King Bros.

The Hon. MICHAEL COSTA: Again there is an interjection about King Bros. I will make the point again so you will understand it, and I will say it slowly: The financial affairs of corporations are regulated by the Federal Government. That is the fact of the matter.

The Hon. Duncan Gay: You have a responsibility for safety. They have to be viable to service these planes. People die in these planes.

The Hon. MICHAEL COSTA: You are now quite deliberately convoluting two issues to cause confusion. Principal responsibility in relation to safety under our airline regime does not lie with the State Government. The honourable member ought to learn that before he comes in here and makes wild accusations about people's responsibility. He does not understand that the Federal Government is responsible for airline safety. That is an undeniable fact. The honourable member is now causing confusion, public mischief and is completely irresponsible in his actions. He is now making assertions about safety and about an organisation that is in voluntary administration. That is scandalous. [*Time expired.*]

DIVERSITY HEALTH INSTITUTE

The Hon. HENRY TSANG: My question without notice is directed to the Minister for Justice, and Minister Assisting the Premier on Citizenship. Can the Minister advise the House on what the New South Wales Government is doing to address migrant health issues and to provide health services to the multicultural community?

The Hon. JOHN HATZISTERGOS: I am indebted to the Hon. Henry Tsang for asking this question. Honourable members will be aware that the Premier announced a \$1.17 million Diversity Health Institute earlier this year as part of our "Promoting Harmony, Valuing Diversity" citizenship policy. The Diversity Health Institute will consolidate existing multicultural health services and incorporate them into one administrative support structure. The institute will be based at Auburn Hospital, which will become the first hospital in Australia to have a specialist unit to examine these issues. It represents the combination of existing health schemes in the Carr Government's mission to address multicultural health problems and, most important, to humanise health care.

On 15 July I launched the planning day of the Diversity Health Institute. That day featured workshops to discuss challenges and future directions of the institute and debates on a number of contentious health issues. The deliberations proved fruitful and the community can look forward with great interest to the tangible realisation of the resolutions of that day. Services that already exist to do with migrant health issues include the statewide Transcultural Mental Health Centre, the New South Wales Multicultural Gambling Service, the New

South Wales Education Program on Female Genital Mutilation, the Women's Health at Work Program and the 24-hour crisis line.

The Diversity Health Institute is an exciting project. It is a groundbreaking area of medicine. Never before has such a range of multicultural health services been consolidated under one banner. However, this is not all. The institute will feature new initiatives such as the service of excellency in diversity health care at Auburn Hospital, where demonstration models in a range of health care situations are being developed; the Research and Training Centre, which will focus on developments in the area of genetics and ethno-psychopharmacology; and the Global Health Institute, which will be established to facilitate the development of international partnerships.

In a State that is home to more than 200 nationalities it is natural that there should be information on illnesses and conditions unique to the community's multicultural composition. The Government is committed to initiatives that address the needs and complexities of the multicultural society. We know that thalassaemia is no longer a condition unique to those living in the Mediterranean; it is an issue affecting us here in the Antipodes. We know that familial Mediterranean fever is a problem facing some mixed marriages. We know of cases of intermarriage prevalent amongst some cultures that have resulted in a number of genetic disorders. We know that a person's ethno-cultural genetic composition affects his or her response to medication, resulting in a need for medication testing. We know that incidents of racist, verbal and physical abuse in our community have created a need for counselling support to complement health care. These are but a few examples.

One of the conditions that the Diversity Health Institute will study is thalassaemia. The important work that has been undertaken by the Thalassaemia Society of New South Wales needs to be acknowledged. On 30 August I attended the twenty-fifth anniversary dinner of the society. This was a remarkable achievement when one considers that 25 years ago thalassaemia was a relatively rare condition about which very little was known. The society has impressively flourished over the years, particularly in raising funds for and awareness of the condition. The anniversary of the Thalassaemia Society coincided with the development of the Diversity Health Institute.

There are many possibilities and potentialities waiting to be seized. Collaboration between the Diversity Health Institute and the Thalassaemia Society of New South Wales will engender mutual benefit and provide us with more hope that the search for a cure may one day bear fruit. As a result of such initiatives New South Wales will continue to lead the world in research and attract the best and brightest minds. From such endeavours we will all benefit. It was an honour for me to launch the planning day of the Diversity Health Institute and I look forward to many positive outcomes from the institute in the future.

INNOCENCE PANEL REVIEW

The Hon. PETER BREEN: My question without notice is directed to the Minister for Justice, representing the Minister for Police. Can the Minister inform the House whether he intends releasing for public scrutiny the report dated 19 September 2003 of Justice Finlay into the Innocence Panel? Is the Minister aware that my submission to Justice Finlay dated 9 September 2003 was received after the report was completed because the police service closed its mailbox when the Police Ministry moved out of the Avery Building in College Street? Can the Minister assure the House that the issues I raised with Justice Finlay regarding police involvement with forensic evidence will be taken into account in his review of the Innocence Panel?

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

GAMING MACHINE TAX

The Hon. GREG PEARCE: My question is directed to the Assistant Treasurer, and Minister for the Central Coast. Is the Minister aware that clubs pay tax on their gaming revenue not on net profit? Is he further aware that the proposed changes to poker machine tax will cost Central Coast clubs, in the electorate of Peats, a total of \$13.4 million in additional tax payments between 2004-05 and 2010-11? What action has the Minister taken to ensure the continued viability of clubs in the electorate of Peats and the ongoing maintenance of sporting and other facilities currently supported by them?

The Hon. JOHN DELLA BOSCA: The honourable member has asked a general question about taxation arrangements for poker machine revenue in licensed clubs. He has localised his question to the area in

which I live. I do not know whether I should be flattered or disturbed by his obsession. The Government's position in regard to the new tax arrangements since the budget has been made very clear on a number of occasions by the Premier, the Treasurer, other members of the Government and me. Most recently, the Premier announced that all of the additional revenue will be allocated to the health system, which obviously has been under enormous pressure, and remains so, largely because of the Commonwealth Government's health policy.

The Hon. Melinda Pavey: Do you really believe that?

The Hon. JOHN DELLA BOSCA: Yes, I most certainly do. I think the matter has been so well canvassed in general that I do not know if I need to take up the challenge of localism, except to say that I enjoy very good relations with a large number of registered clubs and I happen to be a member of a number of registered clubs in the Peats electorate. Obviously it is possible to make a calculation of how much revenue is attracted from each club in each State electorate. It makes no difference to the Government's overall policy position on the poker machine tax.

The Hon. GREG PEARCE: I ask a supplementary question. Will the Minister elucidate whether he is aware that the extra tax payable from the Peats electorate will be \$13.4 million? Will he further elucidate what action he has taken to ensure the ongoing maintenance of sporting and other facilities currently supported by clubs in the Peats electorate?

The Hon. JOHN DELLA BOSCA: I think I have adequately answered the question.

OVINE JOHNE'S DISEASE

The Hon. TONY BURKE: My question is addressed to the Minister for Agriculture and Fisheries. Will the Minister inform the House of the latest developments in the management of ovine Johnne's disease in New South Wales?

The Hon. IAN MACDONALD: Since ovine Johnne's disease was first detected on the central tablelands in 1980 it has become a major problem plaguing Australia's multi-billion dollar sheep industry. New South Wales has been most affected. In January 2003 there were nearly 1,200 flocks in the State with confirmed ovine Johnne's disease [OJD] status. Members opposite might recall that the Federal Nationals have signed up to the national program as well. They keep forgetting little facts like that. As honourable members may know, the six-year \$40 million national OJD control and evaluation program is set to conclude at the end of June 2004. Animal Health Australia has been charged with reaching agreement with industry and the State governments on how to proceed. This timing has given New South Wales producers and the State Government an opportunity to examine the issue and to determine the most effective way to manage OJD in the future. This evaluation process has been difficult and at times divisive. On 23 September I outlined a new direction for OJD management in New South Wales—one that I believe will help the industry move forward on a united front.

The new OJD management approach will be structured around a series of guiding principles or building blocks. These include moving to a risk-based trading system that uses a credit scheme to help improve information about disease risk. We will also introduce mandatory health declarations for all traded sheep, unless they are going to slaughter or are terminal lambs. Furthermore, I will seek Cabinet approval later this year to increase penalties for those who make false statements on animal health declarations.

Knowing that OJD cannot be completely eradicated, we will use the Gudair vaccine as the primary tool to control it in New South Wales. We will also investigate whether a marker can be developed to help prove when animals have been vaccinated. Finally, rural lands protection boards will be able to establish exclusion zones if they gain producer support for funding and management. These new strategies will be phased in over the next nine months, and will put the future management of OJD in the hands of the industry. It is important to note that this new approach is based on feedback from two very important reviews into the management of OJD in New South Wales. One was carried out by the Hon. Richard Bull and the other by the New South Wales OJD Advisory Committee.

The Hon. Rick Colless: You had to get a member of The Nationals to sort it out for you.

The Hon. IAN MACDONALD: And a Labor Minister who saw the wisdom of making a very wise appointment. I thank both Mr Bull and the advisory committee for their hard work in consulting with stakeholders and putting these reports together. To help put these new strategies into action, I have also appointed an interim steering group, which will be led by—

The Hon. Melinda Pavey: The Hon. Richard Bull.

The Hon. IAN MACDONALD: Correct. This interim steering group will interact with industry and give producers direct input into how the new OJD management program will work in New South Wales. In addition, today I have announced that all movement restrictions on lambs bred for slaughter in New South Wales have been removed, which will enhance the trading options of many farmers across the State. There is a regime of points relating to that, which honourable members opposite will receive shortly. The changes are effective immediately and will help lamb producers regain trade affected by previous OJD policies. Overall, I am pleased to report that reaction from industry and organisations such as the New South Wales Farmers Association has been highly supportive. Indeed, I have even received support from the Deputy Leader of the Opposition for this policy, and I thank him for his press release. These efforts will allow the State's 25,000 sheep producers to work towards a productive and united future.

PUBLIC SECTOR REDUNDANCIES

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: My question is directed to the Minister for Industrial Relations. Will the Minister confirm or deny to the House whether the Government is considering reforming the longstanding policy of no forced public sector retrenchments and replacing it with a system in which redundant or surplus employees will be given approximately 18 months to find another public sector position or they will be forcibly retrenched? If the Government is considering this change, when does it propose that this reform will take effect? If this change is not suggested, will the Minister confirm that the existing policy of no forced retrenchments in public sector employment will remain throughout the term of this Government and extend to all New South Wales government agencies, statutory authorities, corporations and the like?

The Hon. JOHN DELLA BOSCA: Is it a new fashion that we will have to either confirm or deny things? Where does that have its origins?

Mr Ian Cohen: It's a policy in the United States of America.

The Hon. JOHN DELLA BOSCA: I knew it could not be original. I think the Hon. Dr Arthur Chesterfield-Evans is aware that the Government's public statements relating to no forced redundancies in the public sector have been well and truly canvassed and restated on a number of occasions. They have been the subject of a series of public statements in relation to the work force and the Labor Council on behalf of the work force and the union movement. All of those commitments remain in place. I emphasise that all people in the public service, the Government and the unions representing employees are conscious of the importance of ensuring that all public sector businesses, in the case of State-owned corporations, and government trading enterprises, as well as the inner sector, the budget sector of the public service, are run efficiently and that the public sector is giving good value for taxpayer dollars.

As everyone knows, New South Wales has one of the last remaining substantial public sectors. The New South Wales public sector remains a very large organisation. From time to time all sorts of needs occur in individual organisations to rearrange the staffing levels. Obviously, the Government is committed—indeed, it is part of the no forced redundancies policy—to finding alternative placements for those who become redundant. A carefully considered and well-negotiated package of procedures is described in our no forced redundancies policy, and those procedures are put in place on any occasion that redundancies occur.

The honourable member's question particularises the policies, as if there is one particular policy. It is the Government's overall attitude to treat its employees with respect, and we will continue to do that well into the future. That contrasts with the attitude of members opposite when they were in Government: many public servants found themselves continuously derided, and many of the important functions performed by public servants were mitigated or even mutilated under their administration. I thank the honourable member for his question, which has given me the ability to restate the Government's respectful attitude towards its employees.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I ask a supplementary question. Does that somewhat lengthy answer mean that people will not have redundancies forced on them if they are not placed during that period?

The Hon. JOHN DELLA BOSCA: If I understand the honourable member's question correctly, I have already answered it.

MEETING EVER CHANGING NEEDS ORGANISATION

The Hon. CHARLIE LYNN: My question is addressed to the Minister for Community Services. Is the Minister aware that an organisation called Meeting Ever Changing Needs has purchased a residential property at 40 Tallowood Crescent, Bradbury, to house young people with behavioural problems? Did her department obtain a development application to operate this business in a residential area and, if not, why not? Will the Minister also advise whom the Meeting Ever Changing Needs organisation reports to, what standards of accreditation must its staff have and who is responsible for that accreditation?

The Hon. CARMEL TEBBUTT: I am familiar with the organisation Meeting Ever Changing Needs in a peripheral way. I am not familiar with the issues the honourable member has raised in his question regarding the purchase of a property at Bradbury. I will follow that up. Nonetheless, I would not think the Department of Community Services [DOCS] would be applying for a development application. As I understand it, the organisation is one of a range of private organisations that have sprung up that provides out-of-home care. I will follow up the issue and come back to the honourable member with more details.

I make some general comments about organisations that are involved in providing out-of-home care, and I assume that this is one such organisation. These organisations have increased in number over the past few years, particularly in response to some of the difficulties I have spoken about previously, about how we can support children and young people with challenging and complex behaviour who are in need of out-of-home care. The department is very conscious of the issue and has undertaken work already to improve the way it contracts with these organisations and to improve the accountability and monitoring of the services that such organisations are providing when they are being funded—usually under individual agreements—to provide services to children and young people who may need out-of-home care.

At the same time, the issue requires a more substantial approach, because it highlights what I have spoken about previously—namely, the need to improve the capacity and depth of services that provide out-of-home care. The Ombudsman has recently undertaken an inquiry into individual funding arrangements in out-of-home care, and the department certainly welcomes and values that inquiry, which focused on both private for-profit and non-profit agencies. The budget highlights the Government's commitment. I previously have outlined the significant additional funding we will be injecting into out-of-home care to increase capacity in this area. It also highlights the need to develop a better delivery service model and to focus on children and young people with intensive support needs. As the Ombudsman's report states, children and young people who are placed through individual funding arrangements in out-of-home care services are typically highly vulnerable and therefore require robust safeguards. Various out-of-home care provisions in the Children and Young Persons (Care and Protection) Act have been proclaimed to commence later this year. This will provide the legislative framework for DOCS to press ahead with the major task of transforming the out-of-home care system in New South Wales. Accreditation is and will be a role undertaken by the Children's Guardian.

LOCAL GOVERNMENT STRUCTURAL REFORM

The Hon. CHRISTINE ROBERTSON: My question is addressed to the Minister for Local Government. Will the Minister provide the House with the latest information on the regional reviews being conducted as part of the local government reform program?

The Hon. TONY KELLY: Honourable members will remember my recent announcement of a \$2 million injection into the local government reform program to improve community consultation. As part of this process, the Government will conduct regional reviews where there are a number of proposals across several local government areas. An independent facilitator will conduct these reviews. The facilitator will talk to individual members of the community, councils and community groups, and come up with the best ideas for the area. Two reviews are already under way. The first is in the Australian Capital Territory region and is conducted by emeritus Professor Maurie Daly. A former well-respected president of the Shires Association, and I think once a candidate for Liberal Party preselection, Chris Vardon, is conducting the second review around the Peel Valley.

Today I announce that a further review will be conducted around the Clarence Valley by former Federal Minister for Local Government David Simmons. David has a long and respected involvement in local government. He served on Bathurst City Council from 1978 to 1983, before being elected to Federal Parliament as the member for Calare. He was the Federal local government Minister from 1991 to 1993 in the Keating Government. The Clarence review will look at council areas including Grafton, Copmanhurst, Maclean and

Pristine Waters. Public meetings will be advertised and held across the valley. Anyone is free to make written submissions to the Clarence regional review at locked bag A5045, Sydney South, New South Wales, 1235, or by email to clarencereview@dlg.nsw.gov.au. Since we started this process I have been encouraging councils to work with us to decide how to improve services to ratepayers. The State Government will provide them with leadership and assistance, and together we will ensure ratepayers are the ultimate winners.

NORTH HEAD QUARANTINE STATION

Mr IAN COHEN: I ask the Minister for Justice, representing the Attorney General, and Minister for the Environment, whether the Minister is aware that Bruce Campbell intends to purchase the majority interest in Mawlands' lease of the quarantine station? Is the Minister also aware that Mr Campbell already holds National Parks and Wildlife Service leases at Murramarang and Myall Lakes, which he has converted into five-star cabin resorts that are not accessible to the general public? Does the Minister intend to allow Mr Campbell to do the same thing to the quarantine station? If not, how will the Minister ensure that this does not occur?

The Hon. JOHN HATZISTERGOS: I will refer the honourable member's question to the Minister for the Environment, obtain an answer and advise him in due course.

DETENTION CENTRE BUILDING STANDARDS

The Hon. CATHERINE CUSACK: My question is directed to the Special Minister of State. Will the Minister advise the House of the full extent to which the State's newest detention centres, including Acmena and Baxter, have been plagued by design flaws, including cell doors that can be removed by detainees and lack of perimeter lighting to guard against escapes and the entry of contraband? What audits have been conducted to ascertain the full extent of mistakes and problems and the estimated cost to taxpayers of having them rectified? Is the extensive catalogue of mistakes the real reason for the extensive delay to the rebuilding of Yasmar, the State's only facility for girls?

The Hon. JOHN DELLA BOSCA: The honourable member's question seems to be a bit of an antique. It is a recycled one. The current Minister for Community Services answered it a couple of times in her previous capacity. The Hon. Catherine Cusack is relatively new to the Chamber. I will obtain an answer from the Minister. I am sure we will promptly provide to the Chamber a full and detailed explanation of the matters she has raised.

DRUGS AND COMMUNITY ACTION STRATEGY

The Hon. IAN WEST: Will the Special Minister of State, and Minister for Commerce inform the House of specific initiatives being undertaken by community drug action teams as part of the community drug information initiative?

The Hon. JOHN DELLA BOSCA: The drugs and community action program was a key new program to come out of the New South Wales Drug Summit in 1999. The idea behind this initiative was that there is no one-size-fits-all approach to addressing drug problems as they affect individual communities. Communities need to be able to take action on local problems in ways that are right for them. I am pleased to report that the drugs and community action program is going well. Many communities have adopted it with great enthusiasm and 87 teams are now operating across the State, 66 of them in regional areas. I would like to inform the House of the recent work of one of those teams—the Moree Community Drug Action Team.

The Hon. Michael Gallacher: DACA—drugs and community action.

The Hon. JOHN DELLA BOSCA: The Leader of the Opposition distracts me from an important answer. I am opposed to the use of acronyms, and I would like to use the full name of this important initiative. I referred to the Community Drug Action Team. There is no way to make an acronym out of those words; the first two words begin with a consonant. The acronym would be CDAT, and one would have to use the Italian pronunciation of "c".

"No Shame No Blame" is the theme of a new rap music and radio education campaign developed by the Moree Community Drug Action Team to help families affected by drug and alcohol issues. The Moree Community Drug Action Team consulted with its local community about how best to communicate key messages about drug and alcohol issues. Its research revealed that conventional education messages were not

getting through to its community members. There was a need for an innovative approach, particularly targeting families. The community responses were collated, a workshop was organised and 20 indigenous young people from Moree were invited to participate.

Queensland rap artist Joel Wenitong worked with the young people to compose lyrics, record tracks, teach dance moves and discuss family drug and alcohol issues. The rap material was reworked into advertisements and messages for radio. A total of five drug- and alcohol-themed rap songs and eight 30-second radio advertisements were recorded. The advertisements have begun this week on Radio 2VM and Now FM in Moree. They will be scheduled at different times to target young people and their parents over the next four weeks. Free-to-air rap songs and interviews with local service providers will complement the ads.

The messages provide an opportunity to start community dialogue around drug and alcohol issues, and to target both Aboriginal and non-Aboriginal young community members. They are a wake-up call for drug- and alcohol-dependent young people and raise awareness of support services available through a 1300 number that is linked to the local area health service.

The Hon. Michael Gallacher: Have you ever tried to listen to rap? Do you understand it?

The Hon. JOHN DELLA BOSCA: It is for young people, and the Leader of the Opposition is too old. The young people recently performed their rap songs at the Moree Croc Festival, which is a national event celebrating youth culture. The project is one of 26 New South Wales Government-funded projects from the Community Drug Information Initiative, which was launched last year by the Premier. This is another outstanding example of young people leading the way in developing appropriate messages for their communities. They deserve our congratulations. I would also like to thank the Moree community and many other communities across New South Wales who are raising awareness of drug and alcohol issues and taking action.

NORTH HEAD QUARANTINE STATION

Ms SYLVIA HALE: I ask my question of the Minister for Justice, representing the Minister for the Environment. Given the historical significance and sensitivity of the North Head Quarantine Station and the focus on Mawlands as the potential lessee, does the Minister consider it appropriate that a lease over the site will be able to be on-sold to another operator? Can the Minister explain why, despite the quarantine station lease not yet being finalised, Mawlands has already entered into an agreement to sell a majority interest in a future release? Will the Minister ensure that any agreement that the National Parks and Wildlife Service enters into over the quarantine station prohibits the ownership, leasehold control or management of the site to be sold or passed on to a third party, either directly or through a change in control of Mawlands?

The Hon. JOHN HATZISTERGOS: At least two parts of the question were prefaced on the basis of whether the Minister considers it appropriate. As much as I am sure the Minister would like to answer those questions, they seek opinions and are out of order. I will not pass those aspects of the question on to the Minister because I do not want to be in breach of the standing orders of this House. I will refer the balance of the question, which is in order, to the Minister and obtain an answer.

RESCUE HELICOPTER SERVICE

The Hon. RICK COLLESS: My question is directed to the Minister for Emergency Services. Is the Minister aware that a 68-year-old woman with dementia was recently lost for five days near Broken Hill and the rescue helicopter from Sydney was unable to fly to Broken Hill to participate in a search for the woman because of bad weather? Is he further aware that a rescue helicopter was requested from Adelaide but was unable to be accessed because of the complete lack of protocols between New South Wales and South Australian emergency services for such a situation? What action will he initiate to ensure that in the case of an emergency proper interstate protocols are in place to minimise the waiting time for assistance from interstate agencies?

The Hon. TONY KELLY: I am not sure that this matter lies entirely within my portfolio because the helicopter service falls within the portfolio responsibilities of the Minister for Health. I will take the question on notice and confer with the Minister for Health about setting up protocols to rectify the situation.

EGG INDUSTRY

The Hon. TONY CATANZARITI: My question is directed to the Minister for Agriculture and Fisheries. Will the Minister inform the House of the latest developments affecting the egg industry in New South Wales?

The Hon. IAN MACDONALD: Honourable members would be aware that the egg industry is facing a significant period of change later this decade. This change is being driven by an agreement made in 1995 that new standards be introduced for cage sizes in the egg production industry. The changes call for increased space per bird, up from 450 square centimetres to 550 square centimetres in new cages commissioned after 2001. The agreement was struck between industry, animal welfare groups—including the RSPCA—and the Government. However, it is important to remember that the changes will not be implemented until 2008.

The 1995 agreement means that cages commissioned after 2001 that do not meet the standard must be scrapped or modified by 2008. This gives producers a 13-year window between the original agreement and its implementation to help them adjust. While industry supports the principle of increased cage sizes, some concerns have been raised about how these changes are to be introduced. Producers have asked the Government to consider strategies to help them adopt the new standards. I am pleased to report to the House that a motion passed at the Primary Industries Ministerial Council [PIMC] in Perth two weeks ago was a step in this direction.

I attended the PIMC, together with my State, Territory and Federal colleagues. The council agreed to my motion that the Primary Industries Standing Committee undertake a socioeconomic impact study into the implementation of the new cage sizes. The study will analyse the costs and benefits of implementing the changes. It will also review the impacts of the changes on animal welfare. This is wonderful news for the State's 170-plus egg producers, who have already publicly welcomed the decision. The industry is worth \$123 million per annum in New South Wales. It is also responsible for thousands of jobs, particularly in the Tamworth, Western Sydney, Central Coast and Hunter areas. The New South Wales Farmers Association also applauded the move. In a press release dated Wednesday 8 October the association stated:

The NSW Farmers' Association has been lobbying hard on this issue and congratulates NSW Agriculture Minister, Ian Macdonald, for listening to the industry's concerns and putting the motion forward to the meeting of Federal and State Agriculture Ministers.

Well might the Opposition members laugh. The press release went on:

PIMC will consider further assistance for the industry once these two studies have been completed, so it is good to see that we are starting to move forward.

I believe the PIMC decision was crucial—and there was considerable discussion on this issue—because it recognised at a national level that egg producers are facing difficulties as a result of the drought, higher grain prices, continued aspects of deregulation and sustained low egg prices. Honourable members would well remember the deregulation of the egg industry in 1989, which was another initiative by the former Coalition Government. Was it the National Party, the Country Party or the Nationals? It was one of them that drove that initiative a few years back.

Pursuant to the decision the standing committee will report back to the council at its next meeting in April 2004. We can then start to consider strategies that will help the industry's transition to the new cage standards. The clear implication of the resolution was that we would look at measures for the future so that the industry can be helped through these tough times. All States and Territories remain committed to implementing the changes to cage sizes. We also remain committed to implementing those changes by 2008, 13 years after the original decision.

Last week's motion will give us time to work more closely with producers before the changes are implemented. It will give us a chance to consider the detail of how these changes will affect individuals in this important industry. The socioeconomic study will help us understand what type of measures will help producers to meet the 2008 deadline. It is now eight years since the original agreement was made and we still have another five years until it is implemented. I hope that we can use this time to strike a balance between two important factors. [*Time expired.*]

BUILDING INDUSTRY OCCUPATIONAL HEALTH AND SAFETY

Reverend the Hon. Dr GORDON MOYES: I direct my question to the Minister for Industrial Relations. Is he aware that a 16-year-old labourer with just three days experience fell 15 metres at a Sydney worksite this morning? Is the Minister also aware that the boy was not wearing a safety harness? What assurance does the Minister give to parents of young people working on dangerous industrial sites that their children are under proper supervision and working under safe conditions? What action will he take to enforce the use of safety equipment and to educate employers that persons working higher than three metres are required to wear a safety harness?

The Hon. JOHN DELLA BOSCA: I congratulate the honourable member for raising this important issue. I do not have a specific answer about the incident this morning.

Ms Lee Rhiannon: Check the legislation.

The Hon. JOHN DELLA BOSCA: I hear a familiar voice in the background. Honourable members may not have noticed, but the Government has repeatedly amended the occupational health and safety legislation. With the co-operation of previous and current Labor Council secretaries, the Government has modernised the legislation and we now have what even militant union secretaries and officials have told me repeatedly is among the best such legislation in the world. Many visiting officials who have examined our regime have agreed with that opinion. Our arrangements are based on an important logic that highlights the need for a co-operative framework. If we implement appropriate incentives, we can make workplace safety not only a moral imperative but also good for business; that is, it will add quality to business operations.

Ms Lee Rhiannon: Why is that not working?

The Hon. JOHN DELLA BOSCA: I beg to differ; it is working very well.

Ms Lee Rhiannon: Why then did the young man fall off the roof? It is not working. It is the second time that has happened to a teenager.

The Hon. JOHN DELLA BOSCA: The honourable member's attitude is bordering on irresponsible, given the seriousness of this issue. She keeps raising individual instances when she knows I am talking about general arrangements and what the Government is doing to ensure safer workplaces, not what I can do about a specific incident that happened this morning or an incident that might happen next week. The Government has introduced three principles that are critical to ensuring safer workplaces and the implementation by employers of better work practices relating to safety, production and services. Those principles involve hazard identification and mandatory consultation between employees and employers. We have one of the few industrial safety regimes in the world that requires employers to consult with employees about workplace safety. If it is not the first, it is certainly one of the first such arrangements of its kind in the world. That illustrates this Government's level of commitment to a better framework for industrial safety.

Hazard identification and minimisation are the next critical steps to be taken. WorkCover has produced a wide range of reader-friendly material for large and small companies, and even for micro businesses, to explain their obligations. It is not necessary to take a punitive approach in every instance; the Government is keen to provide information and to educate. That approach will produce great results for the businesses and workplaces of New South Wales.

Ms Sylvia Hale: It did not work in this instance.

The Hon. JOHN DELLA BOSCA: I keep getting odd interjections about particular instances. It is poor taste and shows a lack of respect for dead or seriously injured workers to use their misfortune to trivialise the political and moral significance of the debate about better workplace safety. The Government has implemented a new and effective regime. We can always do better and we are open about the fact that we are working to improve the situation. The new framework has already started delivering much safer workplaces. Only two or three years ago many employers would have found such a comprehensive framework very onerous. However, its implementation has been achieved in such a way that employers have found it acceptable. We are moving forward in this important area.

DUNGOG SHIRE BRIDGES

The Hon. ROBYN PARKER: I direct my question to the Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests). Will the Minister name the bridges earmarked for repair in the Dungog Shire as indicated by a State Rail Authority spokesperson who was quoted in the *Newcastle Herald* on 7 October as saying that three Dungog bridges have succumbed to termite damage and will be repaired within the next five months at a cost of \$160,000? Will the Minister also outline the extent of the repairs and confirm whether the other three wooden bridges in the area will be repaired in the coming months?

The Hon. MICHAEL COSTA: I am not aware of the exact three bridges referred to; I am not aware of the specific report in the *Newcastle Herald*. However, I can inform the House that bridges across the State built before 1925 have been reviewed and the Rail Infrastructure Corporation [RIC] has placed temporary load limits on some, including three bridges in the Dungog area of the Hunter.

The Hon. Robyn Parker: They cannot get water to their farms.

The Hon. MICHAEL COSTA: The upgrade program is in place and work on the bridges is scheduled to be undertaken in the first half of 2004. The RIC is working with the community to reduce the impact of the load limits. Vehicle owners can apply for an exemption from the RIC, particularly those carrying essential loads such as water and milk. If the honourable member had allowed me to finish my answer, she would not have felt the need to interject. Protocols have been implemented to monitor the movement of heavy road vehicles over load-limited bridges.

The Hon. ROBYN PARKER: I ask a supplementary question. A State Rail Authority [SRA] spokesperson was quoted in the same *Newcastle Herald* article as saying that safety was the SRA's main priority. Does the Minister share that priority?

The Hon. Duncan Gay: Obviously not.

The Hon. MICHAEL COSTA: I do not mind responding to sensible questions, but that is an absurd question.

The Hon. Robyn Parker: Do you share that priority?

The Hon. MICHAEL COSTA: I will not respond in those terms because the question is insulting and absurd. I have taken steps to set up an independent transport regulator. The honourable member should visit some of the web sites of the agencies under my direction. They are regularly updated and provide an unprecedented amount of information about a range of safety measures; in fact, more material is now being produced about safety under my ministry than has ever been produced. The Hon. Michael Gallacher was quoted as saying during a press conference that too many safety reports are being produced and that he cannot read them all. The honourable member's question is therefore absurd. The Government has already announced that it is establishing an independent transport regulator to deal with these important matters and that Ron Christie, a highly respected person, will chair the board of that organisation.

WORKERS COMPENSATION PREMIUMS

The Hon. KAYEE GRIFFIN: I direct my question to the Minister for Commerce. Will the Minister inform the House how the Government is assisting the not-for-profit community services sector under WorkCover's premium discount scheme?

The Hon. JOHN DELLA BOSCA: As honourable members are aware, the Carr Government's reforms of workers compensation have concentrated on providing the right incentives for all stakeholders in the scheme. As part of that strategy, it introduced an innovative incentive scheme for employers to improve health and safety in workplaces in return for a reduction in workers compensation premiums. The premium discount scheme commenced on 30 June 2001 and is designed to reward employers with a discount on workers compensation for implementing measurable safety and management systems. So far the scheme has successfully targeted employers with high claims costs and those involved in high-risk industries.

I am pleased to advise the House that at the end of June this year employers throughout New South Wales had qualified for discounts totalling \$67.5 million and that 324,000 workers have benefited from safer workplaces as a result of the scheme. In addition, the small business strand of the scheme has also provided discounts of \$4.8 million to more than 1,600 small employers since the scheme commenced.

The Small Business Strategy was developed by WorkCover to enable small businesses to participate and benefit from the premium discount initiative. In February this year, in response to a number of recommendations arising from the Workplace Safety Summit, I approved an extension of the Small Business Strategy to the not-for-profit community services sector. Included in this response was the appointment of a suitable community services provider to act as a sponsor under the Premium Discount Scheme.

WorkCover is committed to find a sponsor organisation to provide practical safety and injury management is committed to programs targeted at small businesses in the not-for-profit community services sector. Sponsored employers participating in these programs will be eligible for premium discounts for up to three years. Recently WorkCover invited applications from potential sponsors, and seven applications were received. I am pleased to announce that the successful sponsor under the Small Business Strategy is the Lady Gowrie Child Care Centre, which has worked for 60 years to provide quality child care for children and families in Erskineville and surrounding areas.

Under the scheme extension, approximately 100 small businesses in New South Wales will have the opportunity to improve occupational health and safety and injury management, and in the process will receive a discount on their workers compensation premium. Investment in occupational health and safety through initiatives such as the Premium Discount Scheme not only makes workplaces safer but also makes good business sense. As I am sure honourable members will agree, this will assist employers in the not-for-profit community services sector by improving workplace safety and reducing workers compensation costs.

UNBORN CHILD PROTECTION LEGISLATION

Reverend the Hon. FRED NILE: I ask the Minister for Justice, representing the Attorney General, a question without notice. On 28 November 2001 a road rage incident involving Renee Shields led to the tragic death of her unborn baby, Byron. Amid community concerns over the inability of the law to protect unborn children, the Attorney General stated that the Government will "review cases where an unborn child dies ... we owe it to this young couple to mount a thorough review of the law". On 25 June 2003 the Attorney General announced that the Government will "introduce new offences for killing an unborn child". Does the Government still acknowledge the urgent need to protect in law pregnant mothers and their unborn children? When will this new legislation be introduced?

The Hon. JOHN HATZISTERGOS: I will refer the honourable member's question to the Attorney General, obtain an answer and advise the House in due course.

BUS TRANSITWAYS

The Hon. PATRICIA FORSYTHE: My question without notice is directed to the Minister for Transport Services, and Minister for the Hunter. Will the Minister clarify what action the Government is taking on the future of bus transitways, given that he and the Minister for Roads appear to have widely different views about the value of the multi-million dollar investment being made in these transitways?

The Hon. MICHAEL COSTA: I answered a similar question yesterday, and I will repeat the answer I gave on that occasion. I have instituted an inquiry into the entire operation of the private bus system, a system that is in difficulty largely because of the failings of the 1990 Baird reforms regarding buses.

The Hon. Catherine Cusack: That was 13 years ago!

The Hon. MICHAEL COSTA: If the honourable member understood bus contracts and the regime, she would understand that they are long-term contracts. That is precisely the reason the Government has had to institute an inquiry in this matter. Indeed, it is worse than that. The legislation was so badly drafted by the former Coalition Government that these contracts have anomalies—

The Hon. Greg Pearce: Point of order: The Minister is clearly misleading the House. None of the bus transitway contracts were—

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

The Hon. MICHAEL COSTA: Members opposite do not like hearing about the failings of the former Coalition Government's administrations. They purport to be experts on every single matter of public administration, but they squirm when the record of the former Coalition Government is pointed out to them. Recently in this House the Leader of the Opposition made comments about on-time running. So I got out the on-time running figures under the former Coalition Government. They were appalling. They were worse than the current on-time running figures of State Rail. I am happy to continue to do this. If members opposite do not wish to contribute sensibly to public debate on complex matters that require the Government to undertake the sorts of reviews it is undertaking in a range of areas, and also to monitor the performance of these areas and then make modifications, I will continue to throw up the former Coalition Government's record, because it is appalling.

Members opposite must remember that they started making these sorts of observations. It is therefore appropriate that we go back in history to examine the performance of the former Coalition Government. One thing the public of New South Wales will not wear is people who identify problems but cannot identify solutions, and that is precisely what the Opposition does.

The Hon. John Ryan: Point of order: We have been remarkably patient in allowing the Minister to make comments about the former Coalition Government. He was asked a specific question about the future role of our transitways and their essential maintenance. His comments about other transport policies have nothing whatsoever to do with the question. I ask you to remind him that his answer should be relevant.

The PRESIDENT: Order! I remind the Minister that his answer must be relevant to the question.

The Hon. MICHAEL COSTA: My answers are always relevant to the questions. Clearly, the Opposition does not understand what an integrated transport system is about. The Government's policy is about having an integrated transport system. By definition, that means that we must talk about all aspects of public transport to be able to put a sensible case. That is contrary to the approach of the Opposition, which picks and chooses issues and distorts the record but is very embarrassed when we look at the historic record to examine the performance of the former Coalition Government in these areas. Barrie Unsworth will inquire into the operation of transitways and their integration with the overall public transport system, particularly buses.

The Hon. PATRICIA FORSYTHE: I ask a supplementary question. Is the Minister for Roads part of the problem?

The Hon. Michael Egan: What a silly question.

The Hon. MICHAEL COSTA: It is a silly question. I refer to my previous answer.

EXCEPTIONAL CIRCUMSTANCES DROUGHT ASSISTANCE

The Hon. CHRISTINE ROBERTSON: Can the Minister for Agriculture and Fisheries clarify whether the Hunter, Maitland and Gloucester areas were yesterday granted exceptional circumstances funding, as claimed in the House today?

The Hon. IAN MACDONALD: As I said in a previous answer, on 30 September the Government submitted to the Commonwealth an application for exceptional circumstances funding for the Hunter, Maitland and Gloucester rural lands protection board areas. The funding would assist approximately 200 dairy farmers, and it was a commitment I made to dairy farmers on 19 September when I met with them in Singleton. Following the submission of 30 September, officers of NSW Agriculture and representatives of the relevant rural lands protection boards met in Canberra with members of the Commonwealth Department of Agriculture, Fisheries and Forestry [AFFA] Drought Task Force to discuss the case put forward in the application.

An inspection of the application area by the Commonwealth's assessment body, the National Rural Advisory Council [NRAC] was subsequently scheduled for 15 and 16 October 2003 and a comprehensive itinerary of the industry meetings and farm visits was organised. However, on the day before the tour NSW Agriculture was advised by the AFFA Drought Task Force that it considered the case to be marginal and that further information would be required before Minister Truss could refer the application to the NRAC. It is important to realise that if Minister Truss does not pass on the application to the NRAC, the farmers will not

even be eligible for prima facie exceptional circumstances funding. With less than 24 hours notice the Commonwealth postponed the NRAC tour, which has caused considerable inconvenience and disappointment to local farmers, businesses and Rural Lands Protection Board staff. NSW Agriculture sought, unsuccessfully, to have the NRAC tour reinstated to meet the expectations of local community groups.

To further progress the application, NSW Agriculture has initiated detailed discussions with Commonwealth officials on the additional information required. My department is working closely with the Drought Task Force, the local rural lands protection boards and farmers in the region to collect further supplementary information demanded by the Commonwealth. The comments made earlier by some members of the Opposition that they had already been granted full exceptional circumstances [EC] assistance are totally inaccurate. These farmers have not even received prima facie EC assistance. This tour, which is important in the process, should have been conducted on 15 and 16 October, as scheduled.

MEETING EVER CHANGING NEEDS ORGANISATION

The Hon. CARMEL TEBBUTT: Further to the question of the Hon. Charlie Lynn on the purchase of property in Bradbury by the organisation Meeting Ever Changing Needs [MECN], I am advised that the Department of Community Services [DOCS] was not required to obtain a development application for the premises. I understand that it is the obligation of the service provider to apply for a development application if it is required. To address the second part of the Hon. Charlie Lynn's question, DOCS is not in partnership with MECN, which is a fee-for-service provider. DOCS purchases its services from MECN under a header agreement, with MECN covering issues relating to the type of service and quality of care provided by the organisation. I am advised that MECN is subject to the Children's Guardian's accreditation requirements.

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

[The President left the chair at 1.02 p.m. The House resumed at 2.45 p.m.]

GAMING MACHINES AMENDMENT (MISCELLANEOUS) BILL

Bill received, read a first time and ordered to be printed.

Motion by the Hon. Henry Tsang 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 ordered to stand as an order of the day.

STANDING COMMITTEE ON SOCIAL ISSUES

Report: Realising Potential—Final Report of the Inquiry into Early Intervention for Children with Learning Difficulties

The Hon. JAN BURNSWOODS [2.50 p.m.]: It is with great pleasure that I commence the take-note debate in relation to this report. This debate is very important because of the nature of the inquiry undertaken by the committee. The former Minister for Education and Training, the Hon. John Aquilina, asked us to inquire into children from birth to eight years of age. Learning problems for children are very significant social issues. The accepted estimate is that between 12 and 16 per cent of children in the early years of school or, indeed, in the preschool years, experience or are likely to develop learning difficulties. That is a very high percentage indeed. I believe this inquiry is very important because of the sheer size of the problem.

The second reason the committee found this inquiry so important, and the reason Minister Aquilina referred it to the committee, was that it is generally not very well understood and its dimensions are not greatly appreciated. I will discuss the reasons for that a little later. At this stage I stress that the costs of ignoring learning difficulties in children are enormous. It is obvious that there are huge educational costs if a child is unable to learn or has grave difficulties learning. To keep the definition fairly simple, let me say that we are talking about children who have problems with literacy and numeracy learning. The difficulties may originally stem from a combination of factors, both intrinsic and extrinsic, but fundamentally if children have difficulty

with literacy and numeracy learning they are likely to have difficulty with almost every other aspect of learning and, indeed, with the whole range of ordinary life experiences.

There are enormous educational costs if we as a society, as a government or as a Parliament ignore this matter. There are huge personal costs for children and very often very destructive costs for their families, particularly for children whose problems are very hard to diagnose or, in some cases, impossible to diagnose. Families are struggling to deal with children whose difficulties are grave but almost incomprehensible in many ways. Over and over the committee heard stories of parents desperately going from one doctor, service or specialist—in some cases charlatans—to another as they desperately sought a solution to their problems.

Of course, these things result in huge social costs and, in the end, huge economic costs. The Rand Corporation stated many years ago that statistics show that a dollar spent on early intervention saves \$8 spent later on trying to pick up the pieces. Whether it is measured at the extreme by children who will end up as adults in our gaol system or mental health system, or as victims of suicide, or with a whole series of adult dysfunctions, the whole area that is summed up in the learning difficulties phase that is at the heart of this inquiry is of incredible importance. The final report of the inquiry was tabled in September.

The committee realised early in its inquiry that this area received little community focus and was little understood. Therefore, the committee released an issues paper to draw attention to existing submissions and evidence, and to encourage further submissions, evidence and debate. The issues paper, which was released in March 2002, served its purpose well. It was welcomed at the time because of the way in which it dealt with a number of issues that are often not fully debated. It also improved general thinking and analysis.

The committee tabled its first, or interim, report in October 2002, partly because it realised that it may not complete its final report before prorogation of Parliament prior to the election and also because it realised how much the subject matter of the inquiry interrelated with its simultaneous inquiry into child protection. Many factors that produce learning difficulties also relate to child protection issues. The theme of this inquiry and the similar theme of the earlier inquiry into child protection could be summed up by the one word: prevention. Prevention is always better than intervention later on, and that was the theme of the two reports.

This report contains 36 recommendations, and I shall go through some of them. I also emphasise that because the inquiry has taken a number of years, the membership of the Standing Committee on Social Issues has now been increased to six, three of whom are new members: the Hon. Robyn Parker, who is the Deputy Chair, the Hon. Catherine Cusack and the Hon. Kayee Griffin. To some extent those members, although involved in and supportive of the report, have not been as directly involved as they will be with future inquiries because this inquiry had already completed its hearings and analysis before the election.

A major contributor to the earlier part of the inquiry was the Hon. Doug Moppett, who was a member of the Standing Committee on Social Issues prior to his untimely death. One of the highlights of the inquiry was the visit to Dubbo, Trangie, Coonamble and Quambone that was organised by Doug and Helen Moppett and many local people. That trip was particularly important in highlighting the special difficulties faced by people living in rural and regional areas. Problems facing children and families are always magnified for those who live in rural and regional areas because of difficulty with access to services, diagnosis, ongoing examination, distance and shortage of providers and specialists.

A major theme of the inquiry was the necessity for prevention. When a child commences school at four, five or six years it may already be too late to undo some of the damage that has already occurred. Recent scientific research and evidence about early brain development and other physiological and promotional development before the age of three years proves that in many cases learning difficulties at school arise from much earlier events and that early identification, diagnosis, treatment and assistance will prevent those difficulties requiring attention by schools or families once children reach school age.

The second theme of the inquiry was that, unfortunately, in many ways the government system, not only in New South Wales but Australia, is a major obstacle to assisting children with learning difficulties and their families. Three levels of government are involved—Federal, State and local. In many cases their services do not combine well. Although they usually have excellent intentions, funding provided by the Federal and State governments often leads to overlapping or competing programs and, in other cases, gaps in the system. The committee heard time and again about the number of children who were let down by the system.

Four separate major New South Wales departments have large areas of responsibility for children at risk of, or with, learning difficulties. These are the Department of Education and Training, the Department of Health, the Department of Community Services and the Department of Ageing, Disability and Home Care. The

committee heard considerable evidence of families who literally traipsed from one department to another seeking help and being referred to other agencies. Also, numerous non-government organisations, both not-for-profit and profit, make up this incredible patchwork. Some communities have excellent interagency support and co-operation but in other areas the mixture of services is part of the problem. The exhausting merry-go-round of agencies must be addressed.

To progress all these issues, and other systemic issues that I do not have time to detail, the committee eventually recommended that the Government convene an early childhood summit in early 2004. Obviously, we had some reservations about this recommendation because a summit can become a talkfest. On the other hand, we were impressed by what had been achieved through the Drug Summit, the Salinity Summit and more recently the Alcohol Summit.

The committee also struggled to find ways to get the different agencies I have mentioned to talk to one another and in turn to talk to the families and other people most involved. In an earlier report the committee recommended the establishment of the new department for early childhood, which received an unenthusiastic reaction, particularly from the departments and other agencies that felt they had some territory to lose. It was more favourably looked on by some of the other stakeholders, but the committee listened to what it was told and eventually recommended that a summit be held.

I look forward to receiving the Government's response to this report and the 36 recommendations. I hope the Government will consider the need for people to get together to examine the often unholy mix of competing services in New South Wales. For example, recently the Minister for Education and Training announced the establishment of 21 new preschools to be run by the Department of Education and Training. I do not think anyone would question the location of those 21 preschools, which is an instalment on a larger program. They will be located overwhelmingly in metropolitan and regional and rural centres of greatest need. That in itself solves a problem for many well-established services that may originally have been located in areas of need, such as the inner city, but are now located in quite affluent areas.

It is excellent that the Department of Education and Training will run these 21 new preschools. But why does DOCS, separately and with very little communication with the Department of Education and Training, fund a variety of community preschools? Why are two departments involved in the preschool area? And this can be multiplied time and again. The changes in Federal Government funding to child care plus the State funding and organisation in child care means that the private child care sector and more recently the burgeoning provision of child care and preschools in private schools are all desperately crying out for some reorganisation.

But as is so often the case with issues relating to children, a patchwork of services exists largely for historical reasons, and no-one in particular is taking responsibility for bringing all of these services together. I do not have time to detail the recommendations, but other members of the committee have asked to speak in this debate. Different members of the committee have different areas of interest and they will mention some of them. Once again I thank the committee members and staff, especially Beverly Duffy, for the enormous work and commitment they have put into the making of this report and the interim reports I mentioned.

The Hon. ROBYN PARKER [3.03 p.m.]: I speak as the Deputy Chair of the Standing Committee on Social Issues. As the Hon. Jan Burnswoods said, I joined the committee, along with my colleague the Hon. Catherine Cusack and the Hon. Kayee Griffin for the Government, after deliberations on this inquiry. We were not able to participate in any of the hearings or activities. However, it is fair to say that I support the recommendations pro forma. I share the commitment to further the interests of our youngest citizens. I certainly wish that I had been able to participate in this inquiry. Early intervention is one of my passions and has been for a long time, certainly from a career involved with early childhood and the establishment of community services.

This report and this investigation are timely, because it is time to evaluate what we are doing in early childhood. It is time also to call on the Government to make New South Wales the learning State by addressing the problems of our youngest citizens early in their education and their involvement with the system so that we are doing the very best for them and their families. This will ensure that we also offer the best possible education. We call on the Government to say, "Let us evaluate how far we have come, what we are doing and make sure that every dollar we spend in early childhood education, and in fact education generally, is well spent." Certainly, early intervention means that if we can identify and solve problems early enough then down the track that will be cost effective.

I mentioned that I had an involvement in early childhood. In the late 1970s I was involved in establishing community child care centres in another State. At that time we were busy establishing community-based centres. We identified that care is important at an early childhood stage in a community, and early

intervention is a very big part of that. It was an exciting time to be involved in children's services, as it has been over the past 30 years or so. However, because it is an area that has developed rapidly it has developed in a very ad hoc way, therefore we have a confusing system with a variety of services and funding mechanisms. It is time we had a good look at what we are doing with early childhood services, and that we brought some cohesion to it so that government departments are not duplicating or, as this report identifies, missing vital areas and perhaps causing some children and families to fall through the gaps.

This is about providing some cohesion not throwing more money at the problem; it is about creating a better system of early childhood services. We have three levels of government. Four government departments and many non-government agencies are involved in early childhood services in this State, which is confusing and frustrating for families because it creates all sorts of administrative nightmares when trying to negotiate those systems, and it creates inequities. As the Hon. Jan Burnswoods said, it does not make sense to have two separate systems of early childhood services under two different government departments.

It is important that every child has access to early childhood services as early as possible, and that they have that access across the board. It is appalling that young children might have to wait a year or more for vital services such as speech pathology and other interventions. Because of the Coalition's enthusiasm for early intervention, we developed, and still stand by, our election campaign commitment to reduce class sizes from kindergarten upwards. We recognise that the earlier one puts in a consistent and strenuous commitment to children and their families, the better outcome one will have.

It is unacceptable that approximately 30 per cent of children in New South Wales do not have access to early childhood services. The Government must urgently address that issue, which was highlighted in the report. During the past few days we have been talking about social problems many of which occur in early life. The more we wrap a variety of support services around families the better chance we will have of giving children and families support throughout their lives. I was pleased to see from the report that the schools as communities initiative was received positively. Sir John Carrick, who was one of the people involved in developing that initiative, pioneered that model—a model we need to replicate. I have visited Chertsey school on the Central Coast, which is a prime example of early intervention at its very best. It provides early intervention in a school environment and a range of services. People deal with families even before children are born, giving them that absolute commitment that we will deal with them and assess problems that might occur throughout their lives.

In the late 1970s we were setting up community-based services that link people with other services, ranging from basic parenting skills to identifying learning difficulties, speech difficulties, hearing difficulties, et cetera. As a result, children do not go to school having missed that early identification of problems. I was pleased that a variety of people I have had contact with over the years and whose early childhood work I have had great admiration for contributed to the inquiry. In particular, I refer to Professor Graham Vimpani from the University of Newcastle and his contribution in my local area. A number of people are doing outstanding work in early childhood services, many of them against all odds. This report is saying, "Let us acknowledge that, take the very best from every system we have and put it into a best practice model that is not confusing, does not duplicate and, more importantly, does not miss vital opportunities for our youngest citizens, so we can have a cohesive approach."

The overall recommendation of this committee was a summit. I know people will ask: Why do we need another summit? This topic is as important as any we have discussed and probably will discuss. A summit is one way to get all the stakeholders together to do better in a cohesive way. I congratulate the staff and the committee on their work on this report. I wish I had been more involved in the inquiry. If the Government acknowledges that there is definite need for early intervention for children with learning difficulties we can hold a summit and perhaps improve and make up for some of the gaps that exist currently. I commend and support the report.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [3.14 p.m.]: I support the report. It was difficult to complete the report because it was delayed by a number of other reports, particularly the Department of Community Services [DOCS] report. It was therefore strung out over a long time. The Minister made a referral to the committee and the Chair was keen to come up with a cost-neutral solution, which is difficult because this problem requires a great deal more resources. Young kids are more or less invisible; they are seen to be the responsibility of their parents and do not make a fuss themselves. On the principle that the squeaky wheel gets the oil, babes in arms do not necessarily get the resources they need. It is a problem for Federal, State and local governments. Four State departments are involved—DOCS, the Department of Health, the Department of Education and Training and the Department of Ageing, Disability and Home Care.

The Federal Government has been justly criticised for changes in the way it pays for child care. Payment now goes to the mother rather than to the child-care service at which the child is enrolled. That is an ideologically driven error. Previously, it helped get a critical mass of money together for the school to run. A wide variety of child-care facilities are available, a large number of them privately funded. They are generally very expensive, upward of \$50 a day in the Sydney metropolitan area. The point has been made that learning difficulties are more difficult to identify than disabilities. Victor Nossar from Liverpool Hospital supports universal service availability. He is not in favour of screening because the question then becomes: Who will do the screening and when? Learning difficulties may not be visible during a short visit. One has to know the child well and it is better to have a framework in place so that the child-care authorities and the mother are more aware and know what to look for.

We have said that disabilities are not funded adequately, but it is recognised that they need support. Sometimes learning difficulties are not recognised and that is a problem. When I visited China I learnt that it is obsessed with getting everyone in the country to learn English. I informed the Minister for Education and Training of this on my return. They are trying to teach people when they are as young as possible. For example, they want bilingual kindergartens so that children can learn the language while they are young. A lot of people in Australia who speak languages cannot get work. There is a shortage of child care workers, preschool teachers and day care people because they are poorly paid jobs. Far be it from me to suggest that we use some of these bilingual people who currently have difficulty getting jobs but who are good at bringing up kids. We could solve a number of our problems. Honourable members may know that New South Wales is doing poorly in the national Asian languages strategy. We are well behind all our targets.

The Rand Corporation study shows that a dollar spent early saves \$7 later. Socialisation leads to less likelihood of crime, and learning difficulties are easier to treat. In language teaching and in reading recovery institutions people are accustomed to delivering services to older kids who have a certain ability to communicate; they are not used to dealing with younger kids. They want to quarantine the program, which may be less cost effective. They do not want to say to the kids using reading recovery, "We do not care about you; we are going to put the resources lower down and force those teachers to work with kids." Universal services need to be made available, a point that was made by Victor Nossar. Institutions—be they hospitals where the kids are born or schools they attend later—do not have an outreach program.

As has been the case in all the reports of the Standing Committee on Social Issues lately, the big challenge is delivering services to the community—whether we are referring to disabled people, aged people, or people with learning difficulties or mental illness. It is a question of supporting these people in the community. If it is done well it is done more cheaply. It also means that governments have to give a place to non-government organisations [NGOs], which are generally better connected in the community. NGOs spend half their time filling in forms either to get money or to keep money by dotting the Is and crossing the Ts of their performance indicators. Both the Hon. Robyn Parker and the Hon. Jan Burnswoods made the point that prevention is the real message. We should be looking at setting up centres that are a part of community life to detect problems in early childhood. Otherwise problems are detected late in childhood, which then requires institutional treatment.

The decline in Medicare and cost shifting has led to fewer hospital clinics. The antenatal clinics, which are serviced by midwives, can identify mothers at risk before birth. The decline in these clinics has meant there is less work undertaken in the community. There are no other groups responsible for this work. As I have said previously, because of fewer obstetricians there may be greater availability of midwifery services in the future. The rapport established between the midwives and mothers and children can continue beyond birth and allow for intervention during childhood. Currently this community work is undertaken by early childhood services, which were formerly called baby health clinics. However, once the elementary problems of feeding and nappy changing have been dealt with and measurements have been taken, people tend not to use this service and the contact is lost. If the service was used after this time, early identification of learning difficulties could take place. In New Zealand the Plunkett Society has filled this gap, and I believe it has done historically better than our programs in Australia. Again I suggest that it is worth looking at that model.

In order to address the zero to four years period where children are lost to oversight, particularly those at risk, the interim report of the committee recommended setting up a department of child development. This recommendation was not well received because of the danger of fragmentation. The best way to deal with a problem is by setting up a specific department, rather than other departments taking up the slack. However, I agree with the recommendation to bring all stakeholders together in a summit. Before the Olympics an instruction was given to get homeless people off the streets, and I note that there was much better co-operation

between the departments responsible for housing. One area that was discussed but did not become part of the final recommendations—although it should have been—was the need to employ speech pathologists in schools. Although it would be a major expense, most other States employ speech pathologists in schools. Dr Chris Ingall, a paediatrician, wrote to me in great disappointment. I forwarded his letter to the Hon. Jan Burnswoods and the Ministers responsible. Dr Ingall wrote:

I would like to table to this Assembly my comments regarding the recently drafted paper on Learning Disabilities in Children. Whilst this report has canvassed widely the opinions of many of the major stakeholders in this debate, it has failed to deliver what would be the most useful and sustainable strategy for helping children in schools. Indeed it has marginalised the largest group of children, those with language and literacy difficulties, in our schools.

The classroom is a language-based learning area. Children with language difficulties, chiefly boys, cannot hope to function optimally in such an environment. Rather, their language and academic progress falls, particularly as literacy assumes a more and more central role in their passage through the first few school years. It is well established that children with language difficulties in preschool years will, in the main, go on to have literacy problems at school, so the children we are talking about are identified in the early intervention environment, only to be forgotten and abandoned once they reach school age. I put it to you that, as a result of this, we have seen a linear increase in the number of children who have been diagnosed with Asperger's Syndrome and other Autistic Spectrum Disorders in New South Wales. There has been no medical explanation for this phenomenon. Upon talking with the professionals who make these diagnoses, it has become apparent that many children with socialisation and language problems are being labelled, so they can receive ED funding.

As this Chamber is aware, the money available for ED funding per child is much greater than for any other diagnoses. Indeed, language delay per se now attracts no funding, whilst the comorbid behaviours of attention deficit and opposition and defiance receive none or little funding. Little wonder the caring professionals are tempted to label these children as lying on the autistic spectrum, as aide support is their only hope.

This paper has chosen to ignore the most useful solution for the problems faced by these children, whose numbers are legion. That is, employ speech pathologists in schools.

As I said, almost every other State and Territory employ speech pathologists in schools. I have a petition from many people in Cundletown and central Lansdowne asking that speech pathologists be employed in schools. That should have been a recommendation of this report. [*Time expired*]

The Hon. KAYEE GRIFFIN [3.24 p.m.]: Although I came late into this inquiry, as did the Hon. Robyn Parker and the Hon. Catherine Cusack, I am pleased to support the report. The dedication to the children at the beginning of the report clearly shows the differences that early intervention can make when assisting children with learning difficulties. If honourable members have not read the report, by reading the dedication, which refers to five children, they will understand what a difference it can make. The first recommendation is for an early childhood summit to address the many issues raised in the report. The recommendations made by the Standing Committee on Social Issues would be an excellent way to focus on the need for more cohesion in the early childhood sector regarding services for children with learning difficulties, those with high needs or those who are in areas of need. It would also serve to reinforce the importance of the child's early years and the critical need for intervention during those years.

The summit would be an ideal way to bring together all stakeholders: government and non-government providers; peak bodies; health, education, disability and children's services; academics; and parents. We often talk about our children being our future, their power of potential, and our children's early years being crucial for learning and development. We recognise the importance of early intervention for children with disabilities but do not focus so much on learning difficulties until after children start their formal education. An early childhood summit would be invaluable for the coordination of early childhood education and care. The benefits for the children and their families through better co-ordination and availability of services cannot be overstated. A number of recommendations affecting early childhood education and care relate largely to funding and would, I am sure, be the subject of much debate at the summit.

A large number of children have access to either preschool or long day care. However, many parents cannot afford to use formal children's services, and there may be other family issues or circumstances that preclude the children from having access to services. Obviously some of these children would have learning difficulties. By not having those difficulties identified at an early age they often face an uphill battle during their school years. A number of recommendations are specific to early childhood health and home visiting. The Government's Families First initiative introduced home visiting by early childhood health nurses. The introduction of this initiative was based on findings of improved health and development for young children, and improved parenting skills for vulnerable parents. Sustained home visiting throughout the child's first two years has been found to be most effective. Current trends reflect that support provided to families and parents in the early years of life has a lasting influence on the child's health, development and education.

The recommendation of an extension of Families First ensures that more families, and thus more children, can benefit from a stronger support network of prevention and early intervention programs. These programs not only assist in building communities that work to support families and children but also help children to start school and better equip children to learn. When I talk about the Families First initiative, I think of my community where there is a high population of people from non-English speaking backgrounds. Often people from non-English speaking backgrounds have difficulty in accessing services. Obviously they would be one of the groups in great need of an extension to the Families First program. I fully support that extension. The future role of early childhood health centres focuses on a move toward home visiting, and also on the tendency to provide more holistic services to children and families. You cannot really do one without the other.

We often tend to forget that point when we talk about these processes and what needs to be done for the future. Flexible models, including the colocation of services and the setting up of children's and family services, could better meet the needs of today's families. It is obvious from the report that there needs to be more collaboration from government departments in the planning and provision of services. This means co-operation and a strong commitment from all tiers of government at State, Federal and local levels. Two State Government departments provide preschool services. Long day care is even more complicated because of the provision of services through local government, community-based centres and the private sector. The centres receive funding from the Federal Government and are regulated through the State. Often when we talk about the community sector, we are talking about child care centres that are run by local government or community-based centres that are run by community groups with parent committees overseeing the service.

Another vexing issue is the number of places for under two-year-olds. Many long day care centres, particularly those in the private sector, do not cater for that age group, which attracts a higher cost component because of the child-to-staff ratio. One of the report's recommendations refers to the proposed regulations relating to that ratio. The situation has become more confusing in the past few years because of the Federal Government's changes to the system and the consequent loss of the operational subsidy for the community-based sector. Many community-based child care centres are struggling to remain open. Long day care centres being set up, primarily by the private sector, are not providing care for newborns to two-year-olds, and that issue must be addressed. I am not sure how the problem can be resolved, but it should be discussed at the summit next year.

Another concern highlighted in the report relates to the responsibility for children's therapy services. There is a lack of co-ordination in services being provided and funded by various government departments. These include the Department of Health, the Department of Ageing, Disability and Home Care, the Department of Community Services, the Department of Family and Community Services, and the Department of Education and Training. The multiplicity of departments and agencies involved explains community confusion about early intervention and children's services. In general, most funding is targeted at children with identified disabilities or high-support needs. No-one argues about that, but because children with learning difficulties are not as easy to assess or to pick up or because, as the Hon. Robyn Parker said, 30 per cent do not come into the children's services system, we tend to think that they do not have any problems. Conversely, because the money is not being spent, the problems are not being picked up.

I agree that those other groups need a great deal of support and funding to service their needs, but because of that these other children miss out. We tend to forget that if they are not compartmentalised in a particular disability group their learning problems become a side issue and are overlooked along the way. Children with learning difficulties are disadvantaged as a result of that situation. They often miss out in their early years and go on to demonstrate difficulties in the classroom. Although early childhood intervention services provide a range of support therapies for children, including speech, occupational and physiotherapy, there is a lack of specific provision for children with learning difficulties.

While qualified and experienced early childhood educators are capable of identifying such children, limited essential support services are provided. Speech pathology, in particular, is an issue. A relationship has been established between early language difficulties and specific phonemic awareness. Health therapists largely focus on school-age children, and private therapists are beyond the means of most families. Therapy delivered in early childhood settings or in schools has been found to be most beneficial in these cases. Service delivery and the responsibility for, and funding of, services require further collaboration and discussion between departments and agencies. Again, the early childhood summit will be an excellent next step in achieving a collaborative approach between stakeholders and, hopefully, ending the fragmentation, or at least some of it, in the delivery of services.

The Hon. IAN WEST [3.35 p.m.]: I am pleased to reinforce and commend the comments made by previous speakers about the size of the problem, the lack of understanding, the cost of ignoring the issue, the need for preventive strategies and co-ordination, and the many children who fall through the cracks. I am pleased to speak in this take-note debate. This final report—"Realising Potential: Final Report of the Inquiry into Early Intervention for Children with Learning Difficulties"—is a testament to the hard work of committee members and the parliamentary staff involved in the inquiry. I particularly commend the committee staff for their ability to translate complex and diverse issues into a cogent, timely and lasting report. The philosophy of this inquiry goes to the heart of policy making. It is a positive approach to creating opportunities by addressing problems using preventive, early-intervention strategies.

If children with learning difficulties do not have access to appropriate education and early-intervention strategies, their problems increase and lead to compounding difficulties. Any approach taken must also be consistent and measured in its application. The committee was given evidence of many examples of the fragility of the approaches used and their inconsistency. It was highlighted that once a program was established mechanisms and backup systems must be implemented to ensure consistency. For example, when a child moves from one class to another, everyone concerned must have a thorough understanding of his or her needs. Early intervention is a strategy used to achieve targeted policy making. We must have a whole-of-government approach in that regard.

The report identifies a number of challenges in the early childhood services system. The service provision system is a confusing administrative structure that sometimes makes access and fairness difficult to achieve. It is difficult to adjust those structures because they are entrenched, and that presents yet another challenge. For example, New South Wales has separate preschool programs run by different government departments. One program charges fees but the other is free, so children with different needs are not always catered for. The report identifies a number of other problems in the provision of services to children with learning difficulties. Apart from dealing with the administrative merry-go-round of the various agencies, parents and carers of children with learning difficulties also find their children falling through the gaps in service provision. Often that is because their difficulties are not seen as being as serious as those of children with intellectual or physical disabilities. That is despite the fact that between 12 per cent and 16 per cent of children experience various learning difficulties in their early years of schooling.

The early intervention philosophy tells us that addressing a child's literacy and numeracy difficulties early has great benefits for the community generally. That number of children experiencing learning difficulties represents a huge potential problem if we do not implement early-intervention strategies. What makes this report even more important and lasting is that it contains 36 achievable recommendations that address the identified problems.

As other members have said, the principal recommendation is that the Government hold an early childhood summit in 2004. This would bring together Federal Government and State Government agencies involved in health, children's services and education and disability services, along with peak bodies, non-government providers and parents. It would be a great opportunity to identify and target the problems in the sector and consider methods of addressing them.

Other recommendations include an expansion of the Government's Families First policy of home visiting to children identified as being at risk or vulnerable to learning impediments. The report also recommends a review of funding to learning difficulties support groups, and that consideration be given to establishing a statewide learning difficulties advocacy organisation. This body could be responsible for providing advice and support to families, professional development, monitoring of best practice, and lobbying and advocacy to ensure that adequate services are in place.

The report contains many recommendations to improve the operation of the Department of Education and Training, including reducing kindergarten to year 2 class sizes and extending the learning programs currently in place. It is also recommended that the Department of Health improve its services by addressing the undersupply of therapists for children in New South Wales, especially in rural and regional areas. Issues to be addressed include technology, the delivery of speech therapy services across the State, and whether speech therapists are the appropriate people to provide the service in certain cases. It is important to ensure that speech therapy services are provided appropriately, and that speech therapists are not simply placed in schools for unrelated reasons.

Overall, government agencies need to find methods of dealing with children's learning problems in a more integrated way. The most effective system of early intervention for learning difficulties involves

prevention through resource support services and remedial services for children with identified problems. The fragmented structure of support services represents a key challenge to achieving an effective system. As has been said, it is essential to keep in mind the positive approach behind the "Realising Potential" report.

It is a great symbol for child development that Professor Fiona Stanley is the 2003 Australian of the Year. The issue of early intervention is placed firmly on the national stage by her profile and work. The term "another opportunity" is often cited as a motivator for early intervention services being extended. The committee heard evidence that for every \$1 invested in child development the community saves \$7. A World Bank report argues that healthy childhood development is a prerequisite for a dynamic economy and culture, and I commend that report to members.

I wish to conclude by referring to the experiences gained during the inquiry as examples of how early intervention has benefited children with learning difficulties. During its inquiry the social issues committee conducted a number of site visits, and these gave members the opportunity of meeting teachers, families, doctors, and children affected by learning difficulties. The report is dedicated to five of the children who helped the committee understand their struggle, and I commend it to the House.

The Hon. JAN BURNSWOODS [3.45 p.m.], in reply: I thank committee members for their remarks on this report and their support for the majority of the 36 recommendations. The members who spoke reflected on their own personal interests, as well as on different aspects of the report—an acknowledgement of which is important to enable one to come to grips with the rather unintegrated patchwork of children's services that has evolved in New South Wales.

As the Hon. Robyn Parker said when reflecting on her background in early childhood services, it is an area in which much was done and much was changed in the 1970s and 1980s, but a lot of that work now needs to be revisited in light of changes that have occurred since. It is an area in which both she and the Hon. Kayee Griffin have much to offer. If the history of the social issues committee is any guide, in future we will deal with many more reports relating to children. We always find that our current reports are informed by our experience and the thought that went into previous reports. We look forward to further contributions from the two new committee members.

One aspect of the inquiry that was referred to by members only in part—perhaps surprisingly, given the genesis of this inquiry—specifically related to schools. The Hon. Robyn Parker referred to the importance of the class size reduction program. An earlier draft of the report contained extensive reference to that program in its chapter on schools. However, by the time the report was completed the Government and the Opposition had both announced a commitment to that program, and the Government is currently implementing it. Of course, it is an expensive program given the number of teachers required and the provision of extra classrooms. Obviously, if class sizes in kindergarten to year 2 are reduced, more classrooms will be needed to teach the students.

The very different approaches to speech therapy and other therapy services taken by the Hon. Dr Arthur Chesterfield-Evans and the Hon. Ian West perhaps throw more light on the committee's recommendation for an early childhood summit. As the Hon. Ian West pointed out, chapter 8 contains seven or eight recommendations relating to therapy services. The Hon. Dr Arthur Chesterfield-Evans spoke about the provision of speech therapists on the staff of schools, a pattern that applies in other States. The issue is discussed in the report, but we came down in favour of urging the Department of Health to expand therapy services.

There is no doubt whatsoever that there is a grave shortage of therapists and publicly funded therapy services, particularly speech therapy services, in New South Wales. The departmental location of those therapists, like many other services relating to children, is a complicated issue. Certainly the committee discussed that view of some people. But other people argue equally strongly against having speech therapists placed in schools rather than in the health system. As I and other members have pointed out, in many cases a child's need for speech therapy is at age two, three or four years. In other words, in some cases even when the child is in the early years of school it is already too late.

I express my puzzlement at one comment of the Hon. Dr Arthur Chesterfield-Evans. I think he said that the committee chair was keen to come up with a cost-neutral report. I am not sure where he got that idea from. Having regard to the recommendations, I am sure that claim would come as a great shock to the Government because certainly the report is not cost neutral. The report recommends expanding Families First, investigating universal preschools, expanding children's services, lowering the staff-to-children ratio in child care, screening

programs in kindergarten, expanding reading recovery, reducing class sizes, and the massive extension of therapy services, which I mentioned earlier. This is certainly not a cost-neutral report. It is obvious that some lines have been crossed somewhere, and I wanted to place on the record that I certainly never made such a comment. The Hon. Dr Arthur Chesterfield-Evans has misunderstood something there.

Finally, I wish to thank a few other people in addition to the members and staff I thanked earlier. I thank Gary Moore from the Council of Social Service of NSW [NCOSS] for launching the report and for the very kind and supportive things he said about it. NCOSS is so often very helpful to the committee, and in this case it has published an incisive analysis of the report in its forthcoming monthly newsletter. The Hon. Robyn Parker made mention of one of our very valuable supporters, Professor Graham Vimpani from Newcastle, who provided assistance in this inquiry and the child protection inquiry. Other academics as well as Graham have communicated with us since the inquiry and they have said some very nice things about the report. I thank them all.

Pursuant to resolution business interrupted.

**PARLIAMENTARY ELECTORATES AND ELECTIONS AMENDMENT (JOINT
PARLIAMENTARY COMMITTEE) BILL**

Second Reading

Debate resumed from 18 September.

The Hon. DON HARWIN [3.51 p.m.]: Debate on this bill is part heard after many private members days. I am pleased to say that I have in my possession a piece of paper from the Government constituting a notion that the Government proposes in due course to put to the two Houses. It is an interesting notion. It is for the establishment of a joint standing committee on electoral matters. Minister Della Bosca gave an undertaking that such a document would be available to me and the Hon. Duncan Gay—who has carriage of this bill—before debate on the bill resumed. The notion quite possibly will deal with most of the concerns that led to us giving notice of this bill. The Opposition wants to consider some outstanding issues relating to procedure and structure, and in all probability we will do that before the next sitting day.

Debate adjourned on motion by the Hon. Don Harwin.

CRIMES AMENDMENT (PROTECTION OF INNOCENT ACCUSED) BILL

Second Reading

Debate called on, and adjourned on motion by the Hon. Rick Colless.

VOLUNTARY EUTHANASIA TRIAL (REFERENDUM) BILL

Second Reading

Debate resumed from 17 September.

The Hon. Dr PETER WONG [3.54 p.m.]: The Voluntary Euthanasia Trial (Referendum) Bill deals with an issue that always evokes strong views driven by passion and emotion. I thank my colleague Mr Ian Cohen for providing a forum for informed debate. Notions of life, death, suffering and pain, together with the rights of a citizen with regard to his or her own life, trigger a strong reaction, even if in most cases the opinions expressed are somewhat off the cuff and ill informed.

Crossbench members were lobbied at a briefing held with former Federal Attorney General Kep Enderby, who is an advocate of voluntary euthanasia. I believe he is both an exponent of and speaker for Esperanto. Crossbench members present at that briefing will recall that Mr Enderby sparked a strong reaction in me when he told us that it takes courage to bring about such legislation and that it also takes courage to die. On the contrary, I believe it takes a certain courage to resist calls for voluntary euthanasia, and indeed it takes more courage to examine the social and economic policies that create the isolation, loneliness, depression and feeling of rejection in our community that make voluntary euthanasia attractive to otherwise healthy people, or, for that matter, the terminally ill.

It does not take courage to die—we all die somehow—but it is less courageous to force another person to kill you. It is a type of emotional blackmail. That is why the overwhelming majority of medical practitioners will not condone this selfish, cowardly practice. It takes much more courage to live through a terminal illness or through old age. Advocates of voluntary euthanasia may be mistaken about what courage is. My office, and no doubt the office of many members, has been deluged with many letters asking me to support the referendum. I am opposed to the idea of having legislation driven by public opinion, especially when that public opinion has been revved up by radio talkshow hosts. I describe such legislation as legislation by talkback radio. I am against allowing public opinion to dictate the introduction of legislation because I know that in a similar circumstance one might even consider the reintroduction of capital punishment. Our most basic instincts are those that can be driven by fear, hatred and sensationalism; they are those that attract the attention of talkback radio hosts—and I fear that this debate has been hijacked by similar minds.

This modern menace has the power to harness those ideas in people in our community who have the narrowest vision and mean hearts. I am sure many members share my view. As a doctor I regard human life as a gift. Dealing with life and death all the time, I know too well that life does not come without its challenges. In my practice I see sickness and death. I have also been privy to extraordinary displays of triumph of the human spirit. I am reminded of a patient of mine many years ago, Elsie Stow, who is now dead. Elsie was an elderly lady suffering from a terminal abdominal malignancy.

Despite her pain and suffering, Elsie lived a meaningful life. I remember that on one occasion I visited Elsie she was writing a letter at her desk. I asked her what she was writing, and she told me she was writing a letter to a young woman who was suffering from breast cancer. She advised the young woman to live on, despite her pain and suffering, and to be comforted by her faith and her friends. I remember even today her smile and her courage.

Some people might say that Peter Wong has not had the personal experience of seeing a relative go through terminal illness, that he is just acting like a doctor. I share with honourable members the fact that my mother, who passed away two years ago, suffered in the last two weeks of her life as she was not able to eat. She was obviously in some pain and discomfort. At family gatherings, on occasions there could be as many as 15 doctors present in one room—either a brother, a sister or a relative. But I believe that the best person to give advice about the welfare of a patient in such circumstances is the treating doctor at the relevant hospital. You will find that such patients will listen to the advice of surgeons, physicians and palliative care specialists. My mother died, not without suffering, but to this day I am sure she would again choose to go the same way, in the love of her children, relatives and friends.

About 15 years ago a patient of mine was dying from stomach cancer. Her children called me one Saturday morning at about 10 o'clock to tell me that their mother was in pain. They asked whether I could go to their home. At that time I was working at Wentworthville and the patient had moved to Camden. As her doctor and friend, I felt obliged to go. I stayed with the family until about 10 o'clock at night. At that time I was also suffering from a viral infection. The husband and children discussed with me different ways to ease the woman's pain. She was given an injection every two hours, sometimes every hour, as well as sedatives. We kept asking whether she was suffering any pain. She died before I left. To this day, the woman's husband and children agree that the decision we made was the right one.

As a young doctor I made many mistakes. My mind was on money, power, possessions and prestige, and perhaps not enough on my patients. I would suggest that every doctor in his or her lifetime has killed a patient, but as they grow older and become more mature they come to the realisation that their role is to save life. It is totally contradictory for doctors, who are supposed to be healers, to have demands placed upon them to kill. I have visited Holland on two occasions. I do not believe that we should follow the practice adopted in that country, where 25 per cent of doctors practise euthanasia and another 25 per cent of doctors refer patients for euthanasia—bringing the proportion of doctors in favour of euthanasia close to 50 per cent.

Recently a survey was conducted at a nursing home in Holland asking elderly patients to identify the person they feared most in their lives. Their response was, obviously their doctor—the person who may advise euthanasia, the person who may tell them that life is no longer worth living and that they should just die rather than become a social burden. I cannot understand such a practice. As a society we try everything we can to refer people who attempt suicide to counselling; we get them to see a psychiatrist or we prescribe antidepressants to them. Do not people suffering from a terminal illness, people who are ill, or people who are getting old suffer from a certain degree of depression? How can we tell who is or is not depressed? I would argue that almost all such people would suffer from a degree of depression. I cannot understand why we say it is okay to take away the lives of such patients, and therefore I cannot support this bill.

The Hon. JOHN TINGLE [4.06 p.m.]: Let me preface what I have to say on the Voluntary Euthanasia Trial (Referendum) Bill by acknowledging that I understand very clearly what the Hon. Ian Cohen said in his second reading speech, and I respect the commitment and sincerity that he brings to an issue very close to his heart. He is deeply convinced it is a matter that the community has to face and be prepared to make a decision about. His commitment deserves to be taken seriously by all members in their considerations of this proposed legislation. Having said that, I ask: What is this bill really about? Is it about a referendum or is it about euthanasia? Both words appear in the title of the bill, and much of the second reading speech of the Hon. Ian Cohen was taken up with justifying the question of conducting a referendum—which I should have thought was hardly necessary, given that referenda are an accepted part of our society and that we have a history of refusing more than we accept. It was only at the very end of his speech that the honourable member dealt with euthanasia.

We must understand—and I do not think that the Hon. Ian Cohen would necessarily disagree—that this bill is a means to an end. It is the thin end of the wedge to introduce euthanasia into our society. Therefore, I believe we cannot consider or approve the means, which is the referendum, without considering and approving the end, which is euthanasia. However, this bill asks us to do just that. We are told that the bill is just about a referendum. I see a great deal of value in consulting members of the community about major matters that affect their lives—or, in fact, their deaths. Obviously, we cannot consult the whole community on everything we consider; otherwise we would simply never get any legislation through this or any other Parliament. I regard this referendum proposal as the iron fist in a velvet glove.

Although the Hon. Ian Cohen concentrated on the referendum aspect, I say, with respect, that I believe he was begging the question. The holding of a referendum does not need to be canvassed. I say, again with respect, that in seeking to focus attention on the referendum rather than the end to which it is a means—that is euthanasia—he is inviting us to watch the hole and not the doughnut. A referendum can seem a very innocuous device to test public opinion, but this issue is an extremely emotional one, and it has been debated not just in this Parliament but in the community generally—and not just in Australia but around the world.

It is not possible to debate the matter, or even to look at it, in an atmosphere that is not charged with emotion. If this referendum were to take place, there would be an avalanche of propaganda on the issue. There is the danger of a throwaway line, whereby people could be persuaded to say, "Look, it is only asking for a trial. What harm can that do? Why don't we have the trial?" But, of course, it is asking for much more than that. It is asking for a massive change in our attitudes to life and death, and to the sick and the dying.

The word "voluntary" in the title of the bill, and indeed in the phrase around which it revolves, is ambiguous and needs very careful consideration. To be a voluntary decision it is implied that the decision will be taken by the person whose life is to be terminated, and to rate that a qualified decision to seek voluntary euthanasia the person would need to take that decision in a very calm and dispassionate manner. That would be difficult, if not impossible, in the circumstances likely to surround a painful terminal illness and the pressures that could be brought to bear on that person if, as the Hon. Dr Peter Wong said, it is acceptable that euthanasia should happen and that therefore it is not an unusual, outrageous or radical thing to be considered at the time when death seems to be approaching.

But the word "voluntary" needs to be in there. Imagine a proposal for an involuntary trial and what that would imply. How big a leap is that? Once a community accepts voluntary euthanasia and believes that it works to solve perceived personal needs, how big a leap is it for that community to be conditioned to believe that maybe involuntary euthanasia would solve perceived community needs? So let us accept that referendums are fine and that their organisation and cost can be justified in some major community questions, even such as this one. But we need to be aware that this would not be a referendum that we could answer by the metaphoric toss of a mental coin, which so many people do when they go to vote on an election or anything else. They are not sure, they are not informed, and they have been subject to propaganda, advertising and emotional assaults of all sorts. So I believe that in the long run they give up. Many people say, "What the heck, I'll give it a go and see what happens."

I do not believe we can afford to decide if a referendum were held on that basis, because the forward ramifications of carrying out referendums are so enormous. We must understand that the referendum is not the issue we are debating or that we will vote on. We are being asked to vote for the referendum because its sponsor obviously believes and hopes that the referendum will lead to the trial; otherwise why would we have the referendum? It asks for a referendum which it hopes will strongly support an 18-month legally and medically supervised trial of voluntary euthanasia, to quote the wording in the bill. That brings me to what I see as a fatal

legislative flaw in this bill: In the event that the trial were held, the bill does not specify what would happen afterwards, at the end of that 18 months. Would it all just stop there? The bill does not suggest a review or anything further.

The obvious expectation would be that, as with the heroin injecting room, the trial would be extended, and extended again, because, as would be claimed, it seemed to have worked well and to have done no harm. The only difference between this and the injecting room is that this could not be claimed to have saved lives. So euthanasia could be phased into our society, step by step, until we were conditioned to accept it. As I said at the outset, this is the thin end of the wedge. It is thin end of the wedge legislation. This is about euthanasia, not a referendum.

If honourable members believe that a legalised system of voluntary euthanasia needs a legal framework to let it happen, they will support this bill. If they understand, as Mr Ian Cohen acknowledged in his second reading speech, that a form of euthanasia has been carried out ever since medicine began, by tacit agreement made in private between doctor and patient, they will hesitate to support the bill. If they believe that dying is the most personal act of life, best left to intimate agreement, not to official form filling and approval stamping by a faceless bureaucrat somewhere, giving someone permission to die, they will vote against the bill. While I respect and even admire Mr Ian Cohen's commitment to and perseverance with this, I cannot support it. I oppose the bill.

Reverend the Hon. Dr GORDON MOYES [4.15 p.m.]: The Voluntary Euthanasia Trial (Referendum) Bill is important because it touches some of the most precious values that western society has preserved for several thousand years. The issue is of international concern and has been debated widely throughout the world. However, it is appropriate that this Parliament makes its own decisions on the issue. The object of this bill introduced by the Greens is to require the holding of a referendum to determine whether the people of New South Wales approve in principle of a legally and medically supervised trial of voluntary euthanasia for a period of 18 months. It is a matter of debate, as we have seen with the heroin injecting room, whether a trial can be held on a matter that will result in the deaths of people. As we have seen with the heroin injecting room trial, the period of the trial can be extended until it becomes a permanent fixture, an institution of a process by subterfuge.

There is also uncertainty about whether the failure of proper assessment and quantifiable data, as happened with the heroin injecting room, will be repeated with a voluntary euthanasia trial. But the issue that concerns most people of all political persuasions in this State is whether such a trial should proceed on moral and ethical grounds in the first place. This bill proposes that a referendum be held on the question of a legally and medically supervised trial of voluntary euthanasia for a period of 18 months with the vote for the referendum to be taken in conjunction with the next ordinary elections of local government councillors, and that the voters at the referendum are to be the persons entitled to vote at those elections.

Honourable members need to decide whether local council elections, where the issues often concern roads, rates and rubbish removal, are the most appropriate occasion for a referendum on a matter of such vital moral and ethical concern. I do not think it would be appropriate, but I do not wish to be sidetracked on this issue just now as I believe that the whole moral and ethical issue should be the focus of our attention. In recent times the subject of euthanasia has become a hotly contested issue in most western cultures. The fear of seeing a person suffer has led many to believe that the compassionate response is to send them to an early death. Indeed, as medical science enables people to live longer and to overcome more and more disease, there is a fear that many elderly patients are being kept alive artificially and against their will.

People now speak about the right to die, and some pro-euthanasia societies have sprung up, actively lobbying on behalf of their cause. It is a strange kind of compassion when one believes that the best way to relieve suffering is to kill the sufferer. The practical problem today is not one of overtreatment but one of undertreatment. That is, we have become all too willing to allow loved ones to die, without looking at all the options or exhausting all the alternatives. Euthanasia is now often proposed primarily for mental suffering or anguish, which can be less easy to treat than physical pain. To date, it has been found to be impossible to write precise descriptions of distress, especially emotional distress, into a proposed law so as to ensure that they could not be applied to persons for whom they were not intended. Since this difficulty still remains after decades of searching for a solution, a breakthrough would now seem unlikely, and the supporters of euthanasia themselves did not offer any helpful suggestions. True compassion is compatible with objecting to a dangerous law.

In this important debate it is imperative that we clearly define our terms before proceeding. From the point of view of the Christian Democratic Party, euthanasia is not about halting futile treatment. Nor is it about

the alleviation of suffering. That is well handled as palliative care. And having established, more than 25 years ago, a hospital-based palliative care program for people in the extremes of life, with Sydney doctors and nurses trained in pain control, I know how effective this can be. In essence, this bill will allow illegal acts that directly and intentionally causes a person's death. Thus there is a crucial difference between taking a life intentionally and allowing a death to occur naturally. The first is homicide and the second is natural death. As Andrew Lansdown explains:

Euthanasia has little to do with refusing futile or extreme treatment. The man who rejects a heart transplant or declines a third bout of chemotherapy is not committing suicide, but rather is accepting the inevitability of his own death. The doctor who withholds or withdraws undue treatment at the request of a terminally ill patient is not killing his patient but rather is refusing to prolong his patient's life at any cost. Properly understood, euthanasia involves an intentional act to end a person's life.

Opponents of euthanasia do not advocate the unnecessary and unwelcome prolonging of human life by artificial means. Rather, they oppose active measures to bring human life to a premature end.

As ethicist Leon Kass reminds us, the ambiguity of the term "right to die" blurs the difference in content and intention between the already well-established common law right to refuse surgery or other unwanted medical treatments and hospitalisation, and the newly alleged right to die. The former permits the refusal of therapy, even a respirator, even if it means accepting an increased risk of death. The latter permits the refusal of therapy, such as renal dialysis or a feeding tube, so that death will occur. The former would seem to be more about choosing how to live while dying. The latter remains a choice for death.

This is not the only Parliament to consider such a motion. Five independent parliamentary inquiries in recent years concluded universally that euthanasia law could never be made safe from abuse. As the reports are both difficult to obtain and somewhat demanding to read, it may be helpful to set out some of the arguments that led to that common conclusion. But what is reasonable for one person can be simply ignored by others if it does not conform to their prejudices. Although one might think parliamentarians, when considering a draft euthanasia law, would see the force of these arguments, many find it hard, if not impossible, to separate their personal views on euthanasia from their duty to examine the safety of the draft before them.

The committees of inquiry all included members who were personally in favour of euthanasia, so the fact that three of them issued unanimous reports means that many of their members, to their credit, did make this critical distinction. The committees and their reports, which are of international significance, were the Select Committee on Medical Ethics of the House of Lords, 1994; the New York State Task Force on Life and the Law, May 1994; the Senate of Canada, June 1995; the Community Development Committee, Parliament of Tasmania, June 1998; and the Social Development Committee of the Parliament of South Australia, October 1999. I can provide honourable members with references and details for any quotes that I use, if required.

Because it is commonly claimed that the only real opposition to euthanasia comes from the churches, it is worth commenting that none of these reports from parliaments around the world relied on any religious arguments. In the following excerpts, readers will find the common threads of evidence that Dr Nitschke and people of his ilk refuse to concede or confront. The Select Committee on Medical Ethics of the House of Lords stated:

Society's prohibition of intentional killing is the cornerstone of social relationships, protecting each person and impartially and embodying the belief that all are equal. That protection should not be diminished.

The committee went on to say that there is a duty to try to save life, but if that is exhausted continued treatment may be inappropriate. That is difficult to define or to legislate, because it relates to the condition, circumstances and values of individual patients. The House of Lords committee stated further:

It would not be possible to frame adequate safeguards against non-voluntary euthanasia—

As was mentioned by the honourable member who spoke before me—

It would be next to impossible to ensure that all acts of euthanasia were truly voluntary, and that liberalisation of the law was not abused.

The product of an adequate legal framework should be public confidence that the law protects life. There can be no more important area in which the law's protection should be complete and transparent than where ... lives are at stake.

Creating an exception to the general prohibition on intentional killing would open the way to further erosion, whether by design, by inadvertence or by the human tendency to test the limits of any regulation. These dangers are such that any decriminalisation of voluntary euthanasia would give rise to more, and more grave, problems than those it sought to address.

The message which society sends to vulnerable and disadvantaged people should not, however obliquely, encourage them to seek death, and instead, should assure them of our care and support in life.

Their Lordships concluded:

The issue of euthanasia is one in which the interest of the individual cannot be separated from the interest of society as a whole.

The report of the New York State Task Force on Life and the Law stated:

For public policy, one cannot rely on ideal cases, where all terminally ill patients are treated at the highest standards and all doctors are well informed and competent in terminal care, while reality does not meet the expectation.

Concentration on dramatic individual cases obscures the impact of what it would mean for the state to approve of medical killing. It will be the doctor's values and judgements about pain, disability and dependence that will determine what is recommended and what is done. Since those values will be randomly met, that would be profoundly unjust.

The Senate of Canada said:

Since a second person is directly involved, adequate safeguards could never be established to ensure consent was given freely and voluntarily, though this would be essential to prevent abuses and to avoid opening the door to non-voluntary euthanasia.

The Social Development Committee of the Parliament of South Australia stated:

Law would not just control the practice of voluntary euthanasia, but would likely confirm and encourage it. Dying is never strictly private because the death of one individual affects others too.

The Community Development Committee of the Parliament of Tasmania stated:

Individuals presently enjoy equality of society and protection under the law. If voluntary euthanasia were to be legalised, an inequality would arise where one category of individual was deemed to be of less value than another and could therefore be killed.

The codification of voluntary euthanasia could not adequately provide the necessary safeguards against abuse.

A determination of the need for legislation on voluntary euthanasia cannot be made on the basis of subjective moral choice.

Legalisation of voluntary euthanasia would pose a serious threat to the more vulnerable members of society and the obligation of the state to protect all members equally outweighs the individual's freedom to choose euthanasia.

In summary, these parliamentarians across the world, in their reports, indicated that they understood one fact: that euthanasia is about the killing of another person. It does not matter whether that is done with a gun or a lethal injection. The effect is the same. With this definitional framework in place, I will set out our objections to legalised euthanasia that no referendum, whenever it is held, could counter. I mention five points.

First, the doctor-patient relationship is weakened. As the Hon. Dr Peter Wong said, when the medical profession becomes involved in killing, the delicate trust relationship between patient and doctor is undermined. People trust their lives to doctors and health care workers in the knowledge that they are dedicated to preserving life, to healing, to caring. After all, that is the basis of Hippocratic tradition. The Hippocratic oath includes the commitment not to kill a patient even if the patient requests such a course. Once doctors become involved in killing—once they become, as Morris West calls them, legalised terminators—patients will be in a state of fear and suspicion, not knowing from where their doctor is coming. Some may rightly fear whether every injection, every pill or every new intravenous bag is designed to cure or kill—to end the pain or to end the patient.

It is not just the patients who are at risk. Doctors, too, risk becoming desensitised, seeing the taking of life as just another routine procedure. That was exactly the case in pre-Nazi and Nazi Germany. The medical establishment played a large role in the killing of hundreds of thousands of Germans and non-Germans. It took less than 20 years for German medicine to make the practice of widespread euthanasia of undesirable people acceptable. The horrible Nazi crimes started from small beginnings. The beginnings were merely a subtle shift in emphasis in the basic attitude of physicians. It started with the acceptance of the attitude, basic in the euthanasia movement, that there is such a thing as life not worthy to be lived.

Moreover, legalised euthanasia gives too much power to doctors. Doctors, not patients, are the ones empowered by euthanasia. Even for a doctor who acts only from the noblest of motives there is a chance of making the wrong decision for the wrong reasons. But what of unscrupulous doctors? What if doctors make a straight commission from each patient they kill, as is the case with some abortionists? As DeLacey notes:

Doctors like anyone else can be selfish and lazy. It is not unknown for doctors to take self-interested short-cuts, for example, putting a pregnant woman to the added and unnecessary strain of an induced or caesarean section birth on a Friday in order to guarantee an uninterrupted weekend for themselves. Why, then, would they never be tempted to kill as the quickest or easiest way of dealing with a troublesome case; likewise, why would they never be prepared to falsify a patient's "living will"?

There is also the problem of faulty diagnosis and predictions. To terminate a patient's life, a doctor must have a fairly good assurance of his diagnosis. But surveys have found that one-half of responding physicians said they were not confident to predict that a patient had less than six months to live. A study published in the *British Medical Journal* found that there is an astonishing level of misdiagnosis of persistent vegetative state patients. A study of 80 patients supposedly in a deep and presumably irreversible form of coma found that three-quarters of them had been misdiagnosed. Many of the patients had either woken up spontaneously or had shown signs of brain activity. One study found that 11 patients admitted to a New York hospital who were diagnosed as having "advanced cancer in its terminal stages" did not have cancer at all. Indeed, as one doctor put it:

Significant numbers [of patients] have been told by doctors that they have only months to live, and have lived on, often with a good quality of life, for many years. As with capital punishment, if you get it wrong, it's too late!

Examples are common. Doctors at a Sydney hospital decided that a man who lapsed into a coma after a drug overdose would be better off dead, claiming he had irreversible brain damage. His sister intervened and, with the help of a New South Wales Supreme Court judge, managed to prevent the hospital from shutting down his life support. These stories can be told over and over again.

The second reason we do not support this legislation is that the right to die implies a duty to kill. There are no rights without corresponding duties. If society goes down the path of legalised euthanasia, the right to die will lead to its corollary, the duty to kill. The implications of that are horrendous. I can make them known to any member who cares to listen, as I have sought to expand this particular thought. Further, I have made a detailed study of what has happened in Holland. It makes most illuminating reading for any member who supports this bill. The third reason the Christian Democratic Party opposes the bill is that the most vulnerable would be at risk.

We reject the referendum proposal because essentially it means that the most vulnerable would be in mortal danger, and the elderly, in particular, would be at great risk. The fourth reason is that legal euthanasia sends out the wrong message. It tells people that some lives are not worth living. That is the clear message being sent out by a society that enacts assisted-suicide legislation. We do not believe that to be true. The fifth reason is that assisted suicide is the slippery slope. For all the talk about safeguards, there can be no safeguards in legalised euthanasia. I can give full details about the Holland experiment and what doctors think about that.

Over 20 years ago I led the introduction of a special palliative care ward in the Lottie Stewart Hospital at Dundas. I already had experience in non-hospital-based, home-based palliative care work, but I wanted to see if a medical model of palliative care could be established in Sydney. There are interesting results on that work. In conclusion, the Christian Democratic Party will not vote for this bill.

The Hon. ROBYN PARKER [4.35 p.m.]: I lead for the Opposition on the Voluntary Euthanasia Trial (Referendum) Bill and state at the outset that we oppose the bill. Debates about euthanasia operate on many different levels and this bill adds a new dimension to the debate, that is, the appropriateness of a referendum. This bill is about a referendum, and our opposition is to the mechanism rather than the subject of the referendum. Were this a debate on euthanasia, perhaps members would make a decision based on their individual views. But this is a debate about the mechanism of a referendum.

In speaking on behalf of the Opposition, I will not make a case about the moral philosophy or self-determination and dignity. Rather, I will debate the procedural and administrative considerations raised in Mr Ian Cohen's bill. I commend Mr Ian Cohen for his commitment to this cause, but the Opposition cannot support the bill. I note that the Greens' election policy prior to the 2003 election included the immediate introduction of the Rights of the Terminally Ill Bill to legalise voluntary euthanasia. This bill could loosely be said to be in line with that policy, but it was not referred to in the Greens' euthanasia policy. The use of a referendum is a different issue from euthanasia. A bill on the introduction of euthanasia would be a very different debate and perhaps members would have a very different view.

Mr Ian Cohen: We had the debate last session.

The Hon. ROBYN PARKER: The issue has been debated before and I am sure it will be debated again. I look forward to an opportunity to contribute to the debate and discuss the broader issues concerning euthanasia. I have only just begun to read the vast reams of paper relating to discussions on euthanasia in this

House and other places. I would welcome the opportunity to debate the issue, but that is not the issue we are debating in this bill. We are debating a mechanism. It is a gutless way to introduce a policy. The proposal of a referendum is a backdoor way to introduce euthanasia—a means to an end. Would the New South Wales community have an opportunity to discuss and understand the issue? I think not. The referendum will be held at the same time as the local government elections, which will be held soon.

Mr Ian Cohen: The bill has been amended. The referendum would be held at the same time as the State election in 2007.

The Hon. ROBYN PARKER: Nevertheless, the referendum is the issue I wish to debate. I do not believe that this country has a great record when it comes to referenda. A referendum is not a cost-effective means to obtain a solution to this ongoing sensitive and important issue. Therefore, we cannot support its use on this issue. A referendum requires advertising costs, audits, ballot paper production, pamphlet production, computer support services, telephone inquiry services, telephone interpreting services, training and polling staff, litigation costs and overseas postal voting services, to name but a few of the expenses involved. The last referendum held in this country was the republic referendum of 1999, which cost more than \$66 million. A State-specific referendum would cost about \$20 million, and one attached to a regular election would still cost a huge amount. Apparently the referendum would be held in 2007. It is hard to estimate what the cost might be at that time. We are not talking about only the monetary cost, but also the confusion and lack of opportunity to debate the real issue.

Any legalisation dealing with euthanasia and doctor-assisted suicide must include a totally transparent process. This measure is not transparent. It is our responsibility as legislators to ensure that the wishes of patients are observed and that abuses do not occur. The history of social issues surrounding euthanasia in this country and overseas are probably well known to all honourable members, so I will not go into them in great detail. However, I will make a couple of points. The State of Oregon retained its Death with Dignity Act in 1997 after initially passing it in 1994. However, the New York State Task Force on Life and the Law undertook several assessments of the social risks of the legislation and stated:

No matter how carefully any guidelines are framed, assisted suicide and euthanasia will be practices through the prism of social inequality and bias that characterises the delivery of services in all segments of our society, including health care. The practices will pose the greatest risk to those who are poor, elderly, members of a minority, or without access to good medical care.

Physician-assisted suicide is in no way a comparable cost to palliative care in New South Wales. This State Government's record on health indicates that now is not the time to offer a limited treatment alternative, a financial way out or an incentive to end one's life. Given the cost of ongoing medical and palliative care, a patient's perception of his or her options may be influenced by financial limitations. Financial circumstances may also influence the way in which a physician-assisted suicide is presented to patients. Equality and access to service must also be considered. A Tasmanian community development committee report supports that view and states that voluntary euthanasia legislation would pose a serious threat to the more vulnerable members of our society. The decriminalisation of euthanasia in the Netherlands led to many people buying one-way tickets for what were unfortunately called death tourism packages.

This bill does not provide any guidelines as to how this so-called trial might be conducted. It does not include any evaluation process or requirement for discussion about how to safeguard against loopholes. What measure will exist to stop people coming to New South Wales to take advantage of the legislation? Given that this Government has introduced legislation to increase the poker machine tax take to cover the cost of public hospitals, perhaps it will introduce a euthanasia tax to cover the cost of palliative care. The palliative care provided in this State is very good and many medical advances have been made to ease the last days of the terminally ill. The last Coalition Government pioneered dying with dignity guidelines to help patients, relatives and health professionals to manage the suffering of the terminally ill in the most humane manner possible.

The guidelines are designed to relieve the anxiety of patients and relatives and to address the legal concerns of health professionals faced with what are described as "decisions to withhold futile treatment". They clearly state that the patients have a right to discuss and make decisions about all aspects of their treatment, including the forgoing of treatment. They also acknowledge that in treating pain drugs may be prescribed to ameliorate symptoms but in the process present a risk of shortening life. The Coalition Government also set up a research centre at the Royal North Shore Hospital and a series of pain clinics around the State, and initiated a proper training program for health professionals. Palliative care providers in country areas visit terminally ill patients at home and take care of household upkeep and personal hygiene. These initiatives are based on the principle that a good death is as important as a good life.

I am not sure that holding a referendum would address the issues confronting the community, nor am I sure that the community has grasped what palliative care and dying with dignity constitute. A referendum, with the attendant emotional debate, would not help people to understand those concepts. The issues surrounding death do not lend themselves to clear definition. Given that, establishing limits and guidelines for voluntary euthanasia is difficult, if not impossible. As a member of the Liberal Party and as an individual I believe that we should all be empowered to make decisions about our own destiny. I also believe that I should not determine how anyone else should live or end his or her life. As a legislator, I must determine how we legislate to ensure that everyone is protected. A referendum will not deal with that issue. Although I support the right of individuals to make decisions about their lives, we should ensure that our legislation recognises our responsibilities.

It is bizarre that we are talking about a euthanasia trial. If we decide it has not worked, what do we do? Do we admit that we have made a mistake and try to revive those who have died? It is like being half pregnant. How will we decide when the trial should end and how will we evaluate it? What mechanisms will be put in place? The legislation does not contain any provisions dealing with determining whether the trial has been successful and what constitutes success. There is also no guarantee that an acceptance of voluntary euthanasia will not lead to a push for involuntary euthanasia.

Some people would say that voluntary euthanasia is an expression of the right of people to take decisions about themselves for themselves. Indeed, that is my philosophy. Whilst some would say that euthanasia gives expression to the value of autonomy, euthanasia is not simply about an individual. Euthanasia is not about personal autonomy or individual rights. If it were, it would not be euthanasia. By definition, it involves other people. As legislators we must ensure that we do not go down a slippery slope, and that at all times we protect everyone, not just a small section of our society. We also must ensure that our modern practitioners are experienced and trained in methods to make each patient sufficiently knowledgeable and powerful about their condition, so they are able to make decisions about themselves.

For some time I have supported the availability of advanced directives or, as some people call them, living wills. I note that South Australia, Queensland, Victoria, the Australian Capital Territory and the Northern Territory have enacted advanced directives, or natural death legislation, in some form or another. Earlier I commented on the Coalition's approach to such legislation. The purpose of it is to enshrine the patient's common law right to refuse medical treatment that is keeping him or her alive. The legislation makes it clear that medical practitioners will not be liable for action taken in such a situation. As well, it can enable end-of-life decisions to be made on the patient's behalf by a medical agent or attorney. Some of the statutes expressly provide that they do not authorise medical treatment to cause a patient's death, or that they do not authorise assisted suicide. The relevant statutes followed on from the South Australian Natural Death Act 1983, a matter we need to consider.

There are much broader issues here than those that can be canvassed in a few minutes. For that reason I find it extraordinary that we should be talking about a referendum as a means of addressing an issue that is so complex and affects so many lives. All of us can relate personal anecdotes and experiences involving death, palliative care, and people who have had terrible life and death experiences. Such experiences have a sobering and maturing effect on us. I am sure everyone would agree that it is grown-up stuff when you watch someone you love dying. It certainly focuses one's view on mortality, particularly one's own mortality.

I have observed palliative care at its very best in New South Wales. I have seen people suffering, and I have seen that suffering relieved through palliative care. When we look at those situations we ask ourselves, "What if euthanasia were possible in the case of this person?" Currently there are many such cases. People who are in favour of euthanasia speak about people who are suffering incredible pain. I feel for those people. I believe there is no such thing as a trial when we are dealing with euthanasia. We cannot trial euthanasia: we either have it or we do not. Some people would say, "It is a trial. Put your name down. In 18 months time, if you haven't reached the top of the queue, we might decide that the trial is over and your hopes, if that was your wish, will not come to fruition." What if someone participates in the trial and later we decide that there was a loophole that we were not aware of? We cannot address the matter in such a simplistic manner because it is very complex; we need to address it holistically.

If we can have a summit on alcohol and a summit on drugs, we can certainly have a summit on something as serious as euthanasia. A referendum is not the way to go, and a trial is not the way to go. As legislators we need to look at this issue from all sides. We need to look at it as compassionate, caring members representing all the people of New South Wales. We must ensure that if we decide at any point to take this step, we have addressed every issue and option, and that we have made sure it is the right decision. [*Time expired.*]

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [4.55 p.m.]: I support the Voluntary Euthanasia Trial (Referendum) Bill. It is difficult to have a trial of something like this, but how to deal with euthanasia politically has always been difficult. It is important to put checks and balances in place. While people may have a philosophical position that if a person with a terminal illness wants to die they should be allowed to die, it is difficult to legislate such a matter. In fact, I recall that my first response to euthanasia legislation was that it was almost impertinent of the court to get involved in a medical issue that should be determined by doctors. In retrospect, I suppose that arose because of the medical arrogance of a young doctor who dealt with a number of terminally ill people all the time and wondered how the strange and adversarial processes of the law could contribute to this, in the sense that they seemed so foreign to the intimacy that was needed in such circumstances.

I had intended to write a paper—although I never did so—about how to tell a person they are terminally ill. One of the most important things is to speak very slowly, and to sit in a chair so that you are below the patient in height and they look down on you, which gives them a sense of having a lot more power. You have to explain the situation to them many times, because often they are in denial and misunderstand. You also have to tell them in the company of their relatives; otherwise they misinterpret what you say to them. The idea of dying is something we do not come to terms with. Because of this, and the fact that we simply want to use all our money and technology to allow us to live forever, we distort our health priorities and demean ourselves to a certain extent. We need to come to terms with death and plan death, just as we plan life. The fact that we seem unable to do this wastes a lot of resources and human energy.

In May 1995 the Northern Territory introduced the Rights of the Terminally Ill Bill. Also in 1995 Sandra Kanck, my Democrats colleague in South Australia, introduced the Voluntary Euthanasia Bill. My predecessor, Elisabeth Kirkby, introduced the Voluntary Euthanasia (Referendum) Bill in 1996. That bill was in essence the precursor to this bill, except that it did not propose a trial but instead proposed a referendum to establish what the people of New South Wales wanted to do about euthanasia in a general sense. I believe that was a very good bill. It was supported by the Doctors Reform Society, which had always been pro euthanasia. In September 1995 the Australian Medical Association rejected that bill, and I note that the association again rejected it on 27 May 2002.

The Democrats' support for euthanasia continued. Norm Kelly, a member of the Legislative Council in Western Australia, introduced the Voluntary Euthanasia Bill in 1997. Mr Ian Cohen introduced his euthanasia bill in this place in 2000. That bill had a framework. It was criticised by the Voluntary Euthanasia Society only because it advocated the use of psychiatrists as well as doctors, which many people feel is unnecessary. Mr Ian Cohen has been persistent on this issue. This bill would establish a voluntary euthanasia trial similar to that put forward by my predecessor, Elisabeth Kirkby. Mr Ian Cohen has put the proposition that Parliament should come up with a workable solution for the 18-month trial. In a sense, that is something that is to happen in the future. This bill does not contain the framework offered in the 2000 bill.

During my research of this issue I noted a bill that was introduced in New Zealand by Peter Brown, a member of New Zealand First—which is almost as conservative as One Nation. He said it was not inconsistent with a Christian position. That bill failed by 60 to 57 votes in July this year. Voluntary euthanasia has been debated in a lot of jurisdictions. It is my understanding that Belgium and Holland are the only countries in which euthanasia is legal. However, in Oregon it is allowed under the Dying with Dignity Act. Interestingly, Oregon looks at health in realistic terms; it looks at the cost benefit of medical treatments—that is, how many years of life are achieved per dollar spent? While that policy has been criticised as rationing health care, if health care is not rationed and if each hospital case is treated with as much money as possible, health care is being rationed because the people who are not getting that health care are outside the hospital and on the waiting list. They are not being rationed in a direct sense, but they are being rationed in the sense that they will not get any treatment until they get to the head of the queue. The health care situation needs to be looked at far more honestly than we have been willing to look at it.

While I was researching this issue I noted an article in the *Medical Journal of Australia* of 20 August 1990 that claimed that 15 per cent of the United States hospital budget went on intensive care units. I would be willing to bet that that figure is a great deal higher now. Again, the cost effectiveness of that money being spent is in dispute. The fact that we do not come to terms with the fact that we are going to die and how we are going to die is a problem. When I went to Britain after working in Australian hospitals—principally at Royal Prince Alfred Hospital—I was flabbergasted when I saw patients who I thought to be curable being given a large dose of philosophy, being patted on the head and being told, "Sorry about this, you're going to die." At the hospital where I had my first job in the British National Health Service, 50 per cent of cardiac coronary bypass patients

died on the waiting list. The waiting list was for about 12 months. If you do not ration health care where it is delivered, it may be rationed in a way that is not intended. We have to look at this business of dying, and I believe the economics are important.

When I was President of the New South Wales Doctors Reform Society I was asked to attend a meeting at the AIDS Council of New South Wales to discuss the euthanasia bill introduced by Paul O'Grady in the upper House. About 30 people attended the meeting, almost all of whom were young gay men, because it was the start of the AIDS epidemic. They were acting on the premise that if somebody is dying and wants to die they should be allowed to do so, and that it was really presumptuous of the doctors to interfere in that, that the doctors should really be helping. The assumption was that it was a simple case of one person who wanted to die and some friends who wanted to help that person. I asked: What about an extended family that has a large ongoing support bill for an aged relative whose long-term care is chewing up the family fortune at a thousand dollars a week? There is a huge incentive for relatives to simply say, "Well, it is your time to die—how about it?" There would be pressure on people to be euthanased. They would say, "Well, I am of no use to anybody. I feel very bad about this. I am depressed. They really want me gone."

People often want to do whatever their relatives want them to do. I remember a chap who had a brain tumour secondary to lung cancer when I was working at Royal North Shore Hospital. The question was: Would we go in and take the secondary tumour out of his brain, which was giving him hiccups—which was his main problem—or would we simply let him die? He wanted to do whatever his wife wanted to do, and his wife wanted to do whatever he wanted to do. The convoluted discussions and negotiations we had in his decision as to whether to have this operation when he was fundamentally in a terminal situation was quite interesting. He ended up having the operation and dying of respiratory complications afterwards, but that is probably by the by. The philosophic principle is that people have a right to die; they have a right to plan their end. No-one should have the arrogance to say that people do not have that right. The devil is in coming to a method in which people are not pressured into being euthanased for the convenience of their relatives.

Certainly, the first thing we should do is ask the public what it wants. It is the duty of the House to ask the public what it wants when it comes to moral issues on which everyone has an opinion. The idea that we must not ask people what they want because then we would always have to ask them what they want is nothing short of frightening. We should use the opportunity of an election to ask the public what it thinks more often. It seems to me to be absolute. I was interested that the Hon. Robyn Parker led for the Opposition on this bill. Why is this a question for parties? Surely this is a question for each member, for their conscience, for them to think about and come to a conclusion. This issue should not be decided on party lines. I am rather disappointed—I am always disappointed when parties vote together so draconically and sometimes mindlessly. Members ought to be able to have a conscience vote in relation to moral issues, which generally do not have huge party significance.

I note the rabble of interjections. The idea that a party will fall apart if the people within it vote differently is, of course, an absurd fiction dating from Ben Disraeli. This belief does not exist in America, where people of the same party often vote on different sides of an issue. It is perfectly reasonable that they should. In fact, it would considerably improve the decision-making in the House. Since becoming a member of this House I have looked at the administrative arrangements for transplants, although that issue has not come before the House by way of legislation. I have also introduced a bill for living wills, which gives substance to the ability to plan death, which I have mentioned in this contribution. I did not take up the issue of euthanasia because I wanted to get the living wills legislation through the House. I did not want to muddy the waters on that issue. It is a question of taking control of withholding active treatment rather than actively during euthanasia. In other words, let us take one step at a time. That is why I dealt with living wills before I moved onto euthanasia. I still think it needs to be looked at.

I refer to a practical experience from my medical practice. I did a locum some distance away. When I arrived I was told that an old Dutchman who was terminally ill was coming home on Wednesday and wanted to die at home. He wanted his family around him, he wanted to die on the Wednesday and he wanted a home visit from me. I was asked whether that was okay. I said, "Yes, you can have a home visit from me." I then realised what the secretary really meant: she meant it would cause great inconvenience to the family if he was not dead fairly soon after Wednesday. Wednesday came around and I went to this man's house. He was strong willed and very sick. His daughter had come and he was waiting for his son. His son did not come and the man became quite distressed about that. He said, "Well, never mind, we had better get on with it." He walked into the bedroom—which he was barely able to do—and lay there waiting for his injection. I gave him a very small injection of morphine and he died immediately. I am quite sure that the injection of morphine was too small to have killed him. He had gone home to die, he intended to die, he wanted his family around him, his son had not

turned up to the event, and he then rolled over and died. He was terminally ill with lung cancer—there was no doubt about his diagnosis or situation. I do not believe that my injection killed him, but I do believe that this man was in control of his destiny.

My sister-in-law had a long struggle for more than 11 years. She was first diagnosed with a tumour in her brain, but the primary, which was in her thigh, infiltrated her pelvis and back. For a number of years she stoically suffered considerable pain. She wanted to die at home because she had a competent general practitioner and a well-organised support team. She was conscious and very much in control of her own life until her last couple of days. Unfortunately, her general practitioner was away, so she went reluctantly to her local hospital. I say reluctantly because the palliative care facilities at that hospital were poor and, although the doctors were good medically, they were not known to be overly sensitive to those who were dying.

My sister-in-law was put on a subcutaneous morphine drip for pain management. However, the drip was not set at a sufficient level to treat her pain. Her relatives were keen to increase the level so that it would ease her suffering and, if she died, so much the better. I said to the young resident that my sister-in-law had been dying for 11 years and knew she would die in the hospital. I asked the resident to increase the level of the drip to ensure she did not have pain, stating that if she died it would not really matter. The resident was horrified and told her boss, who was upset when he discovered that the drip was set at a rate faster than the desired rate, and we had a confrontation about that.

The notion that palliative care can fix everything is incorrect. Palliative care is not well delivered and is generally expensive because it requires hospitalisation. Although hospices are available, there are not sufficient of them to deal with demand. I believe there is a place for euthanasia but it should not be a cheap option to the provision of palliative and good medical care. We should consider end-of-life planning, and a living will is an important part of that. Euthanasia is not commonplace, but it has a place. The ending of one's life should not be hurried. We should take the first step of conducting a referendum to gauge public opinion. The procedure included by the Hon. Ian Cohen in his 2001 bill has not been duplicated in this bill. That omission illustrates the difficulty with establishing the correct procedure, but the first step should be to seek the opinion of the public, who in turn entrust members of Parliament to follow that opinion. The bill is perfectly reasonable and ought to be supported.

Reverend the Hon. FRED NILE [5.13 p.m.]: As Reverend the Hon. Dr Gordon Moyes said, the Christian Democratic Party opposes the Voluntary Euthanasia Trial (Referendum) Bill. The bill, if passed, would require the holding of a referendum to determine whether the people of New South Wales approve, in principle, of a legally and medically supervised trial of voluntary euthanasia for a period of 18 months. Not all members would be aware that on Wednesday 13 March 2002 extensive debate was held over a number of days on the Rights of the Terminally Ill Bill, a euthanasia bill, introduced by the Hon. Ian Cohen. At the conclusion of that debate 26 members of this House voted against the bill and only 9 members voted for it. A number of the members who voted for the bill are no longer members of this House, but I can advise that the members who voted for the bill were the Hon. Ian Cohen, the Hon. Dr Arthur Chesterfield-Evans, the Hon. Richard Jones, the Hon. Ian Macdonald, the Hon. Peter Primrose, Ms Lee Rhiannon, the Hon. Carmel Tebbutt, the Hon. John Jobling and the Hon. Janelle Saffin.

One could ask why we are again debating euthanasia, albeit that it is dressed up as a referendum bill. I believe the Greens have changed their strategy to legalise euthanasia in New South Wales. The Greens persistence in promoting euthanasia in this House is indicative of its obsession on this issue. The Greens support heroin trials and the legalisation of drugs, and that makes them a pro-drug party. I have suggested that the Greens could also belong to the pagan party because of their opposition to the Legislative Council's daily prayers. Other members have suggested that they could belong to the watermelon party—green on the outside and red or a little pink on the inside. We should now ask whether they are the anti-life party because they have strong views in support of euthanasia and abortion.

During the recent debate on the Drug Summit Legislative Response Amendment (Trial Period Extension) Bill the Greens claimed they want to save lives, but now they have taken an inconsistent approach. Now they want to end people's lives. Their position should be examined, and on behalf of the Opposition the Hon. Robyn Parker has done so by focusing on the referendum aspect. What is the real political objective of the Greens in introducing this bill? The bill deals with euthanasia, but I believe the political objective is to assist the Greens at the next State election. The Greens could run a twin campaign suggesting "Vote 1 Greens: Yes for euthanasia." This could soften reaction to the extreme environmental and unpopular policies of the Greens. It would provide the Greens with a new image for the State election in 2007. Perhaps we will see banners, placards and rallies that will make euthanasia an emotional political issue at the next election.

The Greens would then have a major advantage because members of the Liberal Party, the Nationals and the Labor Party would be given a conscience vote and would not present a party position. The matter would be left to individual members. The community has been, and always will be, confused about euthanasia because, quite naturally, they do not understand it. Indeed, a lack of party policy could lead to an emotional response, such as that demonstrated in Queensland in the case of Nancy Crick. No-one wants any person to suffer extreme pain, but support for euthanasia is a knee-jerk reaction. Reasonable people would suggest that the solution is the provision of more skilled palliative care to ensure that people do not suffer pain from cancer or other diseases. If people do not believe there is another solution, they will turn to euthanasia.

Some time ago during the national debate about the euthanasia policy in the Northern Territory I visited the Northern Territory. During that visit I found that no palliative care was available in the Northern Territory. The Northern Territory Government was anxious to promote euthanasia but it had not allocated any funds for palliative care. To me that was an inconsistent approach and only helped to confuse people. People think there is no option if no palliative care is available. People in the Northern Territory felt that the only option was to accept euthanasia.

One matter that has been understated in this debate is that the Greens are now keen to use the democratic process and hold a referendum. They already know that if a referendum is handled emotionally, most people will vote for euthanasia, because they claim that surveys already show that 70 per cent of people support euthanasia. My argument is that people would not know what they were supporting; they would not understand the referendum question, and it would be a knee-jerk reaction. However, on the basis of that 70 per cent, it is possible that the referendum would be carried, and we need to face that possibility.

The Greens are keen to use a referendum to decide government policy. Following the terrorist attack in Bali, and the first anniversary of the attack last Sunday, there has been a big debate about whether such terrorists should receive the death penalty. I know it has been raised in Federal Parliament whether the Federal Government should have advised the Indonesian Government, "We oppose the death penalty because it is not part of our government processes in Australia." Nevertheless, the Federal Government rightly, I believe, left it to the sovereign state of Indonesia to make a decision based on its laws.

If the Greens are so keen to hold referendums, would they be prepared to promote a referendum on the death penalty for, say, killers who take the lives of innocent civilians in a terrorist attack, or killers who deliberately murder a police officer carrying out his duties? What would be the answer from the Green party? I think we all know the answer: a resounding no. But it is a double standard. The Greens are saying, "Let us hold a referendum on this so-called soft issue, which we might win, but let us not allow the people of New South Wales make any other decisions, especially when we know from surveys that the majority of people in this State are in favour of the death penalty." If someone were to have passed a bill to that effect, he or she might be confident of winning a referendum if one were held.

As I said, people are confused about euthanasia, and it will probably never be adequately explained through education programs and so on. Some people have said—and I accept that the Opposition has taken this position—that we are focused on the issue of the referendum, but we need to take into account that the referendum is about euthanasia. My main opposition to euthanasia in any form is that no-one knows how to make it absolutely safe, absolutely free of abuse by doctors, family members or even governments. I remember hearing reports from the United Kingdom—the United Kingdom does not officially have euthanasia—of elderly people who have gone into hospital concerned about instructions written on their charts by the national health system. Apparently the charts of patients are marked with various codes, one of which means "not to be resuscitated".

Patients in some United Kingdom hospitals do not know that their doctors have decided that they are not to be resuscitated. The doctors do not tell the patients. The code is understood by the nurses and doctors who may be on a different shift. That is the danger associated with going down this particular path. The Greens are opposed to dictatorial governments, unless it is a Green government I suppose. However, we must always take into account that governments can make decisions. In terms of legal euthanasia, the Government could argue that the cost of health care for elderly people who are ill justifies the taking of people's lives, thus freeing up beds in hospitals and so on.

A report on television only last night brought to attention the fact that a major hospital in Melbourne was conducting tests on pregnant women to see whether their unborn babies had any defects and then informing the expectant mothers that their children could potentially have a disability when born. The reporter further

stated that 98 per cent of the mothers who had the test then had an abortion. People could argue that such a practice would save money, as a disabled person would not be born and the parents would be saved the anguish of trying to care for the baby. On some occasions the baby would be born. Most babies are born healthy, and we hope that is the case for all babies. However, in some circumstances a baby is born with a disability, for various genetic reasons. The parents love and care for that baby when it is born, regardless of any disability.

If a woman knows that her unborn child may be born with a disability, there is a temptation for the doctors to say, "We would advise you to terminate the pregnancy." A mother would be in an emotional state when she is given such information. I believe that opening the door to euthanasia would lead to those potential dangers. As the Hon. Dr Peter Wong and others concerned about the medical profession said, doctors may change their role. The aim, job and culture of doctors is to save lives. It would be a dangerous situation indeed if doctors at one end of a hospital insisted on saving lives while doctors at the other end of the hospital said, "We are prepared to practise euthanasia in these special wards." The doctors who practise euthanasia would lose the care and love they usually exhibit when caring for patients at every stage of illness. It is important that this bill is soundly rejected. I hope it is rejected by an even greater majority than that achieved when legislation of this nature was last before this House. Rejection of this bill would not only reject the euthanasia proposition; it would also tell the Greens that we are awake to their strategy. Honourable members who are tempted to support euthanasia should tell the Greens, "I will not give you a free kick at the next election and therefore I will vote against this bill." I urge all members of the House to oppose the bill.

The Hon. DAVID CLARKE [5.27 p.m.]: I am, and always will be, opposed to the legalisation of euthanasia. I am opposed to a referendum on the issue being put to the people of New South Wales. Therefore, I am opposed to the Voluntary Euthanasia Trial (Referendum) Bill, which has been introduced by Mr Ian Cohen on behalf of the Greens. The Parliament of New South Wales is here to make laws for the good government of the people of New South Wales. We are here to make decisions, and quite often hard decisions. We are not here to avoid our responsibility by flicking to a referendum any question that may be emotive, that may involve questions of life and death or that we may think is too difficult to deal with. If that were the case, we would be referring dozens of matters to a referendum every year.

This Parliament would become the Pontius Pilate of the twentieth century, washing its hands and passing decisions to someone else. The Greens are proposing a referendum on this issue because they know full well that the members of the New South Wales Parliament will not vote to legalise euthanasia. And members of the New South Wales Parliament will not vote to legalise euthanasia because we all know that this matter raises serious ethical and moral questions. At the end of the day we are not prepared to legalise a procedure in which it cannot be guaranteed that the person wanting to bring his life to an end has given genuine consent. There is deep concern about what is called the slippery slope effect, concern that the process will inevitably lead to the position that people whose lives are terminated have not given genuine consent.

This is one of the main reasons that many members will not support the legalisation of euthanasia. The Greens know this full well. Therefore, they seek to convince us in order to vacate their responsibilities and to flick this issue to a popular vote via a referendum. The Greens, knowing they will not succeed with their crusade for legalised euthanasia, are trying one last throw of the dice: a referendum. Incidentally, I happen to believe that if this matter went to a referendum a majority of citizens would vote to reject legalised euthanasia, just as I believe the electorate representatives in this Parliament will reject it today and will continue to reject it in the future.

The Greens are very choosy about what they want to put to the electorate via a referendum. They are very selective indeed. For example, opinion polls show that a clear majority of Australians support the reintroduction of the death penalty for certain offences. Would the Greens favour that question going to a referendum? I do not think they would—a point made very clearly by Reverend the Hon. Fred Nile. Opinion polls show that a majority of Australians have very strong ideas on immigration. Would the Greens be prepared to support legislation for a comprehensive referendum on immigration related matters? We know very well they would not.

I am opposed to the legalisation of euthanasia. I will never vote for its legalisation. I am opposed to it for a whole range of reasons—ethical, moral and medical as well as numerous practical considerations. An overriding consideration for many who oppose the legalisation of euthanasia is the concern—and the very real concern—that there is a distinct possibility, and indeed a probability, that it would expose the sick, the vulnerable and those in pain, physical and psychological, to the risk of non-voluntary euthanasia. There is the concern that such people would be exposed to the possibility and, as events have established, the probability that

their lives would be taken without their consent or even without their knowledge. This is referred to as the slippery-slope effect, and it is a very real concern indeed. Events around the world have established beyond doubt that the fear of the slippery slope effect, the fear that euthanasia will extend to claim people who gave no real consent at all, is a stark reality already.

For example, in 1991, euthanasia practices in the Netherlands were scrutinised in the so-called Rummelink report. The report was based on medical statistics for the 1990 year. The report found that in 1990 there had been 2,300 instances of euthanasia—using the following narrow definition of euthanasia: the active termination of life upon the patient's request. This amounted to 1.8 per cent of all deaths in that year. However, a very different picture emerges when the report took into account cases that involved the taking of life without a request to do so, cases where life was intentionally shortened either partly or completely explicitly. The report established that there were 23,359 cases of doctors intending by act or omission to shorten life. The conclusion was that up to 20 per cent of deaths that year were cases of euthanasia. It established that a high percentage of persons were killed by doctors when no genuine consent had been obtained. The evidence points to it being a majority of cases.

A 1996 report found that since the 1991 report the practice of ending life without the patient's explicit request "seems to have decreased slightly". What an indictment of the safeguards in the Netherlands—a statement that the practice seems to have decreased slightly. In other words, it was quite clear that the concept of medical murder was well and truly entrenched in the Netherlands; it was a well and truly established practice. A further report in 1999 showed that strict safeguards established by the Royal Dutch Medical Association to control euthanasia were being ignored. In his 1997 book *Euthanasia Examined* John Keown wrote:

The evidence indicates, consistently with that unearthed by others, that the Dutch euthanasia experience lends weighty support to the slippery slope argument in both its forms. Within a decade, the so-called strict safeguards against the slide have proved signally ineffectual; non-voluntary euthanasia is now widely practised and increasingly condoned in the Netherlands.

A survey carried out in 1998 in the United States of America of doctors involved in the 10 specialties in which requests for euthanasia are most likely to be received found that 54 per cent of requests for a lethal injection were not made by the patient but by a family member or partner of the patient. All States in Australia regard euthanasia as murder. However, 19 per cent of medical practitioners who responded to a survey in South Australia in 1994 admitted they had ended human life deliberately and on 49 per cent of those occasions they had done so without the patient's consent. What an indictment that is—49 per cent of those occasions were without the patient's consent. How much worse would the position be if euthanasia were legalised. A certain proportion of doctors would want to push the legal parameters of euthanasia even further.

With regard to road safety, if the speed limit for motor vehicles is 60 kilometres per hour, a certain percentage of drivers will knowingly breach the law and exceed the limit. If the speed limit is increased to 120 kilometres per hour, a certain proportion of drivers will still be prepared to break the speed limit. Thus it is with legalised euthanasia. There will always be those medical practitioners willing to push the limits and, in many instances, doing so without the patient's genuine and considered agreement. What a tragedy, what a perversion of the Hippocratic oath to save lives. How can we safeguard against a practice already widely prevalent, especially in the Netherlands, of people having their lives terminated without genuine consent? The answer is, we cannot. I refer honourable members to comments made by the Premier in a parliamentary debate on the issue on 16 October 1996. He had this to say:

But the challenge for us as legislators is whether it is remotely possible to codify in statute form the circumstances in which a life can be legally extinguished. Is that possible? Is it possible to reduce to black and white law on the pages of a statute book the circumstances, and the safeguards, in which we would allow the taking of a life? I have spoken to many experts, people engaged on both sides of this argument, and what has shaken my bottom line conclusion is the view that it is not possible to codify in a law the safeguards, the circumstances, in which the extinguishing of a human life would be possible.

The Premier went on to say:

It is possible as well that over time the community would become desensitised to the practice of euthanasia and compliance with the legislative safeguards would be less closely monitored.

If the taking of life on request by someone who is ill or suffering pain is to be regarded as a basic human right, why should this so-called right not be available to everyone, regardless of whether or not they are ill or suffer pain? The inevitability is that the slippery-slope effect of legalising euthanasia will eventually lead to it encompassing virtually everyone in our society. These facts are clearly comprehended by parliaments and parliamentary inquiries throughout the world. Virtually every government inquiry into euthanasia throughout the

world has come down firmly against the legalisation of euthanasia. The view formed by those inquiries was that the problem of later extensions to include people who did not want their lives ended could never be eliminated.

I oppose the legalisation of euthanasia for a multitude of reasons, only a few of which I have dealt with today. I will never change my view on this matter. As a member of this Parliament I am not going to shift responsibility for this issue elsewhere. Therefore, I will vote against this bill to allow a referendum on the issue.

Debate adjourned on motion by the Hon. Peter Primrose.

STATE ARMS, SYMBOLS AND EMBLEMS BILL

In Committee

Consideration resumed from 18 September.

Consideration of amendments Nos 5, 6 and 7 of the Hon. Peter Breen postponed.

The Hon. PETER BREEN [5.40 p.m.], by leave: I move my amendments Nos 13 and 14 in globo:

No. 13 Page 4, line 36 to page 6, line 5. Omit all words on those lines. Insert instead:

7 Unauthorised use of State arms and State symbols

- (1) A person must not print, issue or use the State arms or a State symbol in connection with any trade, business, calling or profession, or the collection of debts, without the authority of the Governor or Attorney General proof of which lies on the person.
- (2) This section does not require any such authority for a person to fly the State flag.
- (3) In this section, *State arms* and *State symbol* include any arms or symbol so nearly resembling the State arms or a State symbol as to be likely to deceive.

Maximum penalty: 100 penalty units.

No. 14 Page 6, lines 9 and 10. Omit all words on those lines. Insert instead:

10 Amendment of Unauthorised Documents Act 1922 No 6

Section 3 of the *Unauthorised Documents Act 1922* is repealed.

The Attorney General's Department has made comments about the appropriate form of the offence and has urged that the wording of the relevant section of the Unauthorised Documents Act, which has a proven track record of efficacy, be followed. I accept the comments of the Attorney General's Department. I commend the amendments.

Amendments agreed to.

Consideration of postponed amendments Nos 5, 6 and 7 of the Hon. Peter Breen resumed.

Amendments agreed to.

Clause 6 as amended agreed to.

Clause 7 as amended agreed to.

Clause 8 deleted.

Clause 9 agreed to.

Clause 10 as amended agreed to.

Schedules 1 and 2 agreed to.

The Hon. PETER BREEN: I move amendment No. 15:

No. 15 Page 10, schedule 3, lines 3-18. Omit all words on those lines. Insert instead:

The animal emblem of New South Wales is the platypus (*Ornithorhynchus anatinus*).

The bird emblem of New South Wales is the kookaburra (*Dacelo novaeguineae*).

The floral emblem of New South Wales is the waratah (*Telopea speciosissima*).

The State fish of New South Wales is the blue groper (*Achoerodus viridis*).

The bill as drafted includes unnecessarily extensive descriptions of various existing emblems when their common names and zoological names are all that is necessary or desirable. This amendment shortens the text to that effect, and I commend it to the Committee.

Amendment agreed to.

Schedule 3 as amended agreed to.

Title agreed to.

Bill reported from Committee with amendments and passed through remaining stages.

BUSINESS OF THE HOUSE

Postponement of Business

Private Members' Business item No. 7 in the Order of Precedence postponed on motion by Ms Lee Rhiannon.

PACIFIC HIGHWAY UPGRADE

The Hon. CHRISTINE ROBERTSON [5.55 p.m.]: I move:

That this House:

- (a) recognises the Government's long-term commitment to the upgrading of the Pacific Highway,
- (b) notes the significant improvements already achieved as a result of jointly funded State and Commonwealth projects,
- (c) calls upon the Federal Minister for Transport, John Anderson, to commit the Federal Government to contribute to Pacific Highway upgrades beyond 2006 and continue its partnership with the State Government.

The Pacific Highway is one of the most notorious stretches of road in this State. All honourable members are aware of the tragically high death toll on the highway over the years and agree that its upgrade is a priority for both the State Government and the Commonwealth Government. The Roads and Traffic Authority's *Community Update* bulletin of May 2003 contains the following statement:

Pacific Highway Upgrading Program

The Pacific Highway Upgrading Program commenced in 1996. Since then, it has provided massive improvements in road safety and travel times for communities, families and businesses throughout northern NSW. Lives are being saved and the number of serious injury accidents reduced.

Important milestones have been achieved, with 21 major and 19 smaller projects completed, reducing travel times between Hexham and Queensland by approximately 55 minutes. Currently, four major projects are under construction and 15 projects are being developed.

The upgrading program is boosting tourism and transport efficiency, while providing safer and more consistent overtaking opportunities. Approximately 880 construction jobs are created per year, with many flow-on benefits for local businesses. Vehicle operating costs will continue to be reduced.

Since its election in 1995, the Carr Labor Government has demonstrated a genuine long-term commitment to this vital road, which is the major route serving the North Coast of New South Wales and connecting Sydney to Brisbane. This Government has been investing \$160 million a year since 1996 to upgrade the Pacific Highway. The work on the highway has been jointly funded by the State and Commonwealth Governments, with the Commonwealth Government investing \$60 million a year. However, it has so far refused to renew its commitment beyond January 2006, when the current Commonwealth-State Pacific Highway agreement expires. That agreement was signed by this Government and the Keating Labor Government in 1996. Honourable members should have no illusions about who organised funding for the upgrade of the Pacific Highway—it was the work of the Labor Party—and this Government contributes the lion's share of that funding. The only reason the Commonwealth Government and the Hon. John Anderson contribute anything is that they are contractually bound to do so by an agreement signed by the Keating Labor Government and the Carr Labor Government.

Immediately after its election, this Government increased funding for the Pacific Highway. For five years the Greiner-Fahey regime spent, on average, \$70 million a year on the highway. When Labor came to power it immediately allocated \$100 million and one year later, in 1996, it initiated a comprehensive, long-term Pacific Highway upgrade program in conjunction with the Commonwealth Government. This \$2.2 billion project is the largest infrastructure program under way in regional Australia and this Government is contributing \$1.6 billion over 10 years. Within two years of forming Government Labor committed \$160 million a year to the upgrade. The Coalition Government's allocation was \$70 million. This Government doubled that, added \$20 million and locked in the funding for 10 years. It is the first such long-term commitment to the upgrading of the highway and it is thanks to this Government. It is not simply an investment in safety; it is an investment in the North Coast region.

Pursuant to resolution business interrupted.

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Notice of Motion No. 1 postponed on motion by the Hon. Henry Tsang.

HEALTH LEGISLATION AMENDMENT BILL

In Committee

Consideration resumed from 14 October.

The Hon. HENRY TSANG [Parliamentary Secretary] [6.03 p.m.]: The Government opposes Greens amendment No. 1, which seeks to insert a maximum penalty of one penalty unit or \$110 for the unlawful possession of anabolic and androgenic steroids. Steroids are dangerous drugs which, when abused, can have very serious side effects. The negative side effects associated with steroid abuse include what is commonly known as roid rage. As correctly outlined by the Opposition, at least two homicides in New South Wales have been linked to roid rage.

The amendment seeks to treat steroid abuse as a mere trifle that should be punished by the lightest possible slap on the wrist. Clearly, steroids are not harmless substances, and the public interest and protection of the community demands penalties that provide a genuine disincentive to engage in illicit drug use. For these reasons the amendment is opposed.

The Government also opposes Greens amendment No. 2. I am advised by the Department of Health that the type of treatment offered in drug rehabilitation and counselling programs is generally unsuitable for people who abuse steroids as the neuro-adaptive changes that occur with drugs of dependence, such as opiates, alcohol and benzodiazepines, are not exhibited by steroid abusers and the psychological changes that manifest in steroid abusers are substantially different from those caused by drugs of dependence. The Department of Health also advises that the psychological impact of steroid abuse generally dissipates with cessation of that abuse. The amendment is therefore misconceived, and the Government opposes it.

Amendments negatived.

Schedules 4 to 6 agreed to.

Title agreed to.

Bill reported from Committee without amendment and passed through remaining stages.

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Orders of the Day Nos 3 to 5 postponed on motion by the Hon. Henry Tsang.

EDUCATION AMENDMENT (COMPUTING SKILLS) BILL**Second Reading**

The Hon. HENRY TSANG [Parliamentary Secretary] [6.09 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.

This Bill proposes an amendment to the Education Act 1990 to require candidates for the School Certificate to be tested for computing skills.

This change represents another milestone in the continuum of K-12 education in New South Wales.

It fulfils the Government's commitment to ensure that, by the end of compulsory schooling, all students in New South Wales are capable and competent users of information and communication technologies.

The K-12 continuum has already seen the implementation of a full suite of K-6 syllabuses with outcomes, and a new standards-based Higher School Certificate and strengthened School Certificate.

A review of the Years 7-10 curriculum has been completed, with syllabuses to be distributed to schools this year for progressive implementation from 2005 to allow teachers time for familiarisation and planning.

Since coming to office in 1995, the Government has acted to renew and reinvigorate the School Certificate.

Mandatory external tests in English-literacy and Mathematics were introduced in 1998, Science was added in 1999 and Australian History, Geography, Civics and Citizenship in 2002.

Computing Skills assessments for Year 10 are currently being trialled in our schools, with over 580 schools taking part this year.

Mandatory Computer Skills testing will be implemented as part of the School Certificate in 2006.

The new Years 7-10 syllabus contains a strong emphasis on using information and communication technologies and the mandatory implementation of the Computing Skills test in 2006 would be well-timed.

This Bill achieves the objective of requiring a mandatory Computing Skills test in government and non-government schools by amending the Education Act 1990.

Section 94 of the Act prescribes the requirements for the award of the School Certificate.

This section currently mandates state-wide tests in English-literacy, Mathematics, Science and Australian History, Geography and Civics and Citizenship.

This section also determines the effective dates from which these tests were to be conducted.

Schedule 1[1] to the Bill adds a further state-wide test in Computing Skills to those already specified at Section 94 of the Act.

Schedule 1[2] sets the timing of the mandatory status of the test in Computing Skills to have effect from 1 January 2006 or, if a later date is deemed necessary by the Minister after consultation with the Board of Studies, that later date.

This Bill represents the fulfilment of the Government's plan to strengthen the School Certificate.

Placing an external examination at the end of Year 10 will demonstrate the importance with which the Government views the acquisition of computing skills by students prior to them proceeding into Year 11 and studying for the Higher School Certificate.

I commend the Bill to the Legislative Council.

The Hon. CATHERINE CUSACK [6.10 p.m.]: We are living in times that in decades to come will be known as the information revolution. Its social and economic significance is yet to be fully recognised. One thing we do know is it is transforming the lives of every person and potentially every living thing on this planet. I recall in 1994 the former Director-General of School Education, Dr Ken Boston, commenting that the industrial revolution was driven by the invention of coal powering transport and factory machines. He said that education is to the information revolution what coal was to the industrial revolution. In other words, education—particularly public education—is fuelling our ability to transform our world using amazing scientific innovations and technology. If we accept the enormity of the information revolution and the irreversible implications for our future, Australia's future and, more particularly, our children's future we have a choice: we can sit in the driver's seat of positive change and new opportunities for the future, or we can be dragged along behind change and suffer all the cuts and bruises that come with choosing to be victims of difficult circumstances.

The Education Amendment (Computing Skills) Bill continues the reforms of the Greiner and Fahey governments to get in front of change through curriculum reform and investment in education technologies. There were many reasons for this progressive approach, which was turned into policy through the Scott and Carrick reports, and summed up under the banner "Excellence and Equity in Education". The Coalition initiated the Technology High School Program and, in partnership with business and industry, it created a whole new concept in building and teaching with the purpose-built Cherrybrook Technology High School. The Board of Education, established by the Coalition to take the politics out of the curriculum and enable a collaborative approach by experts in education, devised a new curriculum that reflected technology and the new demand for skills and critical thinking that equip our children for lifelong learning. Under the reforms implemented by the then education Minister, Virginia Chadwick, the concept of key learning areas, including technology, were implemented in school curriculum development. Our schools were equipped with the Otis computer system, and recognition was given to the emerging need for teacher training and school support.

The Opposition supports this bill, but notes that it is not possible to simply legislate curriculum outcomes and student achievement. I have every confidence that our children can not only learn but excel in personal achievement beyond the expectations of their parents and teachers, provided they are accorded their right to a positive learning environment. The responsibility to provide this environment lies with the parents and schools who, again, I have every confidence are up to the task. But for their achievements to bear fruit the Government must assume the greater burden of ensuring that the achievements of this bill correspond with its aims. The Government must do this not merely through enacting the bill, but also through providing it with the necessary support.

As computer skills become an increasingly pivotal part of the education process, there will be even more computers appearing in schools. The Government must ensure that there are adequate security measures in place to protect the new technology. The installation of very expensive computer equipment in school computer rooms requires a realistic, proactive security strategy to protect taxpayer property and student work. Vandalism and theft of school property are already significant problems. It is important that the Government takes the necessary steps to prevent computer equipment from being damaged or removed so that it may be both accessible and operable for student needs. It is also important to establish a safe atmosphere for students so as to prevent a criminal mentality from diffusing through the school environment. We do not want our children to be exposed to criminal activity, nor do we want them to be vulnerable to the kind of example set by thieves. Ideally, students should be in a position to utilise and value the technological resources they have.

There is no question that technology has run way ahead of the qualifications of our teaching staff, most of whom are my generation or older. Many of the teachers handling these subjects are self-taught. The Government relies excessively on teachers' interest and their self-development initiatives, and a number of them sometimes find themselves challenged by the level of accomplishment of their students. It is therefore vital that the Government provides appropriate training and support for those teaching computer skills and other courses in the curriculum. Computers are a quickly developing field and it is important that the Government's commitment to promoting computer skills receives ongoing support. This means that as far as possible the Government should make sure that computer systems are being updated and are keeping abreast of continual technological advancements. Because old methods and equipment are constantly being superseded, it is imperative that computers are kept up to date. To neglect this responsibility is to render the computer skills education program, much less the objectives of this bill, completely useless.

It is well known that schools often develop at different rates—some have the resources to keep up with new technology, while others lag far behind. Sometimes rural schools are left behind as far as access to newer and more expensive hardware and software is concerned and, therefore, they receive a poorer level of educational support compared to their city equivalents. For example, country schools may need additional help to compensate for the problem of having slower Internet access. I note that the Government is providing assistance to areas such as Monaro, where prior to the last election 17 public schools were assisted in the form of a regional and rural technology fund. I seek the assurance of the Minister that this program will be expanded in recognition of the special challenges in rural communities. Indeed, my major anxiety in relation to this bill is the need to ensure that the gap between city and country is narrowed and not widened.

The Government must also act to prevent a gap developing between private and public schools in relation to their access to new technology. Perhaps the most important consideration with regard to the bill is to make sure that new computer technology does not create inequality among individual children. Children already start school with different levels of computer knowledge, depending on their home situation. The Government must ensure that schools operate in such a way as to prevent this inequality from becoming further ingrained at

school. Computers are increasingly vital for all occupations and for this reason we should take care to see that the increased emphasis on computer skills does not allow any child to fall further behind. Rather, it is an opportunity to assist those who for various reasons external to the school environment face greater challenges in learning.

Computers offer exciting possibilities for our children's future. The bill embraces the spirit of technological reforms in education that were keenly pursued under the Greiner and Fahey governments. However, in this information revolution the Government has an obligation to support its dedication to advancing education with other measures. It must provide a secure environment for expensive technology, and also regular updates and repairs for their computers. Support for teachers is absolutely crucial. However, perhaps most importantly, the Government must make certain that educational resources are equally available and that all children have an equal opportunity to have access to new equipment and to computer repairs.

The Board of Studies should take special steps to monitor the outcome of this legislation by looking at the results of testing. There should then be a method of reporting this information back to the Department of Education and Training because, of all areas of learning, technology is one special area where there is a huge cost involved. It is not the traditional situation of students sitting in front of a teacher with a blackboard behind the teacher. A huge amount of money is involved. There is the potential to dramatically magnify inequality in technology education in a way that just does not exist in other areas of the curriculum. For this reason, I call on the Government to consider, through the Board of Studies, monitoring the equity of outcomes across the system between public and private schools and between rural and metropolitan schools, in particular.

Ms LEE RHIANNON [6.19 p.m.]: The Greens also recognise the vital role that computers play in the working and social lives of all Australians today. However, we acknowledge that access is a problem and that should be a central consideration in this bill. School students who are not equipped with basic information technology skills will face an uphill struggle in the jobs market. We fully support any moves to improve the computer skills of schoolchildren in New South Wales. However, the Greens are concerned that this bill puts the cart before the horse. The Government is rushing to provide a tough School Certificate test but it has not yet ensured that all high schools have the resources to enable students to pass that test. A similar situation applies to this bill. The Government is introducing new methods of teaching computer skills, with its plan to make computing a key part of every high school subject. However, it is doing this before ensuring that every high school teacher can teach those skills.

Before introducing the new School Certificate examination or setting a 2006 deadline the Government should first make sure that all schools have enough computers and resources to ensure their pupils can master the skills. In particular, priority should be given to resourcing public high schools in rural, regional and disadvantaged urban areas. Otherwise, the Government may simply reinforce and entrench the inequities between public schools and private schools. While elite private schools students might use a laptop in every class, public high schools students will still be sharing a computer between two or three students. Those elite private school students may learn French and computing at the same time in one class but public high schools may only have one computer room so that in most circumstances students studying French will not have access to computers during their French class. Until resources are fully in place this bill will hurt, rather than help, many students. Students from rich private schools will succeed but in many cases students from poor and rural State schools will struggle.

The New South Wales Teachers Federation has acknowledged this. When the new teaching methods were first flagged by the former Minister for Education and Training, John Aquilina, the Teachers Federation asked for the implementation to be delayed until 2006, but we believe even that date is likely to be too soon. Unless the Government can give a clear guarantee that all schools will be fully resourced with information technology equipment and training, the 2006 deadline will be further pushed back. The current Minister for Education and Training, Dr Refshauge, when speaking to this bill in the lower House, gave vague assurances that resources were being put in place. The Greens want to see the resources first and the testing second. The mere introduction of tests does not help children learn or obtain the necessary skills. Good teachers and plentiful resources will make the difference. Our schools already have many good teachers but we would attract more if we paid them a decent wage. The Greens believe teacher salary demands are central to this issue. Many schools have received computers but more resources are required. We believe that the Government has its priorities wrong. The Greens will not support the bill until the Government provides more computing resources and more support for teachers, including their well overdue pay rise.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [6.23 p.m.]: The Australian Democrats support the Education Amendment (Computing Skills) Bill. I was surprised to learn that this measure requires a change to the Education Act.

The Hon. Christine Robertson: All testing has to be in the Act.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I did not realise that. I thought these matters were delegated to curriculum committees. Delegation is obviously the flavour of the month because Neville Newell introduced this bill on behalf of the Minister for Education and Training. Far be it from me to suggest that if the bill is important the Minister should have introduced it, but I may be prejudiced. It is interesting that this measure has not been examined until 2003. I am concerned that the availability of computers in the public sector is far inferior to their availability in the private sector. Perhaps the lack of examination relates to the fact that students lack computer competence because they have had insufficient access to them. It is true that more wealthy families now have computers at home and that libraries have done their best to fill the gap. However, if a significant number of students do not have access to computers at home and a number of them wish to use the local library at the same time the situation may be unsatisfactory.

Prior to the estimates committee hearings I asked the Minister how much money was spent on software licences. When I wanted to enrol my son at the local public school, the parents and citizens association, which had raised considerable funds, and the principal had a discussion because the principal was asking, cap in hand, for an augmented budget. The school computers were Apple computers of varying ages. The principal was asking for an extra \$15,000, a considerable sum for a small school, over and above the Government's allocation and the money raised by the parents and citizens association. I live in a relatively wealthy area so it is a relatively wealthy school but, even so, parents are putting their hands in their pockets to provide sufficient computers for primary school students. Presumably, the situation must be drastic in poorer areas.

During the estimates committee hearings I asked about the amount being spent on software licences. Most are Windows software, which is licensed through Microsoft. I asked whether source codes are made available for public school software. Although this is not free, it tends to be cheaper than Windows-based software owned by Microsoft and its derivatives. This software is generally written for the public good by people who want to pool the intellectual resources of the world to make it a better place. That is a different motivation from the standard that is almost the religion of commerce—that is, if people do not want to make a profit they are mugs. With the new pricing policy concept in economics, the price is what the market will bear. It bears no relation to the production costs.

I asked 15 departments how much money is being spent on software, but I was fobbed off on each occasion. I have since asked the Treasurer to give me a substantial answer, but he has not done so. If examinations are to be held on computer skills there must be sufficient computers to train people to do those examinations. If we are to have the appropriate hardware, we must save on software, which means we must look seriously at the public domain. I congratulate the Government on belatedly setting up a working party, but I have not had any inkling that the Government is seriously looking at how much money could be saved on public domain software. I know from my relatively limited experience that it is a huge problem, but I have not received answers from the Government on this matter. It is a problem for the whole world and Linux, the main platform for public domain software.

Germany is probably the best of the developed countries in that it is not tied to Microsoft products. America believes that Microsoft products have the best returns, making it difficult for public domain software. Linux has only a small percentage of the market but it has the potential to explode. I commend Brian's Blurb on the Google site to all honourable members. In general, the Democrats support computing skills in education. We take the point made by the Greens that there is little point passing legislation unless it is properly resourced. The Children (Care and Protection) Act is a good example that passing even the best legislation is of little benefit if its implementation is not resourced. I ask for a more intelligent approach to be taken to software and that the money saved be ploughed back into other aspects of computing. Therefore, I urge the Government to consider the matter in more detail than it has to date.

Reverend the Hon. FRED NILE [6.29 p.m.]: The Christian Democratic Party supports the Education Amendment (Computing Skills) Bill, which amends the Education Act 1990 to require candidates for the School Certificate to be tested for computing skills. I would rather look at the more positive aspects of the bill. Because the bill requires candidates for the School Certificate to be tested for computing skills, there is a greater incentive for the Government to ensure that sufficient computers are provided. Indeed, school principals and

staff will demand more computers to enable them to fulfil the legislative requirements. The bill is a positive move, even if there are gaps in the availability of computers. This bill will ensure that the Government must make certain that all schools have computers. We support the Premier's leadership in this area. The Premier has already made it mandatory that School Certificate students complete exams in English literacy, mathematics, science, Australian history, geography, civics and citizenship. I believe that those initiatives have helped to improve education standards in this State. Therefore, we support this bill and those initiatives.

The Hon. HENRY TSANG [Parliamentary Secretary] [6.31 p.m.], in reply: I thank all honourable members for their contributions to the debate. I shall quickly outline the Government's commitment to this bill. Historically, in 1996 we connected all schools in New South Wales to the Internet—the first State to do so and ahead of countries such as the United States of America and the United Kingdom. This service provides each school with a telephone line, modem and dedicated computer with appropriate software to connect to the Internet. This is supported by the training of an Internet contact person in each school. In 1996 we introduced the Computers in Schools Program, and almost 100,000 computers have been distributed to New South Wales government schools under the program. We are spending more than \$47 million per year on these computers. We have connected 165 remote and rural schools by satellite link to the Department of Education and Training's network. We have also implemented e-summer school to enable students from disadvantaged areas to gain advanced information technology skills during school holidays.

The Government is progressively implementing its \$963 million plan over four years for technology in New South Wales schools and TAFE colleges. A total of \$247 million over four years is being allocated to implement a new broadband system to increase the speed of access to the Internet by up to 30 times for schools, colleges and the department's administrative offices. Network capacity—that is, bandwidth—for the department's network infrastructure will be gradually increased through the introduction of new telecommunications services and technologies to enhance Internet access and support e-learning initiatives. To support the use of computers in schools and TAFE colleges, the 2003-04 State budget has provided recurrent funding of \$172.3 million over four years for broadband telecommunications services. By December 2004 most governments schools, TAFE colleges and other departmental facilities will have services with speeds of two megabits per second or better. I can give the House more details about the level of Government support.

The Hon. Catherine Cusack: I am interested in that.

The Hon. HENRY TSANG: I seek leave to incorporate the remainder of my speech in *Hansard*.

Leave granted.

The personalised email accounts will create new ways for students to communicate with each other and their teachers.

This project is now being trialled in 50 schools and one TAFE institute before commencing implementation. When it is fully implemented, it will be a unique system—the largest educational use of an email system in the world.

The new e-learning service will provide:

- email accounts for all staff and students,
- filtered access to the Internet,
- web hosting facilities for individuals, schools and colleges,
- student discussion groups,
- remote access from any location with Internet access, and
- a 24-hour support service for remote users.

The Web Services for Schools and TAFE e-learning initiative will incorporate world-class solutions that further strengthen the filtering of inappropriate content.

This will include filtering of email messages, Internet browsing and chat room conversations.

The 2003/2004 State Budget provided funding of \$84.1 million over four years to implement the e-learning services in schools and TAFE colleges. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

[*The Deputy-President (The Hon. Kayee Griffin) left the chair at 6.36 p.m. The House resumed at 8.15 p.m.*]

**COMMUNITY RELATIONS COMMISSION AND PRINCIPLES OF MULTICULTURALISM
AMENDMENT BILL**

Second Reading

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [8.15 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

This amendment to the Community Relations Commission and Principles of Multiculturalism Act honours a pre-election commitment by the Carr Government, to designate a Commissioner of the Community Relations Commission as a representative of youth from New South Wales' culturally diverse communities.

The amendment, in fact, goes further—it makes provision for two young people aged between 18 and 24 to be appointed to the Commission.

An increase to the number of Commissioners, from nine to eleven, will bring a considerable increase in expertise in youth issues to the Commission.

The appointment of two youth commissioners is provided for in the first two clauses of the amendment.

Since its establishment in 2001, the Community Relations Commission has been increasingly involved in addressing the needs of young people from culturally diverse backgrounds.

The Commission works with a wide range of public sector agencies on issues affecting youth as they affect young people from culturally, and linguistically diverse backgrounds.

The Commission is a government partner in the *Youth Partnership with Arabic speaking and Pacific Islander communities*.

An important feature of the Partnership with Arabic Speaking youth is the support the Commission provides to its Youth Liaison Teams.

These teams consist of Arabic speaking community members drawn from Islamic, Christian and non-denominational backgrounds.

The liaison teams carry out a range of activities including:

- Conflict mediation between young people;
- Difficulties between young people and their parents;
- Educational assistance and guidance; and, in some instances
- Courtship issues between young couples.

Twenty one Youth Liaison Team members now operate in shopping centres, railway stations, sporting venues, and other public spaces on Thursday and Friday nights in Auburn, Parramatta, Liverpool, Bankstown and Darling Harbour.

Last year, the *Youth Partnership with Arabic speaking communities* was the gold winner in the Social Justice category in the 2002 Premier's Public Sector Awards.

The appointment of two young people to the Community Relations Commission will not just give the Commission greater expertise and insights in approaching issues affecting our young people.

It will also harness the vitality, energy, and vision that our young people are capable of producing.

I commend the legislation to the House, and encourage young people to make use of this and other opportunities to become involved, and to help make decisions that affect our future.

I also commend the final clause of the amendment.

The clause enables the Commission to provide interpreter and other services, as approved by the Minister, outside of New South Wales.

This is particularly important in ensuring that the Commission has the power to market its Community Media Review as a service to promote a better understanding of our culturally diverse community.

The Hon. RICK COLLESS [8.16 p.m.]: The Opposition will not oppose this bill, and I refer all honourable members to the excellent speech on it delivered in the other place by the honourable member for Willoughby.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [8.17 p.m.], in reply: I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

COMMONWEALTH POWERS (DE FACTO RELATIONSHIPS) BILL

Second Reading

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [8.20 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

The Commonwealth Powers (De Facto Relationships) Bill proposes to refer power to the Commonwealth in relation to property and other financial resources on the breakdown of a de facto relationship. The referral has been discussed in the Standing Committee of Attorneys-General [SCAG] for some time, and this bill has been prepared in conjunction with SCAG. Following references of power by all States—except Western Australia, which has a State Family Court—de facto children's issues are now dealt with by courts exercising jurisdiction under the Family Law Act 1975. Without similar references, de facto property issues will remain outside the Commonwealth jurisdiction. This issue has risen in importance since the commencement on the 28 December 2002 of the new Commonwealth superannuation splitting regime, contained in the Family Law Legislation Amendment (Superannuation) Act 2001. This regime enables married couples to divide their superannuation interests in the same way as their other assets upon marriage breakdown.

It is not possible for New South Wales to amend the Property (Relationships) Act to properly regulate the division of superannuation interests of de facto couples along the lines of the provisions made in the Family Law Act without amendments to the Commonwealth superannuation industry supervision legislation. However, the Commonwealth has indicated that it is not prepared to make amendments to the superannuation industry supervision legislation to give effect to State legislation for the division of superannuation interests of de facto couples, either for heterosexual or same-sex couples. The Commonwealth considers that it is preferable for issues concerning the division of superannuation to be dealt with at the Commonwealth level. This will provide uniformity between married and de facto couples in the division of superannuation interests and will ensure that the treatment of de facto couples does not vary between individual States and Territories.

The Commonwealth's view is that the national interest would be best served by all States making suitable references and that referring States should enact their reference legislation in substantially identical form. This is the best way to ensure that the resultant scheme for the property of de facto couples established by Commonwealth legislation will not be vulnerable to challenge on constitutional grounds, and that the scheme operates in a uniform manner across different States. References by States to the Commonwealth would enable the provisions of the Family Law Act to apply in those States to the property of de facto relationships. De facto couples would be able to use federal courts to resolve issues relating to both children and property. Property legislation would thus apply consistently and nationally to both married and de facto couples.

Under the present regime, de facto couples in different States may have their property treated differently for no good reason. Even if States intend to enact and maintain uniform legislation, process delays can result in legislative anomalies. Such an approach would be highly complex, time consuming and impracticable. Success would in any event require a high degree of continuing co-ordination to ensure all necessary amendments to Commonwealth and State legislation were from time to time effected. These difficulties would not arise if States were simply to refer power to the Commonwealth. It should be noted that the referral bill contains separate definitions applying to heterosexual and same-sex de facto couples. This has been done to ensure the validity of any Commonwealth legislation in the face of clear indications from the Commonwealth that it intends to exercise power only in relation to heterosexual de facto couples.

In contrast, under the New South Wales Property (Relationships) Act, same-sex de facto couples have the same rights as heterosexual de facto couples in relation to the division of property on the breakdown of a relationship. Ideally the advantages of superannuation splitting upon the breakdown of a de facto relationship should be provided to same-sex de facto couples. The Commonwealth is not prepared to allow this to happen. This intransigence on the part of the Commonwealth in refusing to legislate in respect of same-sex couples is to be deplored and is clearly discriminatory. In the face of the discriminatory behaviour of the Commonwealth, the majority of States consider that it is desirable to extend the benefit of the family law property provisions to the very many heterosexual de facto couples in their jurisdictions, particularly as de factos will otherwise be denied access to the superannuation splitting arrangements that took effect at the end of December 2002. It is therefore thought preferable that a reference be made even if the Commonwealth refuses to legislate with respect to same-sex de facto couples.

The referral of power would be of obvious benefit to the very many de facto couples in New South Wales, especially those with children. Once the Commonwealth has passed legislation extending the benefits of the family law property provisions to heterosexual de facto couples, they will be able to use federal courts to resolve issues relating to both children and property upon the breakdown of a relationship. The ability to have both children and property issues dealt with by a single court will help minimise the heavy burdens and stresses that accompany the breakdown of any relationship. The referral will also provide added financial security for the many non-working and lower-income partners in de facto relationships. The majority of such partners are women. As the Australian Institute of Family Studies report *Superannuation and divorce in Australia* points out, entitlements to the wealth represented by superannuation funds is unevenly distributed between the sexes. This is not an issue as long as a relationship lasts to retirement and beyond. However, access to the benefits of superannuation are lost to many women upon the breakdown of a relationship. This has become more of an issue given the Federal government policy of promoting self-support in retirement. This has resulted in superannuation increasingly representing a greater proportion of wealth in Australia, second in importance only to the family home.

In the face of the increasing reliance on superannuation as a form of wealth, allowing superannuation interests to be divided on the breakdown of a relationship will help ensure that the future interest of all parties is taken into account on the breakdown of a relationship. This is especially so, as the Australian Institute of Family Studies report shows, given that many couples whose relationships break down do not consider superannuation among their assets upon their division of property. I commend the bill to the House.

The Hon. GREG PEARCE [8.20 p.m.]: The Opposition does not oppose this bill, which has been prepared by the Government in conjunction with the Standing Committee of Attorneys-General and proposes to refer power to the Commonwealth with regard to property and other financial resources on the breakdown of a de facto relationship. It relates to financial matters arising out of a breakdown of a de facto relationship. The referral to the Commonwealth in accordance with section 51 (xxxvii) of the Commonwealth Constitution is intended to enable the Commonwealth Parliament to make laws about such matters. Currently, de facto children's issues are dealt with under the Commonwealth Family Law Act, however de facto property issues remain outside Commonwealth jurisdiction. This matter has some currency at the Federal level and I do not propose today to address any of the issues, suffice it to say that the bill arises from the Commonwealth superannuation splitting regime that commenced last year that enables married couples to divide their superannuation interests in the same way as their other assets are divided upon marriage breakdown. However, State courts lack the power to regulate such a regime in relation to de facto relationships.

The referral of power will see the same definition applying to de facto couples as applies to heterosexual couples on separation. The intention is to enable the Commonwealth to exercise power in relation to both defined couples. With both children and property issues being dealt with by a single court, the stresses that accompany the breakdown of any relationship will be minimised and will provide added financial security for many non-working and lower income partners. The bill will also allow for uniformity between married and de facto couples and will ensure that the treatment of de facto couples does not vary between individual States and Territories. Accordingly, the Opposition does not oppose the bill.

Ms LEE RHIANNON [8.22 p.m.]: The Greens support this bill, although we are extremely disappointed that the Commonwealth will not extend its application to same-sex de facto relationships. There are clear advantages to allowing people in de facto relationships access to a nationally uniform system to deal with disputes concerning property issues. It will bring benefits to countless heterosexual de facto relationships in New South Wales. The Greens deplore the stated intention of the Australian Government to restrict this new system to heterosexual de facto relationships. This is a denial of human rights of people in same-sex relationships—a right that is being more widely recognised but, unfortunately, not by the Coalition parties. This denial of human rights betrays the shocking homophobia that is still predominant in too much of our society and in the Coalition. This bill represents a step forward towards a rational, sensible system of dealing with property disputes in de facto relationships. However, it is tarnished because it does not apply to same-sex partners. One day this bill will be extended to same-sex partners. The challenge we have before us is when that will occur.

Reverend the Hon. FRED NILE [8.24 p.m.]: The Commonwealth Powers (De Facto Relationships) Bill, which deals with the breakdown of de facto relationships, transfers powers to the Commonwealth. In recent times the House has dealt with similar provisions in other bills. Our Federal system causes tension between the Commonwealth and the States because of the deliberate intention by our constitutional founders to severely restrict the powers of the Commonwealth Government. Many people do not know why the Commonwealth Constitution is such a small document. It was deliberately designed in that way to restrict the powers of the Commonwealth. The principle was that all the powers should reside with the States, which were sovereign States before the Commonwealth was formed in 1901.

The Christian Democratic Party fully supports the Federal system in that we acknowledge the Federal Government, but we support existing State rights. Such a system maintains a balance in our democracy between the powers of the Commonwealth and the States. It is like a balancing seesaw. It is most important that one level

of government does not have all the power. The danger is that as we continue with this process, which we embarked on some time ago, the Commonwealth Government becomes more powerful and the States become weaker. The States are certainly weaker in that the Federal Government now exercises more financial control.

This bill has revealed a particular issue between the Commonwealth and State governments. The Federal Coalition Government, led by Prime Minister John Howard, strongly supports the traditional family and the traditional marriage between a male and a female. Prime Minister Howard does not believe that there should be any further promotion of same-sex relationships. However, clause 4 (1) (b) of the bill states:

... financial matters relating to de facto partners arising out of the breakdown (other than by reason of death) of de facto relationships between persons of the same sex.

This bill contains the same-sex reference because pursuant to the New South Wales Property (Relationships) Act same-sex de facto couples have the same rights as heterosexual de facto couples in the division of property following the breakdown of a relationship. The Christian Democratic Party opposed that provision, and we have opposed similar provisions in other legislation, because we believe that treating same-sex relationships—two men or two women—as equal to the traditional marriage, husband and wife, undermines traditional families. Our belief does not have anything to do with homophobia, as has been suggested by previous speakers. If there is any zeal in our belief, it is in our traditional understanding that a marriage should be between people of the opposite sex. I do not have any fear of homosexuals. I have shaken hands with them and embraced them. But I oppose their agenda and that of the Greens and the Australian Democrats, who are their political arm in this Parliament. We have had fiery debates about this issue in the past.

I congratulate the Prime Minister and the Coalition on standing firm on this issue, even though a tremendous amount of pressure has been exerted. I understand that the Hon. John Howard is the keystone to the decision. The Christian Democrats support him and the bill, which is simply an administrative mechanism. We wish the same-sex reference was not in the legislation, but same-sex relationships are already recognised in New South Wales law.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [8.30 p.m.], in reply: I thank honourable members for their contributions, and I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

POWERS OF ATTORNEY BILL

Second Reading

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [8.31 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 Powers of Attorney bill removes the statutory provisions governing powers of attorney from part 16 of the Conveyancing Act 1919 and substantially re-enacts them, with some changes, in a new Act to be called the Powers of Attorney Act. The changes are aimed at remedying problems that currently exist in practice. This bill is the result of an extensive and lengthy consultation process, which sought the views of a wide range of organisations to identify problems with the existing legislation and generate solutions. A power of attorney is a document whereby one person, called the principal, authorises another, called the attorney, to act on his or her behalf. It can be limited to authorise very specific actions, for example, signing certain documents, or it can be general, authorising the attorney to do anything the principal may legally do. It can be limited to a certain period of time, for example, where the principal is going overseas for a period.

Prior to 1983, all powers of attorney automatically terminated at law when the principal suffered a loss of mental capacity through unsoundness of mind. In 1983 the law was changed to allow a principal to make a power of attorney that continued to be effective after he or she lost mental capacity. Such a document is called a "protected power of attorney" under the present legislation, but this bill will change the name to "enduring power of attorney" to bring it into line with the name used in other States. An enduring power of attorney can be a particularly useful tool in planning for later life. It enables people to choose who

they want to make financial decisions for them when they are no longer able to do so themselves, thereby giving people greater control over their future welfare.

I will outline some of the other changes regarding enduring powers of attorney. An enduring power of attorney will not commence to operate until the attorney has accepted appointment by signing the power of attorney document. At present only the principal is required to sign an enduring power of attorney and this can cause confusion in practice if an attorney does not know he or she has been appointed. Requiring an attorney to sign an enduring power of attorney will bring the law in New South Wales into step with other States. It is also consistent with the procedure for appointing enduring guardians under the Guardianship Act 1987. It will make the attorney aware that he or she has been appointed and give him or her an opportunity to refuse to act. This is important because some people may not want to accept what can be an onerous responsibility. An attorney will also have the opportunity to obtain instructions from the principal about the principal's preferences. The new requirement will also provide a specimen of the attorney's signature for comparison by persons dealing with the attorney.

I should point out that the requirement for an attorney to sign would not apply to ordinary powers of attorney. It is considered that the requirement for the attorney to sign would make the use of ordinary powers of attorney in the business context more difficult, because companies often appoint multiple attorneys in different States. It is considered preferable to limit the requirement for an attorney's signature to enduring powers of attorney. One of the distinguishing features of an enduring power of attorney is the certificate by a prescribed witness stating that he or she has explained the effect of making the enduring power of attorney to the principal. The certificate changes an ordinary power of attorney into an enduring one, allowing it to continue to be effective after the principal has lost mental capacity.

This bill expands the category of "prescribed witnesses". Currently only a solicitor, barrister or clerk of a Local Court can give the certificate. It is proposed to add licensed conveyancers and employees of the Public Trustee or a trustee company who have successfully completed an appropriate course of study approved by the Minister. The intention is to make it easier for people to make an enduring power of attorney, while at the same time ensuring that the only people who can give the certificate are those who understand the legal effect of making an enduring power of attorney, either because they are lawyers or because they have undergone an appropriate course of study.

An important innovation introduced by this bill is to recognise enduring powers of attorney made in other States and Territories of Australia. At present each State and Territory has its own requirements for the formalities for creating a valid enduring power of attorney. This means that an enduring power of attorney made in another State currently is not valid in New South Wales, if it does not meet the legal requirement for a certificate from a prescribed witness. This is causing inconvenience for people who, for example, have moved interstate in retirement but still have property in New South Wales. It is particularly difficult if the principal has already lost mental capacity, for example through dementia, when the attorney attempts to use the power of attorney in New South Wales. The principal cannot make a new power of attorney because he or she has lost mental capacity, so the only way to deal with the New South Wales property is to have a "manager" appointed by either the Guardianship Tribunal or the Supreme Court.

Under this bill, if an enduring power of attorney is validly made in another State or Territory according to the requirements of that State or Territory, then it will be recognised as valid in New South Wales and the attorney will be able to act under its authority in New South Wales even if it does not meet the New South Wales formal requirements. These provisions arise out of the endorsement of draft mutual recognition provisions for powers of attorney by the Standing Committee of Attorneys-General in March 2000. The bill replaces the current statutory short form of power of attorney with a more comprehensive form. The new form contains more information and more choices to enable people to make a better-informed decision about what they want to authorise their attorney to do. The new form—called a "prescribed power of attorney"—will authorise the attorney to do anything that the principal may lawfully authorise an attorney to do, but will be subject to any conditions or limitations set out in the document. The prescribed form can be used to create either an ordinary power of attorney or, by having a prescribed witness complete the required certificate, create an enduring power of attorney.

The bill introduces provisions that will help clarify what an attorney can or cannot do in several common situations that have sometimes caused confusion in practice. A prescribed power of attorney does not authorise an attorney to give a gift of all or any of the principal's property to any other person unless the power of attorney expressly authorises the giving of the gift. In this regard, the proposed section provides that if a prescribed power of attorney includes a certain expression, set out in schedule 3, this will authorise an attorney to give the kinds of gifts specified in the schedule for that expression. The types of gifts authorised in this schedule are gifts to a relative or close friend of the principal on occasions such as birthdays or marriages. Or the gift may be a donation of a kind that the principal would make if he or she had capacity to do so. In addition, the value of the gift must be reasonable having regard to all the circumstances and, in particular, the principal's financial circumstances and the size of the principal's estate.

Similar provisions apply to an attorney signing any document or doing anything that would result in the attorney gaining a benefit at the expense of the principal or conferring a benefit on third parties. If the prescribed expression is used, it will allow an attorney to confer on the attorney or third party a benefit only for expenses for housing, food, education, transportation and medical care or medication. These provisions will allow, for example, a person who is an attorney for their spouse to use the spouse's money to pay for housing, food, et cetera, for the attorney and their children. The new form of prescribed power of attorney set out in the bill contains the prescribed expressions within the printed form, so that if left unamended, the attorney will only be able to do the things referred to in schedule 3 as discussed above. This will help clarify for both the principal and the attorney what the attorney is authorised to do. If the principal wants to give the attorney more extensive powers, the principal can change the form.

Another important innovation in this bill is the provision to overcome hardship which currently may be caused in certain circumstances by a rule of common law called *ademption*. This concept is perhaps best explained by an example. Say a person, a testator, leaves a will in which he or she gives a particular item, such as a car or a piece of jewellery, to a beneficiary. If the testator sells that item before he or she dies, so that, at the time the will is put into effect, the item is not part of the estate, the law says that the beneficiary gets nothing, not even the monetary value of the item. The gift is said to be *adeemed*, or lost. The law assumes that the testator could have changed the will after selling the item, to give the beneficiary either money or another object, and if the testator does not change the will the beneficiary is to receive nothing.

The ademption rule can operate particularly harshly where a testator, who has made a gift of a specific item in a will, loses mental capacity and his or her attorney sells the item under an enduring power of attorney. In this case the testator has no chance to alter the will after losing mental capacity. To overcome this situation and prevent injustice to the beneficiary, the bill introduces a provision which will entitle the beneficiary to any surplus left from the proceeds of the sale of the item sold by an attorney under an enduring power of attorney. The provision is modelled on section 48 of the Protected Estates Act, which protects beneficiaries from sales by a manager appointed under that Act to administer the estate of a protected person. The new provision will protect not only named beneficiaries but also classes of beneficiaries—for example, where an item is left to "my children".

In addition, the bill enables the spouse of a person who dies intestate, that is, without a will, to have a greater proportion of the deceased's estate, where their shared home has been disposed of by the attorney under an enduring power of attorney, and the spouse has no claim in respect of any replacement shared home. The bill also expands the jurisdiction of the Supreme Court and the Guardianship Tribunal with regard to the review of powers of attorney. At present only the Supreme Court has jurisdiction. The Guardianship Tribunal will be given a range of powers in relation to enduring powers of attorney, including the ability to review, revoke, alter, or confirm the enduring power of attorney, as well as to adjudicate on whether the principal lacks mental capacity. The Supreme Court will have the same powers in relation to enduring powers of attorney, so an applicant will have a choice of forum. Proceedings before the tribunal should be cheaper, quicker, and less formal than in the Supreme Court.

If the tribunal considers that a particular matter would be more appropriately dealt with by the Supreme Court, the tribunal may refer the matter to the court, and vice versa. Appeals from decisions of the Guardianship Tribunal will be to either the Supreme Court or the Administrative Decisions Tribunal. The bill also clears up the current uncertainty about what happens when two or more attorneys are appointed and one dies. When the attorneys are appointed to act jointly—that is, both must act together—the death of one will terminate the power of attorney. However, if the attorneys are appointed severally, that is, either one can act alone, or jointly and severally, the death of one will not terminate the power of attorney.

The definition of "incommunicate" is being expanded. At present the Supreme Court may make orders concerning a power of attorney where the principal is "incommunicate". The current definition of "incommunicate" refers to persons under such a handicap of body or mind that they are unable to receive communications about their property or affairs, or to express their intentions. The definition is being expanded to include a person who is unable to receive communications because they cannot be located or contacted. This amendment is being made at the request of the Supreme Court, as the result of a court decision where a person on a yacht at sea, and unable to be contacted, did not come within the current definition.

The changes to the law contained in this bill will, in the main, apply only to powers of attorney made after the commencement of the bill. However, there are three exceptions. First, the new provisions relating to the review of powers of attorney by the Supreme Court and Guardianship Tribunal will apply to powers of attorney that are already in existence, as well as those made after the commencement. Second, the recognition of intestate enduring powers of attorney will apply to existing powers of attorney. It is considered that these provisions are beneficial and there would be a hardship if they did not apply to existing powers of attorney. Thirdly, the provisions dealing with registration of powers of attorney will apply regardless of when they were made. Finally, the bill will commence on a date or dates to be proclaimed. This is necessary to allow time to educate the public and the legal profession about the changes introduced by the bill. I commend the bill to the House.

The Hon. GREG PEARCE [8.32 p.m.]: This bill makes consequential amendments to the Conveyancing Act to modernise powers of attorney. In my previous life as a solicitor I got to know the importance of powers of attorney. When I commenced practice they involved a convoluted document that was difficult to understand. Amendments were made to the Conveyancing Act and a more sensible form of power of attorney was introduced. This bill makes 12 technical amendments. I do not intend to refer to them individually; they have been referred to by the Minister in another place. The bill contains a few new provisions. The only real issue is that identified by the Legislation Review Committee, which has reviewed the legislation and raised a minor concern about the fact that the bill may not be enacted for some time after assent to allow an appropriate education campaign to be conducted. The committee said it would be appropriate for the Minister to put on the record a time frame for that education program. The Minister may or may not be in a position to do that tonight. My experience with the legal profession, and to a lesser extent with the public, tells me that that these sorts of amendments are taken up quickly and are appreciated. The Opposition will not oppose the bill.

Ms LEE RHIANNON [8.33 p.m.]: The Greens will also support the bill. It significantly reforms the operation of powers of attorney in New South Wales and follows the lead taken in other States.

Reverend the Hon. FRED NILE [8.34 p.m.]: The Christian Democrats will support the bill. It will modify and update the legislation relating to powers of attorney, and assist the citizens of New South Wales.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [8.35 p.m.], in reply: I thank honourable members for their contributions, and I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

CONTAMINATED LAND MANAGEMENT AMENDMENT BILL**Second Reading**

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [8.37 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 Contaminated Land Management Act 1997 provides the regulatory framework for notification, investigation, and clean-up of sites where contamination presents a significant risk to human health and the environment. It also provides for the accreditation of site auditors to ensure that contaminated land is cleaned up to appropriate standards through their independent auditing and that the land is safe to use. The proposed amendments relate, for the most part, to the provisions dealing with the accreditation and ongoing supervision of site auditors by the Environment Protection Authority [EPA] under the New South Wales site auditor scheme. The scheme forms one of the linchpins to contaminated site clean-up in the State.

Contaminated site auditors have as their primary responsibility the protection of human health and the environment. Their integrity and work quality are paramount. There can be no room for compromise in this regard. The EPA's experience with the site auditor scheme over the last five years has made the EPA aware of the need for amendments to the scheme's legislative framework. Performance reviews of auditors' work undertaken by the EPA have made it clear that the scheme as it stands has some gaps. In particular, the EPA's ability to take effective action against an underperforming auditor is constrained by disciplinary grounds that are too restrictive. This is undesirable, as users of the site auditor scheme need to have confidence in the standard of a site auditor's work and that an underperforming auditor can be dealt with decisively and appropriately.

The EPA also needs a better range of tools to be able to strategically manage a site auditor's performance. The bill will provide these tools. The possibility of making changes was first aired in mid-2002, when the EPA issued a public discussion paper on the proposed amendments. The comments received as a result of that paper and subsequent consultation with stakeholders have been considered in the preparation of the bill before the House. The Government's aim through the proposed amendments to part 4 of the Act is to ensure that accredited site auditors are of the highest calibre, and that they maintain a high professional standard during the term of their appointment. The amendments provide the EPA with better means with which to enforce this standard. This will strengthen the community's confidence in the site auditors' work and their conclusions about the suitability of land use.

The amendments will enhance the EPA's discretion to grant and renew accreditation. The EPA will be able to place comprehensive requirements on a site auditor to ensure that his or her attention is focused on crucial aspects of the audit process. The amendments also make it an offence for site auditors to indicate that they can undertake certain types of audits if the conditions of their accreditation exclude them from this work. The EPA will have discretion to refuse an application for accreditation as a site auditor if the auditor's accreditation was revoked in the past two years.

The power for the EPA to issue binding directions to site auditors will now be an express power in the Contaminated Land Management Act. Any conditions or directions made by the EPA can be applied to both statutory audits—those that are required for the purposes of a legislative requirement—and to non-statutory audits—those that are carried out for other purposes. Those provisions can be used to ensure that auditors focus on improving specific areas of their performance in conducting site audits. The proposed amendments make the grounds for revoking or suspending a site auditor's accreditation consistent with the grounds for refusing to renew accreditation.

The existing grounds for EPA action are expanded to include a number of new matters. These new matters include: if a site auditor contravenes a condition of accreditation or a direction; if a site auditor provides false or misleading information in connection with an application for accreditation or renewal of accreditation; if a site auditor's work is of an unacceptable standard; or if there are other relevant matters that make the auditor unsuitable for accreditation. I note that, to ensure procedural fairness, the proposed amendments require the EPA to give notice to site auditors of its intention to revoke, suspend or decide not to renew an auditor's accreditation, specifying reasons and giving the auditor an opportunity to respond to the EPA's decision. The response must be taken into account by the EPA.

The amendments have also given the Government an opportunity to clarify the position in relation to conflicts of interest for site auditors. The clarification will provide clearer guidance for the auditor by more closely defining "conflict of interest". In particular, it prohibits a site auditor carrying out a site audit if it involves the auditor reviewing any aspect of work carried out by the auditor or a person who is related to the auditor. This amendment will assist the users of site auditors, such as land-holders and councils, to have confidence in the independence of the advice provided by the site auditor.

The amendments also make it clear that a corporation may be convicted of the offence of knowingly providing false or misleading information in connection with a site audit. The maximum penalty for the offence is increased to \$137,500 in the case of a corporation, and to \$66,000 or imprisonment for two years, or both, in the case of an individual. This will standardise penalties for offences that apply to the scheme. Another amendment relates to the site auditor panel. Its role will now focus on advising the EPA about the suitability of new applicants only. The amendment brings the function of the panel into line with the role of the accreditation panel that is used for a similar auditor scheme in Victoria.

Finally, I draw attention to an amendment to part 3 of the Act that does not pertain directly to the site auditor scheme. It will clarify that landowners who are partially responsible for contamination can recover a proportion of their clean-up costs from any other contaminations. The proposed amendments will give the EPA improved power to regulate the site auditor scheme to ensure it continues to be robust and effective. Amendments to the Act will ensure a stronger basis for trust in the site auditor's scheme,

and in the processes used to evaluate and manage contaminated land. Local government can remain confident that its reliance on site auditors in the planning process has a firm foundation. Industry will be able to make commercial decisions with greater certainty, and the community will have greater assurance that the environment is being protected. I commend the bill to the House.

The Hon. GREG PEARCE [8.37 p.m.]: The object of this bill is to amend the Contaminated Land Management Act as it relates to the site auditors scheme. The Opposition will not oppose the bill. The Contaminated Land Management Act 1997 was a key plank of the Government's contaminated land reform package. It specifies who is responsible for investigating and remediating contaminated land and gives the Environmental Protection Authority [EPA] the power to ensure that contaminated sites are cleaned up. It also provides for the accreditation of site auditors. Last year the Government published a discussion paper on the system of accrediting site auditors and more recently it has released a general discussion paper on other aspects of the legislation.

Key provisions of the bill update the procedure by which the EPA grants and renews accreditation as a site auditor. The bill also updates and expands the EPA's monitoring powers in relation to site auditors and gives it the power to suspend or revoke a site auditor's accreditation. It allows landowners who are partially responsible for contamination to recover a proportion of their clean-up costs from other contaminators. The legislation will also assist the EPA to discipline and deregister underperforming auditors. The legislation contains a minor drawback. Some problems have emerged as a result of the manner in which local government authorities have introduced policies dealing with contaminated and potentially contaminated land. The site auditing system is cumbersome and some auditors have left the field. As a result, the State has insufficient site auditors. Apparently 23 site auditors, including eight headquartered interstate, are registered to undertake the current workload and, given that virtually all local government areas are introducing contaminated land policies, obviously more are required to deal with the pressure on the system.

The existing legislation contains no right of appeal against a decision of the EPA to deregister a site auditor, and this bill does not correct that situation. That is a potential issue in terms of denial of natural justice for auditors who are bound by this system. Notwithstanding that, the Opposition will not oppose the bill, which, generally speaking, seeks to improve the situation.

Mr IAN COHEN [8.39 p.m.]: Contamination occurs where hazardous substances are at concentrations above background levels and assessment indicates that it poses, or is likely to pose, an immediate or long-term hazard to human health or the environment. Contamination is usually caused by previous land uses, such as the establishment of airports, chemical manufacture and industrial plants, gas, iron and steelworks, service stations, waste storage and treatment, agriculture and horticulture, power stations and dry-cleaning establishments. Such land uses contaminate land through the storage, transportation, use, spillage and leakage of metals; inorganic compounds such as cyanide; organic chemicals; oils and tars; toxic, explosive and asphyxiant gases; combustible substances; putrescible material; and hazardous wastes.

Contaminated land does not simply pose a danger to the environment; it also poses a grave danger to human health. It often involves chemicals that persist for long periods and therefore will affect future generations. Another problem with land contamination is that it is often found only when a site is to be rezoned for a different land use. Of course, this means that more and more contaminated land is likely to be uncovered in the future, especially in light of the fact that in order to make cities more compact and reduce urban sprawl, governments are encouraging the rezoning of disused urban industrial sites for housing.

The potential for many of these industrial sites to be contaminated is high, and consent authorities therefore need to be made well aware of the risks of contamination. The Rhodes Peninsula development is a case in point. That development used Australia's most notorious contaminated site, the old Union Carbide chemical factory at Homebush Bay, as the centrepiece of a major urban development for more than 5,000 people and more than 3,000 units. As we all now know, Union Carbide, which sold out and left Australia in 1988, contaminated neighbouring land earmarked for redevelopment, the bay itself and parts of the nearby Olympic site.

I was a member of the committee that inquired into the contamination of that land and the foreshores of Homebush Bay, and it was a sobering investigation indeed. There has been ongoing debate about whether dredging of the bay would be an appropriate remedial process or whether the sediments underlying the bay are so contaminated that removal could cause massive impacts downstream. Therefore the decision was made to leave the land in situ. These are the sorts of problems that continually arise. So often, with the drive for development on sites such as the Homebush Bay site, too little attention is paid to the issues that are the legacies of past industrial use.

The Greens have had significant interaction with local communities on the issue. Indeed, people who live in these areas have told us that they are fearful about allowing their children to play in their backyards because the contaminants are rising through the topsoil. They certainly cannot grow vegetables or other produce. We will not know the final impact of the contamination for some years to come. Hopefully, it will not be the case that serious diseases will result from it. It is not just disused urban industrial sites, however, that are being used for housing redevelopment. Market gardens and horticultural-agricultural areas on the outskirts of cities and towns are also now being targeted.

Another contaminated area is the old ICI site, the present Orica site, in the Botany area, where a plume of chemical contaminant in the water table is slowly and inexorably moving towards Botany Bay. The residents of the area are rightly concerned about contamination of the surrounding environment and the wetland habitat of migrating bird species. The authorities have never thoroughly investigated the site. Orica needs to investigate it; otherwise we will have an environmental calamity—indeed, I think it is happening right now. I visited the site some 15 years ago, when I demonstrated against the contaminants on the site. There are signs on a car park that read "Do not pierce the asphalt". The asphalt is covering like a capping a mountain of toxic waste that is piled up over a plastic liner with a rising water table. It is disconcerting to see the sorts of legacies that these chemical industries leave for society to clean up.

Areas targeted for housing redevelopment are also often contaminated with toxic chemical residues and therefore need careful assessment before rezoning takes place. This is the responsibility of both the State Government and local councils. The fundamental goal of contaminated site clean-up should be to render a site acceptable and safe for long-term continuation of its existing use, and to maximise, to the extent practicable, the potential future uses of the site. Wherever human health or the off-site environment is at risk, a contaminated site should be cleaned up to the extent necessary in order to minimise such risks in the short and long term.

A contaminated site may, however, cost millions of dollars to clean up and it may take many years to accomplish. The cost of disposing of contaminated soil to licensed landfills, for example, ranges from \$30 per cubic metre for lightly contaminated soil to \$250 per cubic metre for heavily contaminated soil. On-site remediation is likely to cost up to \$300 per cubic metre, depending on the extent and type of contamination and the required treatment technology. With regard to the Orica site at Homebush, there has been much debate about the appropriate treatment technology to be used. There is the direct desorption method, which is effectively incineration, and the indirect desorption method, which is a much higher level of treatment. However, the indirect desorption method requires off-site removal of the material. When we investigated the situation, the material had to be moved off site to Queensland to be further processed. Added to these costs is the expense of development delays due to the remediation of contaminated land.

Reverend the Hon. Dr Gordon Moyes: What about the contaminants in the aquifers?

Mr IAN COHEN: I am pleased that Reverend the Hon. Dr Gordon Moyes has raised that matter. I referred to this in relation to the Orica site at Botany. A contaminated aquifer is slowly moving from the site, and the local community has expressed the significant and appropriate concern that they have not been properly looked after, that they are left with a toxic legacy. It is the responsibility of authorities at both local and State level, and of course the company itself, to adequately remediate the contaminated area. Frankly, I think we are dealing with a rather impossible task. The result could be sterilisation of those areas in terms of any other development or human usage. It is a serious toxic issue.

It is crucial that we ensure that our legislative framework for the management of contaminated land is effective, particularly in light of the fact that in 1997 it was estimated that New South Wales has approximately 60,000 contaminated sites, with some 7,000 sites possibly requiring remediation at a cost of \$2 billion. This bill amends the site auditor scheme provisions of the Contaminated Land Management Act. Environmental consultants are accredited by the New South Wales Environment Protection Authority as site auditors under part 4 of the Contaminated Land Management Act 1997.

The consultants are widely used by planning authorities, landowners, developers and other stakeholders, and are meant to provide certainty in the process of assessing and managing contaminated land. They are expected to do this by independently reviewing consultant reports and preparing site audit statements giving expert opinion about the suitability of land for various uses. More specifically, they are expected to review the adequacy of the investigation, remediation and validation works of actual or possible contamination of land conducted by contaminated land consultants. In doing so, site auditors are meant to provide greater certainty for the community and planning authorities that land is, or can be, remediated so that it is suitable for its current or proposed use.

While the site auditing approach has become an important component of the land use planning and development control process, there are a number of deficiencies in its legal framework. At present the EPA does not, for example, have an explicit power to attach and vary the conditions of a site auditor's accreditation or impose limitations or requirements when suspending or revoking accreditation. It is also not clear whether the EPA has the power to take the standard of work and other relevant considerations into account when deciding whether to grant, renew, revoke or suspend an auditor's accreditation or to ensure that auditors whose accreditation has been revoked cannot be recredited for any period of time.

While the current Contaminated Land Management Regulation implies that the EPA can issue directions to auditors, it does not make it clear that this is the case, or that they are binding. This is unacceptable and it is severely hindering the EPA in its oversight and management of site auditors in New South Wales. While all of these matters need to be, and will be, rectified by the amendments proposed in this bill—and the bill is therefore supported by the Greens—the Greens and the peak environment groups in New South Wales also feel that the bill provides an ideal opportunity to rectify a couple of anomalies within the Act. Those anomalies are that members of the accreditation panel hold office for an unlimited period of time and that the accreditation panel only provides for generic representation of community environmental groups.

As the House would be aware, it is now standard practice for terms of office to be limited. The House would also be aware that it is now standard practice for community environmental group representatives to be appointed on the nomination of the Nature Conservation Council of New South Wales. This is because the Nature Conservation Council is the State's peak environmental organisation, with over 130 member groups and individual supporters from across New South Wales, and it has played a leading role in the New South Wales conservation movement since 1995. I will therefore move amendments in Committee that limit the term of office for members of the accreditation panel to five years and provide for the community environmental group representative on the panel to be appointed on the nomination of the Nature Conservation Council of New South Wales.

I understand that the Government will support these amendments, and I thank it for that support. However, I also point out that while the introduction of the Contaminated Land Management Act 1997 has improved the general situation across New South Wales, further improvements can and should be made. The Contaminated Land Management Act is, in effect, managing less than 5 per cent of contaminated sites within New South Wales. The majority of contaminated land in this State is being managed through other Acts such as the Protection of the Environment Operations Act and the Environmental Planning and Assessment Act. This is because the Act provides no guidance regarding sites that are not declared to be a significant risk by the EPA but which are contaminated.

Of course this means that the management of the site falls to local councils and is dealt with under land use planning processes. This is less than ideal as councils often lack the expertise and/or resources to properly deal with the sites, and suitable remediation measures are therefore not undertaken. The major issue not addressed by the Contaminated Land Management Act is therefore the role of councils regarding contaminated land that does not qualify as having a significant risk of harm. Another concern is what happens to contaminated land that does not trigger local council development control through changes in land use? Such sites may be old abandoned mines and mines that are operating under old mining leases. These types of sites, in effect, remain dormant. This is unacceptable and needs to be and can be rectified by giving either the EPA or councils the power to investigate and remediate these sites. Specific guidelines should also be developed for the management of non-significant sites for councils.

Another solution may be provided by establishing a three-tiered system for dealing with contaminated land—the top tier being those sites that pose a significant risk of harm and should therefore be dealt with by the EPA; the second tier being those sites that pose medium to low risk of harm and could therefore be dealt with by councils and/or referred to or called in by the EPA if need be; and the third tier being those sites that pose no risk and could therefore be dealt with under planning processes. Another major issue is that the EPA is reactive. That is, the EPA investigates only in response to notification. As a direct result, there have been relatively low levels of regulatory action undertaken by the EPA through investigation and remediation orders.

For example, since 1998 only two investigation orders and three remediation orders have been made. There have also been only seven declarations of investigation areas and 23 declarations of remediation sites. While these figures are supplemented by the number of voluntary investigation proposals and voluntary remediation proposals, there have been only 12 and 25 of those, respectively, since 1998. In order to rectify this, the EPA needs to be far more proactive, and to be able to do that it needs to be given power to instigate

investigation. Other improvements needed include the establishment of a public register identifying former land uses. As some councils are already identifying former uses of land, such a register needs to be developed in collaboration with local councils.

To be as effective as it could be, the register also needs to be made easily accessible through the EPA web site. Any such register should also make public declarations, as declarations published in the *Government Gazette* do not make it to the public arena because the gazette does not have a wide readership. Broader education is also needed on what constitutes significant risk of harm and what happens as a result of notification. At present the term "significant risk of harm" is not defined. Rather, it is determined, at least in part, by reference to the general definitions of "risk" and "harm". As a result, private-sector auditors, local councils and State regulatory bodies such as Sydney Water have expressed strong concerns about the lack of guidance as to what "significant harm" actually is. These concerns could be alleviated by the provision of anonymous case studies sites that have been investigated and either declared a significant risk or not, and the reasons.

Another outstanding issue is that of liability, especially in relation to old approvals or permits for mines. In such circumstances, controlling directors of sister or parent companies should be made responsible for remediation if they benefited in any way and/or had some control over the activities. I understand, of course, that the Contaminated Land Management Act is currently under review, as required under section 116 of the Act, and a report of the review is expected to be tabled in Parliament in December 2003. However, I place on notice my expectation that the outstanding matters that I have just raised will be addressed in further amendments to the Act immediately after the tabling of that report.

In light of these conditions, and certainly on the understanding that the Government will support the amendments that I will move in Committee, the Greens are keen to support the Contaminated Land Management Bill, but also hope that we see further appropriate assessment and greater and more forensic investigation of the many contaminated lands in New South Wales, both industrial and city sites. There are many contaminated land sites in country areas. An issue that comes to mind that is often not noticed is dip sites throughout the country areas, particularly in my home area in the north of New South Wales. Dip sites are significantly contaminated and they need to be properly mapped and assessed. In country areas people are moving onto sites and living on them without proper knowledge that they are in fact on contaminated land.

Reverend the Hon. FRED NILE [8.57 p.m.]: The Christian Democratic Party supports the Contaminated Land Management Amendment Bill. This bill will amend the site auditor scheme provisions of the Contaminated Land Management Act to ensure that the Environment Protection Authority [EPA] has sufficient power to ensure that the scheme works satisfactorily and that it has the ability to force auditors to operate at the highest, most efficient level. I gather from the briefing material that we have been supplied that over the past five years the EPA has become aware that the system of accredited site auditors is not working as it should be. In particular, the lack of ability of the EPA to take effective action against an underperforming auditor is constrained by disciplinary grounds that are too restrictive. Therefore, these amendments will allow the EPA to deal effectively with an underperforming auditor.

There has been a trend in the State towards appointing site auditors who are not employed by the EPA to examine contaminated land. In the building industry people who are not employed by councils have authority to inspect buildings, developments and so on. One wonders whether we are moving away from the practice of using inspectors employed by councils or by the EPA who are controlled in regard to discipline and their level of efficiency.

Perhaps self-regulation is developing more and more, but the fact that the EPA has acknowledged that over the past five years the system has not worked properly highlights the problem. The bill seeks to tighten the discretion of the EPA to grant and renew accreditation. Also, the Contaminated Land Management Act will now have express powers with regard to the EPA issuing binding directions to site auditors. We are not opposed to giving these powers to the EPA, but perhaps they should have been clearly spelt out when the legislation was introduced five years ago.

Indeed, because the EPA has admitted that the auditing procedures were inefficient, one wonders what has happened with some of the sites and whether auditor certificates were issued to permit housing on sites that were unsuitable. The Government made a recent announcement that will affect the operation of Sydney Harbour. The land has been used for industrial purposes, such as container wharves and heavy industry, and the danger is that it is contaminated. More auditors will be required in the future and they will need to be more efficient. We support the bill.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [9.01 p.m.]: The Government should be congratulated on introducing the Contaminated Land Management Bill. The bill is deficient in certain respects but it is a step in the right direction. Although the framework is not perfect, it is better than nothing. To some extent this area relates to my expertise in occupational medicine. Indeed, my Master of Applied Science was in this area. The main question with contaminated lands is the level of toxicity, but often the substance is not known because records have not been kept. The next question is whether the land contains toxic chemicals, how they were stored and, if they have leached, how deep they are, having regard to the porosity of the soil and the binding to the substances. One must also ascertain the level of bioavailability of the contaminants and whether those substances will harm people at a later time.

If the contaminated material binds to the soil and is not available—which is often the case—or if it is a heavy material that does not become dust in the topsoil, it may be all right. I remember a disturbing program on *Four Corners* about harmful heavy metals in sewage. That television scare campaign caused me considerable inconvenience. Molten metals are harmful if they are inhaled but they are not harmful in sewage. Because the sludge at the bottom did not penetrate the skin and was not eaten by workers it was only a mild hazard. The assessment must be balanced. The word "chemical" often leads to fear that may not be justified. However, if a developer wants quick action and council is unaware of contaminants, the situation may still be dangerous, despite EPA expertise and appropriate processes.

The Government must be willing to resource the EPA to enable it to examine various sites and ensure that even unreported sites are covered under the regulatory system. Many experiments must be undertaken with regard to treatment. Even the awareness of the presence of contaminants can be a problem because it is expensive to test everything, and tests must be conducted according to a grid pattern, using a large number of samples that include various depths. Also, unless specific tests are carried out, certain contaminants may not show up in the samples. If contaminants are present, the next question is how they should be treated, such as removing soil, capping or heating to make the contaminants volatile and thus chemically destroy them. The level of heating is important.

One clever idea in the past was to use sewage sludge and fly-ash from coke ovens of the former Electricity Commission to make bricks. The sludge and fly-ash were heated in the new designer bricks, but they were not heated to the right temperature. The smell that emanated from the sludge was appalling and the entire building and the project were abandoned. One chemist told me that if the bricks had been heated a few more degrees the volatile material would have been destroyed and the process would have worked. It may be far less toxic to heat large amounts of soil than to leave the substance there because the treatment phase will have an adverse effect on surrounding residents. The solution is not simple.

I well remember a contaminated site in Mortlake where upper middle managers directed that everything be tested. That task was almost impossible because it is necessary for some testing to be undertaken immediately after exposure because of the short time it takes for organic volatiles to go through the body, and inorganic material is expensive to test in large numbers. These men were supervisors who occasionally visited the site to obtain samples. The blue-collar workers, who drove the bulldozers for days on end, were not tested because they were subcontractors. Workers on contaminated sites must take extreme care and use their expertise.

I read the report on the Union Carbide chemical site at Rhodes. Rhodes Peninsula is in close proximity to the railway line and would be a valuable asset for developers. The sites have different contaminants because of their varying industrial history. There were also numerous contaminated sites in Botany, and I know that the Greens have referred to the movement of aquifers in response to contaminants. Obviously, organic volatiles remain a significant problem because they leach into the environment, that is, petroleum derivatives that turn into gases.

Capping is all very well but it assumes that the contaminants will not get through the gap, a matter of long-term concern. They should be carefully regulated and adequately supervised. I well remember the fiasco of the oil spillage at the terminal at Greenwich. I asked about the level of benzene because the company had been inundated with thousands of phone calls about the smell. I was assured that there was no benzene in the environment. However, I was told that the level had been measured at Rozelle, but the wind had been blowing in a southerly direction, which means it had been measured from upwind. I was then assured that the benzene level had been measured thoroughly, but that was four days after the spill, by which time all the gases had blown away.

The Hon. Duncan Gay: Did you live near there? That would account for the smell of fuel.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Yes, I lived only a few hundred metres, as the crow flies, from the oil spill. I noticed it and was one of the many people who rang up about it. Long-term studies must be undertaken to determine the effect of toxicity on people and whether it is cumulative. The best research in this case usually comes from Scandinavia, which has cards that allow work histories to be compared with long-term medical histories. I was in favour of the protections provided by an Australian card because such a card would allow people to follow the long-term effects of certain contaminants and the level of their toxicity. Usually, if the clusters of diseases are not short term, the people have scattered to the four winds—

The Hon. Michael Egan: You would not support a computer chip in our necks, would you?

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: In your neck, perhaps. The need for good epidemiological data is a strong argument in favour of following health systematically with adequate privacy considerations, but that is not an issue for today. Another important issue is that often developments must be on stilts with a carpark underneath so that any volatiles coming off can disperse into the air. So the EPA needs the resources to identify and supervise. Rather than hear Government members making cynical remarks about microchipping—which usually only happens to dogs, but treasurers might fit in—it would be nice to hear them say, "We promise to adequately resource the EPA so that it does not have only one site measuring benzene levels", as happened when the oil spilt.

The idea of a site auditor is good. However, to reduce the potential for corruption, it may be good to have a reservoir of public servants with expertise who can keep the process and the resources of the tests—in other words, what tests are done and where they are done—entirely transparent. That would enable independent industrial hygienists from local activist groups or local resident groups with valid concerns to look at the data, see what has been done and compare that to what they might think is world's best practice and the history of the sites as they know them. The Waste Management Authority has been in the business of taking wastes and burying them, rather than having a preventive approach to the creation of waste. That unsophisticated approach, which has involved large amounts of landfill, especially around the Sutherland area, may create problems for the future. We need a preventive component to contaminating lands, as well as old industrial sites along the harbour, which are getting all the attention at present. Another point is that we need a whole-of-life register for chemicals. A chemical would be registered from the time it is produced and the data would include how it is used and how it is disposed off.

The Hon. Michael Egan: Not every chemical, surely?

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: No, not every chemical but the ones that are toxic. I remember that when I worked for Sydney Water a large number of water board workers became quite ill after digging a trench in the northern beaches area; more than a decade previously the land had been sprayed heavily against mosquitoes with organochlorine pesticides. However, there was no register of that spraying. So chemicals persist in the environment for a very long time. That is a simple, practical example of what can happen. As I said, this bill is a step in the right direction but I have some caveats on the way things need to be managed. The bill can be improved. I hope that in the future the Minister, rather than talk to someone else, will listen and look at what changes can be made.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [9.13 p.m.], in reply: I thank honourable members for their contributions to the debate. It is important to clarify that this bill is not in response to laxity or any problems with the auditors scheme. It is simply the case that during the period of operation of these provisions of the Act the Environment Protection Authority [EPA] has observed that there are areas where the provisions could potentially be tightened. I should stress that the EPA advice is that to date it is not aware of any of the frightening circumstances raised by the Opposition, and that the operation of the site auditors scheme has been successful. I thank the Hon. Dr Arthur Chesterfield-Evans for his contribution. He noted that the investigation and identification of contamination can be very expensive. It also goes to the issues raised by the Opposition, which evidently believes that the EPA should be bearing the costs of investigating and certifying contamination. The Government embraces the polluter pays principle. Is the Treasurer happy with that?

The Hon. Michael Egan: Yes.

The Hon. JOHN HATZISTERGOS: The site auditors scheme is designed to ensure that the polluter, not the community of New South Wales, bears the cost of investigating and certifying remediation. I think most citizens agree with the Government on this point. Once again I thank honourable members for their contributions to the debate.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 3 agreed to.

Mr IAN COHEN [9.16 p.m.]: I move Greens amendment No. 1:

- No. 1 Page 4, schedule 1 [10], line 29. Insert "appointed on the nomination of the Nature Conservation Council of NSW Incorporated" after "groups".

This amendment corrects an anomaly in the Act. The Act as it currently stands only provides for generic representation of community environmental groups on the accreditation panel. However, it is now standard practice for community environmental group representatives to be appointed on the nomination of the Nature Conservation Council of New South Wales. This is because the Nature Conservation Council is the State's peak environmental organisation with more than 130 member groups and individual supporters from across New South Wales, and it has played a leading role in the New South Wales conservation movement since 1995. This amendment therefore ensures that the community environmental group representative on the Contaminated Sites Auditor Accreditation Panel is appointed on the nomination of the Nature Conservation Council of New South Wales. I commend the amendment to the Committee.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [9.17 p.m.]: The Government does not oppose the amendment.

The Hon. GREG PEARCE [9.17 p.m.]: The Opposition does not oppose the amendment.

Amendment agreed to.

Mr IAN COHEN [9.18 p.m.]: I move Greens amendment No. 2:

- No. 2 Page 5, schedule 1 [10], lines 11 and 12. Omit all words on those lines. Insert instead:

- (5) A member of the accreditation panel holds office for such period (not exceeding 5 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

This amendment corrects another anomaly in the Act—that is, that members of the Contaminated Site Auditor Accreditation Panel hold office for an unlimited period of time. As it is now standard practice for terms of office to be limited, this amendment will therefore limit the term of office for members of the accreditation panel to five years. However, the amendment is not meant to, and does not, preclude people from serving on the panel for more than five years. The EPA will be able to reappoint members for further terms if they are eligible and qualified. I commend the amendment to the Committee.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [9.18 p.m.]: The Government does not oppose the amendment.

The Hon. GREG PEARCE [9.19 p.m.]: The Opposition does not oppose the amendment.

Amendment agreed to.

Schedule 1 as amended agreed to.

Title agreed to.

Bill reported from Committee with amendments and passed through remaining stages.

PREVENTION OF CRUELTY TO ANIMALS AMENDMENT (PENALTIES) BILL**Second Reading**

The Hon. IAN MACDONALD (Minister for Agriculture and Fisheries) [9.22 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

The Prevention of Cruelty to Animals Act 1979 (the Act) is the principal Act of general application that, in relation to a broad range of animal welfare matters, protects the welfare of animals in New South Wales.

The stated objects of the Act are –

- to prevent cruelty to animals, and
- to promote the welfare of animals by requiring a person in charge of an animal -
 - to provide care for the animal,
 - to treat the animal in a humane manner, and
 - to ensure the welfare of the animal.

Offences under the Act are enforced primarily by Officers of the RSPCA and the Animal Welfare League which are each approved charitable organisations under the Act.

The most serious offences under the Act are found at sections 6, 15 and 21 which provide as follows -

- section 6 - acts of aggravated cruelty by which an animal that has been cruelly treated is killed, deformed or seriously disabled, or is left in such a condition that it would be cruel to keep it alive,
- section 15 - administration of a poison or other bait to a domestic animal, and possession of a poison with the intention of using it to injure or kill a domestic animal, and
- section 21 - involvement of a person in coursing or any activity where an animal is chased, caught or confined by a dog.

Sections 6, 15 and 21 of the Act each presently provide a maximum penalty of 100 penalty units (\$11,000) upon conviction of an individual for an offence under those sections, and a maximum penalty of 50 penalty units (\$55,000) upon conviction of a corporation for offences under sections 6 and 21 of the Act.

Despite the current level of penalty, offenders continue to treat animals with horrendous cruelty. When an act of cruelty to an animal involves extreme sadism the penalty provided under the Act must match the crime.

By comparison, the Companion Animals Act 1998 regulates the keeping of dogs and cats. It contains serious offences in respect of dangerous and restricted dogs. These offences are as equivalent in their level of seriousness as sections 6, 15 and 21 of POCTA but the current penalties do not reflect that fact. For example, section 17 of the Companion Animals Act makes it an offence to cause a dangerous or restricted dog to attack another animal or person. Where a dangerous or restricted dog inflicts actual harm on a person the penalty is 200 penalty units.

The Prevention of Cruelty to Animals Amendment (Penalties) Bill 2003 (the Bill) proposes to increase the maximum penalties provided under sections 6, 15 and 21 of the Act to 200 penalty units (\$22,000) for offences by individuals. In respect of offences committed by corporations the fines will be increased to 1000 penalty units (\$110,000).

The bill also proposes to increase the jurisdiction of the Local Court, so that it can impose penalties of up to \$22,000, avoiding the necessity of taking proceedings for serious offences in the Supreme Court.

This bill demonstrates the Government's commitment to -

- protecting the welfare of animals by increasing the range of monetary penalties available to the Courts for the most serious offences provided under the Act,
- ensure uniform penalties are provided under comparable legislation—the Companion Animals Act 1998 already provides for maximum penalties of \$22,000 for the most serious offences under that Act, and
- implementing the Government's "Better care for pets and wildlife policy" approved by the electors at the March 2003 elections.

I commend the bill to the House.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [9.22 p.m.]: The Opposition does not oppose the Prevention of Cruelty to Animals Amendment (Penalties) Bill. This is a sensible bill, which is unusual for this Government. The Government does not produce much legislation. This Government is the slackest government we have seen in a long time. We spend so much time on private members' bills; there is never any government legislation. It is on autopilot. The bill follows on—once again, unusually—from the Government's pre-election commitment. I say "unusually" because it is unusual for this Government to stick to its pre-election promises.

[*Interruption*]

It is interesting that the Treasurer moans. He was the Treasurer who promised no privatisation of the electricity industry, yet he was the bloke who sold it off. He is also the offside of the Minister the Local Government, who promised no forced council amalgamations, yet he is going full steam ahead on amalgamations.

The Hon. Amanda Fazio: Talk about cruelty to animals.

The Hon. DUNCAN GAY: It has been cruelty to animals in caucus when the club issue has come up. The effect of the proposed amendments will mean individuals and corporations that commit serious offences of animal cruelty—like caucus—will be faced with tougher penalties. This legislation has been a long time coming.

The Hon. Ian Macdonald: Do you think that shipload of sheep should end up in Crookwell?

The Hon. DUNCAN GAY: No, they are going to New Zealand. The Government last introduced the Prevention of Cruelty to Animals Amendment Bill in 1997. It included a number of sensible initiatives to improve the lot of animals, but we are still seeing offenders continue to treat animals with atrocious brutality. The Prevention of Cruelty to Animals Act is the principal Act in relation to a broad range of animal welfare matters. The objects of the Act are to prevent animal cruelty and to promote the welfare of animals by requiring a person in charge of an animal to provide care for the animal in a humane manner and to ensure the welfare of the animal. It means that the person responsible for the pet trains it, treats it with care and affection, and provides it with the basics of shelter, good nutrition, microchipping, veterinary care and proper exercise.

Although the Opposition does not oppose the bill, we believe that penalties alone will not entice people to be kinder towards their pets. Education is needed, first as reinforcement for those who are familiar with animals and, second, for people who are new to owning animals. A better means of reducing animal cruelty would have been for the Government to put more funding and resources into community education to promote animal welfare and ensure animal cruelty is avoided in the first place. Some people's animals leave them, which is always sad.

The new Prevention of Cruelty to Animals Amendment (Penalties) Act will prescribe three types of serious offences. Under section 6 a serious offence is an act of aggravated cruelty by which an animal that has been cruelly treated is killed, deformed or seriously disabled, or is left in such a condition that it would be cruel to keep it alive. Under section 15 the administration of a poison or other bait to a domestic animal and possession of a poison with the intention of using it to injure or kill a domestic animal is deemed a serious offence. Under section 21 the involvement of a person in coursing, in any activity where an animal is chased, caught or confined by a dog, is also considered a serious offence, as it should be. Sections 6, 15 and 21 of the current Act each provide a maximum penalty of 100 penalty units, or \$11,000, upon conviction of an individual under those sections, and a maximum penalty of 500 penalty units, or \$55,000, upon conviction of a corporation for offences under those sections.

Despite the current level of penalties, offenders continue to treat animals with horrendous cruelty. This bill proposes to double the maximum level of penalty provided under sections 6, 15 and 21 to 200 penalty units, or \$22,000, for individuals. In respect of offences committed by corporations, it is proposed to increase the fine to a maximum penalty of 1,000 penalty units, or \$100,000. Offences under sections 6, 15 and 21 are barbaric and inexcusable. The Opposition hopes that the increased penalties will go a long way to deterring the occurrence of such acts. The bill also seeks to increase the jurisdiction of the Local Court so that it can impose penalties of up to \$22,000, avoiding the necessity of taking proceedings for serious offences in the Supreme Court.

The RSPCA and the Animal Welfare League prosecute offenders under the Prevention of Cruelty to Animals Act. In 2002-03 the RSPCA received 132,964 animals. This was an increase of 0.7 per cent from the 132,054 animals received in 2001-02. In New South Wales the total number of animals received by the RSPCA increased by 3.84 per cent on the previous year. In the same year the RSPCA prosecuted 43,888 cruelty complaints and initiated 330 prosecution cases. Nearly 50 per cent of cruelty complaints and more than 50 per cent of the prosecution cases related to dogs. The huge number of cruelty complaints is of tremendous concern. It is a widely known fact that prevention is better than cure. While the Opposition does not oppose the bill, we are sceptical of the effectiveness of merely increasing penalties to deter acts of animal cruelty. As I have previously stated, the Opposition would like to see the Government increase the funding and resources available for enforcement and community education so that the incidence of cruelty is reduced in the first place.

The Opposition has consulted widely with a number of different interest groups and the feedback we have received has basically been in agreement with our position. Organisations such as the New South Wales Farmers Association and the New South Wales branch of the Australian Veterinary Association believe that education and enforcement are the key to preventing animal cruelty. The New South Wales branch of the Australian Veterinary Association has advocated that the allocation by the Government of \$1 million per year to the Pet Pep program would achieve positive results in reducing acts of animal cruelty. The Pet Pep program is an investment in socially responsible pet ownership. Lindy Scott, a veterinarian and consultant to the Australian Veterinary Association on the Pet Pep program, promotes the fact that responsible pet ownership must be appreciated at an early age for it to continue into later life. If future generations of animal owners are well informed and responsible for their actions, the common problems of nuisance animals, strays, cruelty, neglect and indifference will be solved.

A cynical way of looking at the bill is that it will do little to change the incidence of animal cruelty. The threat of harsher penalties may only mean that defendants will fight harder to avoid conviction, with the main beneficiary in such cases being the legal profession. Serious acts of animal cruelty are sad and inexcusable, but they exist. In some instances it is due to a lack of knowledge and ignorance, but in most cases it is due to sheer neglect and lack of understanding. Whilst the Opposition would welcome more resources and funding directed towards community animal welfare education and enforcement, the bill will do more good than harm in reducing the incidence of animal cruelty. For that reason, we do not oppose the bill before the House. I would like to note on a personal basis that I have a problem with some types of animals being kept in a suburban environment. Some types of animals are totally unsuitable for suburban areas. I hope that the Government and local government will act to ban some breeds of animals, such as large dogs and fighting dogs, in suburban areas.

Reverend the Hon. FRED NILE [9.33 p.m.]: The Christian Democratic Party supports the Prevention of Cruelty to Animals Amendment (Penalties) Bill, which will amend the Prevention of Cruelty to Animals Act 1979 to increase the maximum penalties for certain offences under the Act and to enable recovery of those increased penalties in proceedings in the local court. We commend the Government for the increased penalties, which in most cases have been an increase of 100 per cent. Honourable members would have seen reports over recent months of abuse of animals. In one case starving horses were found on a property and in another case 30 or 40 cats were being kept in a domestic house. They were living in filthy conditions and were suffering from malnutrition. Some people may say they love animals but in fact abuse them. We need these penalties to protect animals from cruelty.

Ms LEE RHIANNON [9.35 p.m.]: Cruelty to animals is a stain on our society. It is a tragedy that we even need legislation such as the Prevention of Cruelty to Animals Act. Cruelty to animals is a fact of life that will always remain inexplicable to me. I cannot comprehend why people would commit the terrible acts of cruelty to animals that we periodically see highlighted in our media, but they do. That is why we need the Act, and that is why the Greens support this bill. We need to go beyond the idea of stiffer penalties if we want to change human behaviour. There is evidence that stronger penalties only bring marginal benefits in modifying behaviour. We also need education programs beginning in primary school to make people aware that animal cruelty is wrong. Our task is to change human attitudes, because only a tiny proportion of cruelty cases will ever come to the attention of the authorities and even fewer will be prosecuted.

It is necessary to publicise the penalties that will be imposed on people committing cruelty to animals. There is no point in having penalties if no-one knows about them and no-one enforces them. Most importantly, we need to start addressing the many forms of animal cruelty in our society that not only remain legal but are encouraged. There are many examples. The practice of battery-farming chickens is cruel, unnecessary and unhealthy. The live export of livestock is, as we have tragically seen with the *MV Cormo Express*, a horribly

cruel practice and must be stopped. Sow stalls is yet another example of agricultural practice gone wrong. They are cruel cages for pregnant pigs that do not allow them to move or interact normally. These are all practices that are acts of cruelty to animals but, tragically, are legal. We need to recognise that this bill is just a small step on the part of the Carr Government on the path toward eliminating animal cruelty. The Greens support the bill but we recognise that there is a need to do much more.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [9.37 p.m.]: The Australian Democrats are committed to animal welfare and formulated a new animal welfare policy in April this year. Last year a Government staffer was explaining a bill to me that simply involved increasing penalties for an offence. I said, "This is just racking up the penalties to put more people in gaol. Are you going to produce any evidence that this will reduce the crime?" The staffer replied, "No, I am not going to produce any evidence that it will, but I do believe that it is the Government's position." Presumably that is what he had to say. The same applies to this bill. The penalties are being increased but there is not any proof that the situation will improve. The Deputy Leader of the Opposition, in his speech on behalf of The Nationals, advocated systematic prevention. That is an enlightened approach for The Nationals to take.

We need a systemic approach, funding for the bodies enforcing the law, an education program, and humane animal husbandry practices. The Government is demonstrating laziness and lack of thought by introducing legislation that simply increases penalties. Although the Australian Democrats will not oppose the legislation, we are very suspicious that it is window dressing. We are disappointed in the bill, but we will not oppose it because we do not think lower penalties are the answer. I am not sure that these penalties are relative to the frequency of offences. We want a systematic, comprehensive policy implementing education programs and changes to work practices, not simply increased penalties, which is the Government's favoured solution rather than dealing with the causes of crime in a scientific manner.

The Hon. IAN MACDONALD (Minister for Agriculture and Fisheries) [9.41 p.m.], in reply: I thank honourable members for their contributions and commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

SYDNEY WATER AMENDMENT (WATER RESTRICTIONS) BILL

Bill received, read a first time and ordered to be printed.

Motion by the Hon. Ian Macdonald 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

The Hon. IAN MACDONALD (Minister for Agriculture and Fisheries) [9.42 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 is a bill which will improve the effectiveness of the enforcement of water restrictions in Sydney Water's area of operation.

The Government announced on 11 September this year that mandatory water restrictions will be introduced across Sydney, the Illawarra and Blue Mountains from Wednesday 1 October.

It was also announced that on-the-spot fines of \$220 will apply to those who ignore the restrictions from Saturday 1 November, when the one-month warning period comes to an end.

When the restrictions were announced, our dam levels had dropped to just 60.5 per cent of total capacity, 13.5 per cent lower than at the same time last year.

As at 9 October, storage had further decreased to 58.9 per cent, despite the rain that has fallen in Sydney in recent weeks.

This demonstrates just how important saving water will be as we enter Sydney's hottest months.

The community's response to the voluntary water restrictions which were already in force had been very encouraging.

But with our dam levels at the point they are now, we all need to do more to save water—thus the need for mandatory restrictions.

As all members know, restrictions of any kind are much more effective if they are backed up by an effective system of enforcement with appropriate safeguards.

The Sydney Water Act and Sydney Water Regulation empower the Minister for Energy and Utilities to impose mandatory water restrictions and appoint "authorised persons" to enforce these restrictions.

Mandatory water restrictions were last introduced in November 1994 and remained in place until October 1996.

Sydney Water's experience of the way in which water restrictions were observed during that time has informed a number of proposed changes that will improve the effectiveness of enforcement of the restrictions.

In particular, there are a number of legal loopholes that could allow water wasters to escape liability for their actions.

In order to ensure an effective system of enforcement that is straightforward to implement, it is necessary to make several amendments to the Sydney Water Act and Regulation.

The most important change brought about by these amendments is that an owner or occupier of premises will be held responsible for water restriction breaches which occur at the premises.

Under the law as it stands, if an authorised water inspector finds that a sprinkler has been left on, but nobody is present at the premises at the time of the offence, it is generally not possible to issue a penalty notice for that offence.

People who are doing the right thing by observing the restrictions would expect that if somebody turns on a sprinkler all day and then leaves home, they should not be able to escape liability because when a water inspector calls, there is no-one at home to issue a penalty notice to.

For this reason, it is proposed that the owner or occupier of premises will be held responsible for water restriction breaches committed at the premises where it is not possible to establish the identity of the offender.

Of course, this is not a new concept.

This change will bring the enforcement of water restriction offences into line with the rules which currently apply to traffic offences where it is not possible for police to identify the driver of the vehicle.

In those cases, the owner of the vehicle is held responsible for paying the penalty notice unless the owner proves that he or she is not responsible for the offence.

As is the case for motor vehicle offences, if an owner or occupier was not liable for the offence, it will be possible for them to swear a statutory declaration to this effect within 21 days of receiving the penalty notice.

As members will be aware, there are significant penalties for the provision of false information in a statutory declaration.

These rules will ensure that water wasters who are not present at the time that an offence is committed or who refuse to provide proof of their identity can be held to account.

The community expects no less.

Another key to the effective enforcement of mandatory water restrictions is the ability of authorised persons to properly investigate possible breaches of the restrictions wherever they occur on a person's property.

For this reason, the bill provides persons authorised to enforce water restrictions with a clear power to enter onto land to investigate possible breaches of water restrictions and to take photographs of the offence.

Section 38 of the Sydney Water Act already contains broad provisions that empower Sydney Water personnel to enter land for a variety of purposes.

These include reading water meters, carrying out work on the land, rectifying defective or improper work, ascertaining the condition and location of pipes, sewers and drains, and determining whether a customer contract is being breached.

However, investigation and enforcement of water restriction notice offences is not expressly identified among the powers of entry.

To avoid any doubt, the bill provides specific powers of entry onto land for the enforcement of water restrictions and authorises inspectors to take photographs in connection with the investigation.

This power has been carefully constrained by a number of safeguards which have been built into the bill.

The bill will allow authorised persons access only onto the land, not into people's homes or other enclosed structures on the land, such as garages.

The authorised officer must have reasonable grounds for suspecting that a water restriction offence is being committed and must show identification when asked by occupier of the property.

The power of entry must be exercised at a reasonable time, and no force of any kind may be used in exercising the power of entry.

Authorised officers are empowered to remain on the land only as long as is necessary to investigate the potential offence. Once their investigation is complete they must leave.

The power of entry so granted is proportionate and appropriate to the offence under investigation.

People flouting water restrictions should not be entitled to escape liability for their actions just because they are not visible from beyond the boundaries of the property.

Sydney Water is developing guidelines for authorised officers who will be enforcing water restrictions.

These guidelines will be made available to Sydney Water officers and council rangers. The guidelines will detail the procedures that authorised officers must follow in enforcing water restrictions.

As well as improving the effectiveness of the mandatory water restrictions, the bill also addresses the serious issue of water theft.

The bill increases the maximum fine for water theft to better reflect the seriousness of this offence.

Accordingly, it is proposed to double the maximum penalty for the theft of water to 200 penalty units (\$22,000) for individuals and 400 penalty units (\$44,000) for corporations.

The increase in the maximum fine brings the penalty in line with similar offences under the Protection of the Environment Operations Act.

Penalty notice provisions will also be introduced, enabling the imposition of on-the-spot fines for water theft offences.

By increasing the maximum fine for the theft of water, the Government is sending an unambiguous message to water thieves.

The bill also transfers the jurisdiction of the Supreme Court to the Land and Environment Court for water restriction and water theft offences.

This will allow prosecutions for major breaches of the Act to be brought in the Land and Environment Court, rather than the Supreme Court, while minor offences will continue to be dealt with in the Local Court.

The Land and Environment Court deals more regularly and in more detail with regulatory offences relating to the environment and the addition of water offences will complement its existing jurisdiction.

I commend the bill to the House.

Debate adjourned on motion by the Hon. Rick Colless.

ADJOURNMENT

The Hon. IAN MACDONALD (Minister for Agriculture and Fisheries) [9.47 p.m.]: I move:

That this House do now adjourn.

MOBILE SURGICAL UNIT

The Hon. PATRICIA FORSYTHE [9.47 p.m.]: Early this year I spent many days in small coastal communities that dot our coastline and are home to many elderly and retired members of the community. The issue of greatest concern to the citizens of these small towns and hamlets is access to health services. That is not surprising because statistically people access more health services in the last 10 years of their life than they do from birth to that stage of their lives. At a meeting with a number of people to discuss their needs, much was said about the importance of rethinking how we deliver health services. After all, it is not possible to have large hospitals to serve the needs of all small and isolated communities. My inquiries led me to investigate the role of the mobile operating theatres being piloted in far-western New South Wales. In May I was pleased to meet in Bristol with the managing director of the United Kingdom company that developed the concept. I discussed with him the motivation for the United Kingdom model and whether the pilot in New South Wales was sufficiently broad in scope to provide appropriate guidance for New South Wales. On my return I wrote:

Mobile Operating Theatres

Vanguard Healthcare is the leading supplier of mobile operating theatres and recovery units in the UK and has provided the model for the pilot project underway in NSW. It is the developer of the Visiting Hospital concept.

The pilot in NSW is focussed on the provision of services to remote communities that lack hospital facilities. That is not the UK approach where the units are in widespread use to provide day surgery to cut day surgery waiting lists under the NHS.

Since the introduction of the units in the UK in April 2000 over 10,500 operations have been performed. The units arrive in a town to a prearranged schedule. Each unit has its own nurses but works with local doctors. The provision of nurses with each unit is one of the reasons for its success as it avoids the problem of nurse shortage in a community.

On average 13 or 14 cases are performed on most days with a maximum capacity of 23. The units are not used for emergency procedures but with the goal in the UK to have 75 percent of all surgery on a day basis by 2008 the capacity to address the NHS waiting list in a cost effective manner would seem high.

One of the driving forces for the introduction of the units has been the cost of upgrading or replacement of old hospital infrastructure. This would seem to have real benefits for NSW as well. Communities in the UK have welcomed the provision of the Units as a means of gaining access to modern health facilities in a realistic timeframe.

A unit can be set up from arrival by truck in one hour. The operating theatre suites bring together anaesthetic suites, operating theatres and recovery bays together under one roof.

The company offers a unique public/private sector partnership based around best clinical practice, flexibility of provision, impressive productivity and social acceptability."

The opportunities for NSW using these visiting mobile operating theatres would seem to be beyond that being trialled. Given for example the location of many retired people in small communities that lack hospital facilities the capacity to meet many health needs of these people would be enhanced through the provision of such mobile services.

Community concern that such services would enable governments to avoid spending capital funds on hospital upgrades would seem to be a narrow response to the bigger issue of gaining access to modern efficient hospital services. Success of this method of service delivery will require a proactive approach from government to sell the benefits of this new approach. The benefits would seem worth it.

Since my return from the visit, and in the wake of some media comment, I have been contacted by the managing director of another organisation that provides mobile allied health services such as podiatry and optometry to aged care facilities. He expressed his frustration about legislative and other barriers to extending the organisation's range of services in rural communities. When commenting on my report the Managing Director of CliniCall said:

You have certainly focused on a vastly untapped opportunity to improve Australia's healthcare system that is under considerable strain and has difficulty providing both the aged and rural communities with basic healthcare services.

The delivery of health services in an effective and efficient manner is one of the challenges for our community. The increasing life expectancy of our community, together with the shift upward in the population age cohort, means that many more aged and frail aged will require access to health services in a manner that cannot be met in the time-honoured and traditional way. I urge the Government and communities to take a broad and open-minded approach to the future delivery of health services, and to see in the mobile facilities a modern approach to a complex and difficult issue.

BALI REMEMBRANCE WALK

Reverend the Hon. Dr GORDON MOYES [9.52 p.m.]: A coalition of Christian and community organisations co-ordinated a Bali remembrance walk on Sunday October 12, in which more than 200 participants from a variety of denominations carried miniature white crosses through the streets of Sydney, from the Domain to Hyde Park. Led by Reverend the Hon. Fred Nile, myself, a group of Coptic clergy, with Bishop Daniel in the lead, and accompanied by other clergy and church representatives, our group carried a large banner. The Hon. Elaine Nile broadcast from a truck that carried banners explaining the purpose of our walk and inviting people to accompany us in solidarity with those affected by the Bali bombing 12 months previously. We walked along the footpaths, amongst the ordinary people, in a joint venture to show compassion to the victims of the 12 October 2002 Bali bombing and their relatives.

In Sydney's Hyde Park, near the Pool of Remembrance, more than 400 people gathered for a Bali remembrance service, led by Reverend the Hon. Fred Nile as the master of ceremonies. The guest of honour was the Governor of New South Wales, Her Excellency Professor Marie Bashir, who presented an opening statement in which she referred to the bombing victims and commented: "Surely no day passes when we do not remember and contemplate the impact upon their loved ones, upon our nation and indeed upon the Island of the people of

Bali." Her Excellency acknowledged with gratitude the "local people of Bali; expatriate Australians; retrieval teams—doctors and nurses, counsellors and hospital staffs—all called 'angels of mercy' and now part of this nation's history". She called for Australians, young and free, to "work with our neighbours and beyond, to share our strength and to grow together in harmony and respect".

The program included a welcome by Pastor Edmund Bagheri of the Persian Evangelical Anglican Church. Formerly Pastor Bagheri was a Muslim, but today he is a very successful Christian minister. An opening prayer was spoken by another Arabic speaker, Reverend John Nammour of the Guildford Arabic Baptist Church. A statement on behalf of Australians who came from Islamic countries was read by Bishop Daniel of the Coptic Orthodox Church. Bishop Daniel commented, "We are unable to prevent your grief and sorrow, but we are here to provide support and comfort—asking our Lord Jesus Christ, who is the source of all consolation, to counsel you." The Hon. Alan Cadman, MP, read a statement from Prime Minister John Howard, who sent an apology owing to the fact that he was in Bali. The Prime Minister's statement read:

This terrible event has marked our national consciousness. Those who suffered were the target of these brutal criminals, not because of who they were, or anything they had done, but because they represent us all—our way of life.

It is right and proper that we come together as a nation to mourn those killed in this senseless act of violence. It is also a way of demonstrating our support to those who carry the burden of grief and injury. Today we honour their courage; their resilience, recognising that over this past painful year they have struggled to rebuild their lives and re-image their futures.

On behalf of the nation, I want to extend our deepest appreciation and gratitude to the volunteers, these men and women, many of whom remain nameless, who exemplified what Australians value most—the willingness to get involved and to make a difference.

The Indonesian Consul-General, Hertomo Reksodiputro, paid tribute to "those who died, the many who were injured and all those who were affected by the tragedy in Australia, Indonesia and other countries". Musical items, including the national anthem, were presented by Pastor Peter Rahme as song leader. Soloists Barry Garrett, Prudence Dunstone and Elizabeth Dilley delighted the crowd. Special guest soloist was Lauren Acheson, who travelled from Forbes. Honourable members will recall that a group of Forbes footballers perished in the Bali bombing. Lauren's own song about them, *The Chosen Ones*, was dedicated to the memory of the victims of Bali.

An emotional atmosphere was evident when the Hon Elaine Nile read out the 88 names of Australians killed, and children of many nations lit candles and laid flowers in the form of a cross, under the direction of Reverend Brian Seers. I had the privilege of presenting a closing message in which I encouraged those present not to dwell constantly on the negative instead of the positive. I went on to say:

We should get better, not bitter. Bitterness eats at our heart, but getting better robs the terrorists of all satisfaction. That is why faith is always superior to fear.

We should serve—not dwell upon our suffering. Sojourners in Bali were shocked and horrified as they holidayed, but they immediately went to the hospitals and their service brought hope to the many who suffered.

Our response is a matter of our choice—not of chance! The Scriptures tell us to seek forgiveness; to get better and to serve. May God bless us as we do so.

SOUTH COAST LABOUR COUNCIL SEVENTY-FIFTH ANNIVERSARY

The Hon. IAN WEST [9.57 p.m.]: I draw to the attention of the House the seventy-fifth anniversary of the South Coast Labour Council, which along with my parliamentary colleague the Hon. Jan Burnswoods I had the pleasure of celebrating at a dinner in Wollongong recently. I have had a fond association with the South Coast Labour Council for many years, since my days as an official of the Miscellaneous Workers Union in Wollongong in the 1970s and 1980s. Just today I hosted a meeting organised by Arthur Rorris, the Secretary of the South Coast Labour Council, which involved students and teachers from Wollongong TAFE.

I have always known the South Coast Labour Council to be involved with the struggles of working-class families in the pursuit of justice, equality, dignity and respect, both inside and outside the workplace. Look back through historical records and there are few major issues in the Illawarra on which the Labour Council has not taken a public position. These included the rights of workers, the treatment of migrants and refugees, the protection of our environment, the defence of adequate and viable systems of health and education, and subsidies for business to promote full-time and lasting employment.

The story of the South Coast Labour Council and its affiliates is also the story of the Illawarra. Throughout times of depression, war, migration and rapid industrialisation, the labour movement has never

flinched in its struggle for peace and justice. Two significant campaigns are worth mentioning among the many that the Labour Council has been involved in over the years. The first was the establishment on the South Coast of the Aboriginal Advancement League in 1961. While the conditions of housing, health and employment for indigenous people, particularly in regional areas, has never been adequate, it was much worse on the South Coast 40 years ago.

Aboriginal activists such as Aunty Mary Davis, union leaders with unshakable conviction and vision such as Fred Moore and Peggy Errey and the then Labour Council secretary, Ted Harvey, were able to win significant improvements for Aboriginal people, not just on the South Coast but also elsewhere in the country. The movement for reconciliation continues to grow, and it is pleasing to see that the solidarity between the union and indigenous movements on the South Coast is as strong as ever.

The second of the many campaigns related to unemployment. The campaign was a catalyst and motivating force in the establishment of the Illawarra Labour Council during the Depression years, to unify and organise not just those with jobs but also those without jobs. From those early beginnings the Labour Council has campaigned for jobs, and job security has been central to the work and charter of the council and the Illawarra business community. It is no surprise that today, with unemployment in the Illawarra hovering around 10 per cent due to downsizing in the steel and coal industries, job creation remains a key priority for the South Coast Labour Council, as it does for the broader community and business community in the Illawarra.

It is encouraging to see alliances formed and re-formed between the South Coast Labour Council, unions, local business and industry groups with a common interest in developing the regional economy, particularly the infrastructure of roads and rail, and especially the port. This united front for jobs in the Illawarra region is a positive development in itself, but it also illustrates the strength and universal respect of the South Coast Labour Council, particularly amongst the business community. It represents a movement whose sense of identity and purpose is closely intertwined with the communities of the Illawarra and South Coast. It is a model of community unionism that has its human frailties; nonetheless, it has given workers and their families in the Illawarra a strong and independent voice and will continue to do so into the future.

I commend the work of the South Coast Labour Council for its activism on behalf of its workers and their affiliated unions, as well as its involvement in broader community issues. It is an essential institution to the development of the Illawarra as a vibrant and sustainable region. Seventy-five years of activism is a significant achievement for the Labour Council. I am always heartened by the new ideas, rejuvenation and enthusiasm in the labour movement. This year's launch of the Illawarra Young Unionists, a network of union delegates and activists in the region working towards their own goals, is a classic example of that renewal. With groundwork for the future such as this, the centenary of the South Coast Labour Council is assured. I congratulate all those who have been involved in the organisation of the celebration of the seventy-fifth anniversary of the Labour Council. It has been a great and historical event on the South Coast.

DUNGOG SHIRE BRIDGES

The Hon. ROBYN PARKER [10.02 p.m.]: During question time today I asked the Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests) whether he could identify the bridges in the Dungog region that State Rail has earmarked for repair because of extensive termite damage. The Minister was unable to name those bridges. The Minister spent some time talking about load limit restrictions and permit exemptions that can be obtained to contravene these limits but showed a lack of understanding of the issues facing people in the Dungog shire—and possibly throughout New South Wales—because of the state of disrepair of timber bridges, many of which are eaten away by termites.

Amazingly, the Minister talked about an upgrade program that will commence in 2004 when in fact the residents of Dungog Shire are unable to get access to water and basic services or to have any work done on their homes because trucks cannot travel across bridges in the area. Farmers cannot get stock feed to their crops. In a vital dairying area of New South Wales milk tankers are not able to cross these bridges. In fact school buses cannot cross them. Today the Minister talked about vehicle owners who can apply for an exemption from the Rail Infrastructure Corporation [RIC], particularly those whose vehicles carry such essentials as water and milk. Who would apply for an exemption to enable a school bus to cross these bridges? Who would want to put the lives of our children at risk?

The residents of Dungog want the Minister and the RIC to take immediate action to make the bridges safe, not to fiddle with load limits. This is about livelihoods and lives. By tinkering with load limits is it all right

to say that a bus can cross the bridges? Who wants to be travelling on the bus that finally breaks the bridge? If the Minister does not know about these bridges, I can tell him about them. I have seen them and inspected them. The Minister should talk to Kirsty and Bob Moore, who cannot get water during the present drought, who have to carry buckets of water across a bridge that cannot be crossed by a truck carrying water. I can show the Minister photographs of the pylons that support these bridges. Some have been eaten away by termites and have been supported by chocks of wood. Would any parent want their children to cross such a bridge on a bus?

The Minister said that the RIC was working with local residents. That is news to some of the local residents I have spoken to who woke up one morning to find the load limit on their bridge had changed and that they were unable to get access to water in a drought period. Reference was made earlier today to this region being in drought, and some people being unable to get access to basic services. I find it amazing that the Minister did not see the *Today Tonight* program on 1 October, which highlighted the danger posed by many Dungog bridges that had beam damage as a result of termite infestation. Load limits on bridges have been imposed, and this has forced many to risk their lives to cross the bridges. The *Today Tonight* program claimed that there were 800 such bridges in New South Wales, and that they were inspected twice a week. I find that hard to believe, unless the inspection is conducted from the XPT. Perhaps that is so.

The Hon. Rick Colless: But they are going to stop the XPT too.

The Hon. ROBYN PARKER: Exactly. One of the bridges in Martins Creek which has a five-tonne load limit has a termite's nest right alongside it. I have a photograph of it. I cannot believe they inspected the structure without attempting to eradicate the termite nest? The Tin Bridge at Vacy on Main Road 101 between Maitland and Dungog was load limited last month. But the limits were repealed within a week because it was claimed that the limits were imposed following a desktop audit rather than an on-site inspection.

The ineptitude involved here is incredible. The Dungog Shire Council maintains that another bridge at Martins Creek would have been uninsurable because of obvious faults with the deck, termites in the structure, and no plan for eradication or repair. If the Minister has some plan, he should tell the residents of Dungog what it is. They need to know what is going on. They need to know what plan the Government has to make sure that these bridges are safe. They need to know when they can have access to adequate services. Dungog has been getting the short end of the stick for too long from this Government, not only with these bridges but with basic services, roads and everything else. [*Time expired.*]

ISLAMIC COUNCIL OF VICTORIA ANTI-DISCRIMINATION COMPLAINT

Reverend the Hon. FRED NILE [10.07 p.m.]: I bring to the attention of the House a very unusual court case that commenced in Melbourne today. It involves two Christian pastors in Melbourne and the Islamic Council of Victoria. These two pastors, Danny Nalliah and Daniel Scot, had a complaint made against them by three Muslims who attended a seminar organised by the two pastors in Melbourne. The seminar was for Christians only. The complaint was laid against both Christian leaders, despite the fact that only one actually attended the seminar; the other pastor was speaking at another seminar in the Victorian countryside at the same time.

This case is very unusual because of the new racial and religious intolerance law that came into effect in Victoria in January 2002. The complaint was laid under that law. The seminar was organised for Christians, but three Muslims who heard about it decided to attend. I understand the three Muslims, who sat at the back of the seminar venue, took offence at what was said during the seminar about the Islamic religion. The passages that they found offensive—and I advise that this complaint was lodged by the Islamic Council of Victoria on behalf of these three Muslims—were quotes from the Quaran. Daniel Scot, who is from Pakistan and is an expert on the Quaran, was quoting from the Quaran and giving an exposition on what these passages from the Quaran meant. Unfortunately, I understand that in their defence of the complaint the two Christian pastors are not allowed to quote those sections of the Quaran or to seek discovery of those sections of the Quaran that offended the three Muslims.

This case is before the court in Melbourne and is causing a great deal of confusion. The media report I have just received states that on the first day of the hearing Catholic Church, Uniting Church and Victorian Council of Churches representatives all asked to be included in the case on behalf of the Islamic Council of Victoria, in opposition to the two Christian pastors. Their 14-page submission, which was tabled by the Catholic representative, includes arguments in support of their request to take part in the case. A decision on that matter is still pending.

The other point of law being debated in the court by Queen's Counsel representing the two Christian pastors, even though only one was present at the seminar, is whether Federal law takes precedence over State law. Based on findings by the High Court, Federal law gives an inherent right to free speech. Therefore, Queen's Counsel representing the two Christians argued that the judge is ineligible to hear the case on those grounds. On the other hand, Queen's Counsel representing the Islamic Council of Victoria appeared to agree but suggested that the judge hear the case nonetheless and then decide its legality at a later stage. This is a complicated court case. I understand that arrangements are being made for witnesses from Jordan in the Middle East to attend the court to give evidence. This sounds a warning about the passing of anti-discrimination legislation on the grounds of religion or freedom of speech. To do so may result in similar consequences to those in this case—consequences that were never intended by the Victorian Government.

UNIVERSITY OF WESTERN SYDNEY MANAGEMENT

The Hon. PETER PRIMROSE [10.12 p.m.]: I am advised that attacks made on the University of Western Sydney [UWS] and its leadership by the Hon. Charlie Lynn last night are remarkably similar to those made by Ms Jackie Kelly in the Federal Parliament on Thursday 8 October. Her comments are widely regarded as being an attack on the university because it spoke out about the drastic cuts to its funding in the Federal Government's higher education reform package. The university and the greater Western Sydney community have grave concerns about the impact of these cuts on the university, its students and the community, and the opportunity for university education in the west. The Federal Minister's recent communication to the university suggests that he has recognised the need to look again at the UWS situation. This is a good sign and is much more important than divisive attacks on the university.

The letter that Ms Kelly wrote to every member of the board of trustees—but not the vice-chancellor, who is a member of the board—was part of a campaign to deflect attention away from the funding cuts to the UWS and to politicise the debate. The University of Western Sydney has experienced a decline in its Federal Government funding since 1996. In 1998 the Federal Government advised that it considered UWS to be "financially at risk". In this funding climate the university had to make savings and introduce significant efficiencies to be able to develop and provide more educational opportunities in the greater Western Sydney region.

In 1999 the university board unanimously endorsed a blueprint to unify the three administrations, academic support areas and academic structure. A deliberate, difficult and appropriate decision was made to restructure the federation into a unitary institution. This meant that savings of \$10 million per year could be made and, in fact, those savings were subsequently made. But it also meant that the university had too many senior staff. At that time the UWS had 60 senior staff in total—many more than any comparable size university. The restructure reduced this number to 28. This alone meant a saving of about \$3 million per year. This money was deliberately redirected to core teaching areas. In the first year after the restructure, funding to support teaching increased by 14 per cent.

The list of names provided by the Hon. Charlie Lynn last night included four senior staff members who retired after distinguished careers at UWS, five who took voluntary redundancy as part of the restructure processes and one who recently resigned to take up a new position elsewhere. The restructure process was vital to the future viability of the UWS. Since Professor Janice Reid came to the UWS as vice-chancellor in 1998 I am advised that its financial position has improved significantly. Hard decisions such as the restructure have been made and supported by the whole university community.

Indicators which demonstrate that the restructure was effective in directing more funds to teaching and research include areas such as the staff-student ratios, where there has been a steadily improving trend from 2:21 in 2000 to 2:20 in 2002. In terms of research income, the university's research activity has developed and its success in achieving income has improved significantly, increasing by 15 per cent from 1998 to 2002. The university's non-government income has increased by more than 60 per cent from 1998 to 2002.

In relation to student demand, 2003 has proved a pivotal time for the UWS in building its reputation. Demand and enrolment at the beginning of the year were much higher than in previous years. Preferences were higher, pressure to over-enrol increased and the university admission index cut-offs generally improved. There has been a significant increase in first preferences for the UWS for the University Admission Centre round for 2004. First preferences have increased by a remarkable 15 per cent over the same period in 2003. This confirms the qualitative feedback such as the UWS opening days, which were attended by an estimated 20,000 people. It is obvious that the UWS is well regarded and that students want to study there.

The Hon. Charlie Lynn's criticisms of the university do not hold up in the light of such positive demand from the people who matter—the students, including the 2,500 students from Campbelltown. This issue should be above politics. It is about the future of the university and the greater Western Sydney region. Both the Hon. Charlie Lynn and I live in the area, in Camden. I would have thought he would support our local university and not attack it by making misleading and prejudicial allegations. I look forward to being given other opportunities to debate this matter in the House in future. [*Time expired*].

Motion agreed to.

The House adjourned at 10.17 p.m. until Thursday 16 October 2003 at 11.00 a.m.
