LEGISLATIVE COUNCIL

Wednesday 2 June 2004

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

The Clerk of the Parliaments offered the Prayers.

WATER MANAGEMENT AMENDMENT BILL

PASSENGER TRANSPORT AMENDMENT (BUS REFORM) BILL

Bills received.

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

Motion by the Hon. Tony Kelly agreed to:

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

Bills read a first time and ordered to be printed.

STANDING COMMITTEE ON LAW AND JUSTICE

Reference

Motion by the Hon. Greg Pearce agreed to:

1. That the Standing Committee on Law and Justice inquire into and report on whether it is appropriate and in the public interest to introduce a "back-end" home detention scheme in New South Wales, including:

   (a) the perceived benefits and disadvantage of back-end home detention,

   (b) the relationship between back-end home detention and existing external leave programs,

   (c) the impact of back-end home detention on the principle of truth in sentencing,

   (d) the appropriate authority to determine whether an offender may proceed to back-end home detention

   (e) the criteria for eligibility for back-end home detention,

   (f) the experience of other jurisdictions in implementing back-end home detention schemes,

   (g) any other related matter.

UNPROCLAIMED LEGISLATION

The Hon. John Hatzistergos tabled a list detailing all legislation unproclaimed 90 calendar days after assent as at 1 June 2004.

PETITIONS

Alcohol Industry Deregulation

Petition opposing national competition policy amending legislation that would lead to the deregulation of the liquor industry and failure to control liquor licences, received from **the Hon. Rick Colless**.

Freedom of Religion

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

Australian Defence Industries Site Redevelopment

Petition requesting that the Australian Defence Industries St Marys site be protected as a conservation area and that development consent be denied, received from **Ms Sylvia Hale**.

Marriage

Petition opposing any legislative changes that would violate the basic principles of marriage, received from **Reverend the Hon. Fred Nile**.

Blue Circle Southern Cement Alternative Fuels Application

Petition calling for disallowance of the application by Blue Circle Southern Cement to burn alternative fuels, received from **Ms Sylvia Hale**.

The Domain Fig Trees

Petition requesting conservation of historic fig trees in The Domain, Sydney, received from **Ms Lee Rhiannon**.

BUSINESS OF THE HOUSE

Routine of Business

[*During notices of motions*]

The Hon. Michael Egan: Point of order: The motion of which the Hon. Duncan Gay has given notice is actually a lie.

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

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders

Motion by the Hon. Duncan Gay agreed to:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business Item No. 108 outside the Order of Precedence, relating to an order for papers concerning the Department of Primary Industries merger, be called on forthwith.

Order of Business

Motion by the Hon. Duncan Gay agreed to:

That Private Members' Business item No. 108 outside the Order of Precedence be called on forthwith.

PRIMARY INDUSTRIES BUDGET DOCUMENTS

Motion by the Hon. Duncan Gay agreed to:

That, under Standing Order 52, there be laid upon the table of the House within 14 days of the date of passing of this resolution the following documents in the possession, custody or control of the Minister for Primary Industries, NSW Agriculture, the Department of Mineral Resources, NSW State Forests and the Cabinet Office, including:

(a) all correspondence and communications between the then Minister for Agriculture and Fisheries, (now Minister for Primary Industries) the Minister for Mineral Resources, the Director General of the Premier's Office, and the NSW Cabinet Office, relating to the 2004 mini-budget announcement that $37 million will be cut from next year's Primary Industries budget, rising to $58 million by 2007-2008,

(b) all documents, correspondence, briefing papers and working papers used and developed during the formation of this policy,

(c) all correspondence and communications between the then Minister for Agriculture and Fisheries and the interim board chaired by NSW Agriculture Director-General, Dr Richard Sheldrake, appointed to implement these budget cuts,

(d) all correspondence from and replies to the Minister for Primary Industries concerning the appointment of the new Director-General of the Department of Primary Industries, Barry Buffier,

(e) all details of the ongoing roles and responsibilities of the existing Directors-General of NSW Fisheries, NSW Agriculture, the Department of Mineral Resources and NSW State Forests,

(f) all correspondence and communications between the then Minister for Agriculture and Fisheries, the Minister for Mineral Resources and the Managing Director of NSW State Forests seeking consultation with potentially affected departmental staff,

(g) regional impact statements examining the effects of these budget cuts on primary industry centres in New South Wales,

(h) details of all calculations of where savings could be made within the affected departments and projected job losses and cuts in front line services as a result of these budget cuts, and

(i) any document which records or refers to the production of documents as a result of this order of this House.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [11.14 a.m.]: I move:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business Item No. 107 outside the Order of Precedence, relating to the censure of the Hon. Edward Moses Obeid, be called on forthwith.

This is an urgent matter. The honourable member was not present at the commencement of the Parliament sitting today. He is not here. He has no reason not to be here. He may be in his room; he may be somewhere else. We need to bring this matter on and resolve it. The public has had this up to its neck. It is an abuse. There is no excuse whatsoever for the Government not to agree to bring this matter on forthwith and resolve it as a matter of urgency.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 18

Dr Chesterfield-Evans	Mr Gay	Ms Rhiannon
Mr Clarke	Ms Hale	Mr Ryan
Mr Cohen	Mr Jenkins	
Ms Cusack	Mr Lynn	
Mrs Forsythe	Ms Parker	*Tellers,*
Mr Gallacher	Mrs Pavey	Mr Colless
Miss Gardiner	Mr Pearce	Mr Harwin

Noes, 21

Mr Breen	Ms Griffin	Mr Tingle
Mr Burke	Mr Hatzistergos	Mr Tsang
Ms Burnswoods	Mr Kelly	Dr Wong
Mr Catanzariti	Mr Macdonald	
Mr Costa	Reverend Dr Moyes	
Mr Della Bosca	Reverend Nile	*Tellers,*
Mr Egan	Ms Robertson	Mr Primrose
Ms Fazio	Ms Tebbutt	Mr West

Question resolved in the negative.

Motion negatived.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders

Motion by Ms Lee Rhiannon agreed to:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 110 outside the Order of Precedence, relating to the Industrial Relations Commission, be called on forthwith.

Order of Business

Motion by Ms Lee Rhiannon agreed to:

That Private Members' Business item No. 110 outside the Order of Precedence be called on forthwith.

INDUSTRIAL RELATIONS COMMISSION INDEPENDENCE

Ms LEE RHIANNON [11.23 a.m.]: I move:

That this House:

(a) calls on the Government to respect the independence of the Industrial Relations Commission, and to allow the commission to operate free from political influence or intimidation,

(b) condemns the Minister for Industrial Relations and the Premier for their behaviour with respect to the teachers' salary case and, in particular, for:

(i) seeking to intimidate the New South Wales Industrial Relations Commission by publicly warning it against delivering "unaffordable wage increases",

(ii) re-opening the case for further evidence at a time when the delivery of a judgment was imminent, and

(iii) insulting teachers and provoking industrial action.

(c) calls on the Government to:

(i) withdraw their new evidence concerning the teachers' salary case from the Industrial Relations Commission's hearings and allow the judgment of the commission to be delivered as determined by the original evidence,

(ii) make clear to the Industrial Relations Commission that public statements by the Premier and other Ministers should not influence or intimidate the commission and should be ignored by the commission in the writing of its determination, and

(iii) apologise to the schoolteachers of New South Wales for the insult delivered to them.

(d) calls on the Government to ensure that any salary increases awarded by the Industrial Relations Commission are fully funded by increased spending on education.

This motion is being debated as public school teachers are striking today for the second time in eight days. They have taken this action because of the unprecedented request by the New South Wales Government to reopen the Industrial Relations Commission case for an increase in teachers' salaries. This House has a responsibility to consider the matter because the education system in this State is being damaged by the Government's actions. It is vital that members consider the reasons given by the Premier as to why the Industrial Relations Commission should open up the teachers' salaries case again. They are entirely spurious. The Government has no basis for reopening the case because the ground of presenting new information is invalid in the sense that the information is not needed at this stage by the commission. What makes the Government's claim for reopening the case so unfair is that the Government has had months to prepare, whereas the Teachers Federation has had only a matter of days in which to respond.

The Greens bring this motion before the House because public education is vital. The House therefore has a responsibility to consider this matter very carefully. Education is central to making employment opportunities accessible to young people in this State, and that is why we need a well-resourced and well-functioning public education system. I acknowledge that many honourable members are concerned about teachers being on strike again today but I urge them to bear in mind that teachers do not readily go on strike. Many would be feeling pain as a result of having to be away from their students for the day, but the fact that

they have gone on strike twice in eight days should be recognised by members because it highlights the seriousness of the situation. It is important for the House to recognise that the future of the public education system depends on its ability to attract capable, committed and enthusiastic people into the teaching profession.

I urge members to support the motion because it is our responsibility to serve the people of New South Wales. If we do not consider why teachers have taken this strike action, we will negate that responsibility. Teachers do not strike readily; they are taking a stand to strengthen public education in this State. It is vital that members realise that without offering appropriate remuneration and conditions society would be unable to replace that core of dedicated and experienced teachers as they retire. Is very important that we consider this motion today because the Government's intervention into the teachers' salary case would push the New South Wales public system to the margins of the educational landscape. The damage that has been done and is being done to teacher morale by the Government's changed tactics on the wage case is serious and regrettable. That morale can be restored, and that is why this motion is being debated today. We have brought it before the House as a matter of urgency on the second day that teachers have called a strike in response to the Government's action.

The teachers' decision to engage in industrial action is obviously a momentous one for them. I understand that today across New South Wales teachers are meeting at Sky Channel centres to consider further industrial action. It would be tragic if they had to take such action because of the Government's unwillingness to respond properly and immediately and withdraw its submission to the Industrial Relations Commission to reopen the case. Today's strike is a last resort—an aspect that should be focused on in this debate—because teachers have been forced into taking industrial action. That teachers have decided to strike highlights the degree to which the Government has mismanaged public education in New South Wales. I believe that members of this House have a very vital role to play in ensuring that public education is not damaged.

As tens of thousands of teachers are on strike to stop that damage, we in turn, as members of Parliament, have a responsibility to the people of New South Wales to respond. The key to the quality and service of public education is the dedication and commitment of its teachers. I have heard many members of this House speak about that time and again, and that is why I hope members will support the motion. The motion recognises that the Industrial Relations Commission has a role to play, and that role should not be interfered with by the Government. The motion calls on the Government to not withdraw funds from the Education budget to fund this very necessary increase in teachers' remuneration.

Members need to be mindful that in the 1960s teachers' salaries were about equal to those of members of Parliament. These days members of Parliament receive more than $100,000 a year and will probably receive a pay increase shortly as a result of a flow-on from a Federal decision. Meantime, if teachers are paid $60,000 they are lucky; that is the salary that is mainly paid to principals. It has been reported in newspapers that some principals—

The Hon. Melinda Pavey: That's not true.

Ms LEE RHIANNON: Just wait until I have finished. Some principals are paid up to $100,000, but that is only in a very few schools with a large number of teachers. Obviously, by far the majority of teachers do not become principals and I would be very disappointed if the members of the Coalition, as indicated by their interjections, thought that—

The Hon. Melinda Pavey: Put the facts on the table.

Ms LEE RHIANNON: I hope the member takes part in this debate and puts her opinion forward. At the moment there is a huge difference between the salaries of members of Parliament and those of teachers. It should be noted that in the 1960s those salaries were almost equal.

The Hon. John Della Bosca: What has that got to do with it?

Ms LEE RHIANNON: I think it has a great deal to do with it. Teachers are vital to the future of the State: they have responsibility for the education of tens of thousands of young students. Surely they should receive appropriate remuneration to do that job properly. Members should recognise that if we do not respond appropriately to this issue of teachers' remuneration we will damage public education for decades to come, and indeed the economic wellbeing and social fabric of our society. I commend the motion to the House.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [11.34 a.m.]: I am in favour of the motion and will speak briefly to it. I am worried about the Government's interference in systems that it should leave alone

under the separation of powers doctrine. This is a very interfering Government. If a court makes a decision that the Government will not accept, it simply waits until the game is finished and then moves the goalposts—as with the Walsh Bay development, the Collex waste development, the bill to keep Crump and others in gaol for a long time without trial, the taking over of developments where it gets commercial in confidence information and effectively hides developments behind closed-door deals, and now the teachers' salaries issue. At the broader public policy level, teachers are an ageing profession. Later I will ask the Government a question about what is happening with the ageing teaching profession. The reason it is ageing is that young graduates do not go into teaching; they see that teachers are working harder for less money than comparable professions and they make career decisions to not go into teaching.

If honourable members think education is expensive, ignorance is even worse. Ultimately this country will become uncompetitive throughout the world. Asian countries recognise that in future anyone who is not well educated will be unemployed; and if people are unemployed they will become a huge drain on the rest of the population. Teachers' salaries must be competitive. A short-term budget solution, which seems to be the way the Government is going, is very short-sighted and foolish, given that teachers' salaries have gone backwards against the consumer price index for comparable professional groups. The market has a way of rewarding people, not necessarily on the basis of brains and effort. Professions that are necessary but not highlighted, such as the information technology profession—which suddenly became very valuable and just as suddenly collapsed—come and go and set new benchmarks. To retain good and intelligent people in the teaching and nursing professions requires that they be adequately remunerated. The Government's interference is foolish and counterproductive. Therefore, I support the motion.

Ms SYLVIA HALE [11.38 a.m.]: I support the motion, which is wholeheartedly endorsed by the Greens. We are facing an extraordinary time in which the Government is seeking to undermine the Industrial Relations Commission in whatever way it can. In this case, six months after the final submissions in the teachers' special wage case had closed, and on the eve of the expected decision, the Government sought to have the application relisted. That is extraordinary and a recipe for ongoing industrial tension and disharmony in the community. The Premier, in his speeches in the other House on this matter, basically sought to intimidate the commission.

The implications of the Government's actions are well known to the union movement. The teachers' case is only one of a number of extraordinarily important work value cases that have come before the Industrial Relations Commission this year. Those cases involved nurses, firefighters and general public servants. The precedent has been set. The Government intervened at the last moment by seeking to introduce new evidence. The Government is saying to all those public sector workers, whether they be nurses, firefighters or other public servants, that none of them can rely on arguing a case before the commission and having that argument responded to without expecting the Government to intervene at the last moment.

During the application to relist the hearing, one of the Industrial Relations Commissions judges asked Government counsel, "How many times can a party forestall proceedings by making such submissions?" It will lead to the commission not handing down decisions and delaying appropriate and legitimate wage increases. The Government has attempted to bully the commission into doing something that is totally unacceptable and unfair. This motion is important because public sector wages—and I include the wages of teachers—essentially gauge the importance that this Government places on the provision of public services. Public servants, whether they be nurses, preschool teachers or teachers, are struggling in a system that has seen the value of what they do diminished over time. That is not good for the public service as a whole and it is certainly not good for the community.

I am sure that all honourable members are aware that the community has said it would prefer the provision of appropriate public services, whether it be in health or education, to tax cuts. That is the move within the community. The community recognises that poor public services affect us all. They lead to a diminution of the quality of life of all those in the community. I was a teacher in the 1960s and I am now a member of Parliament, so I have been at both ends of the spectrum. I taught at a time when teachers' salaries were roughly equivalent to the salaries of members of Parliament. Some 40 years later I am in receipt of a parliamentarian's salary. If I were asked what would be the more difficult job, I would have to plump for the teachers every time. It is an extraordinarily difficult task to engage children, keep them interested and informed, maintain discipline and educate them.

It is ludicrous, 40 years down the track, that we have lost that wage equivalence. That speaks badly of the direction in which society is heading. Over the past two days members of the Teachers Federation have gone

on strike because they feel strongly about the matter. Teachers from independent schools have also gone on strike. That is indicative of the unfairness with which the Government's action has been perceived. If the Government's actions were allowed to go unchallenged and we did not condemn it for intervening in the hearing at this late stage it would be a recipe for further industrial dispute and disharmony. Firefighters and other public servants would become aware of the fact that the Government established a precedent, that it altered the ground rules and that it acted extraordinarily unfairly. This matter is urgent. All honourable members should take a strong stand, indicate their disapproval of the Government's action and support the motion moved earlier by Ms Lee Rhiannon.

Reverend the Hon. FRED NILE [11.45 p.m.]: The Christian Democratic Party supports in principle the motion moved by Ms Lee Rhiannon which is aimed at ensuring the independence of the Industrial Relations Commission and allowing the commission to operate free from political influence or intimidation. The second part of the motion condemns the Minister for Industrial Relations and the Premier for their behaviour with respect to the teachers' salary case. I understand from media reports that the Premier wrote to the Industrial Relations Commission about this matter. Apparently, the Premier has never denied that fact. Is the Government able to table the letter or confirm that it was sent?

When I read about the letter I thought that on face value it was nothing unusual, but obviously it appears to be an act of intimidation against the Industrial Relations Commission. It is difficult for the commission, when dealing with government employees—in this case teachers from the New South Wales Teachers Federation—to determine wage cases. This issue has had a flow-on effect to teachers in independent or non-government schools. The New South Wales Teachers Federation, which took up this cause, has been supported by the New South Wales independent teachers union. It was concerned that negative wage case decisions by the Industrial Relations Commission would flow on to its members, which is why it joined the industrial action.

Teachers in non-government Catholic schools have rung me and asked me whether they should join the strike. I said that if the Premier had sought to influence the decision of the Industrial Relations Commission they were justified in joining that industrial action, which is what occurred today. Members of the Industrial Relations Commission are placed in a difficult position when they have to deal with government departments. This issue is sensitive because of the large number of teachers that are employed in government schools. Some years ago I read a report which indicated that 75,000 people were affiliated with the New South Wales Teachers Federation, which makes it one of the largest unions in New South Wales, if not Australia.

Obviously its members would be concerned if the Premier and the Minister for Industrial Relations sought to change a decision made by the Industrial Relations Commission. At the last moment the commission was hit by some heavy-handed action from the Government. General Purpose Standing Committee No. 1, which has been conducting an inquiry into the mini-budget, is aware that the Government is concerned about its available funds as a result of the effect of the Commonwealth Government's decisions. Those honourable members who are not accountants are still puzzled about what the Government has done with the income that it received from the property boom. The property boom has cooled off over the past few months because the Government introduced a new land tax and imposed stamp duty on the sale of investment properties. The Government certainly benefited from that property boom. It received income far exceeding its budget expectations. One gets the impression that the Government has some leeway and some funds available. Perhaps we will not understand the situation fully until the State Government delivers its budget—we have already seen its mini-budget. I hope it will reveal the full picture regarding the extra income that the Government has received as a result of the property boom and stamp duty payments.

Because of the sensitive nature of wage decisions I believe it is better for the Government—in this case, the Premier—to stay out of such negotiations and allow the process to proceed. The Industrial Relations Commission can then consider submissions from the Department of Education and Training and the unions free from government influence. The Government should not seek to almost embarrass the commission into saying, "Well, we can't now grant the wage increases because of what the Premier has said." The commission should be allowed to weigh up the pros and cons of the detailed submissions and not be forced to make an emotional response. That is not helpful to the industrial climate in New South Wales.

As the Government knows, the New South Wales Teachers Federation is one of the most militant unions in the State. The Government must have made an assessment that its response would provoke industrial action. There is some question as to whether that was the Government's aim. I have heard it suggested that the Government may have some ulterior motive of discrediting the New South Wales Teachers Federation. That

would be extremely conspiratorial behaviour. However, it is obvious that the Government's handling of the situation was going to provoke industrial action. The question is: Why did the Government act in this way? I believe it must give the House some explanations. It should certainly table any correspondence that the Premier and the Minister for Industrial Relations sent to the Industrial Relations Commission.

Mr IAN COHEN [11.51 a.m.]: Like all Greens, I am concerned about ensuring proper respect and support for the teaching profession and for the many good people in this State who devote their lives—sometimes at the expense of their health—to teaching the next generation in extremely difficult conditions in our public education system. This motion is about the serious issue of salary justice. A little more than a week ago I observed the significant numbers of teachers from the public sector demonstrating in front of Parliament House. They have been forced to demonstrate again today against the inappropriate action of the Premier, who made statements designed to impact on the determinations of the Industrial Relations Commission [IRC]. It is a classic case of schoolyard bullying by the Premier. Such behaviour is completely inappropriate.

Teachers have rights. Many friends who went through teacher training with me in the early 1970s took part in last week's demonstration. They have been in the teaching profession for decades and they told me many stories of despair about the conditions in which they must work. They certainly have the children's interests at heart. It is important to debate this motion today as public school teachers are striking for a second time in eight days. The teachers have taken this action because of the unprecedented request by the New South Wales Government to reopen the Industrial Relations Commission's case regarding teachers' salaries. Members have a responsibility to debate this matter as the Government's actions are damaging this State's education system. This issue was brought to the attention of the House by Ms Lee Rhiannon, who is the Greens education spokesperson. It is vital that members consider the reasons that the Premier has given for the IRC reopening the teachers' salaries case. That is certainly appropriate.

I urge members to support this motion and to discuss the matter fully. The motion addresses an issue that is central to the educational and employment opportunities of young people in this State. We rely on our future generations to improve things in our society yet we are not providing them with adequate conditions in which to learn. We are not giving our teachers the wages and conditions they clearly deserve and that are needed to maintain standards in the public education system. It has been said continually and accurately in this House that if we are to attract capable, committed and enthusiastic people to teaching—particularly in the public education system—and retain them in the profession, those most deserving workers must receive appropriate remuneration.

It is our responsibility to serve the people of New South Wales. We should therefore consider why teachers have taken this strike action. Teachers do not take such action lightly. Many teachers and teacher friends to whom I have spoken do not like to leave schools unattended and to disrupt the education of their students. But this action is about strengthening public education in New South Wales, and appropriate teacher remuneration and conditions are essential. We must retain in the teaching profession the core of dedicated and experienced teachers in this State. We must also ensure that there is a continuum within the profession as teachers retire. We must retain adequate teaching facilities in New South Wales for future generations.

The House must address today's strike by public school teachers. The teachers' decision to engage in industrial action is a last resort—and we should focus on that point in this debate. Our teachers must have adequate working conditions and appropriate remuneration. Teachers are not child minders; their role is not simply to control children in the classroom. We must promote the flowering of education in our community. It is an investment in the future. I commend Ms Lee Rhiannon's consistent efforts on this matter and I commend her motion to the House.

The Hon. CATHERINE CUSACK [11.57 a.m.]: I lead for the Opposition in speaking to this motion moved by Ms Lee Rhiannon. We do not ordinarily move motions of this sort—indeed, the Opposition believes the motion contains several imperfections. Nevertheless, we will support the motion as we believe it will relay an important message to the Government on this issue. The points in the motion have been dressed up in many ways during the debate. But I think they probably boil down to big unions, big government, big money and a lot of misinformation about what is really going on. As a member of Parliament I sometimes feel—as many teachers must feel—like an onlooker in an industrial relations system that for decades has been characterised by poisonous salary negotiations between government and teachers. The system promotes conflict. The manner in which the parties approach each other and the language they use often seems to have little to do with the education of young children and some of the finer motives that have been discussed in Parliament today. So we have yet another major dispute.

On 28 May the shadow Minister for Education and Training, Jillian Skinner, wrote to Mr Barry Johnson, the General Secretary of the New South Wales Teachers Federation. The letter outlines the Opposition's approach to teachers' salaries and to the current dispute. It states:

> Dear Mr Johnson,
>
> I write in response to letters received from members of the Teachers Federation regarding their concern about the New South Wales Government's attempt to reopen the teachers' salaries case out of the Industrial Relations Commission (IRC).
>
> The Coalition has always said that teachers should be recognised for the work that they do, and part of that recognition should come in the form of increased pay. We have always regarded the IRC as the independent umpire and have said that any decision it brings down must be adopted.
>
> It was disappointing that the Government used the IRC hearings to denigrate teachers by promoting a legal argument that the introduction of outcomes based education, assessment and reporting had reduced the professionalism of teachers.
>
> The IRC has said it will return with a final decision on the teacher's case and the Premier's attempt to influence the Commission with his 'inability to pay' argument is laughable, particularly—

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

TAXI INDUSTRY NO DESTINATION TRIAL

The Hon. MICHAEL GALLACHER: My question without notice is directed to the Minister for Transport Services. Why has the Minister failed to implement the Government's 2002 draft standards for taxi networks and operators? Is it because under those standards networks would have a financial obligation to meet performance goals and would have been empowered to direct drivers to pick up passengers, effectively making his no destination trial completely unnecessary? Will the Minister outline why those standards were not implemented at that time?

The Hon. MICHAEL COSTA: I am happy to address the issue of taxi reform and network standards. The honourable member is probably aware that at the moment Mr Alan Cook, a former official of the Department of Transport, is conducting an inquiry. I have asked him to look at standards for taxi drivers and particularly premium taxi services. There have been concerns about premium taxi services; prima facie, I support a premium taxi service. Part of the inquiry will examine the networks and the role of the networks. I have heard many complaints from taxi operators about network standards. Issues need to be addressed in relation to not only network standards but also performance and the cost of linking up to the network, and I have asked the inquiry to look at those matters.

The complaints about the standards in place at the moment will be looked at within the course of that inquiry, which is the appropriate way to go forward. Once the inquiry has made its report I will be happy to make it public and to continue the debate about improving our taxi services. It is true that we have implemented a system of no-destination bookings. I said to this House that it was made mandatory because one of the major taxi companies had indulged in misleading behaviour in relation to no destinations. People generally agree that if they book a taxi they expect a taxi to arrive. Unfortunately, some sections of the taxi industry have taken a different view. There may be some validity to some of their concerns, independent of the principle of no destinations, but that is a matter for the Cook inquiry. The short answer is that there is an inquiry looking at all of the issues raised by the Leader of the Opposition and it is appropriate to wait until that inquiry reports in detail.

The Hon. MICHAEL GALLACHER: I ask a supplementary question. Given that the Government's draft standards for taxi networks and operators was issued in 2002, will the Minister indicate why in 2004 they have not been implemented?

The Hon. MICHAEL COSTA: I thought my answer addressed that when I said that circumstances have overtaken—

The Hon. Michael Gallacher: What were those circumstances?

The Hon. MICHAEL COSTA: The circumstances are that I have put an inquiry in place to look at the whole issue of the taxi industry, and that is a reasonable explanation. The issue that I understand is of prime concern to the Leader of the Opposition is whether the networks are operating fairly. I have heard criticism of the taxi network. The taxi industry needs reform and the best way to do that is to reform it through a properly structured inquiry, and that is what we will do.

BUDGET LOCK-UP

The Hon. JAN BURNSWOODS: My question is addressed to the Treasurer. Will there be a budget lock-up this year? If not, why not?

The Hon. MICHAEL EGAN: No, there will not be a budget lock-up this year, for two reasons. One is that the procedure that we adopted for the mini-budget worked very well. The mini-budget was delivered at 11.00 a.m. and the media had all day to analyse it, and to seek comments and then to report on it. But also I am a Treasurer who listens. I listen. In the past there has been some criticism of having a budget lock-up. Some of that criticism has come from journalists—I will not name them—but it has also come from our own colleagues. For example, on 29 May 2001, the Greens, namely Ms Lee Rhiannon, MLC, issued a press release under the heading "Open Budget, No Lock-up" which stated:

> The Greens policy of enhancing participation in the whole parliamentary process demands improving public and media scrutiny of the budget.

The Hon. Duncan Gay: Why are you listening to her now? Why are you breaking a habit of a lifetime?

The Hon. MICHAEL EGAN: You will know in a moment. She continued:

> An open information society approach to the budget would see the Treasurer releasing budget papers through the Internet on the morning of the budget. Treasury officials would then be available to answer questions from the media throughout the day, providing an accurate snapshot of the budget scenarios and policies.
>
> The Greens believe that the budget lock-up is maintained purely to control media reports, and serves no public purpose.

As I say, I am a Treasurer who listens. I am now perplexed because today Ms Lee Rhiannon has given notice of a motion that this House condemns the Government's decision to end the budget 2004 lock-up arrangements for the media which have existed for decades under governments of all persuasions. Really! She is free on occasions to accuse other members of this House of hypocrisy but if ever there has been a more clear-cut example of hypocrisy by a member of this House, I have not seen it. Three years ago Ms Lee Rhiannon condemned me for having a budget lock-up and today she seeks to condemn me for taking heed of what she told me and abolishing the budget lock-up. This poor little Treasurer does not know what to do. What do I do? How do I please her? Please tell me.

The House is going to debate this issue. The motion moved today by Ms Lee Rhiannon has to be dealt with as soon as possible, and I think that is probably tomorrow. I would love to hear why Ms Lee Rhiannon has had such a dramatic change of heart, which gives hope. I am a believer in the power of redemption. Even Ms Lee Rhiannon can be saved, and I am sure Reverend the Hon. Fred Nile would agree with that. Sometimes Ms Lee Rhiannon gives us reason to lose faith in our belief in the power of redemption, but I stand by it. I believe it, and I hope this is a good example of the ability of Ms Lee Rhiannon to mend her ways. I thank the Hon. Jan Burnswoods for her question and I hope she asks me many more like it.

TRANGIE RESEARCH STATION

The Hon. DUNCAN GAY: My question is directed to the Minister for Primary Industries. Is the Minister aware of concerns in western New South Wales about the possible closure of Trangie Research Station? Will the Minister guarantee that there are no plans in place to close that important research, education and extension facility? Will the Minister also guarantee that the facility is set to continue operating with the appropriate staff and resources?

The Hon. IAN MACDONALD: I repeat numerous answers I have given to the House on specific items relating to the budget and the restructure of the Department of Primary Industries that will be carried out. But I will not be answering specific questions.

The Hon. Duncan Gay: So you refuse to rule it out?

The Hon. IAN MACDONALD: I am not refusing to rule anything in or out. I am asking honourable members to wait and see. These issues will be dealt with in time.

The Hon. Duncan Gay: So it is going to happen.

The Hon. IAN MACDONALD: No, I am not saying it is going to happen. We will be dealing with these issues in the context of the restructure of the department, and it will be publicly available at that time.

CITYRAIL TRAIN FIRE

Reverend the Hon. Dr GORDON MOYES: I ask the Minister for Transport Services a question without notice. Is the Minister aware that CityRail staff ordered passengers to remain in a train that caught fire while standing stationary at Engadine station last Saturday? Is the Minister aware that the doors remained shut for a considerable period of time, locking a number of passengers inside the carriages? Is it correct that the train guard, as he was quoted as saying, was following CityRail procedures by leaving passengers locked in their carriages while the train was on fire?

The Hon. MICHAEL COSTA: I am aware of the story because I noted the Opposition tried to run it yesterday in my absence. The fact of the matter is that there has been a press comment put out by RailCorp. I can go through that if the honourable member wishes, or I can present that comment to him. That is the appropriate body to deal with the matter. According to RailCorp:

> … there was no risk to passengers aboard the 10.00 p.m. Bondi Junction to Waterfall service on Saturday. RailCorp says that vandals set fire to a bundle of newspapers in the front carriage of the eight-carriage train at around 11.00 p.m. as the train entered Engadine station. Closed-circuit television footage shows two young men—

The Hon. John Della Bosca: Were they Liberals?

The Hon. MICHAEL COSTA: Maybe they were not going to the Punchbowl branch of the Liberal Party. Railcorp's statement continues:

> That CCTV footage shows two young men running from the first carriage and jumping the station fence and going into the nearby national park. The train guard then noticed smoke coming out of the first carriage, and alerted the driver, who then extinguished the fire. The guard closed all of the train doors to reduce the wind flow into the first carriage, to help contain the fire and smoke. There were no passengers in the front carriage after the youths fled. The train was delayed for about 30 minutes, and police were called, attended and are investigating.

INNER WEST VOLUNTEER HOME VISITING PARTNERSHIP

The Hon. IAN WEST: My question without notice is addressed to the Minister for Community Services. Will the Minister advise what steps the Government is taking to deliver improved support services to families in the inner west of Sydney?

The Hon. CARMEL TEBBUTT: Extra support is now available to families in the inner west as a result of the Inner West Volunteer Home Visiting Partnership, a service that provides support and assistance to families with young children under the age of three years. The Inner West Volunteer Home Visiting Partnership has been formed between the Benevolent Society, Good Beginnings and Hope for the Children, and is part of the New South Wales Government's highly successful Families First program, receiving funding of $270,000 a year over three years.

Volunteer home visiting services are an important early intervention initiative, which support parents of young children in the critical early years of a child's life. The Inner West Volunteer Home Visiting Partnership is a great example of what can be achieved when organisations come together to pool their knowledge and expertise and practice wisdom. All three organisations have a strong background in volunteer home visiting. Together they have formed a model of collaboration that sees around 20 years of combined experience brought together to offer volunteer home visiting across the inner west. All three organisations attest to the benefit of working together, evidenced by some of the improvements they have seen within their own organisations as a result of that collaboration. The partnership has trained more than 40 volunteers to provide practical parenting advice, and support and social contact for families with young children living in Sydney's inner west.

I would like to give a snapshot of some of the achievements of the service. Of the 40 volunteers who have been trained, 15 speak a community language other than English, obviously a very relevant matter to areas

such as the inner west, which has a large population of people with non-English-speaking backgrounds; 30 families are currently being visited by a volunteer; and 49 children are receiving support. The relationship between volunteers and families mirrors those that have traditionally supported families. It comes with the added benefit of professional support behind the scenes. I believe this is one of the great strengths of this service model.

The Inner West Volunteer Home Visiting Partnership also aims to strengthen the links between the networks and services that assist in caring for children in local communities. The New South Wales Government places a high priority on services in the community that are able to support families in the early days of their parenting. This can prevent families from becoming more anxious and isolated—not knowing where to turn for support, or perhaps just not having someone with whom they can discuss the joys of being a parent. Families First is the first integrated attempt in Australia to build preventative approaches across the State, and now more than 220 new services provide for families in New South Wales.

In addition to enhanced volunteer home visiting, the inner west service network for families also has been expanded. Other additions to the service network include schools as community centres, supported playgroups, additional family workers, and early childhood nurses. The collaboration within the Families First network has led to joint staff training, new parenting resources and assisting children to make the very important transition to primary school. These are just some of the examples of the work that is being undertaken to build stronger partnerships with families and communities to support young children. Through the Families First early intervention initiative, the Government will continue to support New South Wales families with young children.

SCHOOLS FUNDING

Reverend the Hon. FRED NILE: I ask the Treasurer a question without notice. Is it a fact in 1978 in Australia there were 2,371,000 children in government schools and 639,000 in non-government schools? Is it a fact that last year despite 25 years of population growth the number of children educated in government schools was 116,000 fewer, at 2,255,000, while the number of children in non-government schools rocketed in the same period to 1,060,000, a rise of 67 per cent? Is it a fact that the New South Wales Government and teacher unions have called for equal Federal funding for government and non-government schools to achieve equity and justice? Will the Government institute the same policy in the State education budget for equal funding for government and non-government schools, in place of the current unjust practice of 75 per cent funding for government schools and 25 per cent funding for non-government schools, when more than 33 per cent of New South Wales students study in non-government schools? If not, why not?

The Hon. MICHAEL EGAN: It is not for me to deal with policies of any party or group other than the New South Wales Government, but my recollection is that the policy of the Federal Opposition is that funding of schools is on a needs basis. So I am not sure whether the account that Reverend the Hon. Fred Nile gave to the House in relation to the Federal Opposition is precisely accurate. I did note the figures that Reverend the Hon. Fred Nile gave relating to enrolment in State and non-State schools in 1978. That is a long time ago. I am the only member of either House of this Parliament who was a member of this Parliament in 1978. Even Reverend the Hon. Fred Nile, who is the father of this House now—something that it seems he will relinquish—was not elected until 1981. Whilst I am the longest serving member of both Houses of Parliament when my periods of service are combined, I will become the father of the House when Reverend the Hon. Fred Nile resigns to run for the Senate.

The Hon. Michael Gallacher: Can we call you dad?

The Hon. MICHAEL EGAN: The daddy of them all! Yes, you can call me dad. I will refer the question to my colleague the Minister for Education and Training.

The Hon. Duncan Gay: I could be the father of the House when you go!

The Hon. MICHAEL EGAN: That is a very interesting thing. The honourable member and the Minister for Primary Industries came to this House at the same time. I am not sure how that works. I think it is probably the first elected. Who was the first elected? In any event, I can assure you that neither will have the opportunity to become the father of the House, because you will both be gone well before I even start to think about going.

Reverend the Hon. FRED NILE: I ask a supplementary question. My question related to the New South Wales Government calling for equal funding, not the Federal Opposition. I understand Dr Refshauge made that call.

The Hon. MICHAEL EGAN: My understanding is that our policy is needs funding.

AUTISM SUPPORT SERVICES

The Hon. JOHN RYAN: I direct my question without notice to the Minister for Community Services. Why has she refused numerous requests for meetings from the respected non-profit autism support group Learning to Learn so that they could make representations to you about the needs of families coping with autism? Why will the Department of Ageing, Disability and Home Care not release the report it commissioned from the University of Sydney that reviews literature on effective models of support for children with autism? Is it a fact that this report would support representations that this group would make to her that intensive behaviour early intervention services are among the most effective means of assisting children with autism? Why does New South Wales, unlike Western Australia, not provide any funding at all for intensive early intervention behaviour services to children with autism?

The Hon. CARMEL TEBBUTT: The Hon. John Ryan has asked an important question about the support available for parents who care for a child or young person with autism. As honourable members can imagine, I receive many requests, as do other honourable members, to meet with various organisations. I have met with the Autism Association and I have been involved in a range of different launches it has organised. I have no recollection of refusing to meet with the organisation referred to by the honourable member. I certainly have not refused to meet with the organisation. It may be that they have requested a meeting and it has not been able to be organised. I am happy to look into that. There is no doubt that providing support for families with a child with autism is a significant issue that confronts the department. There is a lot of debate about the appropriate way and form of services to support children with autism.

The honourable member indicated that Western Australia provides some form of funding for intensive behaviour intervention for children with autism. My understanding is that it is the only State that does so. Although I know that the program to which the honourable member is referring is supported by some parents and carers of a child with autism, I am also aware that other parents and carers, and people involved with autism, do not necessary believe that is the only way to provide support for children with autism. The honourable member has tried to make an issue out of something that in many ways is not an issue because there is some debate about intensive behaviour support. Nonetheless, there is no doubt that intervention services of some form or another are important for children with autism and children with a disability. The Government is acutely aware of the challenges that confront parents and carers of children with autism and other disabilities, particularly the need for respite services. Since 1995 the Government has doubled funding in response to the demand for increased disability services.

The Hon. John Ryan: Why won't you release the report?

The Hon. CARMEL TEBBUTT: If the Opposition is not interested in hearing a response to the issues they ask about, I do not know why they bother to ask the question. We spend $180 million a year on supporting children and young people with a disability. Our comprehensive response to the recent Ombudsman's report into services for children and young people has given a new focus to the provision of services in this area. We will spend $11.2 million over the next four years for flexible respite for young people and their carers.

As I have reported previously to the House, the mini-budget includes additional funding of more than $30 million for children with a disability to be spent over the next four years. That funding will focus particularly on families who have children with high support needs. It will look at things such as intensive family support services, working with the family for an extended period to help them manage the behaviour and communication issues that their child with a disability may have, as well as allowing for the appointment of specialist children case managers. We know that respite is a significant issue for families with a child with a disability.

The Hon. John Ryan: What about the report?

The Hon. CARMEL TEBBUTT: The Government invests $132 million in respite. I am aware that the report exists. I am not aware of any desire not to release the report. It is my understanding that the department is still giving consideration to it. I would be happy to go back to the honourable member on that issue.

OVERS PIANOS

The Hon. TONY CATANZARITI: My question without notice is directed to the Treasurer and Minister for State Development. Will the Minister advise the House about the Government's involvement in supporting Sydney company Overs Pianos?

The Hon. MICHAEL EGAN: As most members of the House would be aware, the Government has a long record of supporting creative industries in our State. Two of Australia's leading musical institutions, the Sydney Conservatorium of Music and the Conservatorium High School, have each bought an Overs semi-concert grand piano. The Conservatorium High School received its piano on 17 March and the second piano was delivered to the Conservatorium on 7 April. Both pianos will be used for both performance and teaching. These finely crafted instruments are assembled by Sydney piano manufacturer Ron Overs in Concord West. In all, five pianos have been hand built, the first in 2000. Two have been sold in Canberra and one was sold to a private collector in Sydney.

Overs Pianos is a creative technology company supported by the New South Wales Government. It is a member of the Australian Technology Showcase and is one of more than 400 Australian technologies promoted for the New South Wales Government by the New South Wales Department of State and Regional Development. Overs Pianos provides a wonderful opportunity for leading Australian and international pianists to play and compare the instrument with those from established international piano manufacturers. It is innovation and technology that makes these pianos special. I have had the opportunity of hearing this wonderful instrument. Overs Pianos feature a special action, which has only half the friction of existing grand pianos, which allows an unprecedented level of control for the pianist.

The Overs action, as it is known, was launched in July 2000 and has been enthusiastically received by pianists and technicians ever since. Mr Overs developed the action, the mechanism by which hammers strike the piano strings, in 1999 after he discovered a design flaw in a concert pianist's instrument. His technology is rapidly establishing Overs Pianos as a world leader in piano design. The company intends to make the action available to approved technicians for retrofitting under licence. I congratulate Overs Pianos on its recent success and I wish the company all the best for the future.

SUBURBAN RAIL NETWORK FARES ABOLITION

The Hon. JOHN TINGLE: My question without notice is addressed to the Minister for Transport Services. Given the recurring problems with the suburban rail network and given that it is never likely to run a profit or break even, has any consideration been given to abolishing fares and allowing free travel on the network? Has any study been made of whether such a move might reduce costs by way of removing the expense of printing, issuing, inspecting and collecting tickets? Would such a move also encourage greater use of the suburban train network against the use of roads? If none of these matters has been considered, will the Minister consider them? And if not, why not?

The Hon. MICHAEL COSTA: I acknowledge the spirit of the question, which is to try to deal with some of the problems we are facing on the rail network but they are two different sets of problems. I thank the Leader of the Opposition for leaking a document to the *Daily Telegraph*, which enabled them to put the chart in the paper. I suggest that everyone have a look at the chart because it is a good advertisement for the rail system. If he wants any more documents I am happy to provide him with them so that he can channel them to the *Daily Telegraph.* One set of problems relates to the tangled nature of the network. The Government has made a $1 billion investment to untangle the network, which will deal with on-time running. If you look across the wall, which I have done recently, our system, even with its current problems, performs relatively well compared to other systems.

The Hon. Michael Gallacher: Tell that to the punters.

The Hon. MICHAEL COSTA: If the Leader of the Opposition understood anything about railways, he would understand that reaching levels of even over 80 per cent of on-time running, given the current benchmarks, is a good performance. In relation to abolishing fares, firstly there is no evidence that that would encourage people onto public transport. But there is a second issue: fare box revenue is a critically important component of the capital investment in railways. If the Hon. John Tingle's suggestion was accepted by the Government, all that would happen would be that the system would be starved of additional resources. An outcome of the Parry process is an argument that, over time, linked to reasonable service improvements, we

ought to have fares that reflect a fair rate of contribution from the user versus public subsidisation. Railways will never make profits because they are mass transit systems. We have never sought to make the railways profitable; instead, what we have sought to do is stabilise the contribution from the taxpayer and derive a fair contribution from the commuter.

WORKCOVER BUDGET ESTIMATES HEARINGS ACCOMMODATION EXPENSES

The Hon. MICHAEL GALLACHER: My question without notice is directed to the Minister for Commerce. Did WorkCover admit to spending over $200,000 on catering for senior executives during the past financial year at budget estimates hearings? Will he table all documentation relating to accommodation claims from WorkCover chief executive officer, John Blackwell, and WorkCover senior executive, Rob Seljack, who regularly stay overnight at the Sheraton on the Park luxury hotel, where rooms range in price from $300 to $600 a night?

The Hon. JOHN DELLA BOSCA: I thank the honourable member for his question and for his progress in relation to WorkCover matters. A couple of years ago he began with the colour of the ladies toilets and how much time and expense was involved in working out what colour the ladies toilet should be. Now he has graduated.

The Hon. Duncan Gay: He has graduated to four-star hotels—or five-star hotels. I never stay there, so I would not know.

The Hon. JOHN DELLA BOSCA: Now he has graduated to four-star hotels. He knows that the corporate head office of WorkCover is in Gosford and he knows that those two officers live in Gosford in the Central Coast area. I have no knowledge of which hotel they stay at.

The Hon. Michael Gallacher: But you will table the documentation.

The Hon. JOHN DELLA BOSCA: I am not agreeing to table anything at this stage. I am very happy to obtain an answer to the honourable member's question and provide him with an appropriate answer.

The Hon. Michael Gallacher: That means tabling. I asked you to table the documentation.

The Hon. JOHN DELLA BOSCA: No, it does not mean tabling.

The Hon. Michael Gallacher: It does. I asked you whether you will table it.

The Hon. JOHN DELLA BOSCA: I think the Leader of the Opposition knows the distinction and I would really appreciate it if he would let me finish my point, which will not take long. If members of the Opposition were really serious about doing something about workers compensation systems or occupational health and safety, they would have at least one policy or one idea on how the system should be improved.

The Hon. Michael Gallacher: You are happy to bleed the small end of town while your blokes stay at the top end of town.

The Hon. JOHN DELLA BOSCA: Moreover, if he understood anything about the premium collections system, he would also know that that suggestion is untrue. The point is that the Opposition simply has not had one good idea or had something to say over the past three or four years about ways to improve the workers compensation system or the occupational health and safety regime. In four years they have graduated from what colour the ladies toilet in the head office of the corporation should be through to which hotel senior executives of a corporation stay in when they are away from home.

The Hon. Michael Gallacher: What about how much it costs?

The Hon. JOHN DELLA BOSCA: We heard caterwauling from the Opposition just before question time about the wages and conditions of public servants. The Opposition cannot have it both ways.

The Hon. Michael Gallacher: You cannot have it both ways.

The PRESIDENT: Order! I call the Leader of the Opposition to order for the first time.

The Hon. JOHN DELLA BOSCA: The Opposition cannot demand in this chamber a 44 per cent increase in salaries for public servants over the term of this Government and then during question time attack the Government because two senior public servants are staying in particular accommodation. I do not know which accommodation they stayed in, but when public servants are working in the central business district and are away from home, as all honourable members know, regardless of rank they are entitled to reasonable accommodation. That is my answer.

NATIONAL MULTICULTURAL MARKETING AWARDS

The Hon. PETER PRIMROSE: My question is directed to the Minister Assisting the Premier on Citizenship. Will he provide the House with the latest information on the Government's highly successful National Multicultural Marketing Awards program and how the awards benefit multiculturalism?

The Hon. JOHN HATZISTERGOS: I thank the honourable member for his very important question. Last week, for the second year in a row, I had the honour of representing the Premier at the launch of these important awards. I remark in passing that I had the pleasure of the company of two members of this House who are keenly interested in multicultural matters. The first is the Hon. Kayee Griffin, who was previously the mayor of a multicultural community.

The Hon. Michael Gallacher: What about Eddie? Was he there?

The Hon. JOHN HATZISTERGOS: No, he was not, but I can tell the Leader of the Opposition who was. The Hon. David Clarke was there, and in recent times he has been interested in a lot of matters concerning multiculturalism. It was pleasing to have his company. The awards came from obscurity 15 years ago to become a valued annual fixture in the multicultural life of New South Wales in Australia. They play a pivotal role in celebrating and encouraging the endeavours and creativity of organisations and agencies that harness the asset of cultural diversity, which is abundant in the wider community. The awards celebrate innovative and unique marketing strategies that value multiculturalism and do not allow culture, language and religion to become marginalising forces.

It is pleasing to note that the last year's grand award winner was the Bankstown police. That shows that reaching out to people from culturally and linguistically diverse backgrounds is a crucial step in embracing the diverse traditions that make up the mosaic of our community. Last year's export category winner was Era Publications, which is an exporter of educational publications to over 30 countries in 16 languages other than English. The company won the award for exporting educational books translated into the three dialects of the Sami people, who, I am advised, are a small cultural group living in various countries of the Arctic Circle. This proved mutually beneficial because the company was able to enter a new market as well as deliver a product that had not previously been available, given the small size of the Sami cultural group.

The coveted advertising award category was won by the Australian Museum in Sydney. The museum won the award for its "Two Emperors: China's Ancient Origins" exhibition, which focused on the lives of two major emperors in ancient China and featured over 120 treasures from the mausoleums of the emperors. The museum sought to encourage Chinese Australians to experience a part of their cultural heritage. It did so successfully, with an extensive media and advertising campaign that was tailored to the Chinese Australian community. Multicultural marketing has resulted in our businesses booming both locally and internationally. National Multicultural Marketing Awards are a valuable tool in measuring the success of businesses that have taken the lead in the marketplace by connecting with a broader and more diverse market through creativity and insight.

I offer my congratulations to the businesses and organisations that won recognition in the 2003 National Multicultural Marketing Awards. It was a pleasure to be a part of the presentation dinner last year and to see the diverse range of government and non-government organisations that are excelling in multicultural marketing campaigns. Each had one thing in common: an ability to communicate with people—that is, potential customers—from different multilingual backgrounds. Programs such as the National Multicultural Marketing Awards build on the Government's commitment to promote and nurture cross-cultural dialogue. The fact that these awards cater for businesses, community organisations and government agencies means that a broad range of organisations that are working with diverse communities can be nominated.

The Government strongly supports businesses and organisations that appreciate the value of both the domestic and international multicultural markets in helping to bring cohesion and prosperity to the economic life

of the nation. It is organisations such as those involved in the National Multicultural Marketing Awards that are building on the strength of our diversity. I offer my sincere congratulations and thanks to the hardworking staff at the Community Relations Commission, in particular the manager of multicultural marketing and business, Ms Maria Kobas. I also thank this year's sponsors of the award, which included the Australian Taxation Office.

CATHERINE HILL BAY GAS EXPLORATION

Mr IAN COHEN: My question is directed to the Minister for Primary Industries. Will he explain why, on such an important issue as drilling a gas exploration well off Catherine Hill Bay, the Bounty Oil company does not have to provide a comprehensive environmental impact statement [EIS] but just an environmental plan, especially when all sectors of the fishing industry are subject to the scrutiny of a full EIS? Will he give an undertaking that if gas is discovered and a fixed platform is proposed to be positioned in the fishing grounds, a full EIS will be required to give a clear indication of the effects on the environment for the recreational, commercial and charter boat industries?

The Hon. IAN MACDONALD: I thank the honourable member for his question. There is a rather complex set of arrangements in relation to this matter, most of which I do not have carriage.

The Hon. Duncan Gay: You have carriage of just about all of it.

The Hon. IAN MACDONALD: No, I do not.

The Hon. Duncan Gay: You are the Minister for Primary Industries, and your responsibilities include minerals and fishing.

The Hon. IAN MACDONALD: The Deputy Leader of the Opposition should wait a minute.

The Hon. Michael Gallacher: Catherine Hill Bay is off Newcastle, if that is a help. The Minister is looking for the answer. We are in dangerous waters now!

The Hon. IAN MACDONALD: No, we are not. This morning I signed correspondence addressed to Mr Bill Pearce of the Newcastle Commercial Fisherman's Co-operative. As I understand it, Bounty Oil is preparing a test drilling operation in that area to look for gas. That issue has been pursued for some time. Late last year or earlier this year some seismic tests were carried out and that exercise caused some ructions amongst the local fishing co-operative, which was concerned about the impact of that exercise on catch. In response to the minerals component of the question, I will seek advice from my colleague in the other House and give a full answer in due course.

Mr IAN COHEN: I ask a supplementary question. Would the Minister investigate and report on the extent of the decline of fish catches in areas of seismic testing activity?

The Hon. IAN MACDONALD: I have received a number of reports in relation to the impacts on fish from a previous series of surveys carried out in the 1990s. The report was pretty inconclusive on the impact on catch, as I recall.

The Hon. Duncan Gay: The figures I saw were pretty conclusive—they dropped.

The Hon. IAN MACDONALD: No. Many factors impact on why fish numbers may either decline or increase at any time. There is a belief that the current drought will have a long-term impact upon the waters of New South Wales and, as a consequence, fish numbers could decline. Sea temperatures are presumed to have a big impact upon fish numbers, particularly on certain species. Many factors are to be taken into account in working out the actual impact upon an area.

The Hon. Michael Egan: If I go fishing, the fish disappear.

The Hon. IAN MACDONALD: I could comment on that, but I might get into trouble. In response to the honourable member's question, I am quite happy to investigate whether there was an impact on fish numbers following the seismic testing carried out late last year. I hesitate to suggest to the honourable member that there might be other factors relevant to any decline in fish stocks at any time.

COOMA TO CANBERRA COUNTRYLINK BUS SERVICE

The Hon. MELINDA PAVEY: My question is directed to the Minister for Transport Services. Is the Minister aware that the current timetabling of CountryLink bus services from Cooma to Canberra does not enable Cooma residents to make day trips to Canberra? What action will the Minister take to make changes to the current CountryLink timetable to facilitate such day trips?

The Hon. MICHAEL COSTA: I am very aware of this matter, because Steve Whan has made fairly strong representations to me on this matter. I have asked RailCorp to look into the matter.

STAMP DUTY

The Hon. HENRY TSANG: My question without notice is addressed to the Treasurer, and Minister for State Development. Will the Minister inform the House how the Government's property tax reforms are helping young first home buyers get into the New South Wales market?

The Hon. MICHAEL EGAN: Today I can report that since the mini-budget, that is between 7 April and 28 May inclusive, 5,886 first home buyers across the State have saved $56.75 million in stamp duty. I repeat, almost 6,000 first home buyers across the State have saved almost $57 million in stamp duty. That is an average saving of $9,640 in stamp duty for almost 6,000 first home buyers. I am very pleased that real estate professionals across the State are encouraging first home buyers to take advantage of the Government's generous stamp duty exemptions. According to the President of the Real Estate Institute, Mr Rowen Kelly, who was quoted in the *Sydney Morning Herald* on 15 May, "Every dog has its day … and it's the buyer's day now." It is not only first home buyers in Sydney who are benefiting; I am pleased to say that first home buyers in regional New South Wales are taking full advantage of what is on offer.

The Hon. Rick Colless: How long will that trend continue? You can only buy your first home once.

The Hon. MICHAEL EGAN: That is right, and it is the important first step. The genius opposite has discovered that one can only buy a first home once. But under the Opposition's proposal, very many people in this State would never, ever, have had the opportunity of buying their first home, and if they could not buy their first home it is a logical next step that they would not be able, ever, to buy a second, third or fourth home. It is helping people buy their first home that is most important for them. Thanks to the Government's generous stamp duty exemptions 2,099 first home buyers outside Sydney have saved almost $16 million, an average saving of $6,800. Last month, the Real Estate Institute of New South Wales released its 2004 March quarter sales figures, which showed that in regional New South Wales the median house price is below $415,000. Mind you, that is still too high, as far as I am concerned.

In regional New South Wales 99 per cent of first home buyers will benefit from the Government's stamp duty exemptions. That means that almost every first home buyer outside Sydney will pay no stamp duty. On the North Coast, 297 first home buyers have saved a total of $1.93 million, which represents an average saving of $6,500 in stamp duty. In south-western New South Wales, in areas close to where the Leader of The Nationals in this House resides, 289 first home buyers have saved a total of $1.2 million, which represents an average saving of $4,100 in stamp duty. The neighbours of the Deputy Leader of the Opposition would not have been able to buy their homes without the initiative of this Government. Indeed, even in Crookwell I am told that two first home buyers were exempt from stamp duty as a result of our mini-budget reforms. In the Hunter region, 431 first home buyers— [*Time expired.*]

The Hon. HENRY TSANG: I ask a supplementary question. Would the Minister please elucidate his answer.

The Hon. MICHAEL EGAN: In the Hunter region, 431 first home buyers received $3.3 million in stamp duty exemptions, an average saving of $7,639 in stamp duty.

The Hon. Duncan Gay: Name the two from Crookwell.

The Hon. MICHAEL EGAN: I cannot. Privacy considerations prevent me from doing that. Crookwell is a very nice community, a relatively small community. I suspect that the Deputy Leader of the Opposition knows who the two first home buyers are and that he is acutely embarrassed to know that but for the initiatives of this Government his neighbours in Crookwell would not have been able to buy their first homes.

On the Central Coast, 252 first home buyers have received $2.4 million, an average saving of $9,580 in stamp duty. It is clear that the Government's property reforms are helping first home buyers across the whole of New South Wales and I am sure that our generous stamp duty exemptions will assist even more young people to enter the property market.

I have noticed that some other States have tried to follow our lead, but only in a half-hearted way. In Victoria buyers receive a $5,000 rebate, but only once. That means that someone in Victoria purchasing a first home for, say, $300,000 would still pay about $8,000 in stamp duty. In Wodonga buyers are up for almost $8,000 stamp duty but if first home buyers purchase an almost identical house across the border in Albury no stamp duty is payable. No wonder all the young buyers in Wodonga are moving across the border to Albury. No wonder all the young buyers in Coolangatta are moving across the border to Tweed Heads. This is a great development and we will see are a lot more of it as time goes by.

HEALTH CARE SYSTEM

The Hon. DAVID OLDFIELD: My question without notice is directed to the Special Minister of State, representing the Minister for Health. What is the Minister's response to statements by health care workers that staffing shortages and bed closures are causing a crisis in public health? Is the Minister concerned that, even at times not considered busy, ambulance officers have difficulty in locating hospitals with available beds? Is the Minister concerned by reports about what ambulance officers call trolley block, where patients are occupying ambulance trolley beds because there are no hospital beds—a disturbing situation that I recently witnessed firsthand? Is the Minister concerned by reports that trolley blocks are also doubling as a way of stopping ambulances from bringing even more patients to already desperately overcrowded hospitals? Will the Minister allow parliamentarians increased access to hospital staff for the purposes of acquiring unfiltered information on the state of the health system? Will the Minister consider holding a royal commission as called for by the Opposition? Is this Government's greatest interest in finding the truth or covering it up?

The Hon. JOHN DELLA BOSCA: I thank the honourable member for his series of questions.

The Hon. Duncan Gay: All his questions. They were very good.

The Hon. JOHN DELLA BOSCA: I do not think that they were up to his usual standard; I think that they were pretty poor. I am sure that my colleague the Minister for Health will be able to provide me with comprehensive answers to the honourable member's questions and I will provide them to him as soon as practicable.

SNOWY RIVER SHIRE COUNCIL ELECTIONS

The Hon. PATRICIA FORSYTHE: My question without notice is directed to the Minister for Local Government. Has he received correspondence from Snowy River Shire Council in relation to the potential cost of the council election to be held on 24 July? If so, has he written to the Electoral Commission in support of the request by Snowy River Shire Council for the cost of the council election to be met by the commission? In view of the court decision declaring the recent election null and void because of a mistake by the Electoral Commission, will the Minister give the council the support it is seeking?

The Hon. TONY KELLY: I will take the honourable member's question on notice. I also refer her to my previous answer in relation to this matter.

LOCAL GOVERNMENT STRUCTURAL REFORM

The Hon. CHRISTINE ROBERTSON: My question without notice is addressed to the Minister for Local Government. What is the latest information on the local government reform program?

The Hon. TONY KELLY: The honourable member has had a continuing and successful interest in local government reform. Yesterday I addressed around 400 delegates at the New South Wales Shires Association Annual Conference.

The Hon. Michael Egan: Where was the Lord Mayor?

The Hon. TONY KELLY: The Lord Mayor was not there.

The Hon. Duncan Gay: Is she a member of the Shires Association?

The Hon. TONY KELLY: No, she is not a member of the Shires Association. I have never been to a Shires Association conference at which delegates were not welcomed to Sydney by our Lord Mayor. At the conference yesterday I announced that the Government, at the request of both the Shires Association and the Local Government Association, would be introducing legislation to defer mayoral elections until September next year. We believe that that move will provide communities with the stability of leadership to move forward with planning and improved service delivery. It will also remove the need for two mayoral elections in six months, which was impractical and cumbersome for councils. Our local government reform program is reaping rewards for local communities. The Premier, in his address yesterday to the Shires Association, gave the example of Liverpool Plains shire. The creation of the new council has meant a balanced budget and improved services to smaller communities, for example, Willow Tree.

The Hon. Catherine Cusack: Are you cancelling the mayoral elections?

The PRESIDENT: Order! I call the Hon. Catherine Cusack to order for the first time.

The Hon. TONY KELLY: As a result of savings, a new information centre is to be built, the local tip will be upgraded, there will be a new works depot and street beautification, as well as a $10,000 village grant to upgrade facilities of the community's choice. Our reforms have led to one-off savings of around $11 million and annual savings of $11.3 million each and every year thereafter. That is great news for residents and ratepayers because these savings go directly into providing improved services, such as those to be provided in Willow Tree. The aim of our project has always been to provide more efficient and equitable services to communities. As part of that we are moving to the second wave of the reform program—examining the way in which councils are managed.

As I said to the shires conference yesterday, most councils are well managed and the majority of councillors are community minded and hardworking, but some of them are falling behind. Recently I briefed the House on the Government's intention to introduce flying squads of investigators to keep an eye on councils. Other reforms include a draft code of conduct to guide councillors in their decisions, introducing sin binning to suspend councillors who disrupt the business of council because of chronic misbehaviour, and training for councillors in conjunction with the Local Government and Shires Associations. Our reforms are not just about council numbers or the size of councils. At the end of the day we want to ensure that ratepayers are getting value for their money. Our local government reform program is achieving that.

Today the Opposition released its policy on council reform. It wants to turn back the clock. It seems to be all about reversing the amalgamation of councils. My question is: How far is the Opposition prepared to go? I wonder whether we will see a return to the old Turon and Abercrombie shires? When Ben Chifley was Prime Minister of this country—

The Hon. Michael Gallacher: How old were you then?

The Hon. TONY KELLY: I remember that he was Prime Minister. I was born not too long after that.

The Hon. CHRISTINE ROBERTSON: I ask a supplementary question. Will the Minister elucidate his answer?

The Hon. TONY KELLY: When Ben Chifley was Prime Minister he was also a councillor on Abercrombie Shire Council. Will the Opposition reverse shire amalgamations and reinstate the old Turon and Abercrombie shires? It might want to reinstate Windouran Shire Council, which was in existence two years ago. Two years ago Windouran Shire Council had a total of 129 ratepayers. Will the Opposition do that, or will it revert to the recommendations in the 1973 Barnett report in the time of a former Coalition Government? Harry Jago, the Minister for Local Government at the time—I think he was famous for something else—

The Hon. Catherine Cusack: He was Minister for Health.

The Hon. TONY KELLY: He was Minister for Local Government at the time of the Barnett report into council amalgamations. That Coalition Government amalgamated an enormous number of councils across the State. Will the Opposition reverse the amalgamation of all those councils? This State started with 327 councils. Will we retain our present number of 154 councils, or will we end up with 400?

GENETICALLY MODIFIED CANOLA TRIAL

The Hon. Dr PETER WONG: My question without notice is directed to the Minister for Primary Industries. It was reported by the *Sydney Morning Herald* today that the New South Wales Government approved the first farm trial of genetically modified canola. Is it true that one of the conditions for the newly approved trial is that Bayer must take out public liability insurance to protect farmers whose crops could be contaminated? Will the Minister inform the House whether that has been carried out and which insurance company has underwritten such a liability? Who will monitor crop contaminations? Is it also true that the trial will be carried out in the southern part of New South Wales? Will the Minister indicate which part of southern New South Wales will be involved in this trial?

The Hon. IAN MACDONALD: A number of the assertions in the honourable member's question are quite inaccurate. The exemption order has been placed on NSW Agriculture's web site, where. members can have a look at it. I am advised by the Advisory Council that I should issue Monsanto-Bayer Crop Science with exemption orders to enable trials to proceed at three sites in southern New South Wales. The trials, which are for research purposes, will cover a total area of no more than 40 hectares. The New South Wales Agricultural Advisory Council on Gene Technology provided advice to me about buffer zones following a full discussion of the issue at its meeting in April. A majority decision by the council concluded that a 50-metre buffer zone was considered sufficient. The exemption orders were gazetted on 28 May 2004 and public notification was made in the written press, as required under the Gene Technology (GM Crop Moratorium) Act 2003.

The Hon. Rick Colless: How far does the pollen spread?

The Hon. IAN MACDONALD: I remind the Hon. Rick Colless that independent research conducted in Australia suggests that a five-metre buffer zone is sufficient. I also remind him of the concept of pollen traps, which he should take into account when considering this issue. I was also advised that it was sufficient that a substantial amount of public liability insurance be taken out by the proponents, and that is part of the exemption order. The advisory council has given me very detailed advice on all these matters and I believe these three smaller trials will give the farming community of New South Wales an opportunity to assess accurately the relative benefits. There will be advertisements in newspapers tomorrow. As I have said to Opposition members on numerous occasions, like with the Office of the Gene Technology Regulator, the global positioning satellite co-ordinates will be released publicly.

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

TORRINGTON BUSH FIRE BRIGADE

The Hon. TONY KELLY: Yesterday the Hon. Rick Colless asked me a question about fire tankers in Torrington. When the Carr Government came to power in 1995 it found that the emergency services had been starved of funding and neglected by the former Coalition Government. In the past nine years this Government has allocated $208 million through the Rural Fire Fighting Fund, which purchased almost 2,300 new tankers.

The Hon. Michael Egan: Who funded that?

The Hon. TONY KELLY: This State Government, in the past nine years.

The Hon. Michael Egan: But more specifically?

The Hon. TONY KELLY: It was the Carr-Egan Government.

The Hon. Michael Egan: More specifically?

The Hon. TONY KELLY: The Treasurer.

The PRESIDENT: Order! I call the Hon. Michael Egan to order.

The Hon. TONY KELLY: Due to this Government' s tanker replacement program only 829 petrol-fuelled tankers are left in the fleet. Unlike the former Coalition Government, this Government is committed to ensuring that our volunteer firefighters are equipped with the best, latest and safest firefighting equipment. That

is why a record $796 million has been allocated to the Rural Fire Fighting Fund during the nine years of this Government compared with the $197 million that the former Coalition parties spent during their entire seven years in government. They are important figures. In fact, the Treasurer allocated in the budget $125 million for this year alone compared with the $197 million that the former Coalition Government spent over seven years. This means better safety equipment, better training and a significantly better fleet for the volunteers of the New South Wales Rural Fire Service. In response to the honourable member's question, I advise that the local council has bid for funding to replace the Torrington brigade's petrol tanker in the coming financial year. I am also pleased to advise that the Northern Tablelands team will receive five firefighting vehicles for its area this year.

AUTISM SUPPORT SERVICES

The Hon. CARMEL TEBBUTT: Earlier today the Hon. John Ryan asked about a report related to autism. I am advised that the Department of Ageing, Disability and Home Care engaged the Centre for Developmental Disability Studies to undertake a literature review of strategies to address autism. I am also advised that that report was received recently by the department, which is presently examining it. The report has not been provided to my office to date. I am advised that the report will be made available to interested stakeholders in due course.

Questions without notice concluded.

REGIONAL DEVELOPMENT BILL

CRIMINAL PROCEDURE AMENDMENT (SEXUAL OFFENCE EVIDENCE) BILL

Bills received.

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

Motion by the Hon. Tony Kelly agreed to:

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

Bills read a first time and ordered to be printed.

[*The President left the chair at 1.05 p.m. The House resumed at 2.30 p.m.*]

BUDGET LOCK-UP

Personal Explanation

Ms LEE RHIANNON: I wish to make a personal explanation.

The Hon. Michael Egan: Do you claim to have been misrepresented?

The PRESIDENT: Order! Is leave granted?

The Hon. Michael Egan: A personal explanation is invariably given when a member claims to have been misrepresented. Members are entitled to ask that question before leave is granted. Has Ms Lee Rhiannon been misrepresented?

Ms LEE RHIANNON: Is it in order that I answer that question?

The PRESIDENT: It is not a requirement of the standing order. However, that would have to be part of the personal explanation.

Ms LEE RHIANNON: It is part of the personal explanation.

Leave granted.

Ms LEE RHIANNON: I want to respond to Treasurer Egan's claim in question time today that I have taken a hypocritical stance on the budget lock-up. I regard the charge of hypocrisy as a serious one, and it is entirely untrue.

The Hon. Michael Egan: Point of order: There are very strict rules about personal explanations, and members must indicate where they have been misrepresented—that is the purpose of a personal explanation. It is not an opportunity to debate anything.

Ms LEE RHIANNON: To the point of order: I was only two sentences into my personal explanation and I am trying to lay out my reasons and arguments on how I have been misrepresented.

The PRESIDENT: Order! Standing Order 88, which relates to the making of a personal explanation, states:

> The subject of a personal explanation may not be debated.

I remind members that a personal explanation under this standing order is a series of facts outlined by the speaker, and discussion and justification cannot be part of the personal explanation.

Ms LEE RHIANNON: I have consistently called for a more accountable and transparent process for the release of the budget. Since 2001 I have been proposing ways to achieve this.

The Hon. Michael Egan: Point of order: The honourable member must point out where she was misrepresented. The purpose of a personal explanation is to place on record that a member has been misrepresented and to try to correct that misrepresentation. Has Ms Lee Rhiannon been misrepresented?

Ms LEE RHIANNON: To the point of order: The Treasurer does himself no credit in trying to block me giving the details of it.

The Hon. Jan Burnswoods: Why don't you do it properly?

Ms LEE RHIANNON: I am doing it properly. The Treasurer has talked many times about his commitment to tradition, and I understand it is the tradition that personal explanations are heard in silence.

The PRESIDENT: Order! My earlier ruling covers this situation. Further, on this matter President Johnson ruled:

> The matter which is the subject of the personal explanation should not be amplified or debated.

Ms LEE RHIANNON: I put to the House that I am not amplifying or magnifying it. In making this personal explanation I am responding to considerable comments of the Treasurer. Therefore, I need to give the background, and comment on the arguments given by the Treasurer. The Treasurer made many comments, and to give a personal explanation I need to explain—

The Hon. Peter Primrose: Just apologise!

Ms LEE RHIANNON: There is no reason to. There is no apology here. The apology should come from the Treasurer for once again distorting the facts. In this regard I have never regarded the lock-up as satisfactory. I have called for the lock-up to be opened up to other parties and to non-government—

The Hon. Michael Egan: Point of order: The problem with the course that Ms Lee Rhiannon has now embarked upon—

The Hon. Greg Pearce: Just withdraw leave if you are going to be such a strop!

The Hon. Michael Egan: I am trying to give her the opportunity to specify where she has been misrepresented, and trying to correct that misrepresentation if it has occurred. A personal explanation is not an opportunity for debate because no other member—neither I nor any other member of the House—will have the opportunity to respond.

Ms LEE RHIANNON: The Treasurer is responding now.

The Hon. Michael Egan: No, I am taking a point of order. Ms Lee Rhiannon has not pointed out where she has been misrepresented. If she keeps doing this I will have no option but to withdraw leave. This is not an opportunity for Ms Lee Rhiannon to debate why she has changed her tune. She can do that on the adjournment or by way of substantive motion, but if she keeps doing it by way of personal explanation she must point out where she has been misrepresented.

Ms Sylvia Hale: To the point of order: The allegation made this morning was that Ms Lee Rhiannon was hypocritical in the stance that she took. It would seem to me that for her to establish whether it was hypocritical, and to indicate what her true position is, she does have to put it in context. It is a travesty of procedure if a member is trying to explain her position and is not heard in silence. She should be extended that courtesy. The Treasurer was heard at great length this morning and it is only appropriate that Ms Lee Rhiannon be heard in silence and that her remarks be placed in the context in which they deserve to be placed.

The Hon. Duncan Gay: To the point of order: This morning the Treasurer made an incisive point. He does his cause no good by preventing Ms Lee Rhiannon from responding to his point. By taking points of order, the Treasurer has denied the honourable member continuity in trying to put her case.

The Hon. Jan Burnswoods: She has not tried.

The Hon. Duncan Gay: She has tried. But bitchy comments from some on the Government side have denied Ms Lee Rhiannon continuity in putting her response. The Treasurer made an incisive attack on the honourable member this morning, making it hard for the member to respond appropriately. The honourable member should be given the opportunity to put her case.

Mr Ian Cohen: To the point of order: It is interesting, and appreciated by me, that an Opposition member has more respect for the right of free speech than the Government has on this matter.

The Hon. Jan Burnswoods: You have an alliance with them! What would you expect?

Mr Ian Cohen: The miserable member can only think in shallow, superficial, political terms. The issue is allowing a member an opportunity, as the Hon. Jan Burnswoods would have, to exercise her right to make a personal explanation. The Treasurer deliberately set out to bag and then to gag. The honourable member should be given an opportunity to express herself, and the Treasurer can comment appropriately. Instead, the Treasurer's badgering to try to silence dissent in this House is becoming an ongoing, boring, one-dimensional bullying activity by a Government that is out of control.

The PRESIDENT: Order! I could quote numerous rulings of Presidents Willis and Johnson and Deputy-Presidents Solomons and Healy that consistently make the point that a member seeking to make a personal explanation cannot debate the matter. In order to make crystal clear what a personal explanation can be used for, Odgers states:

> [A personal explanation] cannot be used to respond to matters in debates which have occurred at an earlier stage in the proceedings. It also cannot be used simply to respond to arguments raised in debate; to use the procedure a senator must claim to be misquoted, misunderstood or misrepresented.

I urge the member to explain how she has been misrepresented and not to debate the question.

Ms LEE RHIANNON: This morning the Treasurer clearly misrepresented my position. He said I called for the lock-up to be abolished. The Treasurer is in receipt of a letter dated 18 June 2003 signed by me and other crossbench members. In that letter we called for the lock-up to be opened up to other parties and to non-government organisations, as happened at the Federal level. I have called for the lock-up to be made available electronically on the morning of the budget so that the public also can form a response that day. I put this information before honourable members so that they will know that for years now I have been involved in discussion about opening up the budget lock-up to greater scrutiny. It was in that context that I called for the lock-up to be scrapped. This year the Treasurer has shifted the goal posts of the debate. My demand is that the budget lock-up be replaced by a better model.

The Hon. Michael Egan: Point of order: The honourable member is debating the point. It is a fact that on a number of occasions she has called for the abolition of the lock-up. She is not claiming that that is a

misrepresentation. She is now simply trying to mount a case to explain her double standards on this matter. I ask that the honourable member be directed to return to the personal explanation.

MS LEE RHIANNON: To the point of order: Once again the Treasurer distorts what I said. I have just said that he has from me a letter in which I urge that the lock-up be expanded. So it would still be a lock-up, but it would be opened up in the same way it was at the Federal level. Again the Treasurer is inconsistent and distorts what I have said.

The PRESIDENT: Order! The member continues to demonstrate her misunderstanding of the standing order, under which the member may claim misrepresentation and may point to the misrepresentation that has occurred. The member has been explaining her position, and that is not allowable under Standing Order 88. The member must point to the misrepresentation that she claims has occurred.

Ms LEE RHIANNON: I reiterate that the misrepresentation occurred when the Treasurer said that I am hypocritical because I have called for the lock-up to be abolished, when he is in receipt of a letter from me suggesting the lock-up be expanded so that it works more effectively. That is not a call for the abolition of the lock-up. That is quite clear.

The Hon. Michael Egan: You have said that three times.

Ms LEE RHIANNON: Why does not the Treasurer bring into the House the letter that I sent to him? The point I make is that there has been discussion on this point, and the letter that the Treasurer has, but will not bring into the House, engages this very issue of the lock-up. I have said to the Treasurer: There is a lock-up, and expand it. So it would still be a lock-up, but it would be open to greater scrutiny by the people. The Treasurer will not allow that scrutiny, and in that he is on shaky ground. The Treasurer was wrong when he said I was hypocritical. This year I find myself having to defend the status quo.

The Hon. Michael Egan: Point of order: The honourable member continues to ignore the rulings of the Chair, and therefore I have no option but to withdraw leave.

Leave withdrawn.

Pursuant to sessional orders business interrupted.

GENERAL PURPOSE STANDING COMMITTEE NO. 4

Report: Budget Estimates 2003-04

Debate resumed from 12 May.

The Hon. GREG PEARCE [2.46 p.m.]: I had the privilege to participate, to a limited extent, in the budget estimates exercise undertaken by General Purpose Standing Committee No. 4, particularly as it related to the Energy and Utilities, and Science and Medical Research portfolios. It was refreshing that the committee was prepared, as were a number of other such committees, to call back witnesses, particularly public servants, to enable issues raised in earlier hearings to be properly explored and to follow up answers that had been provided by Ministers and officers. It is a great pity that so many answers to questions, particularly questions on notice, were inadequate. This demonstrated a lack of transparency and accountability, or blatant evasiveness in responding to some questions. Of course, that is contrary to the role of this House, which is to scrutinise the performance of government and its nurturing and use of public resources.

In relation to the Energy and Utilities portfolio, one particular issue took up a great deal of the time of the committee hearings. The committee is to be congratulated on the manner in which it continued to pursue such issues. One in particular related to breaches by the then chief executive officer of Sydney Water of his duties as a director of Sydney Water and also the procurement guidelines of Sydney Water. It is known that the then General Manager, Mr Robinson, had a problem of conflict of interest, or perceived conflict of interest, with a consultant known as Misho and Associates, a firm engaged basically on the direct instructions of Mr Robinson, not just without compliance with the normal procurement guidelines but in a way that essentially forced his subordinates to breach the guidelines as well. His subordinates were intimidated to such an extent that when they appeared before the committee they were reluctant to speak up and to answer questions. I refer to the evidence of Mr Ian Grey, General Manager, People and Property, who, because he was disinclined to answer when he appeared before the committee, took on notice the question:

> Have you engaged any consultants on the basis of a recommendation from Mr Robinson other than Misho and Associates?

The answer provided to the question on notice was as follows:

> Consultants have been engaged by Mr Ian Grey to contribute to Sydney Water's business reform program and property works. Consultants engaged by Mr Grey, that were recommended by Mr Robinson, include:
>
> - Hewitt Associates … on the business reform report.
> - LSM Projects was used on the first phase of the review of information technology.
> - Ernst and Young was commissioned for the review of Sydney Water's property function.
> - PricewaterhouseCoopers was engaged to assist Sydney Water's critical review group on financial issues.
> - PressCorps and At Work Solutions were engaged to assist Sydney Water's critical review group on people issues.
> - LSM Projects—

a favourite of Mr Robinson—

> was commissioned to project manage the upgrade and refurbishment of the foyer and forecourt at Sydney Water's Head Office.

Perhaps it is a little unfair to call it intimidation, but I think it is intimidation when the general manager of an organisation like Sydney Water abuses and/or ignores the procurement guidelines and insists that his subordinates enter contracts with his favourite people—

The Hon. Jan Burnswoods: Point of order: I seek your guidance, Deputy-President. What the honourable member has said in referring to questions on notice and matters before the committee may well be okay, but I understand that this case has been referred to the Independent Commission Against Corruption. With the allegations he is making and his imputations of certain actions affecting both the behaviour of the person concerned and his subordinates, he is straying into an area that is perhaps not appropriate for a take-note debate on an estimates committee report.

The Hon. GREG PEARCE: To the point of order: I am quoting directly from the written answers to questions on notice and directly from the transcripts. The point of order is a nonsense.

The Hon. Jan Burnswoods: Further to the point of order: There is no way in the world that when the member made the remarks that caused me to take my point of order in which he referred to intimidation and so on that he was quoting from either the answers to a question on notice or from the transcript. The point he made was actually made in error.

The DEPUTY-PRESIDENT (The Hon. Patricia Forsythe): Order! Although it is clear that the Hon. Greg Pearce is outlining matters that arose from the budget estimates inquiry, he has made reference to a matter that is the subject of an Independent Commission Against Corruption investigation. Accordingly, I urge the member to maintain caution when referring to the matters.

The Hon. GREG PEARCE: I am pleased to know that you know what the ICAC is investigating and I do not. I refer to the answer to the question on notice from Mr Watkins.

The Hon. John Hatzistergos: Point of order: The honourable member has cast aspersions on your ruling by suggesting that you are aware of information that somehow he was not aware of. He should be brought to account and directed to pay proper respect to the rulings of the Chair and not debate them.

The Hon. Duncan Gay: To the point of order: There is no point of order because I was not speaking. I was not the person at the table making a speech at the time, but I am more than willing to debate the Labor Party's misuse of the ICAC, the naming of people and the travestying of people's reputations in this House now and over the past 10 years if they want to. I suspect they do not want to.

The DEPUTY-PRESIDENT (The Hon. Patricia Forsythe): Order! There is no point of order. The Hon. Greg Pearce may continue.

The Hon. GREG PEARCE: In question No. 15 taken on notice by Mr Watkins, Manager, Group Property, he was asked:

> Are you able to provide the names of Sydney Water Corporation staff members who expressed an opinion that they should have been involved in consultancy or contract appointments but were not?

He said that he had received legal advice and his answer was:

> The names of Sydney Water staff members who expressed opinions that they should have been involved in consultancy or contract appointments but were not—

because of Mr Robinson's actions—

> were Mr Trevor Cronk, Mr Michael Massih and Mr Jeff Colenso.

Not only did witnesses feel that they could not speak openly at the committee and were eventually told that they should, but also the Chair of Sydney Water, Ms Kibble, refused to answer questions. She claimed the same sort of nonsensical reasons that the Hon. Jan Burnswoods just used: the matter was before the ICAC. But the ICAC wrote back to Ms Kibble and said that it had no concern about the particular document that Ms Kibble wanted to reveal.

The Hon. Jan Burnswoods: Point of order: The member is now clearly and most offensively reflecting on your ruling. What I may or may not have said in taking a point of order, which you upheld, is of little relevance. He is now attacking your ruling and attempting to relate that to evidence that was given before this committee.

The DEPUTY-PRESIDENT (The Hon. Patricia Forsythe): Order! I have heard sufficient. There is no point of order. The member may continue.

The Hon. GREG PEARCE: I will conclude because the Hon. Jan Burnswoods has done what she does best, and that is to waste another member's time with spurious points of order. When the Minister eventually took some interest in what was going on in Sydney Water he gave Mr Robinson his marching orders, as he was obliged to. It was a good outcome of this committee's deliberations in pursuing the issues, which were quite disgraceful. [*Time expired.*]

The Hon. JAN BURNSWOODS [2.56 p.m.]: I do not wish to make a huge number of points on the report of General Purpose Standing Committee No. 4 on the budget estimates. The main point I seek to make is about the appalling attack on Hansard staff who dealt with one hearing in particular. In doing so I refer to the amazingly long series of footnotes appended to the minutes in relation to this inquiry, which show that a number of members of the committee set out to argue that Hansard had deliberately or perhaps by incompetence—certainly one of those two suggestions—got a whole lot of points wrong about one of the hearings.

The Hon. Greg Pearce: Point of order. The honourable member is clearly casting aspersions on other members of the committee, particularly in relation to the way they treated Hansard staff. I do not for a moment accept the aspersions she is casting on them. According to the standing orders, if she wishes to proceed in this way she should do so by way of substantive motion.

The Hon. Duncan Gay: To the point of order: The honourable member, sneakily, did not name the members, but if one were to read the footnotes one would be in no doubt as who they were. The honourable member is seeking to attack members. She well knows there is only one way to do that. If she wishes to make a point like that she has to do it by way of substantive motion. This member has not sought on any occasion to move such a motion. I suspect the report has been around for some time. There have been opportunities to do that, yet she has chosen not to. Now is the time to indicate to the member that this is an inappropriate manner in which to contribute and that she should return to the matter before the House. I indicate that if she continues, Opposition members will express their disquiet at every opportunity that presents itself, but if she addresses the proper protocols of the House, we will give her a much better go then she gave us.

The Hon. JAN BURNSWOODS: To the point of order: The point about traducing Hansard was in fact made by me and several other members at the meeting on 5 March 2004. The footnote to which I refer states:

> By resolution of the Committee at its meeting No. 21 the original draft minutes

and I emphasise "the original draft minutes"—

> of meeting No. 19 from this point have been inserted as a footnote.

The honourable member is quite wrong in taking a point of order and suggesting that this has not been a point that was taken up by me and other members beforehand. Several clerks were also present and they know that what occurred in that meeting was an absolute traducing of the integrity of the Hansard staff.

The DEPUTY-PRESIDENT (The Hon. Patricia Forsythe): Order! There is no point of order. However I remind the member that if it is her intention to make an allegation about individual members of the House, she can only do so by way of substantive motion.

The Hon. JAN BURNSWOODS: I have no such intention. I was expressing my regret that Hansard had been brought into question in this fashion. As I said, an examination of the minutes of the committee at the end of the actual parts related to limiting the budget itself reveals some very interesting things. The only other point I wish to make in speaking to this report is that another point made by me and by several other members on a number of occasions—during these estimates hearings and the supplementary hearings which went on and on—related to the amazingly offensive display by some members of the committee to public servants who appeared before us. If people wish to read the transcript, that point was made over and over again.

The Hon. Duncan Gay: Point of order: Once again, without naming people, the honourable member is seeking to besmirch the character of fellow members of the committee. Your previous ruling indicated that such activity, which this member delights in, should be conducted only through a substantive motion. She is certainly trifling with your ruling. I suggest from previous experience that there are several courses of action open to a Presiding Officer in this situation. One is to indicate, as you quite rightly did, that the member needs to come back to the bill and not indulge in this process. The second course is to name her. If she continues to transgress, one could go further.

The Hon. JAN BURNSWOODS: To the point of order: I realise that the rather confused Deputy Leader of the Opposition, the Hon. Duncan Gay, thinks that we are debating a bill and is trying to waste the time that I have available. I was not seeking to do any of the things he suggested. In fact I had completed making the point that on numerous occasions in the transcript points were taken about the treatment of the public servants who have no choice but to appear before estimates committees. That simply was the point I was making. I think it is a very important point and needs to be made not only in relation to this committee but in relation to some of the other committees.

The DEPUTY-PRESIDENT (The Hon. Patricia Forsythe): Order! The member may continue, given that she has indicated she has completed making that point. But I remind her that an attack on individual members can only be made by way of substantive motion.

The Hon. JAN BURNSWOODS: As I said, I was not planning to move such a motion.

The Hon. Henry Tsang: They are too sensitive; that is what it is.

The Hon. JAN BURNSWOODS: That is right. The only remaining point I make about the estimates is that, as has been said, the committee met on a number of occasions between September 2003 and 26 March 2004. Of those meetings, eight were supplementary hearings. There is obviously a variety of opinion in this House about the success or otherwise of estimates committees, but I think that anyone who measures the number of hours spent in these hearings and supplementary hearings as indicating some kind of successful operation of the role of this committee need only look at the minutes and the various points to which I have referred to see that there are a number of ways in which estimates committees, if they are to continue in their current form, could serve a much more useful purpose. The kind of hearings that went on in this particular committee certainly do not serve that purpose.

This year, as a member of two committees and as a proxy on others, one way or another I took part in segments of the hearings of all five estimates committees. For a variety of reasons I think that the proceedings of this particular committee were worse than the others. If I were to do what the Deputy Leader of the Opposition suggested I might, I would draw attention to the appalling behaviour of the Leader of the Opposition on the occasions he attended. If the Deputy Leader of the Opposition wants me to name a member who behaved appallingly, it was Michael Gallacher. On that note, I conclude my remarks.

The Hon. Duncan Gay: Point of order: In a typical coward's manner, the honourable member has completely breached the standing orders of the Parliament. As I took the point of order, she ceased her contribution so that the point of order would have no effect. As far as I am concerned, I should continue to make the point of order. I highlight the coincidence that the only committees that have trouble are the committees on which the member sits.

The DEPUTY-PRESIDENT (The Hon. Patricia Forsythe): Order! I am not sure that a specific point of order has been taken. However, as the member has concluded her contribution I do not rule either way.

Ms SYLVIA HALE [3.06 p.m.]: I had not intended to speak during this debate because I thought many of the matters had been adequately covered. However, I find that the contribution of the Hon. Jan Burnswoods so misrepresents what I believe was the function and activity of the committee that I am moved to do so. At the outset I pay my compliments to the chair of the committee, the Hon. Jennifer Gardiner, for the calm and considered manner in which she conducted both hearings under extreme circumstances. I would have thought that the whole purpose of committee meetings was not to engage in endless point upon point of nitpicking, obstructionism and non co-operation. I believe that one of the great virtues of the committee is its preparedness to ask public servants to come back, albeit to the chagrin of the Minister when he was not invited. I thought it was perfectly appropriate for their cross-examination to be continued. If one looks to the beneficial outcomes of this committee, perhaps we might see them indirectly in the departure of the chief executive officer of Sydney Water.

I think the entire misrepresentation of the dealings with Hansard is such a travesty, and I am sure any member of the committee who was present would agree with my description. I believe that the whole point of the committees is not merely to sit and be told by the Minister and by public servants what they would like us to hear but, rather, the point of committees is to engage them in some fairly direct examination, and in probing and searching the responses they give. I think that this particular committee, by showing its determination not to sit merely as the Government wished it to sit, which was that it should sit for so many days and then to be heard no more, and its determination to pursue these matters in depth have had very desirable outcomes in terms of Sydney Water.

I imagine that future meetings of the committee, whether to look into the affairs of the Sydney Harbour Foreshore Authority, which I am sure we all agree needs very close examination, or to examine the closure of the Casino to Murwillumbah rail link, will be extraordinarily fruitful. I am sure the forthcoming budget estimates hearings will be equally penetrating. No doubt, because of the membership of the committee, it will be equally contentious. I enjoyed being a member of the committee, and I thought it was a marvellous example of how a committee can achieve a positive outcome.

The Hon. JENNIFER GARDINER [3.11 p.m.], in reply: I thank members of the committee for their comments during this take-note debate. I feel I should respond to comments by the Hon. Jan Burnswoods, particularly her assertion that members of General Purpose Standing Committee No. 4 deliberately or otherwise attacked Hansard. I assure the House that no member of General Purpose Standing Committee No. 4 did any such thing. Of course, there are times when the reporters of parliamentary debates miss a sequence of words, maybe they are diverted for some reason, maybe the equipment is not working. There may be a number of reasons why particular matters are not picked up by the Hansard reporters. That does not mean to say that any member of the committee made any attack on any Hansard reporter, ever, as far as I am aware. That was an outrageous assertion to make on behalf of the committee.

The Hon. Jan Burnswoods referred also to what she called "offensive behaviour of members of the committee towards public servants". It is true that at times questioning at the estimates hearings was very robust, as would be expected by the constituents whom we represent in this place. That is what we are meant to be doing. It has to be a meaningful process. Whether the Government likes it or not, the Legislative Council is here to call the Government to account. If we were not here the Government would get away with blue murder; but because of the estimates system the Government does not quite get away with it. We intend to continue to ask robust questions of public servants, Ministers and the Government in general. That is what we will do in forthcoming hearings, including next week on the North Coast on another subject very embarrassing to the Labor Government, the closure of the Casino to Murwillumbah rail line.

The Hon. Jan Burnswoods also seems to have some difficulty with the number of hours that the committee spent working on hearings. She questioned whether times spent working on the estimates process is a barometer of whether the estimates process is successful. Regarding the amount of time taken by honourable

members in those endeavours, if one could read between the lines of the minutes of some of our deliberative meetings one would find, for example, that the Hon. Jan Burnswoods, after a two-hour meeting to decide whether to adopt draft minutes, got so finicky that the staff of the Parliament had to ask the committee for consent—

The Hon. Henry Tsang: Point of order: That was a deliberate attack on a fellow member of the committee.

The Hon. Greg Pearce: Which member?

The Hon. Henry Tsang: The Hon. Jan Burnswoods. If it is, it should be done by substantive motion. The Hon. Jennifer Gardiner should not waste the time of the House in a personal attack on a fellow member of the committee.

The DEPUTY-PRESIDENT (The Hon. Patricia Forsythe): Order! There is no point of order. The member was giving a factual outline of the events as they occurred. I did not hear any attack as such, but rather an explanation of what had occurred.

The Hon. JENNIFER GARDINER: At one stage it took two hours to adopt the minutes of a previous meeting. Questioning by the Hon. Jan Burnswoods became so tedious that she literally asked the staff of the Parliament whether they had the authority of the committee to delete a superfluous full stop at the end of a sentence. Such was the absurdity.

The Hon. Duncan Gay: It is little wonder I have trouble getting people to serve on the same committee with her.

The Hon. JENNIFER GARDINER: It is no wonder at all—if one is a member of the General Purpose Standing Committee No. 4 one knows it all.

The Hon. Christine Robertson: This is very personal stuff. I sat on that committee, I was a member of that committee, that day.

The Hon. JENNIFER GARDINER: Well, the Hon. Christine Robertson could have spoken in this debate, but she chose not to. It is true that this committee is dealing with very sensitive political subjects—the transport chaos in New South Wales, the Sydney Water Corporation in chaos, and the sacking of its chief executive officer. It came out of the committee's hearings that the chief executive officer, Mr Sartor's chief appointment in his first year as a Minister of the Crown, was sacked. It is very difficult for members of the Government—and I feel sorry for them—because they have to be politically sensitive, and they are embarrassed. I can understand that at times they get tired and emotional about it. It is a privilege to serve as the Chair of General Purpose Standing Committee No. 4. Most of its members are enjoying its work in helping to make the Government accountable on a whole range of issues. We look forward to the next batch of budget estimates and, similarly, robust engagement with the witnesses and no doubt with members on the other side.

Motion agreed to.

STANDING COMMITTEE ON LAW AND JUSTICE

Report: Review of the Exercise of the Functions of the Motor Accidents Authority and the Motor Accidents Council, Fifth Report

Debate resumed from 1 April.

The Hon. CHRISTINE ROBERTSON [3.17 p.m.]: It gives me great pleasure to participate in a take-note debate in relation to a review undertaken by a standing committee. I personally believe all members want to work together to ensure better government and policy within New South Wales. This report is the first by the Standing Committee on Law and Justice for the Fifty-third Parliament. In addition to me, the committee comprises the Hon. Greg Pearce, who is the Deputy Chair, the Hon. Tony Burke, the Hon. David Clarke, the Hon. Amanda Fazio and Ms Lee Rhiannon. I believe we are growing into a very good team for the future of the work of this committee. Since November 1999 the Standing Committee on Law and Justice has been responsible for supervising the exercise of the functions of the Motor Accidents Authority [MAA] and the Motor Accidents Council [MAC].

Section 210 of the Motor Accidents Compensation Act 1999 provides that a committee of the Legislative Council is to be charged with the responsibility of supervising the exercise of the functions of the MMA and the MAC. The Legislative Council initially appointed the Standing Committee on Law and Justice to undertake this task in November 1999. The committee was reappointed in this current Parliament. This report is the culmination of the committee's fifth review of the MAA and the MAC. The review was conducted between September 2003 and March 2004 and the committee's report was tabled on 1 April this year.

In the conduct of the committee's reviews it has been accepted practice for the committee to examine the annual report of the MAA, to invite submissions from interested stakeholders, and to conduct hearings with representatives of the MAA and the MAC. The scope of the terms of reference allows the committee to inquire into "any matter appertaining to the MAA or the MAC, or connected with the exercise of their functions". Particular claims cannot be investigated but trends and changes in compensation can be addressed.

The Hon. Duncan Gay: What are the MAA and the MAC?

The Hon. CHRISTINE ROBERTSON: I said earlier that they are the Motor Accidents Authority and the Motor Accidents Council. Those bodies are referred to in the Act as the MAA and the MAC. I would like to thank a number of people for their participation in the committee's review. In particular, the contribution of senior managers of the MAA and the MAC in providing the committee with information and oral evidence was greatly appreciated. I thank the general manager of the MAA, Mr David Bowen, the chair of the MAA and the MAC, Mr Richard Grellman, the manager of the MAA's insurance division, Ms Concetta Rizzo, and the manager of the MAA's injury prevention and management division, Ms Cathy Hayes, for presenting evidence to the committee during its inquiry.

I also thank them for the useful briefing that they provided to the committee at their office in September last year. Not all committee members were able to attend that briefing, but it enabled new committee members to come into the review well briefed on what was going on, not necessarily from any particular angle. Those people gave us a lot of good basic information and they put questions into our heads, and that was very useful. The committee also greatly valued the input of various stakeholders, including legal professional bodies and advocacy groups. The committee is well aware of the time and resources involved in preparing submissions. Through these submissions a number of important issues were brought to the attention of the committee and we were able to address them in this report.

It is now five years since the Motor Accidents Scheme was significantly reformed by the Carr Government in 1999. During the review the MAA reported that the scheme is continuing to mature, with premiums lower than they have been in several years and claims processing and access to medical treatment operating well. While the committee is pleased to be able to report on these successes, it is important that it continues to examine the MAA and the MAC in order to deal with issues of scheme performance as they arise. The committee has identified several issues that need further consideration, and this report contains 17 recommendations. I suggest that all honourable members have a look at the report and read through the recommendations.

We extended the review process from previous years because the committee felt it was time that some questions were asked and that some recommendations were put forward for consideration during the year. The committee examined several issues relating to the exercise by the MAA and the MAC of their functions and the overall performance of the scheme. Issues examined include MAA funding and its surplus, statistical data produced by the MAA, the MAA's prudential responsibilities, scheme reviews and research projects, the operation of the MAC and recent legislative developments. The functioning of the MAA in issuing and reviewing guidelines, such as claims handling guidelines, medical guidelines and guidelines relating to market practice was also explored.

An important aspect of the committee's review was the examination of the exercise of the functions of the MAA and the MAC in relation to compulsory third party green slip insurance and the practices of licensed insurers. The committee explored several issues, including the state of the CTP insurance market, premium levels and insurer profits. The MAA described the market as being healthy and competitive and noted that there had been a decrease in average annual premiums over all vehicle classes in New South Wales and in all CTP ratings districts. Honourable members would be aware that green slip insurance is broken up into different districts, so it covers the whole of the State.

The committee made three recommendations in relation to risk rating factors taken into account by insurers and noted the work that the MAA had already done in this area. Insurer profit was, as in previous years,

a significant issue. The committee made several recommendations relating to the level of reporting on insurer profits by the MAA. The committee recommended that, in the future, a specific and separate report on insurer profits be provided by the MAA to the committee, as is required by section 28 of the Motor Accidents Compensation Act 1999. That will give the committee more detailed information to work on during its review next year. The committee also recommended that the insurer profit report should contain greater detail, including the data provided by the insurers to the MAA that forms the basis of the assessment and the actuarial basis for calculation of profit margins.

The committee also examined several issues relating to the making of claims against CTP insurance. The committee explored the awareness and availability of accident notification forms, particularly in country New South Wales. The committee recommended that the MAA undertake a survey to determine the level of awareness of its forms and guidelines in country areas and consider making accident notification forms available in the accident and emergency departments of hospitals in New South Wales. Many people in the country use emergency departments rather than general practitioners, who have current responsibility for supplying accident notification forms. The committee also examined the denial of liability for claims by insurers, exemptions from the Claims Assessment Resolution Service and difficulties faced by casual workers establishing loss of income for claims purposes.

The committee also examined several matters relating to the payment of claims. The MAA reported that the payment of claims had fallen from $657 million to $407 million in the last financial year. The main reduction was in non-economic loss. Compensation for non-economic loss under the new scheme has been the focus of some attention since the 1999 reforms, in particular, the 10 per cent whole person impairment threshold. That issue was also a matter of concern for several stakeholders who provided information to the committee. The committee has recommended that the Minister for Commerce consider providing wider access to non-economic loss by deeming certain injuries as being over the whole person impairment threshold.

The committee revisited the issue of compensating the parents of children killed in motor vehicle accidents and it also commented on the collection of statistics on the level of damages awarded by the courts in relation to personal injury caused by motor vehicle accidents. The committee's review included an examination of several issues arising from the exercise of the functions of the MAA and the MAC in relation to injury prevention and rehabilitation. Among other matters, the committee looked at funding grants for injury prevention and rehabilitation, and sponsorship arrangements. Road safety initiatives for pedestrians and cyclists were also canvassed.

In addition, the MAA provided the committee with information regarding the audit of insurers against rehabilitation responsibilities. During this review I learned that the MAA had been one of the major participants in ensuring that we have appropriate brain injury and spinal injury systems and networks across New South Wales to ensure equity of service and treatment—an exciting discovery. During the review the MAA advised the committee that now that the new scheme was in its fifth year it would concentrate on examining the trends within the years of the new scheme rather than making a comparison between the new and old schemes. So next year will be a major milestone.

The committee looks forward to reviewing emerging trends in the new scheme in the future. I thank Rachel Callinan and Annie Marshall for their excellent work in assisting the committee to decipher issues and report on this review. I am sure all committee members would join with me in thanking Rachel for her innovative and most definite assistance. Finally, I thank my colleagues on the committee for their constructive approach to this review. I believe that we have produced something that will be of value to this Parliament and the Minister.

The Hon. GREG PEARCE [3.30 p.m.]: As Deputy Chair of the Standing Committee on Law and Justice I was pleased to participate in the review of the exercise of the functions of the Motor Accidents Authority [MAA] and the Motor Accidents Council. I have been interested in motor accident compensation and other negligence reforms since before I came to this place. My major concern about recent reforms is that they sometimes appeared to be driven by the Premier's obsession with lawyers amending various schemes and with ramming through changes. I am sure that all honourable members remember the scene of the Premier standing on the balcony of Parliament House giving the victory salute to his union friends as he forced through another round of reforms.

There is a question as to whether the reforms are too harsh, whether the thresholds are too difficult, and whether the Government has gone too far in abolishing the rights of injured victims that have evolved over

centuries of common law. The test of success is, on the one hand, whether victims have been compensated adequately in a timely manner and given appropriate assistance in their recovery and, on the other hand, whether the cost of the scheme has reduced—whether the premiums have decreased, whether insurer profits have decreased and, in the case of the motor accidents scheme, whether green slip costs have decreased.

The committee discovered in the course of this hearing what could be described as an error, a windfall or a bungle. In the first year of operation of the motor accidents scheme the then actuary of the MAA, Taylor Fry, calculated insurer profits at 23 per cent. That was an extraordinary profit, and it received some media attention at the inquiry's conclusion. Indeed, the Minister for Industrial Relations, the Hon. John Della Bosca, was forced to admit to the media that the scheme had made a profit of 23 per cent in its first year. To put that figure in context, the scheme's administrators and the Minister estimated that an appropriate profit level would be about 5 per cent or 5.5 per cent of gross premiums written. So insurers made massive profits in the scheme's first year of operation as a result of a bungle by the Government, which pressed ahead too quickly with amendments and reforms to the scheme while failing to understand the severity of their impact. In the past year there has been significant media comment about the substantial profits earned by several insurers that are, coincidentally, active in this area. That adds weight to the claim that the Government bungled by ramming through changes without understanding the severity of their effects.

When the MAA actuary disclosed the insurers' 23 per cent profit in the first year the Government reacted in its usual manner and went into cover-up mode. I was amazed to learn that when the MAA received that profit calculation it stopped obtaining further calculations of insurers' profits—the clear implication being that it did not want to hear about any more embarrassing overruns. The MAA now reports to the committee and to the public about insurers' "projections of profits"—which are not actual figures. I was pleased when the committee adopted various recommendations to which the committee chair, the Hon. Christine Robertson, has referred that will allow the committee to continue to obtain and examine the real insurer profit figures. Any problems with the scheme should be solved, not covered up.

I was also somewhat disturbed by the way in which the MAA prevaricated and obfuscated in giving information to the committee. I refer particularly to the committee's hearing on 16 February 2004 at which Ms Rizzo and Mr Bowen—senior officers of the MAA—were questioned. They were asked about some of their reporting and some of the information that appeared in the annual report and that was being provided to the committee. I will not explore the matter in great detail now—I assure the House that I will do that the next time the officers appear before the committee. Suffice it to say that the officers produced percentage differences, not actual figures. Initially Ms Rizzo indicated her willingness to provide those figures to the committee but it later became impossible for the MAA to do so—presumably because the figures were on the back of an envelope somewhere. The officers took the relevant questions on notice but then could not provide any answers.

Later this year we will have to question officers of the MAA at some length about financial changes that have been made to the scheme since the reforms were implemented. I am particularly concerned—the Chair perhaps does not share my consternation—about the notion that the MAA will cease to compare the performance of the old scheme with that of the new scheme. That is simply a cop-out and an attempt to hide any other bungles. I am certainly not keen to allow the MAA to bury its dead and move on to a brave new world without questioning its performance first. I also have questions about the scheme's administration costs that relate not just to the MAA but also to the insurance companies. The issue of fraud was not addressed at any great length in this hearing. That matter is important to anyone who has been involved in a car accident and who expects to receive his or her fair share of compensation. The issue of rehabilitation must be examined further—it is at least touched upon in the report. How is the rehabilitation process working, what costs are involved with rehabilitation assessment, and what programs are being developed in this regard? We want to know whether the MAA is heading in the right direction and whether it is getting value for money. Is the process becoming too bureaucratised and too costly?

I thank the staff of the committee. It was not a particularly difficult inquiry but there is always a great deal of work involved. I also commend the other committee members, most of whom were newly appointed. I single out the Chair, the Hon. Christine Robertson, who I think did a very good job. Unlike the Hon. Jan Burnswoods, the Hon. Christine Robertson chaired the committee with compassion and took an interest in the proceedings.

The Hon. CHRISTINE ROBERTSON [3.40 p.m.], in reply: I agree with the Hon. Greg Pearce: there was a difference between the belief of the Committee and that of the Motor Accidents Authority [MAA] with regard to the information that was required for review. During the review process most of those issues were

sorted through. Despite the fact that some of us wanted a total data dump from the MAA, we did not have the capacity to deal with such a thing. Certainly the way in which we want questions answered is much clearer to the MAA now, and I believe that better information will be provided in the next review. The Hon. Greg Pearce is right when he said that I do not have the concerns about comparisons with the past. I am sure that if members wanted the committee to make comparisons with the past, the MAA would quite happily oblige. But it is about time we started to make comparisons annually with current performances. I commend the report to the House.

Motion agreed to.

GENERAL PURPOSE STANDING COMMITTEE NO. 1

Report: Serious Injury and Death in the Workplace

Debate resumed from 1 June.

Reverend the Hon. FRED NILE [3.42 p.m.]: I am pleased to be the first member to contribute to this take-note debate. I am sure all members of General Purpose Standing Committee No. 1 will want to say a great deal about this reference, which related to serious injuries and tragic deaths in the workplace. The terms of reference stated:

> That General Purpose Standing Committee No. 1 inquire and report on serious injury and death in the workplace, and in particular:
>
> (a) the operation of WorkCover's prosecution branch including the cases of:
>
> (i) Anthony Hampson—Gosford High School, June 2001 [a serious injury],
>
> (ii) Dean McGoldrick—death while working for Advance Roofing, February 2000,

The committee inquired also into other cases of deaths and injuries, including some that occurred during the course of the inquiry. The terms of reference continue:

> (b) The role and performance of WorkCover in liaising with victims and families …

One of the most alarming aspects of the inquiry was the lack of liaison with victims or the families of victims—for example, the mother of a deceased worker or the wife whose husband had died at the workplace. There did not seem to be a system in place for that purpose. Through the questioning of witnesses it became clear that WorkCover had become aware of such a gap in the organisation and made major improvements in that regard over the duration of the inquiry. I do not criticise WorkCover for improving its services during the inquiry; inquiries are conducted in the hope that gaps and/or weaknesses in departments or organisations are identified with the aim of improving service delivery. I commend WorkCover for responding to this deficiency prior to the committee publishing its recommendations.

I understand that WorkCover consulted religious groups, such as the Salvation Army, which specialises and has achieved great success in this area. The Salvation Army is widely respected within the community, including by people who have no association with the church or religion. I am pleased that WorkCover is setting in place machinery to involve, where required, the Salvation Army and other organisations throughout the State in the provision of counselling services. The committee inquired also into the method and monitoring of the payment of penalties imposed on employers convicted of an offence involving serious accident or death. That inquiry was the result of a major employer having paid only $1,800 of a $20,000 fine. The committee identified a gap in that, because the Office of State Revenue assumed the responsibility for the collection of fines, WorkCover no longer had knowledge of, or played a role in, the collection process.

Many were of the impression that WorkCover, having been involved in prosecutions that resulted in the imposition of fines, should have followed through and ensured that such fines were collected. But that was not the way fine collection was structured. As a result of our inquiry WorkCover has indicated that it now has in place a monitoring arrangement with the Office of State Revenue, so that priority is given to fines imposed as a result of injuries caused by breaches of occupational health and safety standards. One could argue that the Office of State Revenue is merely an administrator that collects fines and, as such, should not be regarded as being at fault for not giving priority to collecting fines in emotional cases. I am sure that as a result of our inquiry WorkCover, in liaison with the Office of State Revenue, will set in place a system to identify sensitive matters and ensure that fines are paid.

Pursuant to sessional orders business interrupted.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders

Motion by Ms Lee Rhiannon agreed to:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 110 outside the Order of Precedence, relating to the Industrial Relations Commission, to be called on forthwith.

Order of Business

Motion by Ms Lee Rhiannon agreed to:

That Private Members' Business item No. 110 outside the Order of Precedence be called on forthwith.

INDUSTRIAL RELATIONS COMMISSION INDEPENDENCE

Debate resumed from an earlier hour.

The Hon. CATHERINE CUSACK [3.49 p.m.]: Earlier I was reading a letter sent by the shadow Minister for Education and Training to the New South Wales Teachers Federation outlining the position of the Opposition in relation to this industrial action. The letter continued:

> The IRC has said it will return with the final decision on the teacher's case and the Premier's attempt to influence the Commission with his 'inability to pay' argument is laughable, particularly in the context of the additional $1.1 billion in GST revenue to be colleted by NSW [Government] over the next four years, the $627 million the government has earned in 'windfall' revenue over the last year alone and the government's decision to expand property taxes by at least $690 million in 2004-05.
>
> I do, however, agree with the government that strike action is inappropriate and I oppose the decision of teachers to strike. Strike action will only hurt parental confidence in our public schools and I don't believe it helps the teacher's case.
>
> The Carr Government must allow the IRC to deliver its final decision on teachers pay without any undue pressure and must accept the decision of the independent umpire and fund pay increases from outside of the department.
>
> Yours sincerely,
> JILLIAN SKINNER, MP

There are three issues I would like to touch upon in putting the Coalition's position. The first relates to the teachers strike. We do not support the strike action by government schoolteachers. I must confess to being utterly mystified by the strike action taken by non-government schoolteachers, apparently in sympathy with government schoolteachers. The Teachers Federation consistently argues that there should not be a non-government school system, and argues that all funding of non-government schools should cease and that those funds should be put into the government school system. It is therefore illogical, to my way of thinking, that non-government schoolteachers would join government schoolteachers who went on strike for a 25 per cent pay rise. Nevertheless, some non-government schoolteachers chose that course of action.

Increasingly, given the way the modern family is structured and operates, more and more women are in the work force and more and more of them are working mothers with school-age children. In taking strike action, I understand the Teachers Federation made a special effort to ensure that out-of-hours school care and other support services for parents did not chip in to try to assist mothers, and some fathers as well, who suddenly found themselves stranded. That extra effort to completely ruin the prospects of working parents to keep their lives together for that day and fulfil their responsibilities was incomprehensible. In our view, it was a grave error in strategy by teachers to bolster their industrial action by causing maximum inconvenience to families. I presume that the idea was to put pressure on the Government. Instead, I think there will be a significant loss of confidence of parents in what is going on in government schools. Of course, that will rebound on the Government, but sadly it will rebound on teachers as well.

I would like to emphasise the Coalition's support for schoolteachers and the teaching profession, and recognise the important role they play in our society and in the future of our children. The comments I make in relation to organised industrial action are tinged with sadness because I believe that the fine ideals of the teaching profession, and the high regard in which people would like to hold teachers, are being undermined by those tactics. The real villain in this is the Government. Here we have nine years of salary chickens coming home to roost. The Minister made an interesting comment during question time. He said, I think, that there had been a 44 per cent growth in wages under this Government. I ask the Special Minister of State to confirm that figure. The Special Minister of State continues to read his paper and does not respond.

That figure of 44 per cent tallies with my rough estimates of the quantum of wages growth over that nine-year period under this Government. The growth has certainly been well in excess of the consumer price index and wages growth in the non-government sector. Of course, the Government is required to fund a wages growth of that magnitude through productivity savings. In its first term, the Government put in a good effort to try to achieve some productivity savings. But, having signed up all those three-year salary agreements, which then started to expire in 1999, the Government seems to have been unable to achieve the necessary productivity savings. But the salary increases were paid, the growth continued, and we now have a great loss of productivity in the public sector as a whole. Thus the Government is finding it has difficulty in funding the salary increases.

I can understand the distress of teachers going through the industrial process in which they have engaged with the Government to fund their pay rises. Anyone with any commonsense who is not directly involved in this dispute would not wish to become engaged in the very robust and lengthy salary negotiations between the Teachers Federation and the Department of Education and Training. The history of many of the issues seems to date back decades. So, without wishing to comment on the detail of the case before the Industrial Relations Commission at the moment, I can well understand the frustration and anger of the teachers at the sudden intervention by the Premier, saying, "Goodness, we do not have the money any more." It is particularly frustrating in the absence of a genuine explanation as to why the Government does not have the money. Instead, Mr Carr blames John Howard. Nobody believes that.

The Carr Government announced in the mini-budget hundreds of millions of dollars in funding cuts, and blamed the Federal Government for them. It announced hundreds of millions of dollars in new taxes, and blamed the Federal Government for them. It tried to get a triple bang from that argument by telling the teachers that all of a sudden there is no money and the Government has to make special submissions to the Industrial Relations Commission. That got the reaction that could have been expected. As Reverend the Hon. Fred Nile said, it should be of no surprise whatever that the teachers reacted with anger. Without doubt, the Government's announced intervention has been the trigger for this industrial action.

The Government is very much at fault in the way it has handled agreements and tried to link political argument blaming John Howard with an industrial dispute over salaries in which it is engaged with teachers. The disingenuous way in which that was done, and the anger that it caused, has had the expected consequence of damaging the fabric of our education system. That to some extent encapsulates the approach that the Coalition has taken to this dispute. We do not support the strikes, but we express our understanding and sympathy for the level of anger that has been generated between the teachers and the Government. We believe the Government owes the teachers and the community an apology, because the way in which it has managed this issue has directly led to the industrial action.

Obviously it is now too late to urge teachers not to take further action today, but we would caution the Teachers Federation to consider ways that would be more effective and make a difference. I am not sure that this industrial action will make any difference to the attitude of the Carr Government. All the Teachers Federation is doing is really hurting families, at a time when they are feeling particularly vulnerable. With those qualifications, I indicate that the Coalition will support the motion.

The Hon. JOHN DELLA BOSCA (Special Minister of State, Minister for Commerce, Minister for Industrial Relations, Assistant Treasurer, and Minister for the Central Coast) [3.57 p.m.]: I appreciate the opportunity on behalf of the Government to respond to the debate. I might open my remarks by saying that I have the highest regard for the teachers of New South Wales—the public sector teachers in particular, but all teachers in general. In making that point, I think I reflect the attitude towards teachers of the Premier, the Minister for Education and Training and the Government generally. There is very high regard for the teaching profession in this Government. In terms of the Industrial Relations Commission, no-one, with the exception of my predecessor the Hon. Jeff Shaw, has personally had more to do with protecting the role of the Industrial Relations Commission of New South Wales as the pre-eminent court of industrial relations matters in this country. That court prides itself as having probably the world's best practice standard of an independent umpire in wages and salary negotiations or disputes. That is the role that the commission continues to play in this dispute.

As the Hon. Catherine Cusack has indicated, regrettably the teacher salaries issue resulted in industrial action today and last week. Nonetheless, that is part of the reality of the way that our industrial relations system works. I do not think it is my business, one way or the other, to lecture the Teachers Federation about the wisdom of its industrial tactics. However, in the context of my respect for teachers and their industrial organisation, I will make a few points about some of the humbuggery that has come from both sides of politics,

but perhaps the green side and the conservative side, in relation to this matter. That has led to some families and teachers feeling distressed about the education system. And some misunderstandings have occurred from the negotiation process. But first I want to make one thing clear. It relates to the issue of relative salary levels and the way in which any claim, by teachers or any other public sector workers, needs to be dealt with.

The Hon. Catherine Cusack made an interesting disclosure when she conceded a point that I will underline for the benefit of Ms Lee Rhiannon and Ms Sylvia Hale. It is important because people need to understand the context of the debate. In percentage terms the wages and salaries of public sector employees in New South Wales since July 1996—corresponding roughly with the life of this Government—have increased by 37 per cent for general public servants, 44.3 per cent for public sector teachers, 48.4 per cent for nurses, 34.6 per cent for health workers and 45.3 per cent for police. The Australian Bureau of Statistics [ABS] reports that wages growth in Australia across States and Territories in both the private and public sector for the comparable period was 28 per cent.

I paid little attention to the mathematics lessons I had in primary and secondary school, and I apologise to my teachers for that, but the difference between 28 per cent and 44 per cent represents a significant salary increase for teachers during that time. The ABS says that inflation of 20 per cent means that the real increase in teachers' salaries during that time is in the order of 23 per cent to 24 per cent. The figure for teachers includes the interim increase. The commission has made it clear that more is to come, and the Government does not quibble with that. It must be understood that these increases are not trivial. These salary increases are not the evidence of a penny-pinching, mean-minded Government. I would turn up and work for nothing because I love the job, as do many of our colleagues.

The Hon. Charlie Lynn: So does Eddie!

The Hon. JOHN DELLA BOSCA: The Hon. Charlie Lynn makes a point. I think the Hon. Eddie Obeid is a dedicated member of Parliament. It is well known that the salaries of members of Parliament are linked to salaries of members of the Federal Parliament. We do not set our own salaries. Reverend the Hon. Fred Nile, as the father of the House, knows that long ago we ceased to have the power, quite sensibly, to set our own salaries. A basic State member receives $500 less than his counterpart in the Federal Parliament, in accordance with the Parliamentary Remuneration Act 1989. Our Government cannot take the credit for that; it was a legislative initiative of the Greiner Government.

The Hon. Charlie Lynn: Don't they get a car?

The Hon. JOHN DELLA BOSCA: I think the honourable member knows full well the answer to that. In turn, Federal members' salaries are determined by the Commonwealth Remuneration Tribunal. No-one in the New South Wales Executive has any power to appoint or refer any matter to the tribunal. As all members know, we do not have a direct right to make submissions to the Commonwealth Remuneration Tribunal. In response to the humbug from Ms Sylvia Hale and Ms Lee Rhiannon about comparisons between salaries of members of Parliament and those of the rest of the public sector, since July 1996 members of Parliament have received pay increases totalling 29.2 per cent. That is healthy. We have no argument with that. We are doing pretty well. Public servants have received increases totalling 37.1 per cent, teachers 44.3 per cent, nurses 48.4 per cent, health workers 34.6 per cent, and police 45.3 per cent.

Ms Sylvia Hale: They are not all coming off the same base, and that is the difference.

The Hon. JOHN DELLA BOSCA: I do not think I need to respond to that completely nonsensical observation. In a comparable period the Australian Bureau of Statistics reports that wages growth in Australia overall is 28 per cent.

The Hon. Catherine Cusack: What is it for the New South Wales public sector as a whole?

The Hon. JOHN DELLA BOSCA: The average increase?

The Hon. Catherine Cusack: Yes.

The Hon. JOHN DELLA BOSCA: As I said, my maths is poor, but it has to be in the high thirties or low forties. I will add it up and get the figure. The bottom line is that the canard put around, quite destructively, by people within the green movement and others trying to criticise the Government for being niggardly, unfair

and inappropriately miserly with public sector salaries is wrong. We have a profound respect for the public sector employees who work for the Government and the State more generally. We do our best, and have done our best, to ensure that they are remunerated properly, sometimes in spite of the mistakes they make industrially. The Government encouraged the Teachers Federation to take the work value route through the commission.

For many years the federation has negotiated correctly with various governments without necessarily bearing fruit for governments, parents and children or teachers. Unfortunately, the proof of the pudding is in the eating, which is part of the problem with the current teachers' pay claim. As an employer there are two ways to deal with a work value claim: you can agree with the work value changes and the way the labour market changes have occurred, or you can dissent from aspects of it and hold a different view to that being submitted by the union and witnesses for the employees. There would be no case unless the Government disputed the work value changes. We have not sought to take special leave or exclude evidence. We have taken a different view to some of the evidence the federation has submitted.

There are two general points of difference, which deal with more complex industrial technicalities. In general terms we have argued, and argued well, that many of the changes have been considered in previous increases the teachers have achieved, but the commission seems to have adopted a different view in many respects. The commission is the independent umpire, and we accept its judgment. The Hon. Catherine Cusack and others referred to that issue, and I know it has caused some distress among the teaching profession. But to dispute the extent of the work value changes in terms of their money worth in the work force is not an attempt to denigrate teachers. It is not to denigrate teachers to say that the complexities of their work have changed because of the way the syllabus has changed. The outcome of that effect in the labour market is what we are arguing about.

We are saying that this has either made the job relatively easier or relatively more complicated. In relation to the point raised by the Hon. Catherine Cusack, the Government submitted that many curriculum changes have made teachers' jobs relatively easier. That does not mean they are less professional, competent or virtuous. Obviously the federation and its witnesses submitted to the commission that those changes have made various aspects of their job more difficult and, therefore, more valuable in the labour market. It is a matter of argument that we wanted the umpire to determine. An interim determination has been made, and I suspect a final determination will be made soon. Our other argument, which was absolutely responsible because we have a responsibility to the taxpayers of New South Wales, is that we are the biggest employer of education labour in the country and one of the biggest employers of education labour in the world.

Effectively we are a monopoly when it comes to the education labour force, especially for primary education. Therefore there is a genuine issue of capacity to pay. Regardless of the rhetoric about what the Federal Government has or has not done with the funding base of education, regardless of the issues that have been canvassed, if the Government were simply to accede to the claim it would cost $1.6 billion because education is a labour-intensive industry and the number of teachers in our work force has a massive effect on our capacity to raise and pay those salaries. That is a legitimate and proper argument for the Government to put to the commission.

The Hon. Catherine Cusack: Why has it suddenly arisen?

The Hon. JOHN DELLA BOSCA: That was a consistent part of the Government's argument throughout the proceedings. As the honourable member knows, the hearing finished in late December. A series of other events— including the mid-term review, which was not available to Treasury until late January; changes to inevitability as a result of alteration of the funding base by the Commonwealth Grants Commission; and other changes that have been well and truly publicly canvassed—occurred after the interim decision was handed down. I emphasise that it was an interim decision, so it was perfectly appropriate for the Government to tell the commission that matters had changed since submissions were finalised. The Government applied for leave to present changed information about its case, as any party might reasonably do, including any employer or any trade union in the land, in the context of an interim decision. It is a perfectly legitimate and proper course for the Government to adopt, and that is what it did—that is all it did.

Because of the humbuggery of people such as Ms Sylvia Hale and Ms Lee Rhiannon, many teachers have been caused a great deal of distress. In fact, many people in the community have lied to them about the Government's intervention application. That is why the Government sought leave to intervene. The commission did not give the Government an automatic right. Neither the Premier, Bob Carr, nor the Treasurer, the Hon. Michael Egan, nor I phoned the judges of the commission and said, "Listen, we are coming down with this new

information." Rather, the Crown Solicitor sent the judges a letter, and an application to intervene was made through the normal processes. The Government made an application, as would BHP, Joe's Hamburgers or anybody else who is actively conducting a case before the commission.

We then had to argue our case for leave, and the judges wanted a day to think about it. Leave was granted and the commission gave the Government a swipe in passing, which I am sure Ms Lee Rhiannon has read. The commission then gave the federation leave to respond to the matters that were the subject of the leave. The federation has responded to those matters. There was no great complex conspiracy attached to these matters. They were matters that were well and truly in the public arena, but nevertheless before a court. If it is sought to bring matters before a court, they have to be entered in the proceedings as evidence. It cannot be assumed that the judges will read about them in the *Daily Telegraph* on their way to work. The matters have to be properly before the court as part of the evidence and transcript of the case. That is what the Government did, and I have outlined the reasons for it doing so.

The Government argued the case on two grounds only: the relative extent of work value change—which is what employers always have to do, otherwise they would be acceding to the entire claim—and the limited capacity to pay. The economic arguments are overwhelming, leaving aside quibbling about fiscal issues, because of the scale of the Department of Education and Training as an employer and its capacity to pay. The impact of the increase was obviously a critical issue. I take this opportunity to make other points about the Government's attitude to public education generally and how that relates to its attitude to the teachers' salary claim. As I stated earlier, if the Government were to accede to the entire 25 per cent claim, which is known colloquially in industrial relations as an ambit claim, a 25 per cent increase would be paid over two years, which represents a total of $1.6 billion.

Reverend the Hon. Fred Nile declared that he is not an accountant, but he is an experienced parliamentarian and is experienced in matters pertaining to the budget. He knows that when salary increases are granted, that involves additional recurrent expenditure. In other words, the increase has to be paid every year. The Hon. Catherine Cusack and other critics of the Government's position on fiscal matters argue that there was a prolonged property boom and a windfall and ask what has happened to the money. My response is that they know what has happened to the money: we have spent it. It is a recurrent budget contribution; it has been transparently stated in the budget over the past five or six years.

The Hon. Catherine Cusack: We are not seeing the services.

The Hon. JOHN DELLA BOSCA: We are seeing the services. The services are outlined in the Budget Speech. Members of the Opposition should read it. As the Hon. Catherine Cusack and Ms Lee Rhiannon have pointed out, the property boom is over.

[*Interruption*]

The Hon. Catherine Cusack knows that that is not the case. The revenue changes are prospective, not retrospective.

[*Interruption*]

I have already said that if the claim were paid in full, it would amount to $1.6 billion a year.

The Hon. Catherine Cusack: Per year?

The Hon. JOHN DELLA BOSCA: Per year, in a budget of a little over $36 billion, as the Hon. Catherine Cusack knows. The increase will have a massive impact on the budget. That is not something that the Government has made up just to be nasty to the Teachers Federation. The reality is very far from that; in fact, the opposite is true. The Government has said all along that it would accept the umpire's decision, and it has never cavilled with that. We have undertaken the usual processes set down by the umpire. Moreover, the Government has been true to its own legislation in regard to industrial matters. But it is essential that the commission should have all the facts in front of it.

January's interim increase means that New South Wales teachers will be the highest paid in Australia. The maximum pay for a schoolteacher in New South Wales following the interim increase is currently $62,237, whereas their highest-paid Victorian counterparts earn $55,828. Promoting public education and improving the

status of teachers are important projects for the Government, and have been ever since the election of the Carr Government. Schoolteachers' salaries have increased by more than 44 per cent, as I mentioned earlier, and over the same period government expenditure on education increased by 50 per cent to over $8.7 billion. In addition, the Government is implementing a range of major initiatives to further improve public education, including $329 million over four years to reduce class sizes from kindergarten to year 2, $144 million over four years to provide professional development for teachers, $20 million to establish the Institute of Teachers to ensure the quality of professional standards and to enhance the professional standards of teachers and the status of the profession, $20 million over four years to install security fences in schools, and $40 million to replace demountable classrooms and provide airconditioning for all demountable classrooms by 2005.

The Government has been working hard to make sure that the education system is properly funded and that teachers receive remuneration which properly reflects the work they do, but we have an obligation to taxpayers not to pay for the same real estate twice. The Government's argument before the independent umpire was that in many respects we will be paying for the same increase twice. Another underlying problem is that the entire public sector is a victim of the success of the great city of Sydney and the great State of New South Wales. The economies of Sydney and this State are very different from the economies of other capital cities and States in the Commonwealth of Australia. The fact of the matter is that teachers, nurses and public sector employees measure themselves in terms of their remuneration against their friends, cohorts, brothers and sisters, neighbours and others who are doing relatively much better than they are because of the nature of the New South Wales economy.

The Government has sought to accommodate that differential, and that is why it pays public sector employees salaries that are well in excess of salaries paid by other State governments. The New South Wales Government knows that people have a tough time living in this economy and appreciates that people often mix in circles and live in situations because their position in the labour market is perhaps not as good as that of equivalent professionals in Adelaide, Perth or one of the provincial cities in Queensland. I do not know what the Hon. Catherine Cusack was about to say, but the Government does not have a magic pudding. However, it does have an obligation to the taxpayers of New South Wales, to the teaching profession and to the education system to make sure that a proper Industrial Commission judgment is obtained based on the full facts.

Ms LEE RHIANNON [4.17 p.m.], in reply: I thank members who have participated in the debate. I note the lack of response from Labor members, but I appreciate that the Minister entered into the debate. This motion has given members the opportunity to participate in and comment on a very important issue with regard to the future of public education in New South Wales. I am disappointed that Labor members have not participated in the debate because one or two said that they are concerned about the Government's intervention in this case. Certainly a number of members of the Labor Party who are teachers and are on strike are very worried. There is an obvious inconsistency between the two groups. However, this debate has provided members of this House with an opportunity to have their position on this matter committed to the public record.

I am concerned that a number of Labor members of this House have not entered the debate because some of them are members of the Teachers Federation. My understanding is that they were free to speak in favour of this motion without breaking any caucus agreement. They could have put their position on the record, even if ultimately they voted against the motion. They could have spoken out in support of this very important motion, so it is unfortunate that they have not taken advantage of that opportunity. Members such as the Hon. Jan Burnswoods, who might still be a member of the Teachers Federation, should have taken advantage of this opportunity. That stands in contrast to what we heard from Labor when in Opposition. I wish to share this quote with members. It is from the former member for Blacktown, Mr John Aquilina, on 27 October 1989—when Labor was in opposition, and when Macquarie Street was blocked by striking teachers. At that time Mr Aquilina said:

> More than 90 per cent of teachers went on strike yesterday. If teacher morale is to be restored and New South Wales is to keep its best teachers, an agreement must be reached quickly. I call on him—

that is the then Minister, the Hon. Terry Metherell—

> to publicly withdraw the offer put forward and to allow negotiations to proceed on a proper basis.

Those words could be applied to the current situation. Unfortunately, we hear words from Labor when it is in opposition but it is not true to its word when in power. The Greens office has heard from many teachers who are feeling very insulted by the Premier and the Labor Government; a word that comes up time and time again is that they feel "betrayed". The Greens congratulate New South Wales teachers for the standard they are taking in

defence of public education. We have heard comments from the Minister who started off by saying that he has the highest regard for New South Wales teachers and that that is the attitude of the Premier. If he has the highest regard for the teachers he should pay them the wages that they deserve and he would not have intervened in the Industrial Relations Commission, as he has done. He talked about humbug, and tried to make out that the Greens members of Parliament are humbugs. But the humbuggery, if that is a correct word, certainly rests with the Minister.

The Minister was very misleading in the way he took the House through the whole issue of wage increases of public servants. He used percentages but at no time did he mention gross salaries. Clearly, I stand to be corrected if I am wrong, but I did not hear him speak about gross salaries, as his main comparison was percentages. He needs to go back and make a comparison on gross salaries, but he did not explore that area because in the 1960s teachers and members of Parliament were on almost equivalent gross salaries. Again, we hear the Minister using the justification of the Parliamentary Remuneration Tribunal to wipe the slate clean when it comes to members of Parliament. However, a mechanism has been set up that allows members of Parliament to move far ahead of teachers. Clearly a wage rise is required.

The Minister also became a bit agitated about the Government not being penny-pinching. I put to the Minister that he knows how rarely teachers go on strike, that they go on strike only when the situation becomes totally unacceptable. Teachers have not gone on strike readily or easily. This was a very difficult and troubling decision for them, but they took that decision because they were angry at the way that the Government was abusing the process. The Minister tried to make out that the process was fair, and that the Government was doing whatever needs to be done when going to court. But that was not the case. Yes, we had an interim decision, but teachers got so angry in recent weeks because the Government intervened in the final decision, after the final submissions had been made and after the final hearings had been held.

The Minister said that the Government would accept the umpire's decision. What he is not telling us is that his Government has not abided by the rules that led up to the umpire making the decision. The Government has broken the rules and come into play in a way that has given it an advantage. Again, that is why the teachers are so angry. I am not talking only about those two days of strikes. When the intervention occurred some schools went on strike immediately because the teachers were so angry. I acknowledge that members become distressed and concerned that teachers go on strike, and from personal experience I know that teachers are concerned. Again, I put it to members that teachers would not have taken that action if they were not so angry about the way the Government was abusing the process.

The Minister can throw numbers around but the fact is that teachers are underpaid for the work they do. Once teachers were among the best paid members of the public service, now they are among the worst paid. It is a continual campaign of catch-up. Teachers are paid less than they deserve and their status and pay have been eroded while their workload has increased. We hear talk about the Government's problems with money and its difficulties. One would have to say that that is laughable because in the past few days the Treasurer, the man who controls the money, has explored the possibility of bidding for purchase of the SuperDome, apparently with no thought about where the money would come from but believing that the money was there. There is something very inconsistent here: the Government has exposed itself. The Government talks about misinformation. I was very concerned when the Minister said, if I understood him correctly, that the Greens and the conservative side of politics are causing distress to families.

I totally dispute that. I have put three children through the public education system in New South Wales and I know that families are distressed because the Government is not playing by the rules. The Government is pushing for a decision from the Industrial Relations Commission that will result in a rundown in public education. If teachers are not paid decent salaries and are not awarded this salary increase, we will see a rundown in public education. We will not be able to recruit the teachers that we need and we will not be able to hold a lot of the teachers that we presently have. I urge members to support this motion so we can send a message to the Government to withdraw its so-called new evidence that it presented to the Industrial Relations Commission in order to allow the judgment of the commission to be delivered, as determined by the original evidence. I commend the motion to the House.

Motion agreed to.

COMPULSORY DRUG TREATMENT CORRECTIONAL CENTRE BILL

Second Reading

Debate resumed from 1 June.

The Hon. DAVID OLDFIELD [4.27 p.m.]: I start by mentioning something which Reverend the Hon. Fred Nile had mentioned to me previously and which he did not have the opportunity to raise because he was occupying the chair as Deputy-President: the necessity to rebut information which had been put to the House by the Hon. Peter Breen concerning the enforcement of rehabilitation in Sweden. I understand from Reverend the Hon. Fred Nile that that was not correct. The information given to the House by the Hon. Peter Breen was flawed because Sweden had not reduced legislative strength in regard to enforced rehabilitation but a number of other European Union countries had adopted such legislation.

I support the compulsory drug treatment program, not because I think it is the best we can do, but merely because it is the best on offer. I have long believed in compulsory drug rehabilitation, but the bill makes it too hard for offenders to be placed in the intended new facility. Those offenders who use drug addiction as the excuse for their crimes against society should have the choice only between gaol or forced rehabilitation. This is simple really; these issues are complicated only by the bleeding hearts who believe that drug addicts do no great wrong to society, only to themselves. I do not subscribe at all to such nonsense. Drug addicts do a great deal of damage to society, and crimes related to drug addiction cost many people not only their household goods due to break and enters but sometimes even their lives to particularly dangerous addicts. It is that same group of self-inflicted social outcasts who cause us all to pay far too much for things such as contents and other insurances. There is so much more cost involved, including a drain on health resources generally, yet there are still too many who support drug addicts to such a degree that one gets the impression there are people who believe one has the right to be a drug addict.

It would be unfair of me at this point not to make mention of the fact that, when considering health costs to society, one must also take note of that legal drug tobacco, for those caught up in that legal addiction take up far more than their share of the health dollars. Coming back to the burden on society created by abuses of illegal substances we have, of course, all heard stories about broken homes, divorce, abuse—physical and otherwise—hereditary matters and the like. While it is true that some of us have had a better start in life than others, it is equally true that the majority of people from broken homes, the majority of people who have suffered abuse and, in general, the majority of people who have had the unfortunate experiences that are always used as the excuse for drug addiction do not become drug addicts.

In short, the majority of people who have had a bad start in life and who have faced great adversity do not become addicts. Some, who have had the best possible start in life—people from wealthy families with good educations and with apparently no excuse at all—still manage to become drug abusers. Drug abuse does not discriminate and, essentially, it is possible to put forward an excuse for virtually every wrongful human action. But often the excuses do not count for much, just as the excuses for why we are not really getting forced rehabilitation do not count for much. My office has had contact with the office of the Special Minister of State and many of my concerns have been relayed to the Minister's office, in particular the large gap between the recidivist addicts referred to in the Magistrates Early Referral into Treatment [MERIT] program and the proposals in this bill.

The bill proposes to allow eligible convicted criminals with known drug-related problems to serve their sentence by way of compulsory drug treatment detention in a new compulsory drug treatment correctional centre within Parklea gaol. Eligibility to serve the sentence in the new centre requires the following: that the offender appears to have a long-term drug dependency; that the offender has been convicted of an offence related to his or her drug dependency and lifestyle and has been sentenced to imprisonment with an unexpired non-parole period of at least 18 months but not more than three years; and that the offender has been convicted of other offences at least three times in the previous five years.

I will not go into the specifics about what happens during an offender's time within the facility, as other honourable members who have contributed to debate on this bill have explained that in depth. I note the comments made by the Hon. John Tingle about recidivists and their inability to voluntarily enter into and complete rehabilitation programs. The reasons mentioned by the Hon. John Tingle help to highlight the reasons why I believe this bill does not go far enough in regard to early intervention. The MERIT program, which is the earliest referral program for recidivist criminals with known drug problems, lasts for only three months. The

MERIT program is not compulsory; it is only allowable to persons who are permitted to receive bail. The persons who are referred to MERIT can simply walk out the door if they believe that they are not coping with rehabilitation.

This revolving door policy causes the problem of drug-related criminals having the opportunity to walk the streets again after going before the court and being released on bail to supposedly attend rehabilitation. This chance for the addict-criminal to walk out the door is simply an offer of release and the prospect to re-offend. The three-month MERIT program compared to the 18-month proposed program in a correctional institution leaves a large gap in the intervention and referral of drug-related criminals. The minimum 18-month sentence should be refused so that drug-dependent convicted criminals may be offered compulsory rehabilitation as opposed to gaol.

The Minister's office was approached in regard to my concerns and that office advised that the 18-month period was the minimum time recommended for compulsory correctional enforced drug rehabilitation. If the 18-month figure is correct, the MERIT program, which runs for only three months, was always doomed to fail, yet this Government sings the praises of that program after only three years and it claims that it successfully rehabilitates 50 per cent of participants to the point where they no longer re-offend. It is difficult to get figures on what happens to the other 50 per cent of participants, but I think it is reasonable, without being too presumptive, to assume that those people re-offend.

Clearly, if a three-month program that is voluntary has around a 50 per cent success rate, there is room for an enforced program of more than three months, but less than the 18 months that is proposed. The final question is: How long will it take this Government to realise the level of success that could be attained with earlier compulsory intervention and shorter enforced programs conducted in specific facilities?

Reverend the Hon. FRED NILE [4.35 p.m.]: I am grateful for an opportunity to contribute in debate on the Compulsory Drug Treatment Correctional Centre Bill. As the Hon. David Oldfield said earlier, I have some concerns about the criticism directed at the compulsory rehabilitation program as provided for in this legislation and as is carried out in Sweden and in other countries. The Hon. Peter Breen seemed to imply earlier that Sweden had either dropped or wound back its program. I wanted to check up on that issue. As honourable members would be aware, I conducted an extensive tour of Sweden and 11 other nations when I embarked on a 2000 AD Commonwealth parliamentary study tour. I wanted to compare the policies in countries with restrictive drug policies as opposed to the policies in countries with permissive drug policies.

Sweden is a restrictive drug policy nation or, better still, it is a drug-free nation as opposed, say, to Switzerland, which has gone in the opposite direction and has consumer rooms in major cities like Zurich where addicts can collect not only needles but also heroin. The Swiss Government believes that that is a good solution to get addicts off the street so that it does not affect its tourist trade. I believe that the addicts are paying a price for that policy. Sweden has not changed its policy. I am amazed that the United Nations and the European Union have agreed to follow the Swedish example. So, far from Sweden throwing in the towel, other nations that have been observing the Swedish approach and who are impressed by it are now adopting that approach. I quote from a document produced by the Ministry for Foreign Affairs in Sweden dated 20 February 2004, which is up-to-date information, and it states:

> The fight against drugs is one of the four priority areas for Swedish development assistance in 2004. As part of this work, the Government has adopted a new strategy, based on a Sida proposal, for cooperation with the UN body, the United Nations Office on Drugs and Crime ... The aim of the strategy is to intensify and enhance the efficiency of the Swedish commitment to UN efforts to fight drugs.
>
> The new strategy for cooperation with the UNODC is based on Sweden's restrictive drug policy.

So Sweden is not throwing in the towel; the United Nations is adopting Sweden's policy. Honourable members would be aware that the European Union tends to opt for the soft or trendy side of drugs because of the membership of the European Union. Another report that was prepared in November 2003 states:

> Recently, the EU's ministers of justice agreed on tougher drug measures. At the end of November 2003, the Council of the European Union adopted a new framework decision concerning illicit drugs. This resolution, which is completely in line with Swedish drug policy, established a minimum level of stringency far exceeding that of prior regulations. Henceforth, all forms of drug trafficking will be criminalized in EU countries, with no exceptions for either the small-scale drug trade or soft drugs.

Honourable members should not be put off by the remarks that were made earlier by the Hon. Peter Breen, which he obtained from certain sources. In our society there are two distinct views on drugs. The Lord Mayor of

Sydney, Clover Moore, represents one side of the debate when she talks about providing heroin and establishing shooting galleries in Redfern and elsewhere. Others of us believe we should do all that we can to restrict the availability of drugs, establish compulsory drug rehabilitation programs and try to get young people off drugs and prevent them being addicted in the first place. Those views are very different.

The Swedish program receives much criticism from the permissive group—which is the group to which I think the Hon. Peter Breen referred. But according to factual documents that criticism is incorrect. I think it was exaggerated in an attempt to undermine people's confidence—particularly that of members of Parliament—in the Swedish program. It was hoped that politicians would say, "Oh well, if Sweden has failed perhaps we shouldn't adopt the same approach." But the Swedish approach has not failed.

As I have said before, a United Nations report of a few years ago made a comparison between drug use in Sweden and Australia. Nine per cent—the figure had been lower—of young people in Sweden showed a lifetime prevalence of drug use, while in Australia the figure was 52 per cent. Some 2 per cent of young people in Sweden had used drugs in previous years but in Australia the figure was 33 per cent. As to the estimated number of dependent heroin users per million people, the figure in Sweden was 500 while in Australia it was between 5,000 and 16,000—it is difficult to calculate accurately; but it is in that realm. Some people say that the figure is now more like 20,000. So Sweden must be doing something right.

I believe this legislation is an attempt by the Government to learn from successes in other jurisdictions. Those honourable members who attacked the bill—they may not vote against it—have missed the point. The bill will establish a trial, a pilot, and we will see whether its results are favourable. I commend the Government for that initiative. People support the Government's injecting room trial, for instance, but criticise the Government for making a genuine effort to get prison inmates off drugs through a trial compulsory rehabilitation program. I commend the Government for having the courage to move in this direction and I support the bill.

The Hon. JOHN DELLA BOSCA (Special Minister of State, Minister for Commerce, Minister for Industrial Relations, Assistant Treasurer, and Minister for the Central Coast) [4.41 p.m.], in reply: I thank honourable members for their contributions to the debate on the Compulsory Drug Treatment Correctional Centre Bill. As I listened to the debate I was reminded of the Rorschach ink blot test. When it comes to Corrective Services policies and drugs issues people seem to see whatever they want to see rather than what is before them. I acknowledge that the majority of Opposition and crossbench members intend to support the bill. However, I feel that I must respond to several contributions that have implications for perceptions of the corrections system or this trial.

My first point is very important. I note that Reverend the Hon. Fred Nile consistently uses particular terminology when referring to the medically supervised injecting room trial—which he calls something quite different. We must get the language right. I am reminded of George Orwell's *Politics and the English Language*, which is one of my favourite essays about politics. It discusses the ways in which words are powerful and how, by changing the meaning of words, we can change social outcomes and impacts on people. It is important to get the terminology right in this case as I want people to understand correctly what this proposal is about. This bill is not about establishing a drug-free prison. Opposition members consistently used that rhetoric. They claimed that the Government was going to trial a drug-free prison and took a free kick by asking why all prisons were not drug free and why only a particular prison section would be drug free under this bill. The Hon. Peter Breen's logic was: You will not be able to do it so why even try?

This bill is not about drug-free prisons; it is about establishing a compulsory drug treatment trial. It is about a corrections approach to drugs that is not unique—as Reverend the Hon. Fred Nile said, there are similar facilities in other jurisdictions. He mentioned a facility in Sweden. Surprisingly, although the Dutch and the Swedes are often represented as being on opposite sides of the drug policy debate, there are similar facilities in Holland and, interestingly, in a couple of the more innovative jurisdictions in the United States of America. The Hon. Dr Peter Wong got it wrong when he claimed that it is bad clinical practice to make drug treatment—indeed, any form of treatment—compulsory. Of course it is bad clinical practice but the people to whom the bill refers are not in a hospital; they are in prison and the treatment will be part of their sentence and part of the corrections system. It is important to make that distinction. People must understand clearly that we are trying to establish a compulsory drug treatment trial.

I was somewhat disappointed and a little confused by the Hon. Greg Pearce, who led for the Opposition in the debate. He informed the House that the legislation is a bad idea but went on to claim that the Government had stolen the idea from the Opposition. He had a bob each way.

The Hon. Greg Pearce: Don't verbal me!

The Hon. JOHN DELLA BOSCA: Speaking of verballing, the Hon. Peter Breen referred in his contribution to a brief conversation that we had in the Chamber anteroom. I would have thought that a great civil libertarian like the Hon. Peter Breen—who is not in the Chamber at present—would resist the temptation of verballing someone. I am sure that he would condemn such a practice. The Hon. Peter Breen claimed that I said that most trial participants would be voluntary. I was of course referring to the fact that the court will decide which inmates will receive compulsory treatment as part of their sentence. I believe many inmates will want to be sentenced to this facility.

I turn to my last introductory point. Reverend the Hon. Fred Nile emphasised that it will be a trial drug treatment facility. However, this completes the safety net that the Government has put in place for people affected or afflicted by a drugs problem. It begins with initiatives such as the Magistrates Early Referral Into Treatment [MERIT] Program, which the Hon. David Oldfield mentioned. It targets lower-level offenders, who have just begun their offending and addiction careers and whose offending behaviour the court has determined is prompted by drug addiction—there is a fairly direct cause-and-effect link. Such offenders generally commit low-level property crimes—people do not think such crimes are minor if committed against their property—are captured by law enforcement authorities and, instead of being incarcerated, are released into the community with certain bail conditions. This avoids the risk of such offenders becoming more expert criminals and more addicted to drugs. The idea is to intervene fairly early in the case of offenders with that sort of problem.

The next level involves a series of programs within Corrective Services. I will detail them as I think some deliberate misinformation was spread during the debate about current drug treatment in the corrections system. In addition to those programs that seek to get people off drugs there are the Drug Court interventions. These are clearly aimed at harder cases and long-time offenders whose offending behaviour has led them to commit more serious crimes. Such people are generally older and have unfortunately reached the halfway mark in their criminal and addiction careers.

It is envisaged that the correctional drug treatment facility will be the last part of the safety net. People who have failed rehabilitation programs, breached the guidelines of schemes such as MERIT, failed in the Drug Court environment or the Griffith bond system and who, as recidivists, have failed previous drug addiction programs in the prison system, will be sentenced to treatment as part of their incarceration. People must understand that important distinction. This is a unique approach to dealing with the drug problem. It has not come out of the woodwork; it is not some crazy idea dreamed up by the Opposition. It is part of a coherent policy framework for dealing with the drug problem in the corrections system. It will establish a relationship between the justice system and the social phenomenon of drug addiction.

In relation to the stance of the Opposition about drug-free prisons and so on, in spite of what the Coalition members said during the debate, a headline in the last Coalition policy was "Reducing Drug Use in Prison"—not eliminating it as seemed to be the view of the Hon. Greg Pearce. This was later confirmed in October 2003 when the shadow Minister in the other place said, "You can't have drug free prisons". The Hon. Greg Pearce claimed that if the Government were really committed to the Compulsory Drug Treatment Correctional Centre, it ought to have announced it earlier in its election campaign. Just for the record, it did. On 9 March 2003 the Premier issued a press release announcing that the State Labor Government would:

> ... set up Australia's first compulsory drug treatment correction centre—a facility designed specifically to target the repeat male drug offender.

I assure the House that the Government has not stolen a bad idea, rather it has developed an extremely good one. The differences are quite clear when one actually reads the policy and the legislation. But those points of difference aside, I again thank honourable members for their comments on this bill. And in redefining its aims and objects, I am at pains to point out once again that the Compulsory Drug Treatment Correctional Centre is not a so-called drug-free gaol initiative. Keeping drugs out of the centre is crucial to the success of the program and every possible measure will be taken to ensure that happens. That includes minimal contact visits in stage one. As the Hon. Peter Breen so clearly articulated—inadvertently he actually supported the policy in his opposition—this is the primary way in which drugs find their way into prisons.

The Hon. Peter Breen: It is good policy.

The Hon. JOHN DELLA BOSCA: He has had a sleep on it and now thinks it is a good idea. But the drug-free nature of the prison is only one part of what the centre is intended to achieve. It is not enough to

separate drug-dependent people physically from drugs; we must also deal with them socially and psychologically. Let me just restate that the aim of the bill is to target a hardcore population of offenders with long-term drug addiction associated with their crime and constant imprisonment. The Compulsory Treatment and Rehabilitation Program, although it will be primarily abstinence based, is about the social and educational rehabilitation and potential of those who participate in it. The program will be characterised by judicial supervision, intensive case management and learning.

Honourable members have already spoken about the division of the program into three stages. Social skills, preparation for the job market, managing personal debt, and management of leisure time will all be key components of the program. Compulsory drug treatment personal plans will be prepared on the basis of comprehensive individual assessments of offenders setting out the conditions of each offender's treatment and rehabilitation program. Any notion, as inferred by the Greens, that this was some simplistic cold-turkey program is completely wrong. This is a comprehensive attempt to deal with the problem of drug addiction and crime when they manifest themselves in the same individual, and to treat them as a whole person—not only their drug addiction but also other problems that may be leading them to offend to maintain their drug habit.

Offenders will be gradually reintegrated into the community and targeted with support after completion of their program and even beyond parole. The Compulsory Drug Treatment Program will build on the productive justice and health system linkages already established for programs such as that involving the Drug Court. The aim is to achieve better outcomes for the State's most entrenched criminal addicts, to assist them to become drug-free and hopefully crime-free, to take personal responsibility, and to achieve a more productive lifestyle.

The bill provides the legal framework for a comprehensive program of treatment and rehabilitation for these offenders. Extensive planning is under way to establish the new facility and make any necessary refurbishments at the Parklea site; to ensure appropriate security arrangements are put in place—experts in the criminal facility will finalise all the protocols; to develop detailed proposals for the assessment, treatment and rehabilitation of offenders; to select and train staff at the centre as well as judicial staff and others involved in administering the program; and to develop and consult on any necessary regulations and other operational guidelines and protocols needed to be effective. It is important to emphasise that this is an innovative new program and an Australian first.

The Hon. Greg Pearce raised drug testing. It is important to understand that it is intended to conduct periodic, random and targeted drug testing of 100 per cent of offenders in the program during all three stages of the program. The frequency of drug testing will be more intensive than for regular inmates. The testing regime will vary for each offender, depending on his particular circumstances and compliance with the program. An appropriate level of testing will be identified during the comprehensive individual assessments that will be conducted when an offender enters the program. That will be specified in the offender's compulsory drug treatment personal plan and subject to approval by the Drug Court. The frequency of drug testing may be increased or decreased as part of the system of sanctions and rewards that which apply under the bill.

It is expected the Drug Court will propose regulations setting out detailed requirements for random and periodic and targeted drug testing of all offenders during all three stages of the program. The current policy of the Drug Court on drug use by participants that applies to offenders in the current Drug Court program will be taken into account in this process. The current policy of the Drug Court includes a minimum frequency of testing of two to three times per week. Drug tests will primarily involve urinalysis but the bill leaves open the possibility of using other tests such as saliva, hair or blood testing.

Despite the comments made by the Hon. Peter Breen, while we have looked at similar programs in other jurisdictions and taken the best aspects of those programs, the Compulsory Drug Treatment Correctional Centre has been developed as a uniquely Australian model. With respect to the success or otherwise of compulsory treatment and the remarks of James Bell, which were quoted by both Ms Lee Rhiannon and the Hon. Peter Breen, I add the view of another respected individual—the Chief Magistrate of the Local Court, who, while commenting on the bill, indicated his support for "the compulsory nature of the proposal which targets high level recidivists". His Honour said he was aware of "extensive overseas research which demonstrates that persons coerced into treatment do as well or better than those who volunteer".

With regards to the eligibility criteria, particularly those with a mental illness, I provide the following information for the interest of honourable members. Offenders with a mental condition, illness or disorder will only be excluded if their condition is serious or leads to the person being violent and it could prevent or restrict

the person's active participation in the program. Similar exclusions apply in the Drug Court and the Magistrates Early Referral Into Treatment Program. By the way, mentally ill offenders are also excluded from the Netherlands program for the compulsory incarceration of criminal addicts. Many offenders in the target group for this program will have mental conditions co-existing with their drug dependency. Only some of those assessed as mentally ill will be excluded from the program because their condition is serious. Others will be included and their mental health needs will be addressed as part of their compulsory drug treatment personal plan.

The management and treatment of recidivist criminal drug offenders who also have a serious mental illness is very difficult. They need a different type of management approach and have different treatment requirements to the type of criminal drug offender often referred to the centre. Placing offenders with serious mental illness in the program could undermine the progress and management of other offenders. The Government has already put in place a significant court diversion program for mentally ill offenders, directing them to community treatment centres where appropriate.

Finally, to reassure Ms Lee Rhiannon, consideration may be given to expanding the program within the four years to include female offenders; This approach is entirely consistent with the Government's evidence-based approach to drug policy. I thank honourable members for their support for the measure, and I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

HEALTH LEGISLATION AMENDMENT BILL

Second Reading

Debate resumed from 11 May.

Ms SYLVIA HALE [4.59 p.m.]: The Greens have concerns about the amendments proposed by this bill relating to the Mental Health Act. Currently, from time to time medical professionals call on the assistance of police to transport mental health patients. This occurs when medical personnel consider it necessary for the safety of the patient, medical practitioner and members of the public. This bill will make it more difficult to call on the police for assistance. Without additional capacity being provided to the medical system to meet increased demands, this bill will result in diminished medical care and increased risks to patients, medical practitioners and the general public. The bill is a knee-jerk reaction, and its measures have not been thought through. The Government has been confronted by police complaining about the workload associated with attending to mental health patients and, rather than wait for the full and comprehensive review of the Mental Health Act, has proposed this half-cocked amendment before the House today.

The Greens share the concerns of NSW Police. In the vast majority of cases NSW Police is not the most appropriate organisation to transport mental health patients. Bundling patients into the back of a paddy wagon does not meet the needs of anyone. It diverts police resources, it is distressing for medical staff, and it is humiliating for patients. I have spoken to a number of medical staff, and they report that a police presence can actually inflame an already volatile situation where a highly agitated, sometimes psychotic, person is being coaxed into a vehicle for transport. But that is not the fault of police. The real question is: Why are the police being called on in the first place?

Mental health professionals currently turn to police as a last resort. Often, patients are transported by doctors and medics themselves. Police assistance is called for when patients are agitated and present a risk to the driver or patient or other users of the road. In some cases medics call on ambulance services. Ambulances are, however, generally unsuitable because the inside of ambulances has an array of exposed medical equipment that can be dangerous to psychotic and/or violent patients. It is for this very reason that ambulance officers often refuse to transport mental health patients without a police escort—unless the patient is heavily sedated. Ambulances are generally used only to transport patients between medical facilities and not from the community to a medical facility.

For the Government to argue, as it has done to my office, that this bill simply transfers responsibility from police to the Ambulance Service glosses over basic operational imperatives. Leaving aside the critical

question of whether the Ambulance Service has the capacity to take on the job, ambulances are simply unsuitable for transporting mental health patients. What the Government is doing by this bill is shunting the problem from one agency to another, without making any real attempt to fix the problem or find a genuine solution. Transporting mental health patients in a way that is safe and dignified for both patient and medical practitioner requires dedicated transport vehicles. In parts of Europe and the United Kingdom, this is precisely what is done. Such vehicles do not require the full range of emergency facilities of a regular ambulance, nor do they have the metal grills of a police paddy wagon. They have specialised equipment, including padded beds, and patients can be restrained if necessary, drivers and patients are separated to ensure driver and road safety, and medical practitioners can travel with patients in a separate compartment, or with the driver, whichever is the most suitable in the circumstances. A padded bed is totally different from an unlined paddy wagon. Anyone who has ever been inside a paddy wagon knows how dangerous it is for the occupants.

The Hon. Robyn Parker: Have you been inside one?

Ms SYLVIA HALE: Yes, I have. It is a totally unpleasant circumstance, because there is nothing in the paddy wagon to protect occupants from bumps in the road or from any mishap. Persons in paddy wagons are unrestrained, and they can be hurt if the vehicle is required to pull up suddenly. Ambulances are totally unsuitable for this transport function. They are a danger in particular to mental health patients. The correct approach is to look for alternative transport for mental patients. As I have said previously, that is precisely what is available in the United Kingdom and parts of Europe. Those vehicles are not required to have the full range of emergency facilities and they operate as part of the health care system. Medics call for the service in the same way as they call for ambulances. This is a dedicated transport system that takes pressure off police and the ambulance services, and provides a service that is more appropriate for the transport of mental health patients. This is a system sorely needed in New South Wales. Instead, we shunt the problem from police to the Ambulance Service, when neither organisation has the capacity or the facilities to perform the task adequately.

There is a real danger that under this bill both police and the Ambulance Service simply will refuse to transport patients, creating an even more volatile situation on our streets. Both the current Government and the previous Liberal Government pursued a policy of de-institutionalisation, hospital closures, and downsizing community health services. The result has been an increase in mental health patients living outside medical facilities, with fewer support services to help them lead functional lives. We have seen an increased demand on health care professionals dealing with people living outside institutions, and demands on the police to handle cases involving mental patients.

Notwithstanding the very welcome $241 million for mental health announced in the mini-budget, this Government has run down support services for mental health patients, and this bill is an attempt to mop up the symptoms of long-term neglect. The Greens are concerned that valuable police time is being taken to transport medical patients, but the Government has not demonstrated that other services have the capacity to undertake the additional workload. The bill will make it more difficult for doctors to enlist the assistance of police. The bill fails to address the real needs of mental health patients and their carers, and it will result in increasingly volatile situations on the streets. Sadly, the amendments to the Mental Health Act proposed by the bill are nothing more than buck-passing. The Greens support the other elements of the bill relating to amendment of the Dental Technicians Registration Act, the Nurses Act and the Human Tissue Act.

The Hon. JOHN DELLA BOSCA (Special Minister of State, Minister for Commerce, Minister for Industrial Relations, Assistant Treasurer, and Minister for the Central Coast) [5.10 p.m.], in reply: I would like to thank honourable members for their contribution to the debate and comment on matters they have raised. In relation to nurse practitioners, practice oversight guidelines will be developed by NSW Health to regulate the practice of nurse practitioners and midwife practitioners with respect to drugs of addiction. The practice oversight guidelines will be the subject of consultation with all relevant stakeholders including the Australian Medical Association and the Rural Doctors Association. The practice oversight guidelines will be drafted so as to protect nurse and midwife practitioners from being placed in situations where they will be put under pressure to prescribe inappropriately. It must also be remembered that only the most experienced nurses and midwives have the qualifications and background to be considered by the Nurses Registration Board for authorisation.

In respect of the prescribing and administration of schedule 8 drugs by midwife practitioners, concerns have been expressed about the safety of such activities outside a hospital setting. I advise the House that the development of practice oversight guidelines for the activities of all nurse practitioners and midwife practitioners requires the agreement of all local area stakeholders. In the case of midwife practitioners and their use of schedule 8 drugs those stakeholders will include relevant local medical practitioners practising obstetrics

whether they be specialist obstetricians or general practice obstetricians, employers, and relevant local pharmacists. It is important that members of the House can have confidence in the comprehensive nature of any practice oversight guidelines developed for midwife practitioners' professional use of schedule 8 drugs. Therefore the Minister for Health has given an undertaking that an overarching practice guideline will be developed for use of schedule 8 drugs by midwife practitioners. The Minister has also given an undertaking that the overarching guideline will be tabled in this House for the information of members prior to approval by the Director-General of Health.

The training in dental prosthetics involves both theoretical and practical components. The theoretical component of distance education is to be provided by TAFE while the practical component is to be provided under the supervision of dental practitioners or dental prosthetists. Training will not be a de facto indenture system, and the Dental Technicians Registration Board will be required to approve all courses of training. In relation to amending section 22 of the Mental Health Act, medical practitioners will retain the power to obtain police assistance where, in their opinion, there is a serious risk to the health or safety of the mentally ill person or some other person. In other cases it is appropriate that there be liaison with local mental health services and the Ambulance Service regarding transport options. The bill proposes important amendments that will help to deliver a better health system in New South Wales.

In particular, the amendment to section 22 of the Mental Health Act is significant and will provide more efficient mental health and police services. Ensuring that medical practitioners obtain the assistance of police as a necessary precaution, rather than a convenient measure, is very important. Important, too, are the amendments to the Human Tissue Act that will allow 16 and 17 year olds to donate blood. This will increase the level of donations and bring the age of consent in line with other medical and surgical procedures. The proposed amendments to the Nurses Act are also important in that they extend the delivery of the methadone program, particularly in rural and regional New South Wales. The bill ensures, through amendments to the Dental Technicians Act, more and better training opportunities for dentists in country New South Wales. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

GREYHOUND AND HARNESS RACING ADMINISTRATION BILL

Second Reading

The Hon. IAN MACDONALD (Minister for Primary Industries) [5.14 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 object of the legislation before us is:

First, to constitute the Greyhound and Harness Racing Regulatory Authority, which is to take over the functions of the Greyhound Racing Authority and the Harness Racing Authority;

Second, to constitute the Greyhound and Harness Racing Appeals Tribunal, which is to take over the functions of the Greyhound Racing Appeals Tribunal and the Harness Racing Appeals Tribunal;

Third, to provide the new amalgamated Authority with certain powers in relation to the control and regulation of greyhound racing and harness racing;

Fourth, to update the process and procedures in relation to an appeal to the new Authority and Tribunal; and

Fifth, to provide appropriate, transitional arrangements for existing staff with the amalgamation of the Authorities.

The bill provides for the second part of the reform and restructure of the governance of the greyhound and harness racing industries in New South Wales.

The first part of the reforms separated the commercial and regulatory activities which resulted in a dual board structure for each of the greyhound and harness racing codes.

The two commercial boards, Greyhound Racing NSW and Harness Racing NSW exercise the strategic and commercial governance of the relevant code. They are independent of government and do not represent the Crown. .

That status is consistent with the wishes of industry participants that the industry itself should be able to manage its strategic direction and economic development free from government direction.

As I indicated earlier, the reform process has been undertaken in two stages. The reasons for that are primarily in relation to providing an appropriate environment for structured change management, and also to ensure continuity of regulation, during the period of change.

Stage one is complete with the two commercial boards fully empowered and operational.

Stage two is the amalgamation of the two regulatory boards, that is, the Greyhound Racing Authority and the Harness Racing Authority.

Stage two has been preceded by a feasibility study.

The feasibility study was prepared by a Working Party chaired by a senior officer from the Department of Gaming and Racing, and included the chairpersons of the Greyhound Racing Authority and the Harness Racing Authority.

The feasibility study was prepared in accordance with the fundamental principle that the amalgamation is not to be at the expense of the regulation of the integrity of racing.

The main finding of the feasibility study was that it is feasible to amalgamate the two Authorities.

The study also found that the future operating costs of an amalgamated authority could eventually be expected to result in significant savings in the order of $800,000 per year from reduced accommodation and staffing costs.

Further, the study found that an amalgamated body could be located at the premises in Auburn currently owned and occupied by the Greyhound Racing Authority.

Another finding of the feasibility study was that amalgamation costs could be met from the sale of the surplus building currently owned and occupied by the Harness Racing Authority, with any surplus funds being made available for the benefit of the greyhound and harness racing industries.

During the course of preparing the feasibility study the Working Party consulted with the staff of the Greyhound Racing Authority and the Harness Racing Authority. The Public Service Association was also a part of that consultation process.

One of the matters that is identified in the feasibility study is the need to continue to consult with staff, and the staff association, as the amalgamation proposal progresses from the initial feasibility stage to the implementation stage. The staff will be consulted as more information becomes available during the implementation stage.

That will be an ongoing task for the Department of Gaming and Racing, and the Board and Chief Executive of the soon to be appointed amalgamated body.

The Working Party also consulted with the two industry commercial boards, that is, Greyhound Racing NSW and Harness Racing NSW.

The bill provides for the amalgamation of the two existing regulatory authorities.

In most other respects the functions, powers and responsibilities of the former two regulatory bodies are to be carried forward to the amalgamated body.

The amalgamated body is to be known as the Greyhound and Harness Racing Regulatory Authority.

The proposed amalgamated Authority is to have a five-member board with appointments made by the Governor on the recommendation of the Minister for Gaming and Racing, as is presently the case.

Qualifications for appointment to the Board are to be carried forward so that at least one member of the Board must have legal qualifications and the other members must have experience in one or more of the following areas—management or administration; enforcement or regulatory; veterinary science; or knowledge of racing or wagering.

The amalgamated body will continue to be a statutory authority representing the Crown; and subject to the direction and control of the Minister on the same basis as at present.

While there will be only one Chief Executive Officer for the amalgamated body, the terms and conditions of employment of that officer and the staff of the amalgamated body are to continue on appropriately similar terms.

The former arrangements by which the Minister for Gaming and Racing determines, if required to do so, whether a function is appropriately carried out by a commercial board or regulatory board will also be carried forward.

The Minister will also continue to determine the budget of the amalgamated regulatory board. That will continue to be done with appropriate consultation with the two industry commercial boards.

With the amalgamation of the two authorities, the opportunity will be taken to also amalgamate the Greyhound Racing Appeals Tribunal and the Harness Racing Appeals Tribunal. The two appointees to these tribunals are currently the same persons and it makes sense to simplify the arrangements in this area.

His Honour Mr Barrie Thorley and Mr Justice Wayne Haylen are the two appointees. They agree with the proposed changes to the Tribunal arrangements.

However, the advisory committees to each industry will, appropriately, continue as industry specific separate bodies. The Greyhound Racing Industry Participants Advisory Committee and the Harness Racing Industry Participants Advisory Committee provide industry specific feedback on a range of commercial and regulatory issues.

All staff entitlements are protected by the bill. Except for the Chief Executives of the existing two regulatory bodies, all other staff are to be transferred to the new regulatory boards, thus preserving all public sector entitlements pending the restructure associated with the new amalgamated Authority.

The Government's two stage restructure proposal represents a significant and major reform for the harness racing and greyhound racing industries.

This will provide those industries with the opportunity of securing a viable future on their own merits, and in accordance with their own business and strategic acumen.

The separate and independent commercial boards are able to focus exclusively on the day to day business arrangements, and also on strategic decision making to secure the future of the industry.

This second stage of the reforms addresses the criticisms in some quarters about the costs of regulating the integrity of greyhound and harness racing.

The amalgamation provides the optimum opportunity to achieve ongoing economies of scale through reduced accommodation and back office costs for the regulatory function.

Nevertheless, such savings will not be at the expense of the administration of the integrity of racing, and particularly the ability of stewards to police race meetings.

The recurrent annual savings are eventually expected to be in the region of $800,000 per year.

After start-up and transition costs are met, the savings will become available to the greyhound and harness racing industries to distribute as prize money, or for any other purpose that the independent commercial boards consider in the best interests of their respective industries.

The present reform is another of the many structural reforms and achievements of the Carr Government in the area of racing.

In 1996, it was the establishment of the Thoroughbred Racing Board. That Board is comprised of appointees that provide for industry wide representation, and an appropriate mix of commercial and regulatory experience.

In 1997, legislation was introduced to provide for the privatisation of the TAB.

Each year since privatisation the TAB has increased its payments to the racing industry. In the 1997-98 financial year it was $142 million. That has increased in the 2002-03 year to $202 million.

These increases are the lifeblood of the New South Wales racing industry. Without such increases our racing industry would not be able to compete and its viability and future would be in doubt.

In 1998, there was the first phase of the restructuring of Harness Racing NSW and the Greyhound Racing Authority.

That initial change provided for greater industry representation on the Boards of the controlling bodies, and the undertaking that there would be an evaluation of that new structure at the end of the three year term of each Board. That evaluation has resulted in the proposal at hand.

In 1998 and 1999, it was the reform and update of the antiquated Gaming and Betting Act 1912, including the introduction of the offence for a person in New South Wales to bet with an overseas wagering operator on Australian racing events.

Such legislation minimises the threat from wagering operators outside New South Wales who seek to free-ride on this State's racing industry. These operators are happy to exploit our racing and poach our racing revenues without contributing to the cost.

It is with some urgency that the Government has led the debate regarding the practice by some jurisdictions of the licensing onshore of such large overseas wagering operators who contribute little to the racing industry.

It is the Government's intention to prevent the opportunistic scavenging of our racing industry revenues, and therefore the destruction of many racing industry and country based jobs.

I understand that the Minister for Gaming and Racing also met recently with other Racing Ministers to discuss the best means by which to address these issues nationally and in a measured way.

Other important reforms have included:

The review of the adequacy of sexual harassment policies, procedures and practices in the New South Wales racing industry. Consequently, the controlling bodies for each code of racing have implemented best practice policy and procedures. This has been recognised as such by other States and Territories and adopted as a national model.

Significant tax reform for bookmakers. First in 2000 sports bookmakers received a reduction in taxes on certain sports bet types, and in 2002 the 1% State turnover tax on bookmaker racing bets was abolished.

A responsible wagering program has also been introduced. It requires race clubs and TAB outlets to adopt gambling harm minimisation awareness measures.

I note that it is now the practice that all bills will be scrutinised by the Legislation Review Committee. The Committee's obligations are set out in the Legislation Review Act.

Except for one provision that the Committee has raised in writing with the Minister for Gaming and Racing, the bill does not contain any provisions that make rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers or upon non-reviewable decisions.

The Minister has provided a detailed response to the Committee on that matter.

Nevertheless, the Legislation Review Committee should note that it is proposed to commence the new arrangements on 1 October 2004. Previously, it was intended to commence on 1 July 2004. However, that is now considered to be insufficient time to constitute the new Board and provide for it to undertake preparatory matters such as recruiting a Chief Executive Officer.

I am therefore very pleased to be able to introduce the present proposal, as a part of a long list of reforms designed to modernise and bring commercial reform to the governance of the racing industry in this State.

The legislation is another confirmation of the Government's understanding that the racing industry has significant social and economic importance to the Australian community. This is particularly so in the case of country greyhound and harness racing.

The Government is once again demonstrating its commitment to ensuring a viable future for our racing industry.

I commend the bill to the House.

The Hon. MELINDA PAVEY [5.14 p.m.]: I lead for the Opposition on the Greyhound and Harness Racing Administration Bill. The Opposition will not oppose the bill, which will lower costs and administration overheads within the greyhound racing industry with the aim of distributing additional funds and more prize money to the punter. And that is not a bad thing. Before I met my husband he had a couple of dogs, or pan lickers as he called them, so I speak from some personal interest. I have been to the dog races once or twice and I enjoyed the experience. I support anything that will give a little more money back to the punter. The purpose of the bill is to establish a combined Greyhound and Harness Racing Regulatory Authority and to constitute the Greyhound and Harness Racing Appeals Tribunal. This bill is the second part of the two-stage process of reform and restructure of the governance of the greyhound and harness racing industries in New South Wales.

The first-stage reforms involved separating the former greyhound and harness controlling bodies into the autonomous non-government commercial and statutory authority regulatory components. Stage two is the amalgamation of the two regulatory boards, the Greyhound Racing Authority and the Harness Racing Authority. In most other respects the functions, powers and responsibilities of the two former regulatory bodies are to be carried forward to the nominated body, the Greyhound and Harness Racing Regulatory Authority, which will consist of five members appointed by the Governor on the recommendation of the Minister. The Minister is to ensure that at least one of the persons recommended for appointment has a suitable legal qualification and that the other four members have a variety of qualifications, including experience in management, administration, veterinary science and knowledge of the racing industry.

Members or employees of the greyhound racing club, and anyone with a financial interest in an animal for racing will be excluded from being a member of the Greyhound Racing Regulatory Authority. The authority can register greyhounds, horses and persons associated with the industry, and cannot refuse registration unless it is of the opinion that it is in the best interests of the industry. Clause 14 enables the authority to take disciplinary action, including the suspension or expulsion of a registration or impose fines not exceeding $22,000. The authority can prohibit any greyhound or horse from racing, and can make rules respecting the control and regulation of the industries. The Greyhound and Harness Racing Appeals Tribunal will be established under clause 26. It will ensure that only a qualified person can be appointed to the tribunal. The judge or a retired judge from any New South Wales court will sit on the tribunal. The Minister may appoint experts in the industry to aid persons appointed to the tribunal.

I turn now to issues considered by the Legislative Review Committee. Some concerns have been expressed about non-reviewable decisions. Clause 24 gives the authority power to conduct a special inquiry into a matter decided by the tribunal on appeal if the authority received new information and it is satisfied that the

information may have resulted in a substantially different decision if evidence had been given at the hearing of the appeal. After holding the special inquiry the authority may decide to take no further action or it may decide the matter differently from the way it was decided by the tribunal. If it is the latter, the decision of the authority replaces the decision of the tribunal, and any appeal of the decision of the authority to the tribunal is excluded.

The committee notes the need for an effective mechanism to be available to the racing industry regulators to deal with developments both in the type of performance-affecting drugs that are available and the tests used to screen them. However, the committee also noted the importance of review in protecting the rights of individuals against oppressive administrative action. The committee stated that it will always be concerned when legislation seeks to exclude the review of a decision unless there is a strong public interest in doing so. It is also unclear why a person who is aggrieved by a decision which was made after the conduct of a special inquiry under clause 24 should not be able to appeal that decision to the tribunal.

The shadow Minister in the other place, the honourable member for Upper Hunter, consulted the Greyhound Racing Authority, the Harness Racing Authority, Greyhound Racing New South Wales, Harness Racing New South Wales and the Greyhound Breeders, Owners and Trainers Association, and all those bodies expressed general support for the bill. However, Greyhound Racing New South Wales was a little fearful that proceeds of the sale of the building which would be applied to funding redundancy payments would reduce the purported savings of $800,000 a year, and the Greyhound Breeders, Owners and Trainers Association was slightly sceptical about cost savings. I thank the honourable member for Upper Hunter for his work and for his advice to the Coalition on this matter. As I stated earlier, the Opposition will not oppose the legislation. We believe that implementation of the reforms will result in reduced overheads and administration costs. That will mean additional funds will be available for distribution as prize money or for any other purposes considered by the commercial bodies to be necessary. The Opposition does not oppose the bill.

The Hon. IAN MACDONALD (Minister for Primary Industries) [5.21 p.m.], in reply: I thank the Hon. Melinda Pavey for her contribution and point out that the Legislation Review Committee has written to the Minister for Gaming and Racing about clause 24. That provision has been carried forward from earlier legislation which provided for relevant regulatory bodies. A detailed response to the committee's letter has been provided by the Minister. I reiterate my thanks to the Hon. Melinda Pavey for her contribution and I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

FILMING APPROVAL BILL

Second Reading

The Hon. IAN MACDONALD (Minister for Primary Industries) [5.21 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 *Filming Approval Bill 2004* has been introduced to allow filming within the national park estate and marine parks, subject to the imposition of strict environmental conditions.

The national park estate conserves a unique diversity of outstanding landscapes in New South Wales, from the red desert, to rainforests, alpine mountains and vast tracts of wilderness. It is this very diversity of magnificent locations that is a key factor in attracting both the Australian and the international film industry to New South Wales.

Our national parks have already served as successful locations for many Australian and international films, such as *Mission Impossible 2, Lantana, Rabbit Proof Fence* and *The Mask 2*. A number of these films have won awards. Similarly, successful Australian TV series such as *Fireflies* and *Home and Away* have been filmed, in part, in our national parks.

The NSW film and television industry provides around 50,000 jobs and is worth some $4 billion a year to the State's economy. This Government strongly supports the industry and is keen to see it develop and flourish in this State.

The Government is of the opinion that filming is an appropriate activity within our national park estate. It frequently provides an opportunity to promote national parks, and to increase public appreciation and understanding of the natural and cultural values of our national parks. It is an activity that also helps to promote national parks to both local and international visitors.

For example, who can forget the inspiring and romantic images of the Snowy Mountains seen in *The Man from Snowy River*? The House would also be familiar with *The Lord of the Rings* films, which showcased New Zealand's magnificent national parks and natural landscapes with such remarkable effect. These areas are now being widely promoted to people who want to visit the stunning areas where the film was made.

The need for this legislation arises from the recent making of a film known as *Stealth*.

The Department of Environment and Conservation recently granted consent for the filming of *Stealth* in a part of the Blue Mountains National Park, which also happens to be in a declared wilderness area.

The decision was challenged in the Land and Environment Court by the local conservation group, the Blue Mountains Conservation Society. While the Court did not make any adverse finding about the environmental impact of the proposed filming, it nevertheless set aside the Department's consent on the basis that commercial feature filming was inconsistent with the objects of the National Parks and Wildlife Act and the management principles of the Wilderness Act.

Specifically, Justice Lloyd said that:

> I do not think that a production of a commercial feature film is appropriate public recreation in the context of the objects of the National Parks and Wildlife Act or the purpose of reserving land as a national park. Such an activity has nothing to do with these objects or that purpose.

There is sufficient case law to suggest that, in these circumstances, such activities would be unlawful in a national park.

In this instance, the activity in question is the making of a commercial feature film.

In ruling on the *Stealth* case, the Land and Environment Court has specifically drawn attention to doubts concerning the power to approve the making of any commercial feature film in any national park or reserve, whether or not the land in question is in a declared wilderness area. I stress that the Court's observations were not limited to *Stealth*—they were made with respect to *any* commercial feature film.

The Court has also drawn attention to doubts concerning the power to approve the making of *any* film in a wilderness area, at least in the following circumstances:

(a) where the filming is being undertaken commercially (that is, for sale, hire or profit); and

(b) where the filming requires exclusive use of the area in question.

The Government is committed to eliminating these doubts.

As the law now stands, it is entirely possible that magnificent Australian feature films such as *The Man From Snowy River, Lantana* and *Rabbit Proof Fence* could not be filmed in a national park in New South Wales.

It is even possible that the making of a nature documentary or a tourist promotional video in a wilderness area, at least in those cases where exclusive occupation was necessary to film, would also be unlawful.

These are unacceptable restrictions and ambiguities on the making of films in New South Wales. They undermine the Australian film industry's ability to film in our magnificent Australian bushland settings.

The Bill will remedy this problem by putting beyond doubt the power of the Minister for the Environment, or a delegate, to authorise the making of a film in the national park estate. A similar power will be conferred on the Minister for the Environment and the Minister for Primary Industries or their delegates to permit the making of a film in a marine park.

This power will apply within the national park estate or a marine park whether or not filming is for commercial purposes and will include the power to authorise exclusive access to and use of a specified area for a defined period of time.

To ensure that the precious values of wilderness areas are protected, filming will be restricted in these areas. Wilderness includes large natural areas that remain substantially unchanged by modern human activity. They are the most intact and undisturbed expanses of our remaining natural landscapes and their special values are managed to ensure they're disturbed as little as possible.

The Minister for the Environment will have the power to approve commercial filming in declared wilderness areas, but only where the film is for scientific, research or educational purposes or for the promotion of tourism, and where the activity is consistent with the wilderness values of that particular area.

Of course, filming will only be permitted within the national park estate or marine parks subject to strict environmental conditions.

Indeed, I would like to reiterate here that the Land and Environment Court did not make any adverse finding regarding the environmental impact of the filming of *Stealth* within the Blue Mountains National Park. In fact the Department of Environment and Conservation's thorough environmental assessment concluded that any impacts could be mitigated through the imposition of conditions.

This Bill has been carefully drafted to enable filming to take place within the national park estate and marine parks in certain circumstances whilst ensuring that environmental protection is paramount.

Let me outline the steps that will ensure that outcome:

Firstly, the Bill ensures that the Minister or delegate will have the power to impose appropriate conditions when issuing filming approvals. This may include conditions to:

- provide that the filming is conducted in a manner which minimises or indeed eliminates adverse impacts upon the natural or cultural values of an area;
- require existing means of access to be used where feasible;
- restrict the area in which filming is conducted; and
- restrict the period during which filming is conducted.

Filming proposals will be subject to an environmental impact assessment under Part 5 of the *Environmental Planning and Assessment Act 1979*. This means that the Minister will require the preparation of a Review of Environmental Factors or, if needed, an Environmental Impact Statement.

Finally, if filming is proposed in Aboriginal co-managed national parks, such as in Mutawintji National Park in western New South Wales, the concurrence of the Board of Management for those lands must be obtained prior to granting any approval. This will ensure that the views of the Aboriginal owners are respected when filming occurs in these areas and that Aboriginal sites are protected.

These statutory safeguards are further strengthened by the Department of Environment and Conservation's Filming and Photography Policy, which ensures that filming activities do not compromise the unique natural and cultural values that our national park estate protects. That Policy will of course be reviewed and amended, following passage of this legislation.

This Government remains committed to creating and managing one of the world's very best systems of protected areas.

Since coming to office in 1995, the Government has established around 345 new national parks and reserves, adding up to around two million hectares of land. In total, our national parks system now conserves 7.4 per cent of the total land area in NSW. The Government has also more than tripled the area of declared wilderness in New South Wales. Approximately one quarter of the State's protected area network is wilderness.

The Bill will allow films to be made in the national park estate and marine parks whist ensuring that the environment that we have worked so hard to protect will receive maximum protection.

In particular, to ensure that the special values of wilderness areas are protected, filming will only be allowed in these areas for scientific, research, educational purposes or for the promotion of tourism and will be subject anyway to very strict environmental safeguards.

This is a necessary and sensible Bill, which takes a positive step for New South Wales. It will enhance the protection and public appreciation of our national park estate and will encourage tourism to these beautiful places, whilst also enhancing the State's international reputation as a film-making centre, attracting investment and creating jobs in the local film industry.

Can I finally say that I welcome feedback on the provisions in the Bill. I have already met with representatives of the Blue Mountains Conservation Society about the legislation and I expect to receive a submission from it in the near future.

The Government, as always, will be prepared to consider amendments that will improve the legislation.

I commend the Bill to the House.

The Hon. GREG PEARCE [5.23 p.m.]: The object of the bill is to allow commercial filming to take place in national parks. All honourable members are aware of the circumstances which led the Government to present this bill. The bill relates to the production of the movie *Stealth* which was to take place last month in a wilderness area near Mount Hay. The approval was subject to an appeal by the Blue Mountains Conservation Society Inc. before the Land and Environment Court. The court ruled that filming should not proceed in the wilderness area. The court found in favour of the conservation society on 29 April on the grounds that the court did not believe that production of a feature film qualified as "an appropriate public recreation" under the objects of the National Parks and Wildlife Act or principles of management for a national park; that the approval contravened section 153A of the National Parks and Wildlife Act which states that the Minister or the director-general shall not grant a lease, licence or franchise in a wilderness area; the approval was contrary to the National Parks and Wildlife Service guidelines for commercial filming and photography; the unlawfulness of approval and consent for commercial filming under section 9 of the Wilderness Act 1987; and the fact that declared wilderness areas are sacrosanct.

Immediately following the judgment, the Premier, Bob Carr, announced that an appeal would be lodged in the Supreme Court. He also stated that if the appeal was not successful, the Government would legislate to ensure that filming could go ahead. As events transpired, the producers of the film decided against continuing with an appeal, given the expense and delay that that process entails, and proceeded to make the film without any further impediments. Nevertheless, this bill seems to have been designed to ensure that the Premier is not embarrassed by the performance of the Government in relation to this matter. The Attorney introduced this bill

in the other place and pointed out that the New South Wales film and television industry is worth $4 billion a year and provides approximately 50,000 jobs. He stated that the Government supports the film industry. The Opposition supports the film industry as well.

Mr Ian Cohen: So do the Greens.

The Hon. GREG PEARCE: I appreciate Mr Ian Cohen making that clear. The issue is whether it is appropriate to film in national parks. All sides agree that it is not appropriate to film in wilderness areas which the court properly declared to be sacrosanct. I commend to members of the House the excellent speech made in the other place by the shadow Minister for the Environment, the honourable member for The Hills, in which he outlined in considerable detail the circumstances leading up to the proposal for filming. He outlined at length the characteristics of the area in which filming was to take place and the process undertaken by the film-makers in seeking to obtain appropriate approvals for filming. An environmental study was undertaken which, from all accounts, was a detailed and proper environmental study.

The honourable member for The Hills also set out the conditions under which filming was approved. Some of the conditions, which were highly specific to a wilderness area, were that access to the swamp area, which was the setting for the film, was confined to an access route that was identified by the Department of Environment and Conservation instead of the route proposed in the review of environmental factors, and the applicant had to contribute to the cost of stabilising the additional access track. The conditions went so far as to stipulate the details of shoes and clothing that were to be worn by people working in the area while filming took place, the timing for rehearsals, and costs.

As we know, the Blue Mountains Conservation Society successfully appealed to the Land and Environment Court, which found that filming should not proceed. The response by the Premier was apoplectic. On 30 April he spoke on 2BL radio in support of the location of the filming, and called it "an authentic location". I commend to honourable members the contribution of the shadow Minister in the other place because when one reads about the detail of the site and the lead-up to it, it is quite ludicrous for the Premier to have claimed on radio that the location was authentic and that it provided a North Korean landscape. That was nonsensical.

Clearly, alternative sites were available and a number had been identified by the Colong Foundation for Wilderness prior to filming. When one reviews what happened one would wonder how we have reached this rather dramatic situation. There were some disturbing elements in what was intended to be done in the wilderness area, including the building of a platform, and the landing of a helicopter to bring in equipment. Also some worrying detailed activities were involved, including the intention to simulate explosions of bullets hitting rocks and so on. It is fair to say that there was to be some considerable disturbance to the area. The Filming Approval Bill allows the Minister to grant filming approval in a national park or marine park, but specifically precludes filming in wilderness areas such as Mount Hay, except for educational, scientific, research or tourism purposes.

Filming will not require development consent but filming proposals will still be subject to part 5 of the Environmental Planning and Assessment Act. The Minister will require a review of environmental factors or an environmental impact statement to be prepared. There is some controversy about whether film-makers will want to go through those processes. In order to prepare a proper review of environmental factors or an environmental impact statement, the proponents will have to expend considerably on experts providing those studies. In that context it is of some concern to hear that an adviser to the Minister for the Environment did not consider that that would be an issue for film-makers, and apparently suggested that a half-page document would suffice.

I certainly do not accept that that is appropriate in relation to a review of environmental factors or an environmental impact statement for those sorts of activities. The film and television industry is worth $4 billion a year to the New South Wales economy. There is, I suppose, a genuine concern that the *Stealth* decision could discourage overseas movie makers from coming here. Currently the Prime Minister is on a very important trip to the United States of America, where I am sure he will be able to assure Mr Arnold Schwarzenegger that the film industry is alive and well in New South Wales and Australia.

The Attorney General claims that the legislation is necessary because the court decision could make filming unlawful in a national park. However, in our view the bill simply restates existing law. Commercial filming was never permitted in wilderness areas, and that will still not be allowed under the bill. The Land and Environment Court did not find that filming in a national park was unlawful, only that filming in a wilderness

area was unlawful. One would have to wonder whether there is really any need to proceed with this bill, to cause angst. Most honourable members would have received a flood of emails from rightly concerned people who wonder what the Government is on about and why it has to proceed this way. The only real answer to that seems to be that it is designed to ensure that the Premier's pride is not impacted by not doing what he said he was going to do.

This bill was introduced merely to satisfy a silly comment by the Premier when he first heard about this decision. In closing, I note that the proposed Act provides for a review after five years. One would hope that if no use is made of the Act in the intervening period it may be reviewed even earlier. However, I suspect it will just sit on the statute books and we will not see much more about it. I understand quite a number of amendments are proposed to be moved in Committee. In the circumstances, the Opposition will not oppose the bill.

The Hon. DON HARWIN [5.36 p.m.]: In considering the Filming Approval Bill I specifically take up the comments of the Minister in his second reading speech in the other place, and comments contained in the speech that has been incorporated in *Hansard* in this place. In particular the Minister asserted:

> The New South Wales film and television industry provides around 50,000 jobs and is worth some $4 billion a year to the State's economy. Therefore, the Government strongly supports the industry and is keen to see it develop and flourish in this State.

I am concerned that the situation is somewhat different from that described by the Minister, and I will outline why. I note also that the state of the film industry in its international context and its importance to Australia generally has been a theme of contributions during debate. Feature film production in New South Wales is a critically important industry to which members of this Chamber should pay close attention. It is an industry that shapes and defines our community's sense of identity; it is an industry that sustains thousands of jobs and businesses; it is an industry that brings tourists to our shores; but it is also an industry in an atmosphere of intense competition from other parts of the nation and the world that can easily be jeopardised by government mismanagement.

The bill, which has been rushed through Parliament, follows hurriedly on the heels of exactly that: government mismanagement. The feature film industry in Australia has enormous benefits for our society, benefits that are economic and cultural. Economically, the film industry is a significant provider of employment across a range of skills and occupations. The last figures available from the Australian Bureau of Statistics relating to the film industry were published in 2000. They revealed that at the end of June that year there were nearly 2,000 businesses in the film and video production industry that employed just over 15,000 people. As well as those involved directly in feature film production, such as actors, cinematographers, sound technicians, costume designers, editors and so on, there are also ancillary workers such as accountants, lawyers, caterers, transportation providers and so forth.

Every feature film production green-lighted in New South Wales, or attracted here from overseas, provides work for hundreds of local people. Just today, the Japanese production company Toho Productions Inc. is shooting footage around Sydney Harbour for inclusion in director Ryuhei Kitamura's latest instalment in the series of *Godzilla* movies. The two days of production in Sydney will employ about 70 Australians as part of the crew.

In addition to creating jobs for people within the film industry, motion picture production has a positive economic benefit for related industries, notably, tourism. In New Zealand recently the phenomenal success of *The Lord of the Rings* trilogy has clearly demonstrated the capacity for movies to attract international tourists. The scale of this success, however, should not lead us to think that only major blockbusters can have an impact. Earlier this year Western Australia's culture and arts Minister, Sheila McHale, commented on how even a modest international success, the Australian film *Japanese Story*, helped to promote her State as a unique destination for foreign tourists. While the economic contribution of the feature film industry in Australia is more quantifiable, its cultural contribution to our sense of national identity is, nonetheless, of enormous significance. Last year, Deborah Parsons and Glenda Hambly, members of the Victorian film and television industry working party, made the following comments in the *Herald Sun*:

> What we and our children watch on the big and little screen is our culture. Film and television is an industry of national importance. It brings all Australians together, from the bush, from the city, from diverse ethnic and economic backgrounds. When our films are watched internationally, they act as our cultural ambassador.

Feature films are a central part of the culture sphere on which our society negotiates its evolving sense of self. Movies are an important medium through which we engage with our prevailing national myths. We revise our

understanding of our history and establish an understanding of what it means to be Australian. The vital role of film in the cultural life of our nation was recognised by the Gorton Federal Government when it laid the groundwork for the revival of the Australian film industry in the 1970s through the establishment of the Australian Film Commission [AFC] and the Australian Film, Television and Radio School. The presence of a healthy local feature film industry is critically important, and attracting productions to Australia from overseas is a crucial element in the continued survival of such a local industry.

The presence of foreign productions provides additional employment and experience for members of the Australian industry, without which many would be forced either to leave the industry or to pursue a career outside Australia. It is important that these projects continue to be encouraged to come to Australia. Several times in the past year the Treasurer has acknowledged to this House the value of the film industry to New South Wales. On 30 April last year he told the House that the industry was "becoming an increasingly important sector of the New South Wales economy". On 1 July he commented on "the strength of the State's film and digital media industries". On 4 September he proudly declared our State to be "the national centre of the film industry in Australia".

On each of those occasions and on others the Minister, who I note is in the Chamber, highlighted the importance to our film industry of foreign productions by repeatedly mentioning the various *The Matrix* and *Star Wars* films. As recently as March this year he was telling us, "The strength of the New South Wales film and digital media industries was highlighted last year by the filming of the *The Matrix Reloaded* and *The Matrix Revolutions* in Sydney. Sadly, there is somewhat of a disparity between what the Minister has told this House and the true state of film production in New South Wales. In November last year the Australian Film Commission published its annual report entitled "National Survey of Feature Film and TV Drama Production 2002/03", which contains figures about the level of feature film production in Australia that are of concern.

The figures relating to New South Wales, however, are perhaps best described as alarming. They show that in 2002-03, while we were being told about the strength of the industry in our State, film production in New South Wales was fast approaching a crisis. According to the AFC annual report, in the financial year 2002-03 national feature film production activity dropped for the first time in eight years. Total feature film expenditure across the country dropped by 32 per cent, from $342 million to $232 million. Almost all this dramatic decline occurred in New South Wales. In this State feature film production slumped by 60 per cent, that is, almost twice the national figure. This appalling statistic is all the more staggering when it is compared to other States. In the same period, Victoria experienced a drop of just 16 per cent, in South Australia the value of production fell by only 19 per cent and, in sharp contrast, feature film production in both Queensland and Western Australia rose significantly.

In Queensland, feature film expenditure increased by over 80 per cent and in Western Australia spending almost doubled. Clearly, the position in New South Wales is something we need to look at because it could be said to be letting down the national team. That is all the more apparent when one looks at the assessment in the report of that vital source of revenue and employment—foreign film production. In 2002-03 the value of foreign feature film productions in Australia fell only slightly—from $185 million to $169 million. That is an overall decline of about 8.5 per cent. As with the statistic for overall feature production, this national decline is attributable almost entirely to an inability by New South Wales to attract feature film-makers from overseas.

Expenditure by foreign productions in New South Wales fell from $122 million in 2001-02 to just $21 million in 2002-03, that is, an 82 per cent reduction in spending from external sources. To some degree that downturn reflects the increasingly competitive global market in which Australia now finds itself when trying to attract feature film productions. In addition to using locations and facilities in Canada, Ireland and New Zealand, productions are increasingly finding new alternatives in Eastern Europe. The filming of *Cold Mountain* in Romania and *Van Helsing* in the Czech Republic are just two high-profile examples. Furthermore, Hollywood is making concerted efforts to lure productions back to California and the industry will only find further support in this endeavour from Governor Schwarzenegger. However, the decline in foreign film expenditure in New South Wales last year cannot be explained solely by the emergence of rival sites of production overseas.

The result in New South Wales did not have a greater impact on national figures because of the contrasting success in attracting foreign productions enjoyed by Queensland. In 2002-03 our neighbours to the north managed to attract two large budget foreign features—*Peter Pan* and *The Great Raid*. In securing those projects foreign spending in that State increased by an impressive 360 per cent. The experience in Queensland demonstrates that Australia can still manage to attract major film productions projects from overseas, but the

Carr Government needs to do more to secure this expenditure for New South Wales rather than allowing it all to be lured to Queensland or to other States. Almost nine times as much flowed into Queensland from overseas last year as a result of film production as came into New South Wales. The Government needs to explain why our State is suddenly so uncompetitive.

On 4 September last year the Treasurer used the 2001-02 AFC annual report to proudly declare to this House, "New South Wales is the national centre of the film industry in Australia." Just two months later, the AFC's 2002-03 annual report dramatically demonstrated that that claim no longer holds true. Two years ago our State enjoyed 53 per cent of total film production in Australia, with expenditure in New South Wales reaching $353 million. Last year, spending fell to just $141 million and our share of activity dropped to just 38 per cent. That means that, far from being the national centre of the film industry in Australia, New South Wales is now placed third behind Queensland and Victoria. These concerning statistics from the Australian Film Commission clearly demonstrate that something is amiss in the way in which the New South Wales Government is engaging with the feature film industry.

The Carr Government's mishandling of the *Stealth* situation appears to be only one example of its failure to provide an atmosphere in this State that is conducive to motion picture production. If the New South Wales Government is to succeed in attracting significant film projects from overseas it must provide the industry with clarity, consistency and security. The actions of the Government with regard to the filming of *Stealth* demonstrate its failure to do that—and that failure is now jeopardising future film production in New South Wales. The director of *Stealth*, Rob Cohen, acknowledged in the media last month that the debacle surrounding his project's access to Mount Hay would result in Australia's standing in Hollywood needing "a little PR repairing". He told the *Sydney Morning Herald*:

> I'll do my part to explain what happened and what the result was, but the film commissions and so on will have to do their part to undo a bad impression.

The Carr Government is responsible for creating that "bad impression" and tarnishing Australia's reputation in Hollywood just when it is becoming harder to secure business from California. The National Parks and Wildlife Service suggested the Mount Hay location to the *Stealth* film-makers and the Government said they could use that location. On the day that the Land and Environment Court decided to stop filming in the Grose Valley wilderness area proceeding, the Premier blasted the court's decision as placing "our film industry's international reputation at risk".

The bill that the Carr Government hurriedly introduced following this bungle only validates the court's decision. The provisions in the bill allow for the Minister to grant approval for feature film production in a national park or marine park, with the explicit exception of any wilderness area. In other words, under the provisions of this bill the filming of *Stealth* at Mount Hay would not have been allowed. This makes it abundantly clear that the Land and Environment Court is not to blame for risking our reputation. The standing of New South Wales as a world-class location for film production was jeopardised by the Carr Government when it mismanaged the negotiations over *Stealth* and incorrectly granted permission to film at Mount Hay. It is the Carr Government that must take that responsibility.

Sadly, rather than acknowledging its mistake, the Government has attempted to obscure its culpability by blaming Justice Lloyd and by presenting this bill as a solution. Consequently we are faced with a bill that has the twin effects of reinforcing existing legislation and presenting further obstacles to film production in the State. Under the National Parks and Wildlife Act 1974 and the Wilderness Act 1987 commercial filming was never permitted in wilderness areas. That situation will not change following the passage of this bill. What will change is the burden placed on film-makers to prepare a review of environmental factors or an environmental impact statement in order to proceed with filming in non-wilderness area sections of national or marine parks—activity that, contrary to comments made by the Minister for the Environment in the other place, was never deemed unlawful by Justice Lloyd's ruling. Catherine McDonnell from Fox Studios Australia has expressed concern about the significant time delays involved in the preparation of such documents that, as the honourable member for The Hills and the Hon. Greg Pearce said, can be up to two centimetres thick.

Rather than being necessary and well considered, this bill is a rushed piece of legislation. It has more to do with the Government saving face and creating the impression of taking decisive action than taking the steps required to secure a sustainable and robust film industry in New South Wales. The Opposition does not intend to oppose the bill but nor does it consider it to be the most appropriate response to the situation. The feature film industry in this State is in dire trouble. Production in New South Wales will only go backwards and we have lost ground dramatically to Queensland and our international rivals. The alarming situation in which we find

ourselves is a result of the Carr Government's incompetence, and this bill does little to provide the clarity and security necessary to rectify the shocking exodus of film production expenditure from our State in the past year.

Mr IAN COHEN [5.53 p.m.]: I oppose the Filming Approval Bill. I am pleased that the Treasurer, who knows the history of the Carr Government's evolution, is in the Chamber and I hope that the Premier will lend at least one ear to the information that I will offer in this debate.

The Hon. Michael Egan: I always listen to you.

Mr IAN COHEN: I appreciate that; I really do.

The Hon. Michael Egan: Unlike other people, you're not a hypocrite. You might be wrong but you're not a hypocrite.

Mr IAN COHEN: I appreciate the Treasurer's interjection. Mistakes can be made in this or in any other House of Parliament but we do not like hypocrisy. We do not like members who say one thing and then say exactly the opposite a little while later. It is just not on. What would the Treasurer do with such people given the opportunity?

The Hon. Michael Egan: I'd throw them out of the Parliament.

Mr IAN COHEN: The Treasurer would throw such members out of the Parliament. I thank the Treasurer for his support on that position of principle espoused so clearly at the commencement of this debate.

The Hon. Michael Egan: Who did you have in the mind—not the same member I had in mind, I assure you?

Mr IAN COHEN: Indeed.

The Hon. Michael Egan: I hope you didn't have me in mind.

Mr IAN COHEN: No, not at all. The Treasurer is consistent—I am not quite sure at what, but he is consistent. History will record him as being so. I will begin my contribution by quoting a committed conservationist and great advocate of wilderness, who once said:

> Will we as a nation continue to destroy, piece by piece, the great natural areas of this country? Will we continue to be unmoved by the fact that many of the nation's plants and animals are threatened with oblivion? Or do we resolve that the very fibre of this continent should be treated with greater respect, that our much-diminished wilderness should be protected, and that our country should earn a reputation for excellence in its approach to conservation?

He continued:

> The matter of wilderness protection strikes at the heart of this conundrum because wilderness is the total and absolute embodiment of the Australian environment. Still in a largely natural state it offers no concession, no compromises. Unlike many of our fine national parks with their bitumen roads, camping grounds, amenities, walking tracks, recreational facilities and the like, wilderness stands as a stark reminder of what once was. It reminds us of the ancient life of this continent.
>
> If we lose our feel for this grand old continent in its natural condition, then we lose something of our character as a people. The case for conservation is founded therefore on patriotism. Our commitment to protecting our wilderness is a measure of our maturity as a nation and pride in our identity …
>
> But more than this we shall bring a commitment to protecting wilderness wherever and whenever possible. Without such a commitment, legislation of any kind is of limited value. A government hostile to wilderness conservation could live with this legislation. What is important is the will behind this power, where such powers are enacted. This is the sharpest distinction that can be drawn between the Government and the coalition: we believe, and we will act. We will build for New South Wales the finest record on conservation to be found anywhere in Australia. The achievements of New South Wales in nature conservation will draw the praise of the world.

That committed conservationist and great advocate of wilderness went on to taunt critics of his environmental zeal and to challenge those opponents to put up or shut up. He continued:

> Would they dare to dilute laws to protect wilderness areas? Would they retain the powers that have been carefully inserted in legislation, such as the right of third parties to appear before the Land and Environment Court and argue that a government policy is infringing wilderness protection?

That committed conservationist is Bob Carr. He made those comments in speaking to the 1987 wilderness legislation. He was certainly on song that day during the second reading debate on the Wilderness Bill in the other place.

The Hon. John Hatzistergos: Seventeen years ago.

Mr IAN COHEN: Exactly. Since then we have witnessed the Faustian drama of our Premier changing from being a pre-eminent conservationist who strutted the world stage when the time was right, extolled the virtues of wilderness, passed legislation successfully through Parliament and verbally whipped anyone who dared to oppose him.

That is the same Bob Carr that took that famous step that day and drew a line in the sand for wilderness across which no destructive force would cross. His arguments were compelling and the key to them all was that wilderness is different to everything else. It is something that we cannot afford to lose because it cannot be replaced. How do you lose wilderness? As Bob Carr said, it happens piece by piece. Piece by piece we dilute the laws that protect wilderness areas to suit whatever purpose we may find interesting at the time or to benefit the subject of our loving gazes at the time. And piece by piece the delicate web that holds wilderness together starts to unravel. How does this happen in wilderness? Surely wilderness has been around for a while? After all, it represents "the very fibre of this continent", as Bob Carr said. Surely wilderness is pretty robust? Is that material, Mr Treasurer, for tossing a member out of the House?

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! Mr Ian Cohen should address his comments in this debate to all members in the Chamber and not to individual members.

Mr IAN COHEN: I was keen to see whether the Treasurer would stand by his previous comments that were so robustly enunciated earlier in the debate. I thought that, given that degree of enthusiasm, I would receive a follow-up comment on the matter. Wilderness is robust, but only against what it evolved to resist. Human beings have proven adept at dominating the natural environment. There are no plants and animals that are not vulnerable to a basic human desire to control the environment and change it to suit. It is certainly vulnerable to four-wheel drives, to other heavy vehicles, to large groups of people tramping through it, to the construction of platforms on top of it and to equipment and machinery of any kind being hauled through it. Wilderness developed at a time when we were not here—not many of us anyway. Wilderness certainly did not develop while the film industry was about either or, luckily, while the *Daily Telegraph* scribe of cynical superficiality, David Penberthy, was advocating its commercial uses.

The Hon. Michael Egan: Are you attacking my friend David?

Mr IAN COHEN: If the Treasurer read the article today in the *Daily Telegraph* by David Penberthy he may think that "cynical" and "superficial" may well be appropriate tags for the person who passes himself off as a *Daily Telegraph* journalist. The Government should be ashamed of its handling of the *Stealth* filming approval and the subsequent events.

The Hon. Michael Egan: So you are attacking my friend?

Mr IAN COHEN: I am stating a point of view that is supported by many people who have any sense of ability to be able to discern while they are reading a newspaper, yes.

The Hon. Michael Egan: I am not challenging that, I am simply saying he is a friend of mine. I was just ascertaining whether you were attacking him.

Mr IAN COHEN: I suppose you could say I was making a negative comment on his ability as a journalist.

The Hon. Michael Egan: I cannot say I agree with you. He is not a bad journalist.

Mr IAN COHEN: I acknowledge the interjection of the Treasurer and say that one can judge the quality of a person by their friends.

The Hon. Amanda Fazio: I would be careful saying that if I were you.

Mr IAN COHEN: There were others who would say, and I tend to adhere to it, that one can also judge the quality of a person by their enemies. On 26 April Columbia pictures and AFG Talons Productions Pty Ltd received approval to film the final scenes for a military adventure movie, *Stealth*, in the Grose Wilderness across a fragile montane heath and the rock outcrops of Butterbox Point and on an upland swamp below it. The Department of Environment and Conservation had advised Talons as early as 14 November 2003 that the film would be legally permissible.

I have walked very carefully along Butterbox Point on the ridge because the area has been seriously damaged by fire. It is truly a fragile montane heath and is in a state of repair after the past fires. It truly is a magnificent area. It is a shame that the very layout of the filming sequence was designed so that the mountains of the Grose Valley were excluded because it was meant to look like North Korea in the film. Yes, it had been burned, and, yes, it was montane heath and it had a suitable backdrop, but they cut out anything that defined the wonderful rugged sandstone outcrops of the Blue Mountains.

The Hon. Greg Pearce: So much for promoting Australia.

Mr IAN COHEN: One could hardly call it promoting Australia, and certainly the scene of an actor running through a swamp, chased by Korean soldiers, is hardly the type of image—

The Hon. Rick Colless: Would it do more or less damage than the fire itself?

Mr IAN COHEN: The Hon. Rick Colless raised that issue.

The Hon. Rick Colless: The fire would have done more damage, wouldn't it?

Mr IAN COHEN: I acknowledge that the fire would have done an incredible amount of damage. The hanging swamp in a damp environment like that was unaffected by the fire. To think that two wrongs make a right somehow is a bit of twisted logic when we are talking about conservation. The relative issue is that this environment is struggling to repair and recover from fires, and the environment does not need to have the further impact of—

The Hon. Rick Colless: Two blokes.

Mr IAN COHEN: More than two blokes: it was about a person being pursued by Korean soldiers, with a significant amount of infrastructure including platforms, and a lot of auxiliary actors, support artists, make-up artists, photographers and such like. Let us denigrate the activities, and later I will come to the sorts of damage the same company did in sensitive areas of coastal vegetation with another stage of the filming. As events unfolded, it would appear that the memorandum of 2003-18 "Facilitation of Film-making in New South Wales", a directive from the Premier's office, ultimately led to the granting of a licence for filming a war-scenario movie in a wilderness area. The scene for the film involved a jet fighter pilot—actor Jessica Biel—escaping from the North Koreans after destroying a jet fighter with a mind of its own that was out to destroy the world.

If that can be seen to be in keeping with wilderness values, it is an interesting interpretation of the Carr Government. I have heard of media spin before but that is certainly taking it to extremes, but after all this is Hollywood. This is the movie world. The scene did not require a World Heritage Wilderness setting where the filming was later proven to be illegal, yet repeated offers of assistance by environmentalists regarding less controversial alternative film locations went unheeded by the film company. The Blue Mountains Conservation Society started legal action in the Land and Environment Court on Tuesday 27 April 2004. Fortunately, the court was willing to expedite the hearings so that the matter could be dealt with before filming started.

As it turned out, that was the day police moved in to remove protestors on the Mount Hay Road leading to the filming site. Nine people were arrested who were a part of a series of blockades of cars and tripods. The nine include Dr Mick Dark, son of writer Eleanor Dark and Dr Eric Dark, who was recently awarded a medal by Premier Bob Carr for the donation of his parents' home Varuna to be a writers' centre in Katoomba; Jenny Kee, the acclaimed dress designer; and Hugh Paterson, owner of the bush regeneration company, Good Bush. Six other protesters were arrested that day on the road leading to the wilderness area for standing on Mount Hay Road to prevent the *Stealth* film crew from accessing the Butterbox Point site in the Grose Wilderness Area before the court case could be heard against the granting of the special licence allowing filming on that sensitive wilderness site.

At this point I acknowledge the vital role many compassionate and committed people have played to uphold the value of wilderness. It was certainly an honour to be part of that group of people. I especially thank Robyn Mosman for her wonderful work with the Blue Mountains Conservation Society, who worked tirelessly and passionately to support the cause. I also thank Jenny Rich, who did a great deal of work, and Emily Coleing, who was arrested that day, as was Keith Andrew, Nicola Bowskill, Hugh Paterson, Nick Hill, Dave Simmons, Heidi Chappelow, Marie Le Breton and Shanu Antoniacomi.

Those are just a few of the passionate and committed people; there are too many of them to mention. They were on the site with little more than their ideals. They had nothing to gain. They are passionate about the Blue Mountains environment, and Mount Hay and Butterbox Point are areas of stunning beauty. It was great to just sit and talk with those people—young and old, because a fantastic cross-section of the community attended—experience their passion for the area and see them doing what they could to retain it. I referred earlier in my speech to a statement made by Bob Carr. These areas are an embodiment of the Australian environment. These people were living the dream and belief that had been espoused by Bob Carr many years ago. The film company moved in that afternoon to construct the platforms and the flying fox for the Sydercam. Filming was to start on the Saturday. Justice Lloyd of the Land and Environment Court handed down his decision on Thursday morning 29 April. He said:

> In my opinion, the governing consideration in the present case is this: declared wilderness areas are sacrosanct.

He found that the filming authority approved by Simon Smith, Deputy Director-General of the Department of Environment and Conservation, was invalid. He said:

> The proposed activity contravenes section 9 of the Wilderness Act [the management principles]. It is unlawful, and the approval and consent are also unlawful.

That should have been the end of the matter. *Stealth* had to find another site. They had been told over and over again, since December last year, that there were alternatives locations outside the wilderness area. In the court, the company responsible for the production of *Stealth* insisted that the film site at Mount Hay in the Grose Wilderness was "crucial" to their decision to shoot the film in New South Wales. Within days of the court ruling the director of *Stealth* found another site on council and private land in the Blue Mountains, at Mount Blackheath. As the director, Rob Cohen, told the *Sydney Morning Herald*, as reported on 6 May 2004, referring to the need to move to a new location, "We've actually made a better film." It was that simple because there were that many suitable areas. People who know the Blue Mountains intimately had been putting forward a significant number of alternative and suitable areas.

That brings me to the point: Whose fault is it if we are seen to be having some problems in attracting film-makers to New South Wales? I would suggest that the Premier and the Labor Government have to shoulder a great deal of the responsibility because of the way they have gone about dealing with this issue. Film companies want to come to a community that will give them a degree of support and co-operation. The conservationists offered that. But who was it who put out on the airwaves that it was the other way around? It was our Premier. A lot of damage has been done by the media beat-up. As members who have spoken in this debate have clearly indicated, we are at this stage dealing with a bill that will not allow *Stealth* to be filmed on that site in the Blue Mountains. So we are back to where we started!

This is classic Carr Government spin—bringing us back to the same point after a huge degree of agitation and, unfortunately, after a great deal of stress was endured by many fine and upstanding people in the Blue Mountains community who strongly disagreed with Bob Carr and their local member, Mr Bob Debus, on this matter. Bob Carr conducted a media conference on Thursday afternoon, the day of the court judgment. He said he was challenging the court's decision and would rush special legislation through Parliament if the court decision failed to ensure certainty for future filming in New South Wales national parks. Bob Carr said on ABC radio station 702 the next morning he believed the court was wrong, and added that:

> … the message would go around the world, if these producers now can't shoot these scenes here, that there are real difficulties about doing things in Australia.

Much has been made, particularly through the limited talents of cynically opportunistic reporters at populist newspapers, of the giant dragonfly in this issue. Even today's *Daily Telegraph* carries a drawing of Richard Neville flying a giant dragonfly. Instead of the media being focussed on the hypocrisy of a Premier seeking to dilute the laws that protect wilderness areas—the very laws that he fought so hard to introduce—the giant dragonfly was belittled as some obscure and laughable justification for refusing the *Stealth* film crew access to the Grose Wilderness. A hundred and fifty people would have been walking in and around the swamp area

where the giant dragonfly lives had the filming gone ahead. I repeat, 150 people, not 2 soldiers chasing a woman through a swamp.

The Hon. Jon Jenkins: On boardwalks.

Mr IAN COHEN: I acknowledge the interjection by that great professional on wilderness matters. They would not have been on boardwalks. They would have been moving over a limited area of ground—over a very sensitive area that harboured an endangered species.

The Hon. Jon Jenkins: The boardwalks are just there for looks!

Mr IAN COHEN: Rather than a meaningful message being left for posterity by members who come into this House, we have heard a communication reflecting a person who licks postage stamps. The member comes to this House by default to fill the shoes of someone who artfully dodged the democratic process.

The Hon. Jon Jenkins: Point of order. The member's comments are well and truly outside acceptable comment made in a second reading speech. He is engaging in personal abuse and vilification, and if the member wishes to pursue that course he should do so by way of substantive motion or some other form of the House.

Mr IAN COHEN: I accept that.

The Hon. Michael Egan: What? I wanted to hear what it was all about.

Mr IAN COHEN: I was referring to the honourable member's level of communication being equivalent to that of licking a postage stamp.

The DEPUTY-PRESIDENT (The Hon. Kayee Griffin): Order! I ask Mr Ian Cohen to confine his remarks to the subject of the bill.

Mr IAN COHEN: As I have said, 150 people would have been walking in and around the swamp area where the giant dragonfly lives had the filming gone ahead. An acknowledged expert in this field of science, Professor John Truman, of the School of Botany and Zoology at the Australian National University, said he believed no matter how careful the film crew may have been, damage would have occurred to the dragonfly's habitat in the swamp. I spoke to Professor Truman, and I asked him questions about this issue because I was keen to know whether more information could be found. I was aware that National Parks and Wildlife Service personnel were concerned to have actors avoid the central area of the swamp. However, in the opinion of Professor Truman, the central area of the swamp is awash at certain times, the dragonfly larvae are washed from the central area, and the problem areas become the areas around the edge of the swamp—which is where the actors were directed to go, supposedly to protect this endangered species. As well, this species is proven to be a very poor flyer, and therefore it is localised at that swamp. So this type of activity could have wiped out a significant proportion of an endangered species. I ask honourable members to think about this.

The Hon. Greg Pearce: National Parks and Wildlife Service officers had concerns too!

Mr IAN COHEN: National Parks and Wildlife Service officers, as I understand from another opinion that I have been given, were misinformed about the sensitivity of the site, and they thought they were resolving the problem by having the actors move round the edge of the swamp. However, in actual fact, the edges of the swamp, according to the opinion of Professor Truman, was the part of the site where most of the dragonfly activity took place.

The edges are where most of the dragonflies exist, and it is exactly where the actors would have run. For the benefit of the honourable member who interjected earlier, the actors would not run on wooden platforms they would run through a natural swamp. As the Hon. Greg Pearce said, in the first instance they would have to get into the swamp to build it. According to what the Premier said in his speech on the wilderness bill, one would have thought it would be one wilderness area in the whole scheme of national park protection in which an endangered species would receive complete protection. Earlier I quoted from Bob Carr's impassioned plea not to destroy the great natural areas of this country piece by piece. But when one dilutes this legislation that is exactly what one starts to do. In the meantime the producers and the Government had withdrawn from any court challenge. Instead the Government turned its attention to its special legislation. The Government has introduced special legislation a number of times to override legitimate Land and Environment Court decisions and the aspirations of the community. It has to be challenged. Why do we have courts at all?

The Hon. Michael Egan: Parliament is the highest court.

Mr IAN COHEN: The Treasurer says that Parliament is the highest forum in the land. If that is so, why have courts? Why have Parliament? Why not rule by Executive?

The Hon. Michael Egan: You can't rule by Executive.

Mr IAN COHEN: That is what he wants. Logically, he would if he could.

The Hon. Michael Egan: I would quite happily rule on my own.

Mr IAN COHEN: Exactly! Therefore there are certain controls over the Treasurer's excesses, one of which is the courts. Just three working days after the Premier's announcement the draft bill was released. It was prepared under instructions of the Cabinet Office and it bears all the hallmarks of a rushed legal sledgehammer that provides the absolute legal certainty the Government wanted to provide for the film industry. Unfortunately, the bill was without long-held protections offered by the national parks and wilderness laws. But I am willing to acknowledge that the Government made one important concession. The bill would allow filming in wilderness areas for a small range of purposes only: educational, research, scientific and tourism. I thank the Government for turfing the stealth bomber film out of the wilderness, albeit consequential to the event.

Films such as the war movie *Stealth* can no longer be permitted in any New South Wales wilderness area, such as the Gross Wilderness. This is a good decision, and confirms that the motivations, actions, sacrifices and the court case by committed individuals and community groups to protect the Gross Wilderness were the right decisions. Their efforts were not in vain. But this is not the end of the matter. The Filming Approval Bill introduced by the Government claims to protect the environment. Yet the bill, outside the protection offered by the National Parks and Wildlife Act, the Wilderness Act and the Marine Parks Act, provides virtually no environmental protection. Regardless of location the approval framework placed no limit on environmental damage that could be caused.

Environment protection for our national parks would no longer be the primary purpose in the case of filming. New roads could be constructed, areas cleared, and sites exclusively occupied for an indeterminate period. Our national parks were to be managed more like film sets than national parks. There are a number of offensive clauses in the bill. Clause 4 (6) lists a number of conditions that the Minister can consider imposing. There are no mandatory requirements when considering an approval. The Minister has absolute discretion to grab an approval, regardless of environmental impacts. Clause 4 (9) overrides all other legislation to permit an approval to be granted. Clause 6 ensures that no other approvals under the National Parks and Wildlife Act, Wilderness Act or Marine Parks Act are needed. It makes one think that the bill was drawn up with the presumption that the Labor Government will be in power in perpetuity. One wonders what a Coalition government would do with this type of legislation. I suppose we will find out one day.

The Hon. Michael Egan: You don't think the Greens will ever come to power?

Mr IAN COHEN: Only moral power. There are no third party appeal rights and there is no requirement to disclose the results of a decision. The Government even forgot to put in a penalty system to ensure that a fine could be issued if a film company did not follow the consent conditions. The legislation was written as if it were a green light for any potential film-maker who wanted to use a New South Wales national park. The Carr Government boasts that it is film friendly. This is the "Come Film In Our National Parks Because We Do Not Care About The Environmental Impact Bill". Better environmental protection is provided for filming in a council bushland park. The Minister for the Environment continued to deny these problems and said that it was nonsense that the right to enforce the approvals granted under the bill was removed and that the bill "strengthens the tough environment standards already in place."

The Minister for the Environment referred to the requirement that still existed to undertake an environmental assessment. We all know how useful independent and accurate environmental impact statements [EIS] can be. Certainly there is a benefit in going through the process, but if the Government is determined to approve an application we all know that an EIS will do little to stop it. National parks and wilderness laws, some of which Bob Carr was responsible for, provide important checks on the impact of activities in national parks. These laws say to tread carefully, the environment comes first, and high impact development and activities are categorically ruled out. The Filming Approval Bill takes film-making in national parks outside of these laws. There is one rule for film-makers and one for the rest of the community. This is an alarming precedent and should be stopped.

We are already seeing a trend. Recently we saw it when the Carr Government passed special legislation to automatically approve the cloud seeding experiment in Kosciusko National Park without any form of public environmental assessment for our most sensitive national park. The Greens are on the record as supporting filming in national parks, but only when the impacts are no more than they would be if anyone else were using the park. A private tour company that applied to lead a short commercial day walk to Butterbox Point near Mount Hay where the filming of *Stealth* was to take place was told by the Department of Environment and Conservation that the area was too sensitive to run the tour. The principal of that company joined the protest at Govetts Leap on the day before the film company tried to move out to the site. The Government is not being fair.

Bob Debus, the Minister for the Environment and the local member for the Blue Mountains, hysterically attacked conservationists and others in the local press, including Keith Muir, Director of the Colong Foundation, for raising real concerns about the draft legislation. Keith was the driving force behind the listing of the great Blue Mountains as world heritage. Recently he was awarded an Order of Australia medal for his efforts. He also labelled as complete rubbish the concerns made in the other place by Clover Moore. I say that Bob Debus' claims are complete rubbish. He has deliberately confused, exaggerated and misled the public into believing that the Filming Approval Bill is good for the environment. I am pleased to say that the Government now realises that the bill was wrong: it was an overreaction and bad for the environment. I am informed that it is now willing to accept amendments that will remedy the problems raised by the environment groups.

I foreshadow a series of amendments that I will move in Committee that I believe the Government will support to improve the worst aspects of the Filming Approval Bill. I will seek to tighten the definition of "filming activity" to prevent filming equipment and personnel unrelated to filming from entering a national park. The current language of the bill is too discretionary, for example in the granting of conditions. It is essential that criteria be established in the bill that stipulate what the Minister must have regard to when determining an application to film, for example, heritage values, cultural significance, management plans and feasible alternatives to wilderness areas. The bill needs to clarify what is meant by education, and scientific and research purposes based on the definitions provided by the Minister for the Environment in his reply to the second reading debate in the other place. It is vital that the bill is strengthened to ensure that the Minister is satisfied about the criteria before determining whether or not to issue a filming approval.

Debate adjourned on motion by Mr Ian Cohen.

[*The Deputy-President (The Hon. Kayee Griffin) left the chair at 6.32 p.m. The House resumed at 8.30p.m.*]

ADMISSION OF THE TREASURER INTO THE LEGISLATIVE ASSEMBLY

The DEPUTY-PRESIDENT (The Hon. Tony Burke): Order! I report the receipt of the following message from the Legislative Assembly:

Madam PRESIDENT

The Legislative Assembly requests the concurrence of the Legislative Council for the Honourable M. R. Egan, MLC, Treasurer, Minister for State Development, and Vice-President of the Executive Council to attend at the table of the Legislative Assembly on Tuesday 22 June 2004 at 11.00 a.m. for the purpose only of giving a speech in relation to the New South Wales Budget 2004/2005.

Legislative Assembly
2 June 2004

JOHN. AQUILINA
Speaker

Consideration of message deferred.

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Orders of the Day Nos 5 to 16 postponed on motion by the Hon. Michael Costa.

PASSENGER TRANSPORT AMENDMENT (BUS REFORM) BILL

Second Reading

The Hon. MICHAEL COSTA (Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests)) [8.31 p.m.]: I move:

That this bill be now read a second time.

The Government, the community and the bus industry itself recognises that the way that bus services are delivered in New South Wales needs reform. In metropolitan areas there is no real bus network. Services are planned as a series of individual operations and cannot operate freely outside exclusive contract areas. Bus service contracts have few measurable service requirements and are effectively granted in perpetuity. The funding model rewards operators for cost control rather than service provision. The minimum service level requirements force operators to plan indirect, slow and unattractive services. Not surprisingly, patronage levels on private bus services have fallen consistently since 1991. The Government and the industry share concerns over the financial viability of some operators under the current system.

Across rural and regional New South Wales, community funding is tied up in an under-utilised fleet. In some cases services are duplicated, while in too many cases an appropriate service is unavailable. Rather than taking a unified regional approach to service delivery, the State currently manages more than 1,800 separate contracts for bus services in country New South Wales. The solutions to these problems have come from passenger, community, industry and government submissions to the Unsworth review. Former Premier and transport Minister, Barrie Unsworth investigated the planning, funding, contracting and statutory reforms required to achieve change. In March the Government gave in-principle support to these reforms. Many of the ideas are simple—such as having routes that go where people want to go—but are difficult to deliver as things stand now.

The Unsworth review crystallised approximately 3,000 submissions into a series of 48 recommendations aimed to introduce a network of strategic bus corridors, supported by an expanded bus priority program in metropolitan areas; common standards, with service levels tailored to each community; the pensioner excursion ticket to all buses across the metropolitan area and to large country towns where appropriate; performance standards, community consultation and staff training as key requirements of the new contracts; better co-ordination of bus with rail and ferry services; and the ability to direct public transport subsidies where they are required. For country New South Wales, the review recommended phasing in new contracting arrangements for bus services that maximise the efficient use of available resources, and opportunities to contract for services that meet the needs of the broader community, not just school students.

In January 2004 the Bus Reform Task Force, comprising representatives from the industry and the Ministry of Transport, was established to develop options for transitioning to the proposed new arrangements. This forum made significant progress over the past five months, as it reached agreement on an expressions of interest process to transition to new contracts, completed a discussion draft of the service planning guidelines to replace the minimum service levels policy, and undertook a significant risk analysis exercise to feed into a new funding model for metropolitan contracts. Legislative change is now required to effect these reforms.

The Passenger Transport Amendment (Bus Reform) Bill introduces a more contestable regime of performance-based contracts to replace the current virtually perpetual contracts that have few measurable performance standards; gives parties the flexibility to determine the terms and conditions of service by shifting the detail from the legislation to the contracts; allows for changes to be negotiated on the expiry of a contract term, so that services meet changing needs; facilitates the introduction of more transparent and accountable funding arrangements, including the payment of School Student Transport Scheme [SSTS] subsidies on the basis of actual travel undertaken; provides an independent process for setting the maximum fares that private or government-owned bus operators may charge; and allows for existing commercial service contracts to be varied or terminated, if that becomes necessary in order to move to the new system.

The bill creates a new division 3 of the Act, which deals solely with regular bus services, including transitway services. Contracts for regular bus services will no longer be fettered by legislative provisions which; confer exclusive rights to operate services in the contract area; give operators a right of contract renewal, virtually in perpetuity, on the same terms and conditions; and shackle service planning to rigid minimum service levels. Instead, the bill provides for passenger-focused, performance-based service contracts, supported by more

flexible service planning guidelines. The new division empowers the Director-General of the Ministry of Transport to enter into contracts for regular bus services for a maximum term of eight years. The intention is for new service contracts to be for a seven-year term, while giving the director-general the ability to extend the contract for up to 12 months.

The bill makes it clear that there is no right or expectation of renewal for a regular bus service contract, except as may be set out in the contract. However, it is proposed that the contract will allow the director-general to enter into a further contract with the contract holder, if the performance standards set out in the contract have been met and the parties can agree on any new terms. This will allow the director-general to negotiate changes to contract area boundaries, service levels and performance standards, and subsidy payments, as needs change. The contract will detail how the contract holder is to be remunerated, including payment of SSTS on actuals and the right incentives to promote value for money and patronage growth.

There will no longer be a distinction between commercial and non-commercial service contracts. The new division also allows for regulations to limit the number of contracts a person can hold to ensure a competitive market for services and contracts. Proposed amendments to section 16 in division 1 of part 3 will allow a contract holder to enter into arrangements with other accredited operators, such as subcontracting arrangements, to provide services covered by the contract.

New division 3 also permits the director-general to declare, vary or abolish bus contract regions and strategic corridors from time to time. This does not mean that unilateral changes can be made to service contracts, entered into under the new arrangements, while those contracts are on foot. In other words, the declaration, variation or abolition of a new contract region or strategic corridor will have no impact on the operation of a new contract. The bill preserves the power to determine transitway routes. Given the significant public investment in transitway infrastructure, this ensures that the Government is in a position to negotiate the best possible return for taxpayers. It also ensures that the Government can achieve appropriate levels of service integration where a new transitway route will cross contract region boundaries or an existing route is extended.

Currently, the Independent Pricing and Regulatory Tribunal [IPART] determines the maximum fares that the State Transit Authority may charge, as a government monopoly service provider, for regular bus services. The new division 3 gives IPART the power to make binding determinations for the maximum fares that may be charged, no matter whether the contract is held by a private operator or the State Transit Authority. Compliance with IPART's determination will be an essential term of the contract. In other words, the contract may be terminated if the holder charges more than the maximum fare set by IPART.

I can also announce tonight that the Government will undertake a review of concessions policy to ensure that this policy is fair and reflects social welfare priorities. The review will aim to achieve consistency, equity and adequacy across transport providers, whether public or privately operated. This review will commence immediately and will be completed in time to ensure that its results can be incorporated into the new metropolitan bus service contracts to be in force from 1 January 2005. The bill also contains amendments to the accreditation regime for operators and drivers—other than taxicab and private hire vehicles—making it clear that different accreditation standards may be prescribed for different kinds of services. This provision aims to maximise flexibility and improve service delivery, particularly in rural and regional areas.

As well as the provisions for contracting bus services, the bill contains savings and transitional provisions which preserve bus service contracts that are in force immediately prior to the commencement of the amendments, and provide the director-general with powers necessary for the transition to the new arrangements. The bill gives the Director-General of the Ministry of Transport power to vary and/or terminate existing commercial contracts—defined in the bill to include existing commercial contracts and existing transitway contracts. I wish to make it clear that the Government does not want to have to resort to legislation in order to extinguish existing contracts, and the Bus Reform Task Force has established a process aimed at achieving negotiated outcomes. However, the Government is committed to bus industry reform, and the power to end existing commercial contracts is necessary to give effect to that commitment if negotiated agreements cannot be reached.

In responding to the introduction of the bill in the other place, Opposition members have followed a script written by the private bus industry. In speech after speech they spoke of "unfettered powers" being given to the Director-General of Transport without acknowledging that this position is subject to ministerial direction and control in the exercise of functions that are clearly defined in the Transport Administration Act 1988; expressed concern that a public sector executive should have the power to determine contract regions or

strategic transport corridors, the terms of service contracts or service to be provided to the community; and claimed that it managed to introduce its 1990 legislation with industry support—and no wonder, when that legislation gave operators perpetual contracts and exclusive rights over most of Sydney.

This bill includes the powers needed to overcome the culture that has developed in an industry that operates under virtually perpetual contracts, exclusive rights and a view that asset ownership makes the Government a toothless tiger. So strong is the rights culture in the private bus sector that they have lost sight of the fact that the Government's responsibility is to deliver appropriate services to the community and provide value for taxpayers' dollars.

The Hon. Melinda Pavey: Like State Rail!

The Hon. MICHAEL COSTA: I think the Opposition has lost sight of this too, given that interjection. As the Parliamentary Secretary for Transport Services pointed out in his speech in reply, the Opposition is so focused on keeping the faith with the bus industry that it has forgotten that reform is about improving bus services. Look at the debate. Twelve Liberal and National members of Parliament spoke on the bill. Those twelve spoke of industry rights, operator security and private interest. But take out the quotes they made from Bus and Coach Association notes, and only two of them uttered the word "passengers".

The bill therefore contains a privative clause protecting decisions to vary or terminate existing commercial contracts from judicial review and a clause which make it clear that the Crown will not be liable to pay compensation for damages, if any, arising from these reforms. The compensation provisions are based on section 65 of the current Act. The Opposition has made a lot of noise, arguing that such provisions should be used only sparingly and must be set out clearly and unambiguously. The privative provision has been carefully drafted so as to use those powers sparingly. This bill does not seek powers other than those that are absolutely necessary to implement the reforms. They will make clear Parliament's intention to implement bus reform, and will provide certainty for the community and the industry in going forward. This is vital to operators signing new contracts, and making investments in fleet and staff, who need to know that bus reform will not be held up by challenges on technical grounds.

The powers to vary and terminate are one-off powers. I emphasise that. They apply only to existing commercial contracts, not to non-commercial contracts or contracts entered into under the new regime. I emphasise that point because it has been misrepresented in a number of briefings that have been given round the place. I repeat, the powers to vary and terminate are one-off powers. They apply only to existing commercial contracts, not to non-commercial contracts or contracts entered into under the new regime. Those peddling claims that the privative clause is unconstitutional should consider engaging new legal advisers. As far back as 1901 this House passed industrial relations legislation with such a clause. In 1945 the High Court of Australia supported a privative clause in the Hickman case. And as recently as 1997, in the Darling Casino case, two justices of the High Court noted that:

> … provided the intention is clear, a privative clause in a valid State enactment may preclude review for errors of any kind.

The clause protecting the Crown from claims of compensation recognises that existing commercial contracts were not awarded through any kind of open competitive tender process. It recognises that the viability of these businesses hinges on a large injection of taxpayer funds through SSTS payments and concession reimbursements—more than $260 million in 2002-03. Further, it recognises that the Government is giving existing operators every opportunity to remain in the industry, under new performance-based contracts. Again, this power only applies to the exercise of functions in the transition to new arrangements. Once the new regime is in place, it will no longer have effect. Finally, some complementary or consequential amendments are also made to other Acts and regulations. This bill will enable the Government to deliver on the initiatives outlined in the Unsworth report and will allow operators to provide more passenger-focused and viable bus services. I commend the bill to the House.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [8.48 p.m.]: I will make a few observations before proceeding to discuss the detail of the bill. I am staggered that this bill is being debated this evening. I cannot express the level of disappointment that I am experiencing. I suspect others in this Chamber and the bus industry share that disappointment. The Opposition was asked to work with the Government in a bipartisan approach to this legislation. That was a gracious offer made by the Government, and I readily accepted it. As the Minister has rightly pointed out, this is legislation that we want to get right. This legislation, unlike other laws that this House passes and worries about, will, the moment it is enacted, impact the provision of private bus services right across New South Wales.

It is not all about multinationals who can weather the storm, it is about the mum and dad operators who most certainly will feel the pinch if what we have been told is correct. It is about passengers who, if what we have been told is correct, will also feel quite a degree of pain if many of these mum and dad operators are forced out of the industry. It is important and sobering to consider the impact of the legislation, if it is wrong, on small business people who for years have worked their way up from the shop floor to build small, but reasonably effective, public transport through their ability as private operators throughout New South Wales. The Minister can correct me if I am wrong, but we believed we would be given an opportunity to consider the legislation and that we would not see it for another two weeks, until the last couple of sitting days before the end of the month. Now it is being jammed through, when it was right at the end of the batting order for today, in that true Australian Labor Party fashion: when you have the numbers, stuff the rest.

That old Latin motto of the ALP comes to mind: what is the use of having power if you do not abuse it. That is exactly what we are confronted with. Not only was the Opposition led to believe but the Bus and Coach Industrial Association [BCA], which the Government has portrayed as somewhat of a nasty, was also led to believe that there would be an opportunity next week to sit down, as we were going to sit down, to talk with the crossbench members about the significant number of amendments that would impact considerably on a positive outcome for the industry. But we will not be given that chance because the Government will push the legislation through. The most disappointing aspect of this is that the Greens have signed up. They will take it. They do not care. This is about nationalisation of the bus service. This is where they show their true colours. The hypocrisy of the Greens is evident when they talk to the grain growers about wanting to do the right thing by them and helping country New South Wales.

If the Government has it wrong many operators will cop it in the neck. Many country towns and passengers may find themselves victims of the legislation, which does not have a victims compensation component. It will be: wear it and we will try to sort it out later. Industry and the Government are still in the negotiation period. The Minister said that we would look at it further and that there would be negotiation. This is how the Government in New South Wales likes to negotiate: if it cannot reach an agreement over the table it pushes the legislation through and says, "Right. Now we've got the legislation through, let's reopen the negotiation." It is as though your arm has been broken and twisted up your back. If the Government were fair dinkum about negotiating it would show some leadership and maturity and say, "What happened last week, happened last week. Let's get back to that negotiating table to see if we can resolve it." But, no, it is "Let's jam the legislation through while we've got the chance. Let's get it through when those good old coms, the Greens, signed up as quickly as they could and then we will worry about it later."

The big guys will be able to play because they can always play with the margins. But when you get outside of the Sydney metropolitan area around regional and country New South Wales where private bus operators are not living high on the hog there is not a lot of room for negotiation and there is not a lot of margin to play with. The purpose of the Passenger Transport Amendment (Bus Reform) Bill is to create a change to the bus transport system operating within New South Wales with common standards of fares and service levels. The bill arises out of the final report of the review of bus services in New South Wales released by Barrie Unsworth in February this year. I unashamedly thank the BCA for their assistance and support in giving us an understanding of the impact of the legislation. Not all of them are millionaire bus operators. As I said earlier, they are people who have worked their way up from the bottom.

If the Government thinks that the BCA is somehow a nasty, I remind the Minister that these people have a partnership in providing public transport in New South Wales and they most certainly have a right to have their voices heard. At the end of the day it is their money on the end of the table, just as much at it is Minister Costa's money. In his second reading speech the honourable member for Fairfield in another place said that limited legislative change is required to effect these changes. He further explained, "I wish to make it clear that the Government does not want to have to resort to legislation in order to extinguish contracts and the Bus Reform Task Force has established a process to achieve negotiated outcomes." I have received a letter from the Executive Director of the BCA, Mr Darryl Mellish, who is also a member of the Bus Reform Task Force. I understand that he has informed members of the House that the BCA of New South Wales has concerns that the bill will have some serious ramifications for bus transport in New South Wales, and may threaten essential and reliable bus services in many areas.

Mr Mellish has sought our support for change to the bill, which will bring about positive reform, ensure a reliable school bus service and fare equity for passengers, and meet the access requirements of a modern public transport system. The Unsworth report advised that bus services in New South Wales are provided by both Government and private operators. In the greater metropolitan area there are approximately 1,930 State

Transit buses and more than 2,500 private buses serving more than 800 routes. Outside the metropolitan area more than 2,000 buses are owned by private operators who provide school bus and other services in country New South Wales. We are talking about some 15,000 employees carrying daily more than 650,000 schoolchildren.

Although there has been consensus that a reform process would be beneficial to general transport users, it is essential that these reforms are well thought through and that their impacts are given due consideration as the process unfolds. The amendments are designed to give certainty to an operator moving forward with the reforms and also to provide some direction to the director-general as regulator. First, I will outline the main provisions of the bill. The Opposition does not deny that some aspects of the bill will give existing operators every opportunity to remain in the industry under new performance-based contracts. The Government, in another place, when dealing with excluding the director-general from judicial or administrative review of decisions to terminate or grant bus contracts, simply stated:

> This clause is justified on public interest grounds because it prevents unnecessary costs and delays, as well as promoting efficiency and providing finality.

There are concerns, however, with the process, and the Bus and Coach Association when considering the bill made the following points. The reason we are putting these points on the record is that the Government, in rushing the legislation through, has denied the BCA the chance to sit down with crossbench members and put their views forward. In effect, we are providing a voice for the BCA. Hopefully, the crossbench members will give those views due consideration. The bill does not adequately ensure that all persons who carry passengers on a bus have common accreditation standards. The bill does not provide reasonable or equitable transitional arrangements similar to those introduced in other jurisdictions to protect existing rights. The bill simply allows the director-general an unfettered and legally non-challengeable power to terminate bus contracts in New South Wales. The bill gives to the director-general unfettered power to determine the appropriate conditions for a bus service contract, and previous legislation enshrined essential conditions, such as funding, service requirements and tenure.

There is no provision for fare or concession equity between the Government operators and the private operators, which may contravene competitive neutrality principles. Legislation that does not provide for bus priority measures to support the strategic corridors will result only in greater congestion. The changes proposed to the School Student Transport Scheme [SSTS] will result in a reduction in school services whereby free school student travel will no longer be available on dedicated services.

The Hon. Peter Primrose: That is not true.

[*Debate interrupted.*]

DISTINGUISHED VISITOR

The DEPUTY-PRESIDENT (The Hon. Tony Burke): Order! I acknowledge the presence in the gallery of Ms Jenny Wallis, the Director of the Hong Kong Economic and Trade Office of the Government of Hong Kong. I extend to her a warm welcome.

PASSENGER TRANSPORT AMENDMENT (BUS REFORM) BILL

Second Reading

[*Debate resumed.*]

The Hon. MICHAEL GALLACHER: The bill gives to the Ministry, through power conferred upon the director-general, the unparalleled ability to determine regions, contract conditions and policy that are well in excess of power usually conferred upon the bureaucracy by legislation. At the same time the bill protects the director-general and the Crown from any legal or administrative review in respect of decisions relating to the granting and issuing of contracts and the termination of existing rights, and this power may be unconstitutional. Finally, the bill will create, by its determination to reduce the number of persons running bus services, monopolies that increase the risk of regulated capture similar to that which exists in Victoria.

I note an earlier interjection from the Government side of the Chamber that what I have said is not true. There is a way to test the veracity of the Bus and Coach Association claims. If what I am saying is incorrect, I challenge the Government to ensure that all members have an understanding of how this legislation will impact

across New South Wales by testing the veracity of the claims before a general purpose standing committee. I think that is a reasonable suggestion because it will provide an opportunity to test what I have been saying.

The Hon. Henry Tsang: Are you supporting the bill, or not?

The Hon. MICHAEL GALLACHER: This is very serious legislation. The Hon. Henry Tsang has probably never travelled in a bus in his life. As someone who has no idea what public transport is about, it is probably best that he does not interject.

The Hon. Henry Tsang: As a matter of fact, last year I spent $300 on a bus trip in Sydney.

The Hon. MICHAEL GALLACHER: The concerns to which I have referred are raised not merely by me and the Bus and Coach Association. During debate on this bill last night in the other place, a number of members made similar observations. The Hon. Henry Tsang says that recently he spent $300 travelling on a bus. When the Minister for Transport Services has had his go with what he wants to do with bus fares, that will be what it will cost to catch a bus from Circular Quay to Parliament House. The Hon. Henry Tsang will need a second job just to be able to afford to travel home of an evening. The Parliamentary Secretary and honourable member for Fairfield, Mr Tripodi—and it is a rare day on which I quote him—introduced the legislation in the other place. In his second reading speech on 12 May, he stated:

> The Government and the industry share concerns over the financial viability of some operators under the current system.

Certainly that is true. Mr Tripodi also noted that since January this year the bus reform task force, comprising industry and Government representatives, had been negotiating on the transition to the new arrangements. However, as we are all now well aware, things have gone terribly wrong for the Government in those negotiations. Legitimate concerns about both the legislation and the proposed contract model were raised by the industry during the negotiation process, as I have already said. When this bill was debated in the other place last night a number of members made very worthwhile and well thought-out contributions. They were not just concerned about the industry; they went in to bat for their constituents, the passengers who use the service. The interesting point is that apart from the Government's Parliamentary Secretary, only non-government members were allowed to speak on the bill. Apart from Opposition members and the Independent members for the electorates of Northern Tablelands and Tamworth, for all intents and purposes all other members appeared to have been gagged. Apart from those I have mentioned, not one other Government backbencher commented on the so-called merits of the bill as it currently stands.

What that tells us is that Government members were probably gagged from participating. I have heard that a number of them privately hold reservations about this legislation in its current form. Other members who were not gagged by the Government and who had the views of their constituents in mind had more to say. My colleague the honourable member for Vaucluse referred to the shell media release that the Government issued to its own members to promote the legislation. The release occurred before the legislation was passed by the Legislative Assembly. The honourable member for Vaucluse also referred to the drastic impact that this legislation will have on small businesses and employment, particularly the director-general's right to terminate contracts without any form of review or appeal rights for operators. The honourable member for Vaucluse was not the only member to raise serious concerns about the unfettered rights of the director-general. Coalition members for the electorates of Lismore, Ku-ring-gai, Ballina, South Coast, Hawkesbury, Cronulla, Bega, Orange and Hornsby all raised similar concerns. In particular, the honourable member for Cronulla made some astute observations on the legalities of what the Government is proposing, as did the Parliament's bipartisan Legislation Review Committee.

It is obvious from the names of the electorates I have mentioned that the Coalition members who spoke during debate on this bill represent different parts of metropolitan, regional and rural New South Wales. They all referred to the excellent service that private operators provide to their communities. Those private operators are prepared to sit down with the Government and improve the quality of service that they give their passengers, but of course the Government did not get things the way it wanted them so it took home its bat and ball, but is now breaking the arms of the operators, metaphorically speaking, to ensure that it gets its way. Honourable members have witnessed such tactics time and time again. I am able to assure the Minister for Transport Services that what I am saying is not just a Coalition beat-up by suggesting that he examine the comments made by two Independent members of the other place. In particular, the honourable member for Northern Tablelands stated:

> I do not think I have ever seen legislation before this place giving a director-general such unfettered powers. … I cannot support a process that delivers such unfettered powers to the bureaucracy.

He went on further to state:

> On behalf of the people we represent we should be able to review those provisions through the parliamentary process. I believe that the concerns of the bus industry are valid. The amendments foreshadowed by the Opposition are certainly consistent with concerns raised with me by the industry. I hope that debate in the other place deals with those issues consistent with those concerns.

He will be sorely disappointed when he reads *Hansard* tomorrow morning. I cannot disagree with his sentiments or with the comments made by the honourable member for Tamworth expressing similar concerns. The Minister for Transport Services may well simply try to suggest that this is an industry or Coalition beat-up, but the reality is quite to the contrary. Members of the crossbench and members of the Opposition have all been contacted at some stage during the lead-up to this debate by members of the Bus and Coach Association, who, on behalf of the association's members, have outlined the concerns I have referred to, and others, about the impact that this bill will have on their members as well as upon the passengers who use private buses in this State. Moreover, the impact of mum and dad operators to whom I referred earlier should not and must not be underestimated.

For the reasons I have outlined, I foreshadow that before this bill reaches the Committee stage, when members try to amend it to make it workable, I will move an amendment to have General Purpose Standing Committee No. 4 empowered to consider the clauses of the Passenger Transport Amendment (Bus Reform) Bill. I foreshadow that the terms of reference outlined in the amendment will be:

> That the question be amended by omitting all words after "now read a second time" and inserting instead—
>
> referred to General Purpose Standing Committee No. 4 for inquiry and report
>
> (2) That notwithstanding the generality of paragraph 1, the committee examine in particular the following matters:
>
> (a) the financial implications upon the Ministry of Transport's budget of the proposed funding model for the implementation of reforms within the bus industry
>
> (b) whether or not the treatment of the Government's public-owned entity, the State Transit Authority, in the reform process has breached competitive neutrality policy
>
> (c) whether the privative clause set out in the bill exceeds the general legislative powers of the Parliament as enshrined in the Constitution Act 1902, as amended
>
> (d) the conduct of the Ministry of Transport in relation to its negotiations with the bus industry
>
> (e) any other relevant matter.
>
> (3) that the committee report by Wednesday 30 June 2004.

Of course, that keeps the Government to the commitment that I—and I am sure members of the bus industry—can recall. I am sure that if members of the crossbench had discussed this with the Government they too would have been told that the bill would not be brought through the House and finalised until the last or second last week of the June sittings. Of course, that has now gone by the wayside, because as I alluded to earlier when you have the numbers, you go and you go quickly. Be that as it may, this reasonable and sensible amendment takes us that one step further—a step that the Government has failed to reveal and identify—that is, exactly what will be the contractual implications of the bill, which, at the end of the day, even the bus industry has yet to see.

Who in this House would agree to signing a contract to begin a job, to become an employee, after being told exactly what the job entails but would not be told for a month or two or three how much they were to be paid and what the conditions of employment would be? Not one member of this House, apart from the Hon. Lee Rhiannon, would do that. Everyone else would say, "No way", they would not put up with that, they would not accept that. But the bus industry is supposed to accept it. The Hon. Lee Rhiannon is supporting this legislation.

Ms Lee Rhiannon: And the Greens.

The Hon. MICHAEL GALLACHER: I look forward to hearing her contribution and to hearing exactly the views of the Council of Social Service of New South Wales, because it knows a lot about running private buses in New South Wales. I am sure that Garry Moore has years of experience to call upon to give private bus operators up-to-date information on how they can make the business run better. I suspect he knows absolutely nothing about how tough it is in some sections of that industry to provide services. It is a bit like the throwaway line the Minister used some weeks ago about all the people in Bowral being millionaire

stockbrokers. I assure the House that all bus operators are not millionaires, especially the ones I have met as I have travelled around this State. To think for one moment that Country Labor would sit there and do absolutely nothing about it!

The Hon. Henry Tsang: Have you travelled on a bus, Michael?

The Hon. MICHAEL GALLACHER: I have travelled on a bus, my friend, quite regularly, and more times than you would ever know. When this debate is finished I will give the Hon. Henry Tsang a treat; I will take him by bus to Circular Quay and I will pay his fare, before the Minister for Transport Services bumps up the fares, because I will not be able to afford them after that. As part of this reference I will seek to have the committee report its findings to the House as soon as possible. We are not delaying, we are not stalling; I have given a date and it will be consistent with what the Government promised; that is, the bill will be finalised in the last week or so of the June sittings. No stalling, no stunts. I am suggesting an opportunity for the Government to refute the claims of the industry, which is concerned about its ability to provide a service to the passengers of New South Wales. That is what this is about. The Government is not up to that challenge, it does not want to play, because it has the numbers. The Government's attitude is: Let us get this through now and worry about it later on.

Unfortunately, if what the Coalition has been told is correct, and we have no reason to doubt that, a lot of people will feel a lot of pain. Again, we are talking about the people who can least afford it, because that is the way the Government negotiates. Until recently the Government had not worked through some of the problems with the Bus and Coach Association. However, it is my understanding that recently there was a degree of what could be called less than good faith negotiation displayed by the Government's chief negotiator. I say no more about that, because I was not there and am getting two sides to the story. The Government is supposed to represent the people.

The Hon. Henry Tsang: We represent everyone, not just some of the people.

The Hon. MICHAEL GALLACHER: The Hon. Henry Tsang should not involve himself in this, because he has no idea what I am talking about. The Hon. Peter Primrose represents Western Sydney, the Hon. Christine Robertson represents country New South Wales and the Hon. Henry Tsang used to be a member of the City of Sydney council; they should all be saying to the Minister, "Get back in there and try to negotiate an outcome." No matter which side one listens to, they should not let an argument get well and truly out of control. The Government has to go back and renegotiate, not try to jam through the bill because it did not get its way. It does not work that way. The Government has to show some maturity, but it is not prepared to entertain that suggestion.

No doubt the Government will shortly assert, as it did when I sought to have the Transport Legislation Amendment (Safety and Reliability) Bill referred to General Purpose Standing Committee No. 4, that the motion to have this bill referred to the committee is a stunt to delay its passage. As I have already indicated, that is far from the case. It is my expectation that General Purpose Standing Committee No. 4 would meet as soon as possible, perhaps at the end of next week after its public hearings in relation to the closure of the Casino to Murwillumbah rail line. This House will not sit for the next two weeks and, therefore, there is no reason why the committee would not consider the bill further and return it to the House for debate when it resumes in budget week. In fact, that would be a great opportunity to go through all the second reading speeches. We would hear everyone's contribution and could then go through the committee process and get a better understanding of exactly how it is going to work to ensure that the Government, indeed Parliament, gets this right.

We could come back with possible amendments that can improve the bill. We could come up with a product that, at the end of the day, all parties agree to. That is a reasonable proposition. If the Government were serious about wanting to offer a hand of bipartisanship it should grab it while it is on offer and take the opportunity to fix the problems with this bill. I assure the House that my motion is about getting the bill right the very first time and not having to amend it time and time again. As with the transport safety bill, we must be assured that we have the bill right the first time. If I am not successful in having the bill referred to the General Purpose Standing Committee No. 4, on behalf of the Coalition I intend to seek to amend the bill in a number of ways.

The proposed amendments will seek the following outcomes: to properly define the term "public passenger service" so that all persons carrying passengers on buses are subject to the same accreditation standards; to provide reasonable and equitable transitional arrangements so as to minimise the impact of reforms

upon existing bus operators and existing services; to provide security of tenure in the service contracts by legislating essential terms in the contracts including the authority to enter, funding, term, renewal rights, subcontracting provisions and compensation requirements; to require fares and concession equity for all passengers, regardless of whether they travel on government-owned or privately owned buses to avoid revenue allocation distortions; to ensure that the introduction of services associated with the strategic corridors is done in conjunction with proper planning and bus priority measures; and to remove the unfettered exclusion from judicial and administrative review of the Crown and the director-general in matters relating to government contracts, that is, competitive neutrality, corruption and discrimination. The definitions clause will allow a charter service to be operated by an accredited bus operator or tourist service operator operating for a defined tourist purpose. That will have the effect of removing unauthorised charters and illegal school shuttle services.

The transitional arrangements, which will be governed by part 7, will require the director-general to seek to reach a just compromise between competing existing operators before a tender process is entered into. At the same time a successful operator must, by virtue of the provisions, pay compensation or negotiate to purchase the businesses of those operators not involved in the process. The bill in its current form makes no such provisions. These proposed amendments to insert new provisions in part 7 of the bill are mirrored in Queensland's Passenger Transport Act. The amendments seek to reduce the unfettered power and discretion given to the director-general and to prevent the director-general from terminating existing contracts at will.

Operators who through family generations have held licences to operate bus services will now be given the opportunity to continue to operate services for a transitional period of three years in order to consider their position and to enter into negotiations to their advantage. These provisions are mirrored in Victoria's Public Transport Competition Act. At the moment it is uncertain how the reforms will be funded. I am advised that Treasury has stamped the reforms as "revenue neutral". It is hard to imagine how current and new service requirements designed around the proposed strategic corridors can be achieved without a significant impact on the transport budget.

Barrie Unsworth also made it clear that he favoured fare equalisation between government operators and private operators. To that extent the amendments set out conditions for the service contract that will protect contract holders who are required to run services and who are in need of funding to meet those service levels. This funding provision is essential to overcome the reform of the School Student Subsidy Scheme. Operators will receive a lesser contribution for school services but they will be expected to continue with the same level of service. Contract regions in the Sydney metropolitan region, the Central Coast and the Newcastle and Wollongong regions have been designed without any reference to existing operations.

No reference was made to the amendments. The regions support the submission by the Bus and Coach Association which argued unsuccessfully at bus reform task force meetings that the 16-region proposal, reduced from the current 38 regions, for the Sydney metropolitan area will ensure a greater mix of operations and enable the development of partnerships to deliver local feeder services more effectively to strategic corridors. A greater mix of operations also embraces the Government's call for competitive services and overcomes Barrie Unsworth's concerns about creating monopolies from regions that were too large. The deletion of the privative clause will overcome any concerns about the prospect of having the director-general excluded from judicial or administrative review.

The director-general will be directly responsible for actions that might include termination of existing rights and the granting of new government contracts. Our system of responsible government does not allow the judiciary and the executive to be excluded from the review process. If this provision is passed, there will be no need for the Independent Commission Against Corruption, no need for the code of practice and the code of tendering for New South Wales government procurement, and no need for the State Contracts Control Board or any civil or criminal jurisdictions. I commend the referral of this bill to General Purpose Standing Committee No. 4 so that we can have full confidence that the legislation is the best way forward for bus reform in New South Wales.

The reforms should not just be seen as reforms for the west of Sydney; they should be seen as reforms for all of New South Wales. The bus reform task force has an ongoing role to play in bringing reforms together, especially with its combined knowledge of the bus industry. Support for the Government's bill will only enhance the power of the director-general, who will be given unfettered power to determine the course of the process. The director-general must be able to deliver these reforms as no challenge or review can be undertaken in relation to his or her performance during that time.

As I said at the outset, the Opposition was pleased when it was asked by the Government to play a bipartisan role in these negotiations. But then we were told only a couple of hours ago that this legislation would be taken from the bottom of the pack and rammed through during this parliamentary sitting. I had hoped that we would see some sincerity from the Government, unlike the so-called bipartisan approach that was taken to grain lines—which, at the end of the day, were never offered. We know what bipartisanship means to this Government. As I said earlier, this Government works in a bipartisan way only until it gets the numbers. After that all others, including Opposition members, are discarded. That is the lesson to be learned by each and every member of this House. We should not be fooled or lured by the big brown eyes and angelic face on the other side of the Chamber.

The Hon. Michael Costa: I didn't know he felt that way about me!

The Hon. MICHAEL GALLACHER: I am referring to the Hon. Tony Catanzariti! Honourable members should not be fooled by Government backbenchers; they will attempt to lure us to the other side. On this occasion we are not just talking about the passage of laws; we are talking about the Government. I said earlier that the Government walked away with its bat and ball. It is now starting to belt the industry and to impede those in this Chamber whose duty it is to scrutinise legislation. I cannot wait to vote against this disgraceful piece of legislation.

Ms LEE RHIANNON [9.26 p.m.]: The Greens do not oppose this bill. However, having said that, I make it clear at the outset that when the Greens say they support public transport, they mean exactly that—public transport. We have never supported the unfair and inequitable bus network in this city and this State. This bill does not fix the problems. It simply defies human logic to understand why the wealthier areas of Sydney—the east, the north, the inner west and the inner south—get public buses while the traditionally less wealthy areas have only private buses. It is crazy. Private buses are more expensive, their services are less frequent and the buses are often inferior. Yet those are the buses that are supplied to people in the poor areas, the growth areas, the more spread-out areas and the regional areas. It is bad planning and it is bad policy.

At the same time it illustrates all the problems relating to privatised transport. Services are focused on where the incentives and the profits are. Tickets cost more. There is no public accountability, only secret contracts with the Government. The Greens advocate a wholesale shift to public transport in New South Wales. State Transit Authority [STA] services are better and we want to see the STA operating throughout western suburbs and in regional centres. The STA has better industrial relations standards so such a move would benefit drivers. The STA has better environmental standards so such a move would also benefit the environment. This bill does not give the STA a bigger share of the map; in fact it opens the unlikely but nevertheless possible threat that the STA could lose out on contracts down the track.

This bill does not in any way free us from the problems of privatised transport, but at least it makes an attempt to address a few of the inequities in the current system—an issue that the Greens acknowledge. We welcome the fact that concession and pensioner fares will at last be offered to the people of Western Sydney, although we categorically deplore the massive increase in the price of the pensioner excursion ticket and we will continue to campaign against it. We welcome the fact that bus fares and discount tickets will be made uniform across the system, although we deplore any outward movement in those fares. We urge the Government and its agencies to set STA fares and discounts as the benchmark. Just as the Government is finally offering the people of Western Sydney the concessions, fares and discounts that the east and north have always had, it jacks up those fares. What a lost opportunity to deliver genuine equity!

On the positive side, the Government promises that its new system will deliver more services and better services and planning. The new system also appears to give the Government a greater ability to co-ordinate and monitor services and enforce contracts. The Greens hope that the Government will use those powers in the public interest, that is, to deliver better services and not to follow the Minister's usual approach of taking an axe to costs and quality. We are heartened by the discussions between community groups and the Government. We are informed that the Council of Social Service of New South Wales [NCOSS] supports the bill because the Government has been prepared to consult and to change it.

I was concerned about some comments of the Leader of the Opposition about the role of NCOSS in consulting on the bill. He ridiculed the input of the director of NCOSS, Mr Gary Moore. Mr Gallacher should remember that NCOSS, as the peak body for social and community services throughout New South Wales, is a widely representative organisation. It represents bodies ranging from the smallest community-based services to the largest welfare groups, including service, charity and church groups, groups that work on consumer,

transport and regional issues and child care services. The Leader of the Opposition must recognise—he should really apologise to the director of NCOSS—that the members of those organisations use transport services all the time and have developed expertise regarding what quality transport services are needed in the city and in rural and regional areas. Mr Garry Moore has negotiated with the Government on behalf of those members.

The Western Sydney Community Forum has also worked closely with NCOSS. The Leader of the Opposition had a lot to say about the Bus and Coach Association [BCA]. The Western Sydney Community Forum has been in negotiation with the Bus and Coach Association. In fact, I had a joint meeting with representatives of the two organisations to discuss some of their concerns. According to the Leader of the Opposition, the BCA is not happy with the outcome of the consultation process. But the Western Sydney Community Forum has been able to work through its issues and I understand has signed off on the proposals that NCOSS negotiated. Considerable consultation has taken place and Mr Gallacher should mind his language when he refers to those organisations.

We particularly welcome the Government's changes to the service planning guidelines and its promise that commercial non-sensitive information from contracts will appear on the Ministry of Transport web site or the operators' web sites. We welcome the decision that local communities will be consulted and that bus concessions will be reviewed. These outcomes are the result of work by NCOSS and other community groups, and will substantially improve the bill. The Greens support maximum community input in the legislative process and maximum transparency, accountability and openness. This bill does not produce an ideal system for bus services—the Greens are the first to acknowledge that. It does not offer real transparency or the best deals on equity and consultation. It certainly does not deliver genuine public transport solutions. However, it is an improvement on the existing system, which is also not transparent, consultative or fair.

The Greens are also pleased that the Government will support the Greens amendments, which I will move in Committee. They will help to advance industrial relations and environmental standards in the private bus industry. Such improvements are badly needed. Our amendments do not take services to the level the Greens desire but they represent progress. They are a step along the way. I reiterate my central message: The Greens do not support the bus system as it stands or the system that will come into being as a result of this bill. However, we believe the new system is a step forward. The Greens do not support fare increases or reductions in discounts and concessions, which will deter people from using public transport. Our support for this bill should not be considered as implied support for the proposed increase in the pensioner excursion ticket price. That ticket should remain at its current price when it is extended outside the State Transit Authority system. On balance, however, the potential for some measure of equity appears greater under the new arrangements than under the present ones.

I turn to the Opposition's call for a short inquiry into this bill. The Greens are strong supporters of the committee and inquiry processes in this House. However, we believe committee inquiries are about giving the community a voice. The job of an inquiry is to ensure that communities and individuals have their voices heard when government, big business and other big players are collectively ignoring them. As the community—the users of bus services—believes it has had a fair hearing, we do not see why an inquiry is justified in this case. The community groups involved in this debate are satisfied with the input they have had and are not calling for a further inquiry. Therefore, the Greens do not believe the community will gain anything new from an inquiry on this occasion.

The Leader of the Opposition thinks differently. He outlined reasons why an inquiry is badly needed. However, it would be a Clayton's inquiry and a sop to the Bus and Coach Association. Mr Gallacher is trying to appear as though he is doing something but what could a two-day inquiry achieve? I urge the BCA to consider that question. If the BCA has not been able to work through its issues with the Government by now, a two-day inquiry will be a waste of time. We must remember also that Mr Gallacher often has problems with accuracy. He claimed that the Government denied the BCA the opportunity to sit down with crossbench members. That is totally inaccurate, as crossbench members and the BCA are well aware. I had two meetings with the BCA: one with a staff member and a member of the Western Sydney community group and another at the crossbench meeting that is held every Tuesday. Mr Gallacher's case falls down heavily because of inaccuracies. He tried to develop what he probably thought was a quite brilliant line of argument when he said time and time again that the Government has the numbers and will rush the bill through Parliament. His crew did precisely the same thing in government.

The Hon. Melinda Pavey: We're talking about today.

Ms LEE RHIANNON: I acknowledge that interjection. We are also talking about tactics. The Leader of the Opposition is very good at running scare campaigns against the crossbenchers, but they are the tactics of government. The Greens have been involved in and worked through considerable discussions about this bill. I am sure all members know how abusive Mr Costa is to me, in particular, time and time again. But that is not relevant to this discussion. It is not about one's personal feelings but about judging the issues on their merits and deciding the best transport outcomes for the people of New South Wales. We do not have world's best practice by any stretch of the imagination but this bill will certainly be an improvement on the appalling private bus services that riddle regional and rural New South Wales and Western Sydney.

The Hon. Melinda Pavey: Name a bad regional one.

Ms LEE RHIANNON: I am very pleased to acknowledge that interjection because in a recent interjection Ms Pavey implied that the Greens web site was not working when it was. I then decided to check out the National web site.

The Hon. Melinda Pavey: It is The Nationals.

Ms LEE RHIANNON: It has "National" on the web site—the "s" does not appear. The web site says that The Nationals policy is to give country and coastal communities a fair go. It then says "Policy page currently under construction". Ms Pavey ridiculed the Greens incorrectly about our web site not working.

The Hon. Melinda Pavey: I didn't criticise the Greens.

Ms LEE RHIANNON: Yes you did. I saw you outside the House and pointed it out to you and we had a joke about it.

The Hon. Rick Colless: You joked about it?

Ms LEE RHIANNON: Yes, I was quite happy to. Because Mr Rick Colless has interjected I will remind members of his record. Mr Rick Colless had a very interesting time in the last election campaign. I understand he was responsible for looking after The Nationals campaign in Inverell, where he got a primary vote for The Nationals of 9 per cent.

The Hon. Michael Gallacher: Have you ever been to Inverell?

Ms LEE RHIANNON: Yes, I have.

The Hon. Rick Colless: Point of order: The member is quite obviously misleading the House because at the last election I was not in charge of The Nationals campaign on the Northern Tablelands; nor was I in the Northern Tablelands for the vast majority of the campaign. I was elsewhere in the State. She has got her facts wrong again, and I ask the member to withdraw that statement.

The DEPUTY-PRESIDENT (The Hon. Christine Robertson): Order! Ms Lee Rhiannon should confine her remarks to the subject of the bill.

The Hon. Rick Colless: Withdraw!

Ms LEE RHIANNON: I acknowledge the comments of Mr Colless. If I am wrong, I will certainly withdraw the statement. But I did not say Northern Tablelands, I said Inverell. If he was not there, I withdraw the statement.

The Hon. Rick Colless: There is no electorate called Inverell.

Ms LEE RHIANNON: Yes, but there is a place called Inverell. I did not say it was an electorate. Somebody from The Nationals was responsible there and I was told that it was Mr Colless. If it was not Mr Colless, I will withdraw the statement, but I cannot withdraw the fact that The Nationals got only 9 per cent of the vote. The Leader of the Opposition, Mr Gallacher, has worked hard to represent his constituency. Unfortunately, he has a number of problems with his arguments. His argument about the inquiry falls down heavily, and his claim that the Bus and Coach Association has not talked to the crossbenchers is totally wrong. There are a number of problems with the information he has presented. This bill does go some way to improve

bus transport arrangements in New South Wales and the Greens will not oppose it. We will, however, move some amendments to it in Committee. I put the Government on notice that the Greens will be monitoring closely the unfolding of the new system, and we will staunchly oppose anything that smells of secrecy, privatisation or inequity.

The Hon. MELINDA PAVEY [9.42 p.m.]: I join with my colleague the shadow Minister for Transport Services in condemning the Government for its handling of this legislation, which is vital for both country and city New South Wales. I am completely dismayed. As is the way with this Government, one size fits all. I remind the Government that there are two parts of New South Wales: the city and the country. Typically this Government has not given consideration to the issues that affect our smaller regional communities that are reliant on only one viable private transport operator. This legislation removes the certainty and guarantees of operators in smaller regional communities because the power is vested with one person, John Lee, Director-General, Ministry of Transport.

The Hon. Rick Colless: Who is John Lee?

The Hon. MELINDA PAVEY: John Lee is an Australian Labor Party apparatchik. He is the brother of Michael Lee, the failed candidate for the Labor Party in the Sydney Lord Mayoral race. Those who operate bus services for passengers inside and outside this city are concerned that absolute power is being given to a Labor Party mate—a dangerous and unhealthy situation for bus and coach operators and, most importantly, for passengers. This Government has been in office for almost 10 years, and that is far too long. The last proper review of bus legislation was undertaken five years ago, in 1998, by Brian Langton. The job done by Brian Langton was good—certainly better than that done by Carl Scully.

Unfortunately, the Minister for Transport Services has not listened to the advice offered by the Leader of the Opposition and shadow Minister, which was to take matters a little bit slower and for a general purpose standing committee of this House to consider some relevant points, questions and concerns about this issue. The committee process could slow things up for a week or two, certainly not indefinitely, so that some consensus could be arrived at and appropriate decisions made that will address the concerns of the Bus and Coach Association, which in turn provides services for passengers in this State.

If all sides cannot work in a state of reasonable cohesion, we will have problems. The bill is being rammed through the Parliament after we were told that we could have a couple of weeks to consider it. In a spirit of bipartisanship, as the shadow Minister for Transport Services pointed out, some of the problems could have been worked through, but that is not Minister Costa's way. He says "There is a problem and we need a review." So he calls up a mate to conduct the review. That mate is a former Labor Premier of this State. He puts in a mate to fix up the problem.

The Hon. Henry Tsang: He was a good Premier.

The Hon. MELINDA PAVEY: I am not going to comment on that. The mate then says, "Put another other mate in the top job." And that mate in the top job is given the power to take away licences and certainty and to disrespect private enterprise and free enterprise in this State. Sadly, that is the way things work in New South Wales under this Government. Things do not work that way in Queensland. The irony is that the coach company that won the tender to transport passengers as a result of the Casino to Murwillumbah railway line debacle was the Queensland Coach and Bus Company, and the reason for that is that workers compensations rates in Queensland are cheaper and its occupational health and safety laws are not as onerous as those of New South Wales. It is a lot easier to do business and provide services in Queensland than it is in New South Wales.

The Hon. Henry Tsang: You are not supporting New South Wales.

The Hon. MELINDA PAVEY: We are supporting New South Wales. We want to support free enterprise and we want to support those who are having a go and providing services. Ms Lee Rhiannon made the point that Western Sydney people are not provided with adequate bus services. Well, that is a shame and a disgrace, but the fact is that for nine years Labor has neglected its heartland and not given Western Sydney proper bus services. And this legislation is certainly not the way to provide better bus services for the people of Western Sydney. The Government is not talking to those who can provide such services efficiently, thereby creating a win-win situation for themselves and their passengers.

Governments in this country do not have to be involved in the decision-making process of whether or not a company survives. People are capable of arriving at a consensus and deciding upon a reasonable approach

to things. But in this State, if a problem arises, a mate is brought in to look into the matter and then another mate is put in a position as boss. That is not the way it should work and it is not the way to encourage free enterprise or investment. Last Tuesday in Inverell I met with Councillor Paul Harmon, from Inverell Shire Council, with whom I discussed such issues as property tax, stamp duty, water services and the present drought conditions. Councillor Paul Harmon runs Inverell Bus Lines, which provides a vital service to the people of the Northern Tablelands and surrounding area.

Councillor Harmon expressed grave concerns about this legislation. This decent, hard-working operator is doing the right thing and is prepared to contribute to his local community as a councillor. He is not a millionaire. He is a good fellow providing a good service to a decent community. If he is concerned, that concern reverberates throughout the local community. I read the debate on this bill in the other place, where there were some excellent contributions, including that of Mr Barry O'Farrell, Deputy Leader of the Liberal Party. In a very good contribution Mr Malcolm Kerr dealt with the rule of law and referred to a judgment by Sir Anthony Mason and to concerns raised by the Legislation Review Committee. Mr Kerr made the point that Sir Anthony Mason described the determination to restrict access to the courts as a contagion that could spread so as to undermine the rule of law. Sir Anthony said:

> No encouragement should be given to attempts to restrict access to the courts for the determination of rights by converting provisions restricting access into provisions having substantive validity. If the legislature intends to treat noncompliance with its prescribed requirements as not resulting in invalidity, it should be encouraged to say so without achieving that result indirectly through the operation of an ouster clause.

The Deputy Leader of The Nationals in the other place, Mr Donald Page, said that his greatest concern is the undemocratic nature of this legislation. He said he was of the belief that the Government would consider the amendments that the Opposition was proposing. He referred specifically to schedule 1 [25], which deals with the director-general's power to cancel contracts without recompense and removes any right to review decisions made by the director-general. He said the bill goes too far by giving the director-general the power to cancel an existing contract between a private bus operator and the Department of Transport.

If we take from the private sector certainty about their operations, we remove the prospect of their further investment in their businesses and companies. That the director-general is a Labor Party appointee further undermines confidence in the system. I support the Leader of the Opposition in this House and shadow Minister for Transport Services and share his concerns. I acknowledge the fears and concerns of people from especially regional areas, because bus transport is essential not only for schoolchildren but for pensioners and persons living on the outskirts of towns. For many of them, that is the only means of transport that can get them to where they want to go. We should be taking more time to get this legislation right. The Government stands condemned for rushing this legislation through Parliament.

The Hon. ROBYN PARKER [9.54 p.m.]: I wish to express concerns on behalf of the people of the region in which I live, the Hunter Valley, and of the bus operators who run small businesses in that region. I am concerned, as they are, about the Government's attitude on this legislation and its rush to get this reform process through Parliament. I am pleased that the Leader of the Opposition has foreshadowed that he will move a number of amendments that hopefully will restore to the reform process consultation with operators and the communities of regional and rural areas, such as Port Stephens and the Hunter Valley, which do not have public bus services but have small bus operators, such as Port Stephens Coaches and Blue Ribbon Coaches, that operate fantastic services.

On Friday of last week I was consulted by a bus operator. This is a family business that has operated for many years—in fact, it is the second generation or possibly the third generation to operate the service. This operator provides services to areas where public buses do not, and would not, go because supplying services to those areas would not be profitable for them. However, this operator is prepared to provide this service across the board. These people are concerned. They were certainly under the impression that they would be afforded a longer period of consultation. They will be surprised to learn in the morning that this bill has been pushed through. Talk about feeling like you have been run over by a bus! The feeling is that we are being run over by a Minister whose power has gone to this head.

This legislation gives the director-general unprecedented power to determine contracts. The director-general can terminate an existing contract, on a whim, at any time after the date of commencement of this legislation, without any consultation and without any legal protection or compensation for those people whose businesses will be adversely affected by this bill. The legislation offers no protection for those people. Nor will they have a means of challenging a decision of the director-general or the power that he has. I am aware that the

legislation, in its current form, provides for a draft contract that is harsh, unreasonable and unjust. It requires consultation and amendment before it will be able to achieve the designed outcomes. No renewal rights are provided at the end of the seven-year period, and there is confusion about transfer of assets to the successful operator at the end of that period. A lot more focus should be placed on that renewal process.

This legislation deals with metropolitan bus services, but it will also impact on rural and regional bus operators. I think these changes will lead to cuts in local services. We cannot afford those sorts of cuts in areas like Port Stephens, which has a large public housing population. For example, people living in Raymond Terrace need to go to Newcastle for their health needs as well as all sorts of other service provision. Some of them cannot afford to run cars or use transport other than buses. In some instances, the bus is the only form of transport available to the community. Cutting services would be incredibly unfair, and that certainly is on the cards.

The industry believes in fare and concession equity for passengers, but everyone needs equal access to transport—no matter where they live, and no matter who operates the service. This reform is proposed by a Government that has already demonstrated that it cannot run public transport. It cannot run rail services, it cannot run ferries, and it cannot keep trains on tracks. Now it is fiddling with bus reform. What will we have next from the Minister? Where are we heading with this sort of reform? And what is the reason for rushing it through Parliament?

I come from a country area and one of my concerns is the impact of the legislation on people who need access to public transport. Most of the schoolchildren in our area use privately operated buses. Private operators run a business that enables people to visit our area and get around. They offer a service no matter what, because they are family businesses and because they are part of the community. They deserve more respect for the service they provide than this lack of consultation. The industry is concerned about proposed contract regions, flaws in the contract and the powers of the director-general. But they are even more concerned about their livelihoods and being held to ransom by the stroke of a pen of a director-general.

Every bus operator in rural and regional New South Wales needs reassurance that the legislation will offer them protection. People who live in my area and other rural and regional areas need to know that the role of small family bus companies that offer such fantastic services to rural and regional residents will be acknowledged and maintained. I am pleased to note that the Leader of the Opposition will move amendments to subject the legislation to the committee process because it will provide an opportunity for consultation. It is the very least the Minister and the Government should be prepared to accept. Hopefully we can improve the legislation and offer better compensation and consultation.

The Hon. JOHN TINGLE [10.01 p.m.]: Like other members, I am surprised to find myself debating this bill tonight. I thought we would have more time. I suppose I am not totally prepared for it, except that I know what I have been thinking about it for quite some time. With some reservations and with one very important qualification I am prepared to support the bill. I believe that the Unsworth review has established the need for reform and I believe that the Passenger Transport Act has been in place long enough. It is outdated. My approach to the bill is coloured by the fact that I live in Port Macquarie, where we have recently seen one of the biggest private bus operators in this State come unglued in a very dramatic way. I cannot go into the details because the matter is currently before the court. But it left the whole Hastings area—74,000 people with a substantial aged population, many of whom do not have access to their own transport—in limbo.

It was only when another operator came in and we were able to resume reduced services that we were again assured that we had a private bus service in Port Macquarie. I believe, having looked at the bill, that amendments are necessary to overcome limitations such as the requirement that existing commercial contracts be renewed every five years on the same terms and conditions, which, in effect, gives operators contracts in perpetuity. I believe that the community, and I know that my community, really expects better value for money from services heavily subsidised by government even in areas such as child school travel and things of that sort. I hope that the bill will make it possible to implement bus reform and allow the Government to enter into contracting arrangements that are fair and sensible and, most of all, appropriate.

There are real and justified concerns that the bill gives the Government, through the Director-General of the Ministry of Transport, power to terminate or vary existing contracts, to implement new arrangements that then are beyond legal challenge. I believe that even though these powers are very strong the bill has been drafted to limit their use. In the interests of the bus operators—and this is one of the qualifications I referred to—I am now seeking from the Minister for Transport Services a firm assurance to this House that once passed the Act

will not be proclaimed until the industry and the ministry have had sufficient time to work through the outstanding issues. While agreement on all aspects of this reform package may be very difficult, or even impossible, my hope is to ensure that we can go forward with reforms that have been the subject of real and sufficient consideration and consultation.

Sufficient consideration and consultation are factors that are not always present in situations like this. Very often when the Government says it has consulted widely it means it has told people what it intends to do. After representations which have been made to me on this matter I will also ask the Minister to ensure that the Director-General of the Ministry of Transport may not exercise his powers to terminate or vary an existing commercial contract until negotiations have been concluded and agreements have been reached that are suitable to all concerned. I also foreshadow that I will move an amendment in Committee to establish a mechanism to provide for the fair valuation of assets for those operators who wish to exit the industry. Let me stress again, my support for the bill depends on those assurances from the Minister and, ultimately, the passage of that amendment.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [10.05 p.m.]: It is disappointing that the Government has brought this bill on at short notice. It is always difficult to speak to something you are not quite ready for. As we all know, the bus problem is an historic one. Often buses went just to the nearest railway station and territories were owned. That was fossilised in contracts entered into in the time of transport Minister Baird and it has left us with a bad historic legacy of contracts that can be renewed automatically every five years. If private operators do not want to change they can stall, safe in the knowledge that the existing system will look after them. Buses come more or less to my door. I have taken a great interest in the quality of their engines because if they have poor quality engines and the diesel pours plenty of smoke, it comes straight in through my front window.

The Hon. Rick Colless: What about the ferries?

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: The ferries are also close to my house and their smell comes in through the front window. I have taken a great interest in the performance in terms of greenhouse gases and diesel fumes of both the ferries and the buses. I walk up Young Street where State Transit Authority [STA] buses that have bad engines regurgitate into a canyon. The North and Western bus company, which served my area of Hunters Hill, was sold for $14.1 million. There was some comment that it was too much. The Auditor-General's report of 2000 commented that the STA acquired North and Western Coaches on 12 December 1999 and Riverside Bus and Coach Services on 28 February 2000. North and Western Coaches was acquired for $14.1 million. The purchase consideration comprised net tangible assets of $7.8 million and intangible assets, route rights, of $6.3 million. Included in the assets were 90 buses valued at $9.9 million on a going concern basis. Subsequently the authority sold 28 of the older buses, which were not configured to STA standards, for $784,000 and incurred a loss on disposal of $826,000.

A wholly owned subsidiary of the authority acquired the units in Riverside Bus and Coach Service and shares in the trustee company on 28 February 2000 for $4.8 million, comprising net tangible assets of $2.2 million and intangible assets, route rights, of $2.6 million. The authority is planning to sell the property in the unit trust, which is valued at $1.3 million. The comment about North and Western Coaches suggests that too much was paid. Media commentary at the time backed that up. If the buses were sold at a loss, that is relevant. The Auditor-General stated that the elimination of duplicate passes of the School Student Transport Scheme [SSTS] would lead to a reduction in the Government SSTS payments of more than $1 million per year, which suggests that in that little bus company North and Western there was considerable overpayment through the school student transport subsidy. That has also been quite controversial.

The report of the Public Accounts Committee on the SSTS recommended a complete overhaul of the administration of the scheme by the Department of Transport. The committee recommended that the scheme be managed by the Department of Education and Training. The report was tabled and showed that in 2001-02, 664,100 students received subsidised transport at a cost of $416 million. The committee found that the department had not sufficiently monitored the SSTS and that basic information was unavailable or unreliable, leading to misconceptions on key causes of costs. The report illustrated a significant difference between the number of students subsidised for travel compared to the number of students who actually use the SSTS. The chairman of the committee stated:

> Payments are based on bus pass usage rates of 77% for metropolitan areas and 79% for non-metropolitan areas. However, there is evidence indicating usage could be as low as 50% meaning bus companies are receiving tens of millions of dollars for phantom riders.

That statement was made by a Government member, so presumably the percentages are underestimated. A lot of unnecessary subsidisation has occurred through the sloppy administration of the SSTS. Because the uniform ticketing scheme involved a great deal of money, a lot of people were working very hard in the hope that a poorly administered subsidy scheme would be a licence to print money for whomever obtained a contract.

In the Minister's second reading speech he expressed some lofty ideals that did not translate into specific details. The model to which I have referred came to my attention when I undertook a political study to the United States of America some years ago. The Las Vegas model featured buses that were all leased by the company, which imported obligations of maintenance and fleet turnover. The depot was also leased, and at the end of the contract period when the service was offered for tender as a going concern, the entry costs for new operators were not prohibitive. In those circumstances, the tendering process was not too distorted by the fact that the incumbent had an immense advantage associated with ownership of the depot and the fleet. Competitive tendering is incompatible with people owning business territory. The public interest must prevail in the area of service delivery.

The Opposition knows in the smithy of its soul that change must occur. While members of the Opposition are giving a Minister a hard time, in reality they recognise that there must be change. It is a bit of a worry that they are happy to criticise the Minister when they know that if they were in the Minister's position they would do exactly as he is doing. They know that if the Minister makes the changes to allow normal competitive practices, they will have a much easier time managing passenger transport if they win the next election. The Leader of the Opposition criticised the Government for introducing this bill while the negotiations were still taking place, but if contracts are arranged in perpetuity the company may talk forever. A contract in perpetuity might make talk cheap while in the meantime the School Student Transport Scheme retains all its inefficiencies. If operators hold contracts forever, the Government will be unable to introduce five-year contracts, and bus operators will be able to walk away from any medium-term deal that the Government wants to make.

If the Government takes a very hard line in country towns, in theory that could force companies out of business. But if that happened, the Government would have to wear the ire of residents who find themselves without services. If the Government kills the bus company by hardline negotiations and the company shuts up shop and disappears, the Government will have to deal with the problem of providing a service. If it fails to do so, it will attract the ire of people who used the services. The idea that the Government can unilaterally make unequal contracts is true to a point, but is checked by the reality that the Government must deliver a service. The Leader of the Opposition referred in detail to the problems of this bill. He cited large portions of a letter sent by the Bus and Coach Association of New South Wales dated 17 May 2004. The objections to the bill set out in that letter warrant a deal of analysis. The letter states:

> The Bill does not adequately define those services that will be the subject of the service contract and those services, such as charter services, which are not subject to the same regulatory requirements.

That is true, but bills probably do not need to show fine details. The letter also states:

> The Bill does not provide reasonable or equitable transitional arrangements, similar to those introduced in other jurisdictions, to protect existing rights. The Bill simply allows the Director General an unfettered and legally non challengeable power to terminate all bus contracts in NSW.

I think to some extent that is true. The amendment foreshadowed by the Hon. John Tingle refers to just compensation, which is an important consideration in the context of this bill, but if the bus operators effectively have a right to endless renewal of the contract, there is no way around that except for unilateral termination. What has been so easily obtained may have to go in the interests of providing a service. The issue of an equitable compensation package for the loss of the business must be determined. I understand that the amendment foreshadowed by the Hon. John Tingle is designed to address that issue, although it is not yet available from Parliamentary Counsel. The letter goes on to state:

> The Bill gives to the Director General unfettered power to determine the appropriate conditions for a bus service contract, when previous legislation enshrined essential conditions such as funding, service requirements and tenure.

The bill will contain different objectives and incentives, but obviously the Government does not wish to create worse conditions. The changes to the terms of contracts will have to be negotiated and the amendment foreshadowed by the Hon. John Tingle may provide some redress if the bus companies are not able to obtain a fair deal. The letter continues:

> There is no provision for fare or concession equity between the Government operator and the private operators, which may contravene competitive neutrality principles.

While that is certainly true, hopefully it will be dealt with by the amendment foreshadowed by the Hon. John Tingle. The letter also states:

> Legislation, which does not provide for bus priority measures to support strategic corridors, will only result in greater congestion.

Although that may be true, I understand that private bus operators actually challenged the concept of transitways in the High Court, but lost. The bus priority measures are necessary for metropolitan transport networks. The letter further states:

> The changes proposed for SSTS will result in a reduction of school services, whereby, free school student travel will no longer be available on dedicated school services.

Although that may also be true to some extent, the Santa Claus model of SSTS in New South Wales may have to lose some services to place it on a more realistic footing. The letter also states:

> The Bill gives to the Ministry, via the power conferred upon the Director General, the unparalleled ability to determine regions, contract conditions and policy, well in excess of power usually conferred upon the bureaucracy by legislation. At the same time the Bill protects the Director General and the Crown from any legal or administrative review in respect of decisions relating to the granting and issue of contracts and the termination of existing rights. This power may be unconstitutional as it undermines the separation of powers principles, upon which our Westminster system is based.

That is true to some extent, but if a city is Balkanised and services have to be spread across discrete areas at some time, the contracts will have to be varied. While in theory that involves the termination of existing rights, as a practical necessity it will be necessary to at least change existing rights. We need to find a fair formula that allows those who are currently running bus services to participate in the new scheme. If they are unable to do that, they should be given a reasonable, equitable and fair way of obtaining redress.

The bill would create, by its determination to reduce the number of persons running bus services, monopolies that increase the risk of regulator capture, similar to that in Victoria. It may well be that dividing 87 service areas into 15 will reduce the number of areas, which may reduce the number of operators providing services. When there are very few services there may be risk of regulator capture. On the other hand, currently there is a risk that small companies are running a show that does not allow a unified system. Basically the risk of regulator capture by an oligopoly is a danger. But the tyranny of a lot of small operators being unable to put together a unified system for a city is our current problem, not the other way around. Although the BCA has justified concerns, the overall thrust of necessary reform must happen. The Unsworth report is very thorough and very worthwhile, and it involved a lot of public consultation. The comment in the foreword of the Unsworth report states:

> The task of the BCA is to protect its members' interests, and in doing so maintain the status quo as far as possible. However, this is not necessary in the community interest nor conducive to the development of an effective bus transport system for the metropolitan regions of the State.

I suppose that is the essence of what I am saying. On 21 February 2004 the *Sydney Morning Herald* published an article concerning the Kings bus company on the mid North Coast. The article stated:

> The spurned former wife of the bankrupt bus tycoon Peter King has told a court how she and her ex-husband took more than $5 million, most of it taxpayers' money, from the company before its collapse.
>
> Patrice King said the money was spent on properties, cars, jewellery, furniture and holidays …
>
> King Bros went into administration with debts of $226 million in April last year …
>
> She said that in 2000 alone, about $5 million was taken from the company by the King brothers and their wives when the company's total income was only $6.6 million.
>
> More than 90 per cent of the income came from the Transport Department in subsidies for the 22,000 schoolchildren King Bros transported daily ...
>
> The company's biggest creditor—owed $147 million—was the National Australia Bank, which was the biggest financier of the King Bros bus fleet.
>
> Earlier hearings have been told that about half the 600 luxury Mercedes buses simply did not exist.

If one could simply pretend one had 300 buses, clearly the supervision system that existed at that time was quite unsatisfactory. The Minister has referred to the idea that he was unable to—

The Hon. John Tingle: Point of order: I point out that that case is still before the court, it is sub judice. To make specific allegations about what might have transpired is trespassing on territory we should not get into. I would appreciate a ruling on that.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: To the point of order: I would appreciate a ruling on that also. I am merely reading an article from the *Sydney Morning Herald*, which is already in the public domain. I do not intend to affect the court in any way. I am merely quoting from a public document. It has been said in this Chamber previously that the Government was not able to easily step in and pick up that. I do not wish to make points beyond that.

The Hon. Duncan Gay: To the point of order: You can make points about the Government—it is not on trial.

The Hon. John Tingle: Further to the point of order: The only reason I raised this was because comments were made about having done something. That seemed to me to be a prejudgment.

The DEPUTY-PRESIDENT (The Hon. Christine Robertson): Order! The Hon. Dr Arthur Chesterfield-Evans should confine his remarks to the information in the newspaper concerning this issue, and not make innuendo.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I certainly do not have any inside knowledge of that, but I understand that the Government was not able to easily replace those services. That is a matter of public knowledge. Obviously that may be a problem in the relationship between the Government and private bus operators that get into difficulty generally, not specifically the King brothers. I have been talking about a framework for private bus operations. The transport corridors were challenged in the High Court and admittedly no-one thinks that the Parramatta to Liverpool transitway was well managed by the Government. Indeed precedents such as the Government putting through that corridor and cancelling the Epping to Carlingford railway are worrying. I understand the transport corridors were challenged in the High Court, because they were to go through the territories of a number of small companies.

The companies that mounted the challenges lost their cases in the High Court, which ruled that it was necessary that longer routes be developed to integrate transport in the Sydney region. That is quite encouraging. It is interesting that letters from a number of sources welcomed the Unsworth report, including the President of the Western Sydney Organisation of Councils, Councillor Danny Mackin; the Werrington Community Project Inc., which asked for support for the bill; and the Cessnock Transport Community Development Project, which is in partnership with Cessnock City Council. The Western Sydney Community Forum wrote:

> The Government has introduced the Passenger Transport Amendment Bill. In many respects it is a good bill. It gives the Government much greater flexibility to make contracts, to get private bus services delivered, and reduces the expectation that the current contract holders expect renewal or exclusive access to new contracts in the area. It also overrides the exclusive right to operate in strategic transport corridors. IPART will set the maximum ticket prices.

Interestingly, the submissions from two groups, from Cessnock and Werrington, had almost identical wording. Obviously there is good networking out there. They wanted public comment on draft contracts, contract renewal and public reporting. And I agree that that is fair enough. The area I am concerned about, and have alluded to before, is contained in the amendment proposed by the Hon. John Tingle, which I have not yet seen. I am reminded of some struggle between the former Minister for Fisheries, the Hon. Eddie Obeid, and the inland fishers who had been fishing for Murray cod for many years.

The Hon. Rick Colless: Where is Eddie?

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I do not know. The Minister bought out the fishers with a relatively low payment compared to the amount of money they were making and looked like continuing to make in the medium term. I believe that compensation was a little harsh. I do not think the appeal mechanism was very good. Therefore, I am concerned that if the bill is passed there be a good appeal mechanism. I hope that the amendment proposed by the Hon. John Tingle will ensure that. At that time, the Hon. Edie Obeid said that there could be value in the carp industry. Now, some years later, there is still no value in the carp industry; that goes to show that just because the Hon. Eddie Obeid says that carp can have value does

not mean it will. But it means that if Ministers say certain things can happen and offer only limited compensation, and those things do not happen, obviously we need a fair compensation system that is not just at ministerial discretion.

It has been suggested that this bill should be referred to General Purpose Standing Committee No. 4, which will enable bus companies and Government representatives to express their views at a public hearing. Generally, I am in favour of an open process. I do not, per se, have a problem with that, although it must be said that the Unsworth review received a large number of public submissions—300 or so. It would be good to have an input from consumers because the driving force behind this legislation is consumer dissatisfaction. We do not want a squabble between the BCA and the Government; we want to hear from consumers. Consumers might not be aware of the intricacies of contracts but they have a pretty good idea of how good or bad a service is. The more intelligent consumers would have an idea of the comparative level of services between other cities and Sydney. I am sure that they will not favour Sydney.

I refer to the first of the Greens' proposed amendments to this legislation. The implementation of industrial relations standards will result in bus operators paying award wages, which I think is only fair. I am all for the implementation of the second of the Greens' amendments, which relates to greenhouse gas emissions. Some years ago one of the bus companies was importing buses that did not meet the Euro 2 standard. At that stage Australia had not mandated that standard. I was told that those buses were quickly imported into Australia and they were seen on the wharves. I asked the Minister a question about that issue but I received only a very silly answer. The third of the Greens' proposed amendments relates to community consultation, which is important. Members of the community want to know where those buses will be going. I heard that long routes were chosen because the school bus subsidy scheme required buses to go a certain distance. Those bus routes were made tortuous in order to achieve those requirements.

The Unsworth report is very good and very thorough. I support the principle of open government but I do not think that this issue needs any more airing, although I am inclined to think that that might be reasonable. I support the general thrust of this legislation. Once the Hon. John Tingle has moved his amendment in Committee we will have to establish whether this legislation should be referred to a committee or whether or not the consultative process undertaken by the Unsworth committee was adequate.

The Hon DUNCAN GAY (Deputy Leader of the Opposition) [10.32 p.m.]: Unlike other honourable members my contribution to debate on this legislation will be brief.

The Hon. Dr Arthur Chesterfield-Evans: That is because you do not know much and you have not done your research.

The Hon. DUNCAN GAY: I might not have done any research but I still know more than the Hon. Dr Arthur Chesterfield-Evans. I will not cover those areas that have been covered by other honourable members. I congratulate the Leader of the Opposition on his contribution to this debate. He certainly set the Opposition's agenda. I welcome my old friend Barrie Unsworth to the Parliament. It is great to see him in the gallery. One cannot help liking a bloke that gives one government. Barrie Unsworth, like a lot of people, is a professional operator. I am sure that he, like Ian Sinclair, did the best that he could to produce this report. I take issue with the processes that followed the production of the report.

The report is sent to the department, to the Minister and to Parliamentary Counsel and the report that we are then given is often quite different. We did not have a problem with the Sinclair report on native vegetation but after it had gone through the Labor Party caucus and the Sussex Street political process it did not bear any resemblance to the original report that was compiled after much consultation, various meetings were held and worthwhile suggestions had been made. However, the report is only part of the process. The department and departmental personnel have been involved in issues relating to the King Bros Group and a court case is pending. The department's protocols have failed; it has failed in its supervision and checking of this process; and it has failed to protect taxpayers' dollars and ensure continuity in the provision of transport for children.

When I asked the Minister a question about that matter earlier he said that the department did not play a role in it and that this was a private company. This matter is similar to a matter that involved the Air Transport Council and Monarch Airlines. After the crash at Young the transport Minister said, "We did not have a responsibility for that issue. It was not our role. We gave that route to the company that put in the lowest quote." That is what this Government did recently on the Casino to Murwillumbah rail line. It gave the contract to a

Queensland company that pays lower workers compensation and lower registration and does not require the same cleaning facilities as companies that are based in New South Wales.

In the case of Monarch Airlines, it was the cheapest airline that was running but no-one actually checked to ensure that it would keep its planes flying or that it would be there at the end of the day. It is an undisputed fact that a large number of King Bros buses were not running. A good and decent man prepared this report, but concern has been expressed about compensation, continuity of service and small operators. Anyone living in a small centre in New South Wales would know that it is imperative that the BCA represents small operators. We, as members of Parliament, should protect small operators as they supply transport services and ensure continuity of service. While the Minister is looking at the big picture he is missing the small picture. Without going over those issues that have been addressed by other honourable members, I am opposed to this bill because of the reasons espoused earlier by the Leader of the Opposition. This bill will not address the fundamental problems that existed in the first place.

Reverend the Hon. FRED NILE [10.38 p.m.]: In speaking in debate on the Passenger Transport Amendment (Bus Reform) Bill I share some of the concerns expressed by the Deputy Leader of the Opposition. Crossbench members have received submissions and correspondence from the Bus and Coach Association of New South Wales that indicate that that association objects to this legislation. Unsworth's final report is entitled "The Review of Bus Services in New South Wales". There was also an interim report. Unsworth received 500 submissions during his interim report and he received 1,300 submissions for his final and more comprehensive report.

The Deputy Leader of the Opposition made the point—a point with which I agree—that quite often what comes out of the report or the recommendations is not embodied in the legislation. The Bus and Coach Association has not had sufficient time within which to consider the legislation. It was certainly involved in the review process and in the Unsworth inquiry, but it has not been given sufficient time within which to consult on this legislation. It would have been far better if this were draft legislation that had been provided to all stakeholders, in particular the Bus and Coach Association. The necessary amendments could then have been moved so that the bill would more accurately reflect what came out of the review.

The Bus and Coach Association [BCA] said that it met with the Government on Thursday 6 May and received a briefing on a draft bill to amend the Passenger Transport Act 1990 and progress a reform agenda post the Parry inquiry and the Unsworth review. The BCA office bearers were permitted to read the draft but not to keep a copy of it. The BCA had attended task force meetings to progress reform but its task force members were excluded from working on the draft legislation. That was a recipe for the current confusion. If BCA members had been involved more closely in the consultation process the bill might have received general agreement and progressed through this place more rapidly. The Unsworth report raises that issue. On page 88, under the heading "Operator negotiations", it states:

> While legislative change is required to implement the new regime, negotiations with operators can commence prior to this to give them as much time as possible to determine their positions and organise themselves. The Review is aware that the Ministry of Transport commenced the negotiation process late last year, with an initial briefing for operators, region by region, on 19 December 2003.

There should have been more negotiation and discussion about the draft legislation. Instead the Government has introduced this bill sooner than anticipated in the hope that it will be passed by Parliament and that stakeholders, particularly the Bus and Coach Association, will live with the results. That is not a satisfactory situation.

Other speakers in the debate referred to the operation of private bus services in this State, particularly in Sydney. I have not received any complaints about private bus services, which seem to be operating efficiently in most places. Commuters appear to be having more problems with the government transport system—ferries, trains and so on. It is ironic that we are discussing private bus operators when they seem to be doing a fairly good job.

The Hon. Duncan Gay: They can't run their own but they want to try to run someone else's as well.

Reverend the Hon. FRED NILE: I know. From my observations, private bus services are running efficiently and providing as good a service as possible within economic constraints. However, I agree that the school bus system must be reviewed and reorganised. There should be some way in which the subsidies can be based on the number of students carried in buses rather than on estimates that seem to have provided an unintended indirect subsidy to some private bus services. We have been lobbied by some consumer groups to

find transport concessions for pensioners and so on. I support that call. The question is: Who will pay for such concessions? I do not know whether the private bus operators will have to increase fares or whether the Government will reach some agreement about how passenger concessions can be provided. Passengers should certainly receive that benefit. The issues that concern me in this bill were raised by other honourable members so I will mention them only briefly. I am concerned that paragraph (f) of the explanatory note to schedule 1 [13], on page 5, states:

> … the new Division will not permit a service contract to be entered into for a period exceeding 8 years—

many people have said that it is five years but the reference in the bill is eight years—

> and will also require the contract to provide for service standards to be observed by the operator.

That might not be a draconian measure if there were some guarantee that the operator would receive an extension. But paragraph (g) states:

> … the new Division will not confer an automatic right of renewal of a service contract for a regular bus service, but will leave the matter to be negotiated between the parties.

It is probably no longer possible to allow licences to continue in perpetuity—for 100 years or more—but bus operators need greater security. Representatives of the Bus and Coach Association raised that matter with us. Operators are expected to invest in new, high-quality buses, which are obviously very expensive—I understand that they can cost from $200,000 to $400,000. A company must calculate how long it has to operate the buses before it gets a return on its investment. Some bus operators must build service facilities, such as bus maintenance and storage facilities—I know that many government buses are left out in the open, which obviously does the vehicles no good. That capital expenditure issue should be considered further. Paragraph (c) of the explanatory note to schedule 1 [25], on page 7, states that the new part:

> … protects from challenge in legal proceedings certain decisions of the Director-General concerning the variation or termination of existing service contracts for regular bus services.

Paragraph (d) states that the new part:

> … precludes the recovery of compensation from the Crown in respect of the variation or termination of existing service contracts for regular bus services.

In seeking to have fewer contracts it would seem that some operators will miss out. They have the buses and the capital equipment but a literal reading of the legislation suggests that they will have no opportunity to seek compensation or even to launch proceedings in the courts to receive compensation. The amendment foreshadowed by the Hon. John Tingle addresses that issue. But I do not know whether it will be satisfactory to bus operators as it refers to arbitrators making a decision on the value of the assets, which is a very subjective issue. The arbitrator may say the equipment is worth $2 million while the bus operator may claim that it is worth $10 million. That could lead to arguments about whether operators are receiving genuine compensation for their investment in equipment. I note that the "Legislation Review Digest"—to which we are supposed to give serious consideration—is critical of the fact that the bill makes no provision for the right of compensation. Page 43 states:

> The High Court has treated the denial of compensation rights as akin to the acquisition of property, holding that "acquisition" in s 51(xxxi) of the Commonwealth Constitution extends to the:
>
> > extinguishment of a vested cause of action, at least where the extinguishment results in a direct benefit or financial gain (which, of course, includes liability being brought to an end without payment or other satisfaction).

The "Legislation Review Digest" states, I believe correctly, that a denial of compensation is the same as the acquisition of property. Parliament should consider seriously whether it wants to launch into that area by giving the director-general that power. The *Legislation Review Digest* is also critical of the restriction on applying to the jurisdiction of a court to review the operation of the decision-making process under the amendments to the Act. Paragraph 27 states:

> The right to judicial review of administrative action has been argued to be so fundamental to the functioning of a democratic system as to be part of the rule of law:

The Government should take into account that strong comment in the "Legislation Review Digest". The question of further consultation was raised with regard to particularly controversial aspects of the legislation.

This may be more than what was intended in the Unsworth review. We are sympathetic to the proposal of the Opposition that there should be a very short consideration of the legislation by a committee of this House. This has been done in relation to other controversial bills. The proposition put by the Leader of the Opposition is fair and would certainly give stakeholders, particularly the Bus and Coach Association, the opportunity to express its final concerns about the legislation. I think the Minister should strive to work in an atmosphere of co-operation and goodwill if he wants to successfully develop an efficient public and private transport system in this State.

The Hon. Dr PETER WONG [10.50 p.m.]: I will contribute briefly to debate on the Passenger Transport Amendment (Bus Reform) Bill. I support in general the principle of reform as articulated by the Government. However, as mentioned by other members, the "Legislation Review Digest" has highlighted many problems with this legislation. It seeks to give the director-general unparalleled power. The "Legislation Review Digest" states:

> 19. The Committee notes that the Bill's amendments preclude any claims for compensation for changes to bus service operation, thereby trespassing on the personal rights of bus service operators.
>
> 20. The Committee also notes that given the power to terminate contracts under the Bill, the denial of compensation rights is particularly significant …
>
> 22. The Committee refers to Parliament the question as to whether the exclusion of claims for compensation constitutes an undue trespass on the rights of bus service operators.

Many clauses in the "Legislation Review Digest" express strong concerns about a number of issues. The Legislation Review Committee is a bipartisan committee and the Government would be wise to consider its recommendations and address the issues accordingly. I concur with the view of the Government that no contract should be given to anyone in perpetuity. That practice is not serving the community well at the moment. The rights of bus operators and companies must be balanced against the needs of the community. The proposal of the Opposition for a short inquiry is valid. We do not doubt the Unsworth report or its recommendations but as Reverend the Hon. Fred Nile stated a short inquiry will give all parties, including community organisations referred to by the Hon. Dr Arthur Chesterfield-Evans, an opportunity to air their views. Maybe a better outcome can be reached that way. Even though I regard such legislation as being of little value, I will support the Government if it agrees with the proposal for a short inquiry. I urge the Government to accept this suggestion by the Opposition.

The Hon. JON JENKINS [10.55 p.m.]: As usual with legislation of this nature I am only able to express a personal opinion about matters. I live in a regional area that is very poorly serviced by buses that come from Queensland. Consequently, I have to make decisions based upon my perception of what the people of Sydney need and, as much as I can, on how this legislation will affect people in regional New South Wales. From what I have heard there is a need for some reform in the bus industry. Most people support the concept of reform but the question I ask is: Will this legislation achieve those reforms? I appreciate the efforts of Mr Barrie Unsworth and his review team. This legislation has extensive and far-reaching consequences. I find it very difficult to make a considered and correct decision on such short notice.

I acknowledge the flexible arrangements for regional areas referred to in the Unsworth report. If the stricter city requirements were imposed on regional areas, the situation would be completely unworkable. I say upfront that my support for this legislation depends on how the Minister addresses my concerns in his reply. The loss of compensation by legislation is of concern to me. The Greens referred to the lack of transparent competition in existing contracts, but that does not dismiss the fact that existing operators have been operating for some time and have invested substantial amounts of their own resources. They should have some rights to protection if they choose to exit the service. I am told the Minister will address that matter in his reply.

Will a bus operator invest many hundreds of thousands of dollars over the shorter period to which these contracts will apply, given the uncertainties of the continuation of a contract? Some of the larger buses cost as much as $300,000 to $400,000. Why would operators invest such amounts, say, two or three years before the end of a contract? Obviously, buses have to be leased and operators will want some assurances with regard to recouping their very large investment. This legislation will also result in bus fleets being run down towards the end of contracts. As buses become older bus operators will be less inclined to upgrade their fleets to the new Euro 4 and Euro 5 pollution standards and to retrofit particulate filters, et cetera. The aims of the review will simply not be achieved.

I realise that the School Student Transport Scheme [SSTS] has some problems and I can envisage the financial deadly embrace, if I can put it that way. I am concerned that as bus operators are compensated only for

the number of students they carry, they will try to cram more students into what may be already overcrowded services. The Minister might care to address that concern also in his reply.

Reverend the Hon. Fred Nile: The law lays down how many people can be carried on a bus.

The Hon. JON JENKINS: Yes, but unfortunately what happens in reality is quite different. I realise there are problems with the SSTS and that some reforms may be needed. The almost dictatorial power given to the director-general is worrying. That almost all of his decisions are non-reviewable is almost unheard of. Some parts of the legislation appear to be beneficial, such as the transitway reforms. But it is untenable that there can be a complete breakdown in communications between the peak body and the Minister's department. They really must sit down and reach some agreement on how the system will operate properly. It is completely untenable that the Minister and the peak body basically are not speaking to each other. The transfer of assets may be acceptable, or even reasonable in the city, but in a regional area this presents serious operational and procedural problems. Again, there must be some process by which compensation or redress is achievable. Bus services are community services. Again I emphasise that, like all community services, some government funding of those community services will be necessary. But, even if they have to be profit-making services or at least pay their way, they still are a community service.

I will now say something that I have said many times before in this Parliament, even in my very short time here. It relates to the Government's tendency to regard top executive positions as jobs for the boys. I think by now the Government should realise that that practice does not work. It should be appointing the most competent, available person to top executive positions. Jobs for the boys end up costing more in the long run, and we have horrendous front-page stories that run for days. It should occur to the Government not to appoint too many of its own boys to top positions. By all means repay the party faithful through appointments to the second and third tier—both sides of politics do that—but the top level should be kept for the really competent professional people.

The review correctly identified many problems in the bus industry. This legislation was supposed to reflect the findings of the review and implement changes to rectify any problems. But, to some extent, we will not know whether this is good and effective legislation until the system it introduces either succeeds or fails. That is because we simply have not had enough time to analyse these legislative proposals. We were told that this legislation would not come on for debate for a few weeks. So I had planned to spend the next week, when this House does not sit, reading and researching and talking to local bus companies to find out what they perceive to be the effects of this legislation.

But I am now asked to vote on very complex legislation that requires thorough consideration. I do not take these things lightly. I try to make the best decision I can for the people of New South Wales. In the circumstances, I find it difficult to support legislation that I simply do not understand fully and have not had enough time to properly research. I do not think we have the numbers, but it would be ideal if this proposal were referred to General Purpose Standing Committee No. 4, so that at least I would have the opportunity to better inform myself about it. Much will depend upon the Minister's reply. He must address the issue of negotiations between industry bodies and that of compensation or redress in a fair and proper manner to ally the fears of companies that are now in this business.

The Hon. CATHERINE CUSACK [11.03 p.m.]: To paraphrase Treasurer Michael Egan, this legislation is every inch a Labor bill. It has been organised by a cohort of famous Labor supporters.

The Hon. Greg Pearce: Infamous!

The Hon. CATHERINE CUSACK: I accept the honourable member's correction. John Lee, the chief executive of the Transport ministry, has been administering this whole reform process. Barrie Unsworth, a former Labor Premier, has been in charge of the review. The Minister, the Hon. Michael Costa, is charged with driving this legislation through tonight. Then we have a Transport ministry dominated by Australian Labor Party identities, including the Minister's former Labor Council colleague Mark Duffy, who has been the Government's chief negotiator—a term I use in its loosest sense—with the industry. Then, of course, John Whelan is in charge of community transport. He has persuaded the Minister, I think quite unfortunately, that community transport is somehow a transport panacea for the country.

But there are two problems. First, the Government is not prepared to pay for this reform. Second, because of the narrowness of the population to which the legislation applies, the door will close on vast numbers

of vulnerable and disadvantaged people, particularly in the country, who require this type of transport from isolated areas. I give as an example people with health issues. In some country centres ambulances are being used to plug the transport gap. How inefficient is that? It is an additional burden on an already overburdened health system. So I would describe this as being every inch a Labor bill. That is good enough reason to sound alarm bells. But there may be more to come.

The main concern of the Coalition is the attitude that the Labor Party, and the Minister in particular, has demonstrated towards the private sector and its role in our transport industry. The Minister's remarks were bolshie, to say the least. Many of the Minister's remarks were dominated by an aggressive attack on the Coalition and the bus industry. He spoke on a number of occasions about what he described as a culture of bus industry rights and the need to extinguish and destroy those rights. The Minister was critical of the Coalition's alleged failure to refer to passengers in this debate. We have been talking about services and equity—a key word missing from the presentation of this legislation.

I remind members of the poisonous atmosphere in which the negotiations appear to have stalled, the fact that the legislation has been brought into Parliament and is being rammed through in a way that contradicts the understanding given to members, and the disappointment expressed by members that they have been unable to research this issue to prepare properly for this debate. Certainly the bus industry has been expressing its lack of readiness to everybody willing to listen. The industry is saying that the Government wants to pass a bill without having a contract. That is like giving the Government a blank cheque.

Might I say with the greatest respect to my colleagues that it is naive of them to conclude, despite the way this reform has been handled, that a couple of assurances from the Minister in his reply will enable us to trust him because he is a member of the Government. After all the problems and conflict that have been associated with this legislation being brought before Parliament in its current form, it defies logic that anyone would accept a statement from the Minister in reply such as, "I will do the right thing if you pass my bill." For anybody to believe that absolutely defies understanding. Everything about the bill makes it look like a duck. It waddles like a duck, it sounds like a duck, and therefore it probably is a duck.

I have no expectation, if this legislation is passed, of a miraculous breakout of peace between the Government and the industry—that somehow this issue will be resolved in a way that is satisfactory to the industry and in the interests of passengers, services and equity. The Coalition has raised all these issues because they are at the core of this legislation. The manner in which the bill has been brought before the House is alarming. I say this in the context of a bill that will extinguish and destroy rights that bus operators and people running their own business have had from time immemorial. Yet we would give the Minister and the Lee Street branch of the Labor Party authority to remove property from people after their contracts have not been renewed. "Trust me, I'm from the Government." You've got to be kidding!

The Minister spoke tonight about money and ideology. As I have indicated, in my view the assurances that the Minister has given so far, and plans to give in his speech in reply, will be absolutely worthless if this Parliament passes the bill in its current form. The first issue I would like to talk about is money. In that regard I draw the attention of honourable members to a comment made that, basically, government buses cost nearly twice the amount that private buses cost to operate. Government buses are in a very luxurious situation. If they are mismanaged in some way, if they overspend, if there is too much overtime, if money is embezzled—regardless of what happens—basically the taxpayer will pick up the cost.

If government buses need an extra capital injection, the taxpayer will meet that cost. If things get a bit difficult during industrial negotiations, if the union has the Government over a barrel, if it says it is going to disrupt services on top of everything else and the Government caves in, that too is fine because the taxpayer will pick up the bill. It is no surprise to me now that we have a government bus system that operates at twice the cost of the private system. One does not have to be Albert Einstein to understand that private bus services rather than government bus services are being expanded because there is no way taxpayers could afford a greater expansion of government buses at twice the cost and a fraction of the control of private buses. One of the ironies is that private buses are already so regulated and controlled by the Government compared with government buses, over which the Government appears to have very little control, particularly with regard to industrial relations and costs, which are blowing out. Private buses have fulfilled an invaluable role in giving government the ability to provide services that it is not able to provide.

However, competition in the ordinary sense does not exist in the bus industry. Competition between public and private buses is not directly on routes but between sectors. Private buses have already proved to be

twice as efficient as government buses. But the Government has been unsuccessful in achieving savings with government buses. As we know, every government agency is subject to massive spending cuts. Anyone running a private bus company who realises that the Government is not making any progress achieving savings would have to be very worried about the Government's new contracts and its ideas about the operation of private services—knowing that tens of millions of dollars will be pulled out of the industry, that cross-subsidies will never equate in any shape or form to government bus subsidies, and that the largest bus operator in Australia is now CountryLink—a rail service—which is being used increasingly in competition with commuter services contracted by the Minister for Transport.

One cannot blame private bus operators for being slightly nervous about the Government saying, "We want to pass this legislation. We want to impose these contracts and give ourselves the power to take your property from you. We do not want to finalise it, but we will ram this through the upper House in the middle of the night, even though the members will complain a bit. That's okay. We'll keep going. We won't get up. We'll make them do it." The ill will this is creating is not a good omen for the manner in which this matter will be concluded. The Government is a monopolistic purchaser of services. In other words, there is no alternative for bus companies. If the State Government ceases to contract their services, there is nowhere else for them to sell their business. The competitive advantage the Government has over bus companies is extraordinary. The legislation will make the Government not only the monopolistic purchaser of the service but also the judge and jury and the determiner of how the service will operate. This will create a perverse and uncertain market.

Given that the Government is providing itself with the power to confiscate property in the event it decides not to renew contracts, how can people be confident that all they need to do is ensure a fair valuation of their assets before their property is confiscated? Who would want to buy a bus company that has just lost all of its assets, that has had its bus routes taken away and that has had to pay redundancy to its staff because it has lost its contract? What would a fair valuation be of such a business? I suggest it would be zero. I cannot come to grips with how the legislation will apply to Queensland bus companies contracted by the New South Wales Government to provide services in New South Wales. I refer specifically to Sunstate, which has a massive competitive advantage over New South Wales bus companies. It is not at all clear how the legislation will apply to bus companies in Victoria, the Australian Capital Territory and Queensland that own property in New South Wales. The legislation may provide a solution, but it could well be another injustice to New South Wales businesses.

My interest in the bill relates specifically to country areas. That interest has been sharpened in the wake of what has occurred to our rail services and the Government's breach of faith and ethics with regard to its commitment that rail services would not be touched until December this year. The services closed on 17 May. My cynicism about the Government's ability to keep its word and to plan and manage transport services in the country has absolutely exploded, and that is why I am taking some time to speak in this debate. Most members have been contacted by various bus companies throughout New South Wales. I wrote back to those that contacted me, asking for more information regarding country services. Mr Peter Ferris, the Chief Executive Officer of Buslines Group, wrote inter alia:

> This legislation fails to provide reasonable transitional arrangements to protect existing contract holders and provides unfettered power to the Director-General, which cannot be challenged. This legislation is of extreme concern to Buslines Group and the wider industry.
>
> The draft contract is harsh and oppressive in the current form and will require significant amendment before a sustainable and realistic outcome can be achieved. The draft contract has no renewal rights at the end of the seven year contract period and proposes the transfer of assets (depot and buses) to a successive operator.
>
> Whilst the current focus of the reform process is on the metropolitan area, the legislation will clearly impact on regional and rural NSW, as the same legislation will apply to those contracts.
>
> The Government is calling for a reduction in dedicated school bus services, putting the safety of school children at risk by requiring them to walk greater distances and the likely need to interchange buses to complete their single journey.
>
> There has been no funding model put forward to deliver the proposed changes which will clearly require more funds than are currently available.
>
> The Director-General has clearly stated that he believes country school bus services are over remunerated (without any financial evidence) so we can expect that funding to country school bus services will be further cuts. This follows his intervention with the IPART fare increase determination last August when he failed to pass on the recommended fare increase to rural fares and only marginally increased the payment to country non-commercial school bus operators by 0.98 per cent, well less than CPI.
>
> There are many other issues in the bus reform process such as ticketing, contract regions and rationalisation that are not adequately being addressed in the reform process.

> On the CountryLink closure of the Casino to Murwillumbah line, Kirklands have extreme concern at the manner in which substitute coach services have been introduced.
>
> There was no consultation whatsoever with any of the bus and coach operators on the North Coast. The services that have been put in place contravene the application of the Passenger Transport Act 1990, and jeopardise the existing services of Kirklands, Blanch's Bus Services and other North Coast Operators.
>
> Peter Shepherd (General Manager, of Kirklands Bus Lines) and myself met the CountryLink and MoT representatives in Sydney last Thursday to discuss these issues. The minutes of that meeting are attached. Peter has a follow-up meeting with CountryLink in Lismore on 1 June.
>
> Clearly, the Government's approach to the rail closure is to swamp the region with replacement coaches in the short term [these are Country Link coaches] to avoid any protest over the rail closure from the local community.
>
> Some of these services are in direct competition with existing services performed under the Minimum Service Level obligations of Kirklands existing commercial contract.

Who would want to put their faith in this Government, after hearing what Kirklands Bus Lines is going through? That company is breaching the law just because it suits the political interests of the Government for it to do so. I am sure this is another case of the left hand, being CountryLink, not talking to the right hand, being the ministry, about the way legislation should be introduced. The law is being breached and people are losing money, but who cares! The Government does not seem to care. In relation to contracts, acting in good faith and keeping one's word the Government's name must be mud.

A meeting was held with Kirklands Coaches Pty Ltd on 20 May 2004 at the Mercure Hotel, Sydney Airport, to discuss the replacement of the Casino to Murwillumbah XPT with coach services. The meeting was attended by Peter Shepherd, the General Manager of Kirklands Coaches Pty Ltd; Peter Ferris, the chief executive officer of the Buslines Group; Ross Elson, the acting general manager in service contracts and planning of the Ministry of Transport; Ravi Srinivasan, the commercial manager for CountryLink in RailCorp; and Chris Blakeway, the business development manager for rural coach services in CountryLink. Chris Blakeway took the minutes of the meeting, which state:

> **Background**
>
> On 17 May 2004 the daily CountryLink XPT between Casino and Murwillumbah was replaced with air-conditioned coaches, including two additional return services between Casino and Murwillumbah and Casino and Tweed Heads …
>
> Kirklands expressed the following concerns:
>
> 1. CountryLink now timetable many more stops than previously available on the train service.
>
> 2. CountryLink services directly compete with Kirklands' services—in some cases the services run a few minutes of each other.

I indicate to honourable members that Kirklands operates on a subsidy that forces it to charge $15 from Tweed Heads to Lismore, whereas CountryLink charges $2.50 for the same journey. That is the significance of the competition that CountryLink has introduced, and all at taxpayers' expense. The taxpayer is picking up the tab for this entire fiasco.

The Hon. Rick Colless: What were they paying on the train?

The Hon. CATHERINE CUSACK: I think there is a $2,000 fine if people go down to the track.

The Hon. Rick Colless: What was the fare on the train?

The Hon. CATHERINE CUSACK: It was a CountryLink fare, but CountryLink was not providing a commuter service that was comparable to the replacement bus services that are now being provided. It is a con that has gone so far that it is now backfiring throughout local bus services. That is just part of the general fiasco of what has happened in the Lismore district. The minutes also state:

> 3. Kirklands already provide many more services than the Minimum Service Levels (MSL) specified in their {Ministry of Transport] MoT commercial contracts.
>
> 4. The taxi service which replaced Lennox Head to Lismore is now published in the timetable when it wasn't previously, Kirklands were the original contract on the service which was withdrawn in October 2002.

I omitted to mention that CountryLink contracted taxi services to replace the route from Lennox Head to Lismore. Basically, CountryLink is marketing free taxis. The minutes also state:

> 5. Kirklands' greatest concern was mostly with CountryLink's southbound services.
>
> 6. Kirklands were particularly concerned about the impact of CountryLink concession fares on their business.
>
> 7. Some of CountryLink stops utilise common coach facilities eg. the Lismore Transit Centre.
>
> 8. Kirklands also expressed their concerned with CountryLink advertising using such phrases as "day return trips".
>
> CountryLink explained that following initial discussions with Kirklands, interim arrangements were put in place, including a restriction on local travel less than 40 km on the routes.

I find that last statement amazing, given the evidence at the hearing into this matter. When I asked CountryLink why additional bus services were being run, I was told in evidence that it was to provide additional local services. The minutes also state:

> **OUTCOMES**
>
> 1. CountryLink will seek advice on the application of the Passenger Transport Act (1990) and any issues in relation to competition policy by 4 June 2004.

As it is now 2 June, obviously nothing has been resolved. The minutes go on to state:

> 2. Representatives of Kirklands, CountryLink and the Ministry of Transport would meet at Lismore to explore any opportunities for Kirklands to provide identified capacity and services. It is anticipated that this meeting will take place as soon as possible.
>
> 3. Local travel restrictions on the new CountryLink services will remain while the interim timetable remains current.
>
> 4. Kirklands and CountryLink will liaise in regard to the timing of item 2. CountryLink will advise the MoT of time and date.

Clearly an indication has been given by the Ministry of Transport of a major stuff-up in the way the new CountryLink bus service has been implemented. I should also note that all this has been done in a massive stampede to block the community's efforts to save the service, and it was all undertaken at taxpayers' expense. Taxpayers are now paying virtually for two or three services because of all the doubling up that CountryLink has created with the bus services in the region.

It will come as no surprise to honourable members that many of the CountryLink bus services, including those from Murwillumbah to Casino, operate all the way to Casino, which is a trip of approximately 130 kilometres, with no passengers. I have seen the driver standing next to the bus talking to the station attendant at Murwillumbah station—all the station staff still turn up for work because nothing has been resolved about their situation either—and at 5.15 p.m. he would slam closed the doors of the luggage compartment. Under this ridiculous timetable that has been set by CountryLink, the driver has 30 minutes to travel from Murwillumbah to Mullumbimby. I consider such a schedule to be unsafe in a car, let alone a bus. I would allow 40 minutes to make the trip safely in a car without having to open luggage compartments and load luggage, and do it all over again when the bus arrives at Byron Bay—and all within 18 minutes.

The reason drivers have been given such impossible timetables is that it was part of the replacement arrangement. When this Government tells people that it has good news—or, worse still, some great news—everybody should shake in their boots. I remember the great news about the St Vincents and St George amalgamation. I remember the great news for ratepayers that was announced earlier this year by the Minister for Local Government when he amalgamated local councils. In the spirit of the great tradition established by this Government, the Government issued a press release announcing the great news for northern rivers residents of a faster and more flexible transport service. That great news meant that the area's XPT service was being axed. Thereafter it has been very important for CountryLink to ensure that the service is faster than the previous rail service, even though the task is physically impossible for a bus.

Impossible timetables are being implemented to try to speed up the travel times of the bus and to break the record set by the train. CountryLink has begun to drop passenger stops and has put on more buses. Seven buses meet a handful of passengers at Casino each night. All of this is being funded by the taxpayers, who are meeting the costs. CountryLink is hiring buses rather than paying for individual fares. It is another perversity

and another example of the scrambled transport arrangements in country areas. I have no idea how the Government will sort out this mess.

In my examination of contracts and fair play, I have made many inquiries of CountryLink about whether heed is paid to the fact that the cost of operating buses in Queensland is much less expensive than it is in New South Wales. Queensland bus services are cheaper than those in New South Wales because of the New South Wales Government's policy. One would have thought that, as a contractor, the New South Wales Government would have taken cost comparisons into account. I will provide some examples of inequities in costs between Queensland and New South Wales. Payroll tax for companies over the threshold level is 6 per cent in New South Wales compared to 4.75 per cent in Queensland.

Workers compensation premium rates are 4.75 per cent for long-distance buses and 4.98 per cent for short-distance buses, whereas in Queensland there is a flat rate of 2.202 per cent. In New South Wales motor vehicle registration duty is $3 per $100 or part of the purchase price of a bus or coach, whereas in Queensland the rate is $2 per $100 or part of the purchase price of a bus or coach, and that is 33 per cent cheaper than the cost in New South Wales. Stamp duty on purchasing a bus depot at an assumed value of $400,000 in New South Wales is $13,490 and in Queensland it is $12,475. Stamp duty on selling a bus depot, assuming a purchaser can be found for what is now an almost totally devalued asset, is $9,000 as an exit tax in New South Wales if $4000 can be recovered, which I sincerely doubt.

The annual bridge levy for bus tourist vehicles and coaches with weights exceeding 3,565 kilograms is $110 per vehicle; there is no such levy in Queensland. A bus drivers licence for five years, which is paid by the driver, is $126 in New South Wales and $60.75 in Queensland. How on earth can we expect bus companies based in Lismore or Ballina to compete on a tender basis with a Queensland bus company just across the border? It is hypocritical and unfair of this Government to fail to take account of the fact that those companies are operating on a cheaper basis. The fees and charges I have mentioned represent the money that goes to Queensland; this is New South Wales money going to Queensland. Those fees and charges go to the Queensland Government, rather than to give local companies a break by recognising that they have to compete against an unfair cost structure.

I am sure if that happened in Sydney and people were aware of it, something would be done about it. That is another example of being too far away, and it is indicative of the pathetic transport chaos in my area. My area is growing massively and a lot of elderly people are moving to the region. Elderly people have a need for a transport service in their day-to-day living, as do local families. Every family aspires to having two cars because of work and sport commitments. It is fair to say that there is virtually no functional public transport system in my region that allows a child to catch a bus to play sport on a weekend; that would be an absolute impossibility.

I argue that there is a huge inequity. Country people do not expect local transport to operate to the standard that applies in cities. However, we do expect a service, and we have none. We have no integrated service. The CountryLink service has been wound back, and that interferes with the small commuter services to outlying towns. That is not good enough. The Government has said that if we pass this bill, we can trust it to make sure everything will be fine. However, there is no evidence in the northern rivers region of the Government's goodwill.

I turn now to school buses. Many honourable members have expressed concern about cross-subsidisation of school buses. My level of concern is not as great, given the amount of cross-subsidisation that is already occurring between east and west, and based on the age of the person and the type of concession card that is held. The cross-subsidisation issue cannot be confined to school buses; it is rife throughout the system. It is what I call an omelette: it is extremely difficult to unscramble. I understand that private bus operators are willing to concede that there needs to be some recognition of actual travel on school buses.

I point out that a great deal of work has already been done on this issue. This is not something new that has just popped out of the Unsworth report; it has been an ongoing source of difficulty for many years. I will give an example. Last week my youngest son, Lachlan, turned seven. Because his brother was on a school excursion for two days Lachlan travelled to school by himself. Last Thursday I put him on the school bus at Tintenbar to travel to Alstonville. He had the pleasure of spending his seventh birthday alone on that bus, being chauffeured to Alstonville. Why? Because all government schools were on strike and half the students in his school were away on a school excursion. It was quite disconcerting. I imagine that even if Lachlan had not been the only child on that bus, it would have been the most expensive school bus trip in New South Wales that day. He looked very small sitting there, but finally he was able to choose the seat he had always wanted.

The Hon. Peter Breen: You might have to drive him yourself now.

The Hon. CATHERINE CUSACK: I will give him the car keys for his eighth birthday! That was a great example of how working on actual cost is nonsensical, particularly in relation to primary school students. High school students are much more likely to be able to defend themselves. My kids are picked up from school every afternoon; they travel by bus only in the morning. However, the bus still has to make the return trip in the afternoon, with or without my children. Penalising the bus companies on the actuals will not save money on petrol or stop the need for that bus trip. I realise this is a difficult issue, but switching to actuals will be a nightmare in the country. We love our dedicated school buses because we have very few commuter services. We prefer our kids to be picked up throughout the area and dropped at the various schools, on their own dedicated buses.

We have small buses for the shorter runs, and that works wonderfully. I have nothing but praise for that transport service in my area, so I qualify my earlier remarks. The cross-subsidisation of school buses assists towns and villages where commuter services are provided. The Evans Head to Lismore service is subsidised, and there are a few others. There is no commuter bus service from Nimbin to Lismore, yet there are many children, people without vehicles and people whose drivers licences have been cancelled or disqualified, who need to travel from Nimbin to Lismore and back home again. That would be impossible if they could not travel on the school bus. Indeed, there are some who do travel on the school bus. Many villages do not have access to that service, but for those who do, the return bus trip is horrendously expensive; it does not have the subsidies that are available in the metropolitan system.

Many people live in the small villages because the housing is more affordable. Ironically, we are now talking about people who are in the more disadvantaged and vulnerable category. I expect that people who live in those villages and do not have a car to drive to work in Lismore probably have extremely low incomes. Because they do not have the type of subsidies that are available in the cities, cross-subsidisation would make return fares to outlying villages affordable. We all know that this exercise is not about providing additional services, it is not about more passengers; it is actually a cost-cutting exercise. When we try to cut costs, and attack services such as the School Student Transport Scheme in the country, the people who end up paying for it are those who can least afford it. They require that cross-subsidised service, for which there is no replacement. The bus will run whether it is 80 per cent or 100 per cent full, and it still costs the same amount to run.

It is disgraceful that the Labor Government is allowing that to happen. It is clear that vast sums of money will be pulled out and the contracts will be used to bully people into achieving all those service changes in a way that is as politically simple as possible. The problem with taking political shortcuts, with winning the media spin, and with all the great news announcements that are delivered these days, is that services are slowly falling apart. The media spin does not put services in towns, does not get people to their work in the mornings, and does not save money in the long term. Earlier the Hon. Jon Jenkins said that the unprecedented politicisation, particularly of the Ministry of Transport, is unwise. Ultimately we end up selling management short; and mismanagement costs a fortune down the track.

For most of the past nine years there has been mismanagement in CityRail. The chief executive officer of the Rail Infrastructure Corporation said that the corporation was going wonderfully, it was paying all its dividends. He said that the rail system has never been in better shape. That type of approach, that political appointment, has created a huge bill in the city metropolitan system and the country system. It will cost a minimum of $2.5 billion to fix the CityRail system. It looks like the country rail system will be lost altogether.

Priority has to be given to professionalism, expertise, stability and good management. As the Leader of the Opposition said earlier, when we implement legislation we will have to live with it for many years. It will be the framework for the provision of services for our children and for vulnerable people and it must not be able to be easily undone. We want to ensure that we get it right. If this legislation and this process were left completely in the hands of members of the Lee Street branch of the Labor Party, I would not have any confidence in it or vote for it. I remind honourable members that the timing of this bill is in conflict with agreements that were entered into or the understanding of honourable members. The manner in which this bill was introduced in this Chamber was most unsatisfactory. Industry is in confusion, contracts have not been finalised and there is an enormous sense of conflict. I do not believe that this legislation should have been introduced at all.

The Government should not have walked away from negotiations, picked up the bill and said, "We will ram this legislation through Parliament without you." The Government introduced the legislation in the upper

House, which we are debating in the middle of the night when many people are not ready to do so. The spirit in which that has been done suggests to me that people should take the Government's assurance that there will be love and understanding with operators at the end of the process, not with a grain of salt but with a cup of salt. Fundamental and historic rights that have existed for many years are being extinguished. The businesses and livelihoods of many people are at stake. Also at stake are the transport needs of the most vulnerable and needy in our community and a substantial portion of the work force that rely on public transport to get to work.

I say to those who suggest that I should trust the Government that they have to be joking. Alarm bells ought to be ringing. I urge all honourable members to seriously consider our experience in the north of the State. We had no choice other than to trust the Government and we were burned from our fingers right up to our elbows. Within months of reaching an agreement that the service would not be removed until December this year that agreement was shattered. Within days of saying that infrastructure would not be removed, the Government started to remove it. I would never trust this Government. I suggest to honourable members that alarm bells should be ringing very loudly in their ears.

The Hon. PETER BREEN [10.45 p.m.]: I, along with Opposition members, would like to express my concern about the process involved in rushing the Passenger Transport Amendment (Bus Reform) Bill through the House tonight. The original understanding that I had from the Government was that the bill would not be presented until 22 June. The Minister for Transport Services gave an undertaking to bus operators to negotiate an outcome that would be acceptable to all parties. I understand that the negotiations broke down earlier this week so far as the bus operators were concerned but I, like Opposition members, expected to have the opportunity to continue those negotiations on behalf of bus operators on the basis of the Government's undertaking that the bill would be introduced in late June.

I would like to acknowledge Peter Threlkeld and Daryl Mellish of the bus operators association. I am sure that their constant work and meetings with the Opposition have been a great strain on them. I am surprised that they are still in the gallery. On behalf of the crossbench members who dealt with them, I say to them that they have been extremely professional. They represent an important business interest in our community of which I think the Government has lost sight. I have known Peter Threlkeld since primary school. We went to school with Ivan Milat at Patrician Brothers, Liverpool, so we go back a long way.

The Hon. Rick Colless: He is the only one in gaol.

The Hon. PETER BREEN: Honourable members will notice that we are not in gaol. We have not even got a record. I am sorry that this process has turned out this way. This process of failing to negotiate outcomes with lobby interests such as the Bus and Coach Association is unsatisfactory. The Opposition's important amendments have become available only in the last hour and a half or so. I am still trying to read the important amendments of the Hon. John Tingle and here we are in the final throes of the second reading debate. At some point the Government locked itself in with the Greens and agreed to their amendments. In return for the Greens support the bill is suddenly being rushed through this Chamber.

I think that is a big mistake by the Government and by the Greens. The next time that they ask for some slack on something that they want negotiated, this bill will be remembered. I agree with the Hon. John Tingle that there has been insufficient consultation on the bill. His important amendments will go some way towards alleviating my concerns at any rate. Regrettably, because of the short notice and the indecent haste, I can only say that the thrust of the amendments appear to ensure that operators receive fair market value for their businesses based on valuations as determined by independent arbiters.

These are important amendments because they address concerns raised by the Legislation Review Committee regarding extinguishment of rights and the question of compensation. Given the hour, I will not go into the detail of the bill, but I make a general observation about the way the Government continues to marginalise the regions so far as public transport is concerned. We will not find it written in the Unsworth report, but the underlying theme of the report is that two-thirds of the population of New South Wales live in the city of Sydney, so we cannot allow the one-third that live in the bush—the bushies—to dictate the terms of public transport. A few weeks ago we saw the same principle being applied to the country train service.

This is a Government for the peace, order and good government of the people of Sydney, and those in the bush; those on the margins and in the regions can row their own boat. With no trains and no buses what else can they do? The Hon. Catherine Cusack made some important points about the effect of this bill and the train legislation on country New South Wales. I will not add to those comments. I conclude by stating that the

outlying areas of Sydney, as represented by the interests of Mr Threlkeld and his bus service, will suffer as a consequence of this bill. The standard and quality of service will inevitably suffer. Mr Threlkeld and Mr Mellish can operate a bus for $3 a kilometre and the same bus will cost the Government $6 a kilometre to run. For every private bus that operates in New South Wales there is a saving to the Government of $180,000. I suggest to the Minister that the way in which the business interest groups have been treated will be a matter for further negotiation.

Reverend the Hon. Fred Nile: Sell the government buses.

The Hon. PETER BREEN: Government buses do not operate in the same way as private buses. As Reverend the Hon. Fred Nile pointed out in his contribution, there is no problem with private buses. It is only government buses that are a problem and here we are debating legislation that deals with private buses. Something is radically wrong. These issues must be discussed and negotiated further. I am opposed to the bill until the sensible suggestion by the Opposition for a short inquiry is given due process and consideration. I urge honourable members to vote against the bill.

The Hon. PATRICIA FORSYTHE [11.48 p.m.]: Over coming weeks we will be dealing with the Regional Development Bill. The spin that the Government will attach to that bill is that it is interested in the promotion of regions in New South Wales, in our rural and regional communities, and in promoting business in those areas. Through that bill the Government will be seeking to underpin growth in investment and jobs. That is at the heart of what the Minister for Regional Development said in his second reading speech. We cannot have regional development or promote the development of the economy at any level unless there is a strategy relating to infrastructure, communication and transport. Fundamental to that are transport services—our trains and our public and private buses. It is extraordinary that tonight the Government is asking us to trust it and to accept its promises when we know that it cannot be trusted.

The Government said that its aim is to reform the private bus system, apparently in the interests of the New South Wales community, when everything it has said in recent weeks relates to the bottom line. I refer to debates we have involving teachers, recent tax legislation and Carr's new property tax. How can we trust this Government on the delivery of services as fundamental as transport when we know that it will not consider important issues such as the delivery of service or a whole-of-government approach to a good regional development strategy? Unless it can deliver on the bottom line the Government will not deliver. This is not the case with this bill; we are expected to accept much of it on trust.

At this hour of the night I do not want to take up too much of the time of the House but there are two areas of particular concern to me. I was reminded by my colleague the Hon. Catherine Cusack just how important school buses are in the delivery of education services, particularly for children in rural and isolated communities. Without a bus they will not be able to access education. It is a long time since many children had to depend on the wireless system, but that is the option that they face in the absence of transport. Like my colleague the Hon. Catherine Cusack last Thursday on the day of the public education strike I saw school buses on the road. I was travelling between West Wyalong and Stockinbingal early on Thursday morning when I sighted a school bus travelling in the other direction. It had one student on board, who looked comfortably ensconced sitting near the driver. No doubt they were having a pleasant conversation. Whether it was on a day with a strike or a day without, I wonder whether that service would be able to survive under this ruthless Government and its bottom-line approach to avoiding subsidies.

Some months ago a bus driver was expressing his concerns to me about the potential for changes in the approach to the school bus system. I agreed that it has probably been misused and abused by some families in this State and it needed to be reviewed. He said, "If I see a child on the side of the road in the country, of course I would stop to pick them up. You know where the children are; you know who they are. You of course stop and pick them up." We talked about what would happen when the students would have to use a smart card or whatever and the bus driver would be paid according to the number of swipes of the card, an actual record. Some children habitually lose their bus pass or ticket or forgot it. What would the driver do? Of course, the bus driver said that the child would not be left on the side of the road. That would never happen with country bus services, but it does happen in metropolitan areas. The no-ticket-no-travel approach will be the reality when children actually have to produce the document. We will have to consider some sort of system whereby they are given a voucher that is redeemable afterwards. There will have to be some mechanism but we cannot talk about such things because we do not know what the Government has in mind. But in country areas in particular there is potential for such an impact because the child could be left on the side of a lonely country road.

The Government appears to have little understanding of the significance of transport and being able to access fundamental services. I think particularly of health services. I was reminded of that today as I was perusing a draft Government document in relation to the future health needs of people in the Queanbeyan region. The Government has given a commitment to a $30-million hospital upgrade for Queanbeyan and it has assessed needs, bed numbers, et cetera. As part of the analysis of other facilities, in relation to transport the report states:

> There are limited integrated public transport services within the area, particularly in the Yarrowlumla and Tallaganda local government areas. Both the cost and limited availability of transport to health services were raised consistently during community consultation about issues affecting local communities' access to health services. Public transport access to health facilities is of particular concern to all aboriginal people and the carers of aged and chronically ill residents hospitalised in the ACT.
>
> Although services may exist on some routes, most services (eg. those through Braidwood to the ACT) do not run at times suitable to a person needing to travel to and from Canberra or Queanbeyan in one day.

Indeed, in this House today my colleague the Hon. Melinda Pavey asked a question on that very issue. She stated that the bus service from Canberra to Queanbeyan and/or Canberra does not allow for daily access for health services. When we talked about Queanbeyan hospital some weeks ago I stated that there is a bus service three days a week from Cooma to Canberra. It is bad luck if someone requires a dental or general practitioner service in Canberra on Tuesdays or Thursdays because the bus does not run then. This so-called reform bill relating to private buses demonstrates a lack of understanding about the need for improvement of these services. . Indeed, there has been no commitment from the Government about that. The report I quoted notes that there are services in some sections of the region such as between Captains Flat and Michelago and Queanbeyan where bus services are non-existent. When we talk about public transport we talk about not just the existence of buses or trains but the fact that they are a means to an end, a means for people to access services—health services, education or any of the other reasons for which people need to travel. The bill places the Parliament in a very difficult situation. The Government is asking us to basically take it on trust. The best approach would be to allow a short, sharp inquiry so that we can properly attest to the validity of the case that has been put by the Minister, so that we can assess some of the bottom-line arguments.

Though I do not have the bill before me, I note that it contains a proposal that the Independent Pricing and Regulatory Tribunal [IPART] undertake a review of the pricing system. But nowhere in the bill does it indicate whether it is to be within one year, three years or five years. To me, that is a clear indication of an oversight within the bill, the sort of oversight that one gets when one rushes legislation into one House and then into another House. Other areas of the bill will be found lacking. This House should have ample time for proper scrutiny of this bill that is so important to the future economy of this State and to the people who need access to services. Whether it is the section dealing with IPART or many of the other sections, this bill is lacking in detail. It would be better if one of the committees of this House, doing its appropriate job as a House of review, had an opportunity to adequately assess the provisions of the bill.

The Hon. GREG PEARCE [11.59 p.m.]: I would not usually speak on a bill such as this. As honourable members know, it is usual for one member to lead for the Opposition in debate and to present the Opposition's collective view of the bill before the House. Perhaps one or two other Opposition members with a particular interest in the matter under discussion—perhaps the provisions affect the areas they represent or they have relevant experience of issues covered in the bill—might also speak in the debate. However, one cannot allow to pass without comment the fact that the Minister for Transport Services and the Government have chosen to abuse the processes of the House and to force debate on the Passenger Transport Amendment (Bus Reform) Bill, contrary to the various understandings to which other honourable members have referred. That is a particularly retrograde approach on the part of this Government, but it is what one has come to expect from this Minister. Tonight he is exhibiting his usual behaviour, pacing backwards and forwards and wanting to leave the Chamber as quickly as possible. However, I point out that the Minister decided—without offering proper explanations and in the absence of any real sense of urgency—to deal with the legislation in this manner.

There has not been sufficient time for honourable members to study the bill and reach conclusions as to how they will approach it. But that is not the worst thing about the Government's approach on this occasion. One has only to look at the "Legislation Review Digest" prepared by the bipartisan Legislation Review Committee, to which several honourable members have referred, to understand the extent to which this legislation breaches normal, long-established community expectations regarding compensation, personal rights and liberties and commercial rights regarding business endeavours and investments. I will refer briefly to some of the quite outrageous provisions in the bill, which the Opposition has suggested, quite rightly, should be the subject of a short review by a committee of this House. Parliamentary committees are capable of conducting in a short time frame a review that considers the issues effectively and gives all stakeholders the opportunity to

present their views to Parliament in a sensible and timely manner. That process would hopefully produce a more co-operative approach to the changes proposed in the bill.

I draw the attention of the House to several conclusions and comments by the Legislation Review Committee that are apposite to my comments in this debate. I do not apologise for the fact that other honourable members also raised some of these issues. I note in particular paragraph 9 of the "Legislation Review Digest", which comments on the fact that the director-general of the Ministry of Transport will have the power to terminate an existing commercial bus service by written notice on any day after the bill's commencement. Several other honourable members have referred to this provision. I noted with some amusement that in the other place the honourable member for Vaucluse speculated that those notices would be issued under Labor Party or Trades Hall letterhead—which is in itself a terrifying prospect for any legitimate bus operator.

Paragraph 10 of the "Legislation Review Digest" refers to the creation in the bill of new bus service contract regions, strategic transport corridors and transit and emergency routes that extinguish the existing rights of bus service operators. These are quite unprecedented powers that ought not to be adopted by the House without a proper and thorough review of their implications. All stakeholders should have the opportunity to have their say. The bill's exclusion of claims for compensation as a result of the exercise of the powers of the director-general should be approached with more than a great deal of caution. Parliament has consistently insisted on just compensation terms in relation to the exercise of powers by government to deprive parties of their rights and property. The Government has not made the case for an exception in these circumstances that would justify the use of these sorts of powers without offering proper compensation. Such an approach is contrary to general legal principles and should be opposed as strenuously as possible.

Paragraph 15 of the "Legislation Review Digest" refers to Parliament's power to legislate to deprive a contracting party of rights under a contract entered into with the executive. It states that that power should be used sparingly and set out unambiguously. I do not need to comment further as it is obvious that that principle should apply in this case. The Government's decision to use legislation to strip individuals of their legal right to compensation is harsh and extraordinary. Such action should not be undertaken lightly. It should happen only after proper scrutiny and after giving affected parties the opportunities they need to review the matter.

I was struck by the number of members in the other place who expressed concern about the bill's potential impact on their electorates. Many submissions might have emanated from each electorate. I note that the honourable member for Hawkesbury, Mr Pringle, referred to a number of submissions from his electorate, and various other members referred to submissions from their electorates. When reading the contributions of members who represent country electorates one gets the overwhelming impression that bus services are particularly important in rural and regional areas. The Government expects bus operators and passengers to rely on it to enter into contracts that are fair, provide proper remuneration and ensure the rights of bus operators while securing the necessary services. But the Government cannot be trusted, particularly as Labor Party apparatchiks were involved at every step in developing and implementing these proposals.

It does not inspire any confidence that a former Premier of this State, Mr Barrie Unsworth, has been selected to do the dirty work for the Minister in examining these contracts and the existing bus operations and producing a report. I must admit that I have not had the opportunity to review the report; bus transport is not within my shadow portfolio responsibilities. The honourable member for Hawkesbury said in his speech in another place that the Unsworth report contained 48 recommendations and referred to service levels being tailored to each community. A number of members have already expressed their concerns and reservations about the prospect of service levels being tailored to communities. It is hard to ignore the Government's recent record on service provision for various communities. The most obvious and alarming example of the Government's approach is the closure of the Casino to Murwillumbah CountryLink railway service.

The Hon. Catherine Cusack: Shameful!

The Hon. GREG PEARCE: That is a shameful exercise. It is extraordinary to see the way in which the Government, through the Minister, has misled the community and this House. I am not sure what is driving the Government; I suppose it has been able to save a few dollars. How does one put that in the context of a Government that has been so inept in so many areas over the past nine years? The Government's ineptitude, particularly in relation to transport services, has been evident since the March 2003 election. We cannot ignore its mismanagement of the Millennium train project. That is obviously the most shameful example of the Government's inability to plan and implement a basic transport replacement program. The Government has been on notice for many years that the rail network needs a huge injection of funds because the infrastructure is

deteriorating. The 1960s train carriages should have been replaced in 2000-01. Even then they were well beyond their expected lifespan.

The Government gave the Hon. Carl Scully the job of spinning, announcing and re-announcing a flagship project for this State. However, the Millennium train project has been a catastrophe because of the Government's mismanagement and inability to define the required product. The contract spiralled out of control, there was a $114 million cost overrun and the trains were eventually delivered three years late. The project was such a disaster that before the last election the Cabinet budget committee had to come to a secret agreement with the manufacturer to have the first train delivered. The budget committee chose to defer part of the cost overrun to the 2002-03 financial year so that the Government's obvious and shameful mismanagement would not appear in the budget figures prior to the March 2003 election. The result was that the Government was able to make various promises during the election campaign and the $80 million deficit was deferred to this financial year. That is only one example of the Government's ineptitude in transport planning, maintenance and management. Similar cost overruns have occurred as a result of its failure to deal appropriately with other transport issues.

As I said, the Opposition is concerned about the way in which this bill has been brought forward and about the Minister's lack of attention to the processes that would normally be followed. Honourable members on this side of the Chamber are concerned about trusting the Government given its handling of this issue, the contracts required and the way in which it has ignored the traditional principles applied with regard to compensation and property rights. We are also concerned about the Labor Party mates, including Mr Lee, who have been put in charge of this inappropriate process.

The Hon. JENNIFER GARDINER [12.17 a.m.]: The Passenger Transport Amendment (Bus Reform) Bill amends the Passenger Transport Act 1990 and enacts new provisions relating to service contracts for regular bus services, including transitway services, enables the Director-General of the Department of Transport to declare bus service contract regions and strategic transport corridors and to fix fees for applications for certain accreditations and authorities under the Act and for the renewal of such accreditations and authorities. I note the quality of the contributions to this debate, notwithstanding the fact that many honourable members were not expecting the bill to be debated at this time. Honourable members have said that they wish to refer the bill to General Purpose Standing Committee No. 4, which has responsibility for the Transport Services portfolio. As chairman of that committee, I would welcome a referral. I will not speak in detail on the bill because I believe that those appearing before the committee expect a reasonably impartial Chair and that everyone appearing should receive a fair hearing. While supporting such a referral to General Purpose Standing Committee No. 4, I move:

> That the date appearing in paragraph (3) of the amendment of the Leader of the Opposition be amended to read "Wednesday 23 June 2004".

With those remarks, I look forward to that referral of the bill to General Purpose Standing Committee No. 4.

The Hon. MICHAEL COSTA (Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests)) [12.20 a.m.], in reply: Because of the late hour I do not intend to take up much time.

The Hon. Rick Colless: Early hour.

The Hon. MICHAEL COSTA: I prefer "early hour" as it gives us more time to debate the bill. A number of issues that were raised reflect a lack of understanding of what is occurring. I will deal with them. I do not accept that there has been a lack of consultation. The fact of the matter is that the Unsworth process has been one of the most extensive processes undertaken by any Minister prior to legislation coming before Parliament. I will give my reply in a sensible way; I will not respond to some of the silly things that were said during the debate.

The Hon. Catherine Cusack: I am alarmed, not excited.

The Hon. MICHAEL COSTA: The Hon. Catherine Cusack said she was alarmed. I was alarmed to hear a discussion about the likely impact of this legislation on country bus services that clearly reflects a complete lack of understanding of the bill. The bill does not cover non-commercial contracts. A great deal of time would have been saved if members understood that the bulk of the contracts in country locations are non-commercial contracts. The bill is the next step in a process that I can say with some confidence will be undertaken primarily through negotiation. The legislation certainly contains appropriate powers. People have

made reference to the ability of the director-general to terminate contracts. I reiterate that that is a one-off transitional power: it applies only to give legal certainty to the contracts that follow.

We do not want this process to be bogged down in legal disputation once the negotiations with bus operators have been resolved. This legislation will provide certainty. The director-general's power is a one-off power. It is important to put on the record that once the contracts are entered into the director-general will not be able to exercise the power. I do not understand why a number of speakers have raised concerns about the director-general of transport. I assure the House that the bill restricts many of the current powers of the director-general, particularly in relation to setting fares. I know that because a number of questions were directed to me during the last Independent Pricing and Regulatory Tribunal [IPART] round relating to rural fares.

Under the proposed powers the director-general will not be able to set fares. For the first time fares will be set by IPART. Once we get through the transition period there will be a limitation on a number of the powers of the director-general. The Bus and Coach Association [BCA] circulated a document, which I will not go through in detail other than to say that most of the items in it are not accurate. I take them to be genuine mistakes by the BCA, which it has acknowledged, but the document sets the framework for ongoing negotiation. There will be no reduction in school services. The legislation does not touch school services, and it is extraordinary that that claim was made. The only change is a move to a system of actual payments. The 40-80 metre rule and the other minimum service levels within the legislation will be subject to draft guidelines that are being negotiated with the BCA. All of the matters that have been raised can be resolved through negotiation.

The Opposition's proposal to refer the bill to a general purpose standing committee is completely unnecessary. We have gone through an extensive process and the problems we face at the moment will not be resolved by the general purpose standing committee. They will only be resolved by a continuation to conclusion of the good-faith negotiations between the Ministry of Transport and bus operators. That is the only way we can resolve the outstanding issues. Another examination of the structure of the industry and the funding arrangements will add nothing because those matters have already been covered by the Unsworth process.

We need to get the BCA and the Ministry of Transport back to the table and the passage of this legislation will give us an opportunity to do that. In the spirit of that co-operation the Government will support the foreshadowed amendment of the Hon. John Tingle. The amendment outlines a process to give certainty to assets, to the value of assets and to community consultation. I am happy to support that amendment, which should satisfy a number of honourable members who have indicated their concerns about the valuation of assets. I do not expect we will ever get to that point because under the negotiations that have been undertaken a range of mechanisms is in place for lead operators to enter into arrangements with subcontractors to provide work for everyone who is currently in the industry.

If we do get to the point where people want to exit, I accept that there ought to be some mechanisms to deal with a fair value for buses and depots if they are included in the equation. As I said, I am happy to accept the foreshadowed amendment of the Hon. John Tingle, and I know a number of other honourable members have also indicated support for it. The Government will accept the amendments foreshadowed by the Greens, which provide for wages and conditions, environmental standards and community consultation. The fact of the matter is that we must have this legislation. It is so important that we will accept those amendments.

A number of members have raised issues about what will happen if this legislation goes through. I know representatives from the BCA are in the gallery. I assure the House that the amendments to the Act will not be proclaimed until the industry and the ministry have had sufficient time to work through the outstanding issues. These issues include the metropolitan funding model, the service planning guidelines and key terms of the model contract. Agreement on certain aspects of the reform package may not be possible, but I am prepared to ensure that every effort is made by the ministry to respond to the concerns of the industry regarding the transition to the new arrangements. I also assure the House that the Director-General of the Ministry of Transport will not exercise his powers to terminate or vary any existing commercial contract until he can demonstrate to me that the negotiations have been included and, where possible, agreement has been reached.

In addition, I will give further undertakings because the matters can be resolved only if all parties are at the table and negotiating in a good-faith environment to get solutions to the problems. It is hard to move from a model that provides a range of benefits to the industry—and everybody has acknowledged those benefits—through the School Student Transport Scheme arrangements. But we are looking at an arrangement that is in the best interests of the public. I recall the question: If the private bus industry is working well, why is the Government changing it? Even the industry itself acknowledges that there are problems. Over the past decade

there has been an 18 per cent decline in private bus patronage and the index study, an industry-based study, shows that under the current financial arrangements many of the operators are in a precarious position. The Government has a responsibility—and I heard the misguided comments made to me, but I accept them in the spirit of the debate. We cannot act at the moment because we do not have step-in rights to deal with problems that arise under this contract regime. Kings Brothers went down, and we did not have the ability—

The Hon. Melinda Pavey: You took your eye off the ball.

The Hon. MICHAEL COSTA: I do not want to debate that. The matters are before the courts, and I look forward to them being concluded. With regard to the step-in rights, they are absolutely necessary. If bus operators find themselves in difficulty, the Government needs to be able to temporarily address the situation, using the assets, to ensure that the services remain. That is only a transition, or short-term, arrangement. Clearly, the objective would be to transfer those assets to a new owner, to allow him or her to get on with operating the business. It would be absurd to have a situation whereby bus services could go down and we do not have the buses to provide the services because they are tied up in a set of arrangements that are outside the control of the prime funding agency. We are happy to work through a set of mechanisms to deal with that.

I have been asked to give undertakings that the operators will receive the funding model. I have seen the funding model; it has been signed off. I am certainly happy to give such an undertaking. Service planning guidelines, including dedicated school services, are in the process of being developed. I am happy to provide commitments in relation to those guidelines. I am also happy to provide commitments in relation to the final form of the contract, transitional arrangements, and the agreement on the process for setting fares through the Independent Pricing and Regulatory Tribunal.

As I said, the legislation limits the powers of the Director-General of Transport in relation to fares, and those powers are currently quite extensive. I reiterate that the legislation does not affect non-commercial contracts. The majority of rural and regional services are under the non-commercial regime. As I have indicated, the Government will support a number of amendments, but we will not support the Opposition amendments. We will not support the reference to General Purpose Standing Committee No. 4, because that will not add anything to the process. The easiest way to resolve this issue is to get back to the negotiating table. The quickest way to do that is to pass the legislation and, within the framework of the commitments I have outlined, engage in good-faith negotiations. I commend the bill to the House.

Amendment of amendment agreed to.

Question—That the amendment as amended be agreed to—put.

The House divided.

Ayes, 16

Mr Clarke	Mr Jenkins	Mr Ryan
Ms Cusack	Mr Lynn	Dr Wong
Mrs Forsythe	Reverend Dr Moyes	
Mr Gallacher	Reverend Nile	*Tellers,*
Miss Gardiner	Mrs Pavey	Mr Colless
Mr Gay	Mr Pearce	Mr Harwin

Noes, 21

Mr Breen	Mr Egan	Ms Robertson
Mr Burke	Ms Fazio	Mr Tingle
Ms Burnswoods	Ms Griffin	Mr Tsang
Mr Catanzariti	Ms Hale	
Dr Chesterfield-Evans	Mr Hatzistergos	*Tellers,*
Mr Cohen	Mr Kelly	Mr Primrose
Mr Costa	Mr Macdonald	Mr West
Mr Della Bosca	Ms Rhiannon	

Pair

Ms Parker	Ms Tebbutt

Question resolved in the negative.

Amendment as amended negatived.

Question—That this bill be now read a second time—put.

The House divided.

Ayes, 25

Mr Breen	Ms Fazio	Ms Rhiannon
Mr Burke	Ms Griffin	Ms Robertson
Ms Burnswoods	Ms Hale	Mr Tingle
Mr Catanzariti	Mr Hatzistergos	Mr Tsang
Dr Chesterfield-Evans	Mr Jenkins	Dr Wong
Mr Cohen	Mr Kelly	
Mr Costa	Mr Macdonald	*Tellers,*
Mr Della Bosca	Reverend Dr Moyes	Mr Primrose
Mr Egan	Reverend Nile	Mr West

Noes, 12

Mr Clarke	Mr Gay	
Ms Cusack	Mr Lynn	
Mrs Forsythe	Mrs Pavey	*Tellers,*
Mr Gallacher	Mr Pearce	Mr Colless
Miss Gardiner	Mr Ryan	Mr Harwin

Pair

Ms Tebbutt	Ms Parker

Question resolved in the affirmative.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 4 agreed to.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [12.45 a.m.], by leave: I move Liberal Party amendments Nos 1 to 9 in globo:

No. 1 Page 3, schedule 1. Insert after line 16:

[2] Section 3 Definitions

Omit the definition of ***public passenger service***. Insert instead:

public passenger service means the carriage of passengers for any commercial purpose or for a fare or other consideration along a road or road related area, or along the whole or part of a transitway route, or within any New South Wales waterway.

No. 2 Page 6, schedule 1 [13], lines 5–18.

Omit all words on those lines. Insert instead:

28B Service contracts for regular bus services

(1) A service contract must make provision with respect to the following matters:

(a) the term of the contract, which is to be 10 years,

(b) the region or route of operation for the contract,

(c) the manner in which it may be terminated,

(d) standards of safety for passengers and the public, and of service maintenance, under the contract,

(e) monetary or other penalties for breaches of the contract and the recovery of any monetary penalties,

(f) bonds for the performance of any or any specified obligations under the contract,

(g) such other matters as the parties think fit to include in the circumstances of the case,

(h) any other matters required by this Act or the regulations to be specified in it.

(2) A service contract must outline basic service requirements and, in determining the requirements to be included, regard is to be had to the needs of the community to be served.

(3) A service requirement must not be included in a contract unless:

(a) the Director-General consulted with the Bus and Coach Association of New South Wales, the Roads and Traffic Authority and the Director-General of the Department of Infrastructure, Planning and Natural Resources before it was first included in any service contract, and

(b) a separately funded trial of the requirement was conducted by or on behalf of the Director-General before it was first included in any service contract, and

(c) adequate bus priority measures are in place if required in relation to the requirement.

(4) In fixing the consideration for a service to be carried on under a service contract, regard is to be had to:

(a) the needs of the community to be served by the service, and

(b) the average service levels for the time being prevailing in the industry with respect to communities that have similar population densities and that are in other respects comparable.

(5) If applicable, a service contract must make provision for or with respect to the requirement of the contract holder to make provision by way of subcontractor or otherwise, as directed by the Director-General, to ensure that the transitional arrangements contained in Part 7 of Schedule 3 are applied.

(6) A service contract may provide for the periodic review, in the manner and at such periods as the contract may specify, of any matter for the time being determined by or under it.

(7) It is the duty of the Director-General to ensure that any service contract is not inconsistent with the terms and conditions of any operator's accreditation and any driver's authority under Part 2 applicable to the service to which the contract relates.

(8) In the event of any inconsistency between any such terms and conditions and a provision of the contract, the provisions of the contract prevail to the extent of the inconsistency.

28CA Funding

A service contract must make provision for or with respect to the following matters:

(a) the manner in which the holder of the service contract is to be remunerated or gain revenue from the provision of services under the contract,

(b) if the holder is required under a service contract to provide concessions, a scheme under which the holder is to be reimbursed for concessions by government funding,

(c) if the holder is required to provide free school student travel, the basis on which the funding, or other financial assistance by the State is to be provided, taking into account the fact that the service would not be provided, or not provided at the same level without funding or other financial assistance by the State.

No. 3 Page 9, schedule 1 [17]. Insert after line 31:

28EC Initial bus service contract regions

Without affecting the generality of section 28EA, on the commencement of section 28EA there are taken to be declared as bus service contract regions under that section 16 bus service contract regions in the Sydney Metropolitan Area, 5 contract regions in Newcastle, 2 contract region in Wollongong and the 2 contract regions in Central Coast, as identified by the regulations.

28ED Initial strategic transport corridors

Without affecting the generality of section 28EB, there are taken to be declared as strategic transport corridors in the Sydney Metropolitan Area, Newcastle, Wollongong and the Central Coast, the corridors identified by the regulations.

No. 4 Pages 9 and 10, schedule 1 [18] and [19], line 32 on page 9 to line 3 on page 10. Omit all words on those lines. Insert instead:

[18] Section 28I Effect of creation of transitway routes or emergency routes

Omit section 28I (1) and (2). Insert instead:

(1) To the extent that a transitway route or emergency route, or any part of a transitway route or emergency route, resulting from a determination or variation under this Division lies within or on a region or route of operation specified in a service contract to which this subdivision applies, the right of the service operator under the contract to operate a regular passenger service within that region or route ceases to be an exclusive right in respect of the transitway route or emergency route or part.

[19] Section 28I (6)

Omit the subsection.

No. 5 Page 11, schedule 1 [21]. Insert after line 18:

(i) the competitive neutrality principles in the Competition Principles Agreement and any policies adopted by this State for the purpose of complying with and giving effect to these principles,

(j) the average level of fares currently prevailing in the industry for comparable services and for inflationary movements in the costs of providing the services.

No. 6 Page 13, schedule 1 [25]. Insert after line 15:

lead entity means an accredited service operator who is offered a bus service contract for a regular bus service under Division 3 of Part 3 on or after the commencement day.

No. 7 Page 13, schedule 1 [25], lines 31–33.

Omit all words on those lines. Insert instead:

(2) An existing commercial bus service contract is, subject to subclause (4), by operation of this clause, terminated on the date specified in a notice given under subclause (1).

(3) Subclause (4) applies to an accredited service operator who:

(a) immediately before the commencement of this clause operated an existing commercial bus service contract within (or partly within) the State, and

(b) but for subclause (2), would be required under this Act to be accredited to operate that existing commercial bus service.

(4) For the purposes only of this clause, the contract of an accredited service operator whose existing commercial bus service contract does not expire on a particular date or that is due to expire on a date that is later than the transitional expiry date is taken to expire on the transitional expiry day, despite any Act or rule of law to the contrary and despite any provision contained in the contract itself.

(5) Subject to the provisions of this Act, the Director-General is authorised to offer a contract for a regular bus service to a lead entity in any one of the regions referred to in section 28EC. The Director-General, when identifying a lead entity for that purpose, is required to take into account those matters set out in the regulations to the Act.

(6) The Director-General must first offer a service contract for a regular bus service for a region or part of a region to a lead entity in a region that is or was the holder of an existing commercial bus service contract in that region or part of the region.

No. 8 Pages 14 and 15, schedule 1 [25], line 34 on page 14 to line 35 on page 15. Omit all words on those lines.

No. 9 Pages 16–19, schedule 1 [25], line 19 on page 16 to line 15 on age 19. Omit all words on those lines. Insert instead:

35 Effect of changes to bus service contract regions

(1) If:

(a) a bus service contract region is declared or varied under section 28EA, and

(b) immediately before the declaration or variation of the bus service contract region takes effect, 2 or more people (the ***operators***) were providing bus services under service contracts for that region or part of it, and

(c) the Director-General is of the opinion that, for the purpose of entering into a service contract for the provision of a bus service for the region or part of it, the rationalisation, joint operation or amalgamation of, or other arrangement between the operators is required,

the Director-General must give the operators written notice that they are required to work out, within 60 days, a form of rationalisation, joint operation, amalgamation or other arrangement that achieves a just compromise of their respective rights.

(2) If the Director-General is satisfied that one or more of the operators was not willing to negotiate a just compromise of their respective rights, the Director General may enter into a service contract with one of the remaining operators which provides for services to be provided by all of the remaining operators either directly by the service contract or indirectly by a subcontract under the service contract.

36 Compensation to existing accredited operators

(1) This section applies if:

(a) an operator who operated an existing commercial bus service contract immediately before the commencement of this clause (an ***existing accredited operator***) is not awarded a bus service contract for the region for which the operator holds an existing commercial bus service contract, or

(b) an operator, who has entered a bus service contract within a region formerly operated by an existing accredited operator does not offer to subcontract to the existing accredited operator to operate services in accordance with the service contract, or

(c) an existing accredited operator is not awarded the right to amend the existing accredited operator's service contract to provide the service for an amended area or route.

(2) The Director-General may require the holder of the new service contract for a service formerly operated by an existing accredited operator and replaced in the circumstances specified in subclause (1), as a condition of the new service contract, to pay compensation to the existing accredited operator.

(3) The amount of compensation is to be decided by agreement between the holder of the new bus service contract and the existing accredited operator or, if there is no agreement, by an arbitrator appointed by the parties.

(4) The regulations may make provision for or with respect to matters to be considered, or not considered, in deciding the amount of compensation.

(5) The *Commercial Arbitration Act 1984* applies to the arbitration.

As the Government has already stated its intention to oppose the amendments, I will not labour the point and will speak in only general terms to the amendments. They address the very issues that I had anticipated would become the basis upon which a general purpose standing committee could inquire into and review this legislation. These are issues on which the Bus and Coach Association needs certainty and guarantees regarding contracts. The bus operators will continue to operate until such time as the Government implements this legislation.

The Opposition has, on behalf of the Bus and Coach Association, ensured that their concerns are on the public record so that, at some time in the future, when the full impact of this legislation is revealed, we will be able to consider the opportunities that were missed and the implications of ignoring the concerns that the association has raised. That opportunity will be afforded particularly to members of this Chamber who were not prepared to at least entertain the concept of learning a little bit more about the implications of the legislation. Simply put, the amendments are all about giving members of the Bus and Coach Association at least some certainty about their operations. The amendments are intended to insert into the legislation specifications regarding service contracts and funding—the very issues that until this moment the Government has refused to spell out in black and white for the industry.

The Hon. MICHAEL COSTA (Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests)) [12.48 a.m.]: The Government has already indicated that it will not accept the amendments. I gave a number of undertakings about a framework to deal with all the issues raised. Some of them may be legitimately raised during negotiations. The Government will therefore not accept the amendments. I might advise honourable members that the Government will move a number of amendments to address some of the issues that have been raised.

Question—That the amendments be agreed to—put.

The Committee divided.

Ayes, 14

Mr Clarke	Mr Gay	Mr Pearce
Ms Cusack	Reverend Dr Moyes	Mr Ryan
Mrs Forsythe	Reverend Nile	*Tellers,*
Mr Gallacher	Ms Parker	Mr Colless
Miss Gardiner	Mrs Pavey	Mr Harwin

Noes, 23

Mr Breen	Mr Della Bosca	Ms Rhiannon
Dr Burgmann	Mr Egan	Ms Robertson
Mr Burke	Ms Griffin	Mr Tingle
Ms Burnswoods	Ms Hale	Mr Tsang
Mr Catanzariti	Mr Hatzistergos	Dr Wong
Dr Chesterfield-Evans	Mr Jenkins	*Tellers,*
Mr Cohen	Mr Kelly	Mr Primrose
Mr Costa	Mr Macdonald	Mr West

Pair

Mr Lynn	Ms Tebbutt

Question resolved in the negative.

Amendments negatived.

The Hon. MICHAEL COSTA (Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests)) [12.55 a.m.], by leave: I move Government amendments Nos 1 to 4 in globo:

No. 1 Page 5. Insert after line 14:

[11] Section 18 Commercial and non-commercial contracts

Omit "(subject, in the case of school bus services, to the regulations)" from section 18 (5).

No. 2 Page 6, schedule 1 [13], proposed section 28C. Insert after line 22:

(2) Without limiting subsection (1), the performance standards may include any model performance standards for regular bus services that the Director-General may, by order published in the Gazette, approve from time to time.

(3) Before the Director-General makes an order under subsection (2) approving a model performance standard, the Director-General must consult with each of the following about the standard:

(a) the Transport Advisory Group constituted under the *Transport Administration Act 1988*,

(b) the Bus and Coach Association of New South Wales,

(c) such other persons or bodies as the Minister may direct.

No. 3 Page 12. Insert after line 7:

[22] Section 48 Review of decisions concerning service contracts

Insert at the end of section 48:

(2) This section does not apply to a decision of the Director-General with respect to a service contract for a regular bus service.

No. 4 Page 16, schedule 1 [25]. Insert after line 8:

34 Review of decisions under Part 5

(1) Section 48 (2) (as inserted by the amending Act) does not apply to any decision of the Director-General made in respect of an existing commercial bus service contract or existing non-commercial bus service contract.

(2) However, Part 5 of the Act does not apply to any of the following decisions of the Director-General made on or after the commencement day in respect of an existing commercial bus service contract or existing non-commercial bus service contract:

(a) a decision to enter into a service contract for a regular bus service with another person under Division 3 of Part 3 of the Act (as amended by the amending Act),

(b) a decision to terminate the contract under clause 29,

(c) any other decision made under this Part (including a decision made under clause 30 or 31).

These amendments are in two categories: tidying up amendments, and amendments that reflect some of the understandings we have already reached.

Amendments agreed to.

Ms LEE RHIANNON [12.56 a.m.], by leave: I move Greens amendments Nos 1 and 2 in globo:

No. 1 Page 6, schedule 1 [13], proposed section 28B. Insert after line 18:

(4) A service contract for a regular bus service is taken to include a term to the effect that the holder of the contract must comply with the holder's obligations under any industrial instrument applicable to the holder concerning the conditions of employment of bus drivers or conductors (or both) as in force from time to time during the term of the contract.

(5) Any contravention of the term implied in a service contract by subsection (4) may be remedied at law or in equity as though the term were an essential term to which the parties had by contract agreed.

(6) In this section, ***industrial instrument*** means:

(a) an industrial instrument within the meaning of the *Industrial Relations Act 1996*, or

(b) an award or agreement made or entered into in accordance with the provisions of the *Workplace Relations Act 1996* of the Commonwealth.

No. 2 Page 6, schedule 1 [13], proposed section 28C. Insert after line 22:

(2) The performance standards are to include standards concerning greenhouse emissions by buses that have been developed by the Director-General following consultation with the NSW Greenhouse Office in the Cabinet Office.

Greens amendment No. 1 reflects the Greens' concern to ensure that proper industrial relations standards are adhered to in this State. As we understand it, the track record of the private bus industry in industrial relations matters is somewhat patchy. The conditions and entitlements of workers in the private bus industry are lower than in the State Transit Authority [STA]. In an ideal world all bus drivers would enjoy the conditions and entitlements that have been won by the STA and its union, the Rail, Bus and Tram Union, but in that ideal world this Greens amendment would have made the STA award the standard for the whole industry to be enforced in every private bus contract. The reality is more unfortunate.

It seems that paying decent wages and offering satisfactory conditions is beyond the scope of some private operators because they are either unwilling or unable to do so. This reinforces the Greens' belief that not only passengers but also drivers would be better off if the Government took direct control of the whole bus industry across this State. However, since that proposal is not on the table we have an amendment that gives industrial awards a more central place in the Government's contracts with private bus operators. We have heard stories of private bus drivers not being able to even visit the toilet during their breaks. This kind of thing is clearly unacceptable, but it seems that some bus operators are getting away with it.

We are also concerned that some of the efficiencies that some bus operators apparently deliver are not the result of their business plan, since their so-called efficiencies are achieved simply by cutting corners on workers' pay and conditions. We raised these concerns with the Minister and we were told that the individual contracts with the bus operators would address industrial relations standards. We do not want to leave this up to secret commercial contracts. Rather than cross our fingers and hope that this Government or a future Coalition government will do the right thing, we want to ensure that it is in the legislation. This amendment only asks private bus operators to obey the law; that is, they should respect the award and should respect the Industrial Relations Commission.

This amendment also gives the award more teeth. If bus operators think their contracts may be at stake or that they face contractual penalties for non-compliance it sends an important message to them. The Greens believe this is a new and stronger incentive for bus operators to comply with the award and other standards. Or, to put it another way, it is a new and stronger disincentive against flouting the rules. They cannot skimp on industrial relations any longer; it is in the law, so it will be in the contract and we hope it will help bring all operators up to scratch over time.

As I understand it the Government supports the amendment. I am pleased that we can see eye to eye on industrial relations in the bill. Who knows where this can lead. I hope the Government will join us eventually in supporting industrial manslaughter legislation as well. I commend amendment No. 1 to the Committee. Greens amendment No. 2 comes from a similar concern to that regarding our first amendment, which is that some things are too important to leave to secret contract negotiations. We know the State Transit Authority is working hard to reduce greenhouse gas emissions in its fleet, but some private bus operators are lagging behind. Some of the so-called efficiencies of private bus operators come from ageing fleets and dirty buses. The Greens were told that benchmarks on reducing greenhouse gas emissions could be included in the contracts. But to ensure that each and every contract deals with this issue we want the legislation to stipulate that such benchmarks must be included.

We have chosen not to set a benchmark in the legislation because we understand that there is a huge variation in bus operators, and not all can be expected to meet the same standard over the same time frame. The key is that all bus operators commit to making some kind of progress and that their contract holds them to that commitment. The Greens also want the New South Wales Greenhouse Office involved because it is important to promote the office and ensure that its role takes it across all realms of government. Climate change is not just an environmental issue, it affects everyone. We all share the responsibility to do what we can to protect our planet. We are pleased that the Government is supporting Greens amendment No. 2. We urge all members to do likewise. I commend both amendments to the Committee.

The Hon. PATRICIA FORSYTHE [1.01 a.m.]: I am astounded by the Government's decision to accept these amendments. I can only assume, particularly in relation to amendment No. 2, that the Government is merely trifling with the Greens. As the Greens would know, and the Government certainly knows, buses are required to conform to certain standards. In the purchase of new equipment there is a national standard—I understand it is currently Euro 3—and existing buses are not registered unless they conform to certain emission standards. The suggestion that New South Wales will have performance standards developed by the director-general in consultation with the Greenhouse Office in the Cabinet Office are either words by the Government to placate the Greens or a very dangerous precedent that could cost the New South Wales industry an extraordinary amount of money.

It would be irresponsible of the Minister to suggest that we would not conform to national standards. If the Greens amendment relates only to existing buses, we already have the process of registration and current emission standards. If the Government were serious, given the potential that New South Wales could be out of step with the rest of the nation, it would not support the amendment. The Government has been irresponsible in deciding to accept the amendment. Ms Lee Rhiannon cast a slur on the bus industry when she referred to their contracts, wages or industrial conditions. I remind her that all bus companies are required to abide by an industrial agreement and I understand that is exactly what they do.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [1.03 a.m.]: Although the anti bus operator attitude of the Greens and of Ms Lee Rhiannon during her contribution to the second reading debate, and the joining of the Greens and the Australian Labor Party on industrial relations, do not seem to be much more than diluted motherhood statements, it is a bit like a red flag to a bull: one should always be careful. Therefore I must oppose outright the Greens amendments to the operation of the legislation. As the Hon. Patricia Forsythe rightly pointed out, national standards and emission targets are already in place. Are the Greens suggesting that we should have a standard for New South Wales that is less than the national standard? I do not think so. For those reasons we oppose the amendments.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [1.04 a.m.]: I am rather disappointed with the approach of the Hon. Patricia Forsythe. Greenhouse emission targets for buses are important. I live quite close to a bus stop, and if the buses are of a poor standard I am confronted with poor quality emissions. I am again confronted with poor quality air at the ferry terminal, and from government buses when I walk up Young Street. The idea that all these buses are fine is a nonsense. There are a number of ways to fix it. You can go with the Euro standard, which is a design standard relating to fuel injectors, you can add alcohol to the diesel to achieve

diesohol, which improves the burning, or you can add a palladium catalyst. Obviously, the Government should have some leeway in the way emission targets are reached. To say that they are being achieved and that the buses are fine is rubbish. It is important to have incentives to move towards cleaner air, and it is necessary to mandate that.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [1.05 a.m.]: I also oppose the Greens amendments. I was interested in the contribution of Ms Lee Rhiannon, who described the private bus operators' record as patchy on the day when the Leader of the Government exposed her performance in this place as worse than patchy because she turned her view on budget lock-ups 180 degrees. One has to wonder how the Greens, the guardians of the environment, were conned by Minister Costa, the person in this House they hate the most. One has only to look at the amendments Minister Costa has agreed to to understand why he is walking around this place with a cheesy grin from ear to ear.

Amendment No. 2 provides that performance standards are to include standards for greenhouse emissions by buses that have been developed by the director-general following consultation with the New South Wales Greenhouse Office in the Cabinet Office. It is a meaningless lot of twaddle. It is no wonder the Minister is happy. He has conned the Greens. I suspect the amendment was crucial to their support for the bill. We will oppose the amendments.

The Hon. JON JENKINS [1.07 a.m.]: I also oppose the amendments because they show why the Greens should have nothing at all to do with the environment.

Question—That the amendments be agreed to—put.

The Committee divided.

Ayes, 21

Mr Breen	Mr Della Bosca	Ms Robertson
Dr Burgmann	Mr Egan	Mr Tingle
Mr Burke	Ms Griffin	Mr Tsang
Ms Burnswoods	Ms Hale	
Mr Catanzariti	Mr Hatzistergos	
Dr Chesterfield-Evans	Mr Kelly	*Tellers,*
Mr Cohen	Mr Macdonald	Mr Primrose
Mr Costa	Ms Rhiannon	Mr West

Noes, 15

Mr Clarke	Mr Lynn	Mr Ryan
Ms Cusack	Reverend Dr Moyes	
Mrs Forsythe	Reverend Nile	
Mr Gallacher	Ms Parker	*Tellers,*
Mr Gay	Mrs Pavey	Mr Colless
Mr Jenkins	Mr Pearce	Mr Harwin

Pair

Ms Tebbutt	Miss Gardiner

Question resolved in the affirmative.

Amendments agreed to.

The Hon. JOHN TINGLE [1.14 a.m.]: I move:

No. 1 Page 20, schedule 1 [25]. Insert after line 17:

38 Valuation and acquisition of certain bus service assets

(1) In this clause:

bus service asset of an existing service provider means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description used in connection with the provision of a regular bus service in the existing service area, but does not include any goodwill.

existing service area of an existing service provider means the region or route of operation (or part of the region or route) for which the provider is to cease to provide a regular bus service.

existing service provider means the holder of an existing commercial bus service contract or existing non-commercial bus service contract who is not to be awarded a new service contract under the provisions of Division 3 of Part 3 (as inserted by the amending Act) to provide a regular bus service for the region or route of operation (or part of the region or route) for which the holder is currently providing a regular bus service under the existing contract.

modification includes addition, exception, omission or substitution.

proposed new service provider means a person to whom the Director-General proposes to award a new service contract under the provisions of Division 3 of Part 3 (as inserted by the amending Act) to provide a regular bus service in the existing service area of an existing service provider.

(2) An existing service provider who wishes to sell or otherwise dispose of any bus service asset to a proposed new service provider who has refused to acquire it (whether at a particular price or at any price) may apply to the Director-General for the Director-General to make it a condition of the service contract of the proposed new service provider that the provider acquire the asset.

(3) On any such application, the Director-General may:

(a) reject the application, or

(b) refer the question of the valuation of the bus service assets in question to arbitration under this clause.

(4) The *Commercial Arbitration Act 1984* applies to any such arbitration subject to this clause and with such modifications as may be prescribed by the regulations.

(5) Without limiting subclause (4), the regulations may make provision for or with respect to any of the following matters:

(a) the persons who are qualified to be appointed as arbitrators and the nomination of such arbitrators,

(b) the matters that may be considered, or not considered, in making a valuation of bus service assets in an arbitration under this clause.

(6) Following any such arbitration, the Director-General may (but need not) require the proposed new service provider to acquire any bus service asset that was the subject of the arbitration at the value determined in the arbitration as a condition of any service contract entered into to provide a regular bus service in the existing service area.

I apologise for the lateness of this amendment due to delays in its drafting and, since the hour is late, I do not intend to speak to it at any great length, but simply to explain why I want to see it passed. In my opinion, apart from the passengers who are involved in bus services, the next most important people are the smaller operators, the family companies, what we have heard referred to as the mum and dad companies. I know that many of them are understandably nervous about what this bill might mean for their future. It is fair to say that most of them, if not all of them, have invested their life savings in these businesses. Although they might be supportive of reform and might understand that it is necessary and might even be to their benefit, they also want assurances that if they choose to exit the industry, they will get a fair price for their assets.

This amendment will enable the director-general to require the holder of a new bus service contract to purchase the bus service and the depots of the exiting operator, and that will be a precondition of the contract. The price will be determined by agreement between the parties or, if this is not possible, as is often the case, in accordance with the valuation mechanism. The mechanism proposed is a panel of expert valuers, which will be selected to provide a fair valuation of the assets in question. The situation as to how the panel will be appointed and details such as the methodology of it are probably best left to be set out in regulation rather than being fixed in place in the Act by amendment. It is a very complex process, so I believe that allowing such details to be prescribed by regulation will ensure that the valuation mechanism is effective and that adequate consultation about how it will function can be undertaken. With those brief remarks, I commend the amendment to the Committee.

Amendment agreed to.

Schedule 1 as amended agreed to.

Schedule 2 agreed to.

Title agreed to.

Bill reported from Committee with amendments and report adopted.

Third Reading

The Hon. MICHAEL COSTA (Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests)) [1.18 a.m.]: I move:

That this bill be now read a third time.

The House divided.

Ayes, 25

Mr Breen	Ms Fazio	Ms Rhiannon
Mr Burke	Ms Griffin	Ms Robertson
Ms Burnswoods	Ms Hale	Mr Tingle
Mr Catanzariti	Mr Hatzistergos	Mr Tsang
Dr Chesterfield-Evans	Mr Jenkins	Dr Wong
Mr Cohen	Mr Kelly	
Mr Costa	Mr Macdonald	*Tellers,*
Mr Della Bosca	Reverend Dr Moyes	Mr Primrose
Mr Egan	Reverend Nile	Mr West

Noes, 12

Mr Clarke	Mr Gay	*Tellers,*
Ms Cusack	Ms Parker	
Mrs Forsythe	Mrs Pavey	
Mr Gallacher	Mr Pearce	Mr Colless
Miss Gardiner	Mr Ryan	Mr Harwin

Pair

Mr Lynn	Ms Tebbutt

Question resolved in the affirmative.

Motion agreed to.

Bill read a third time.

ADJOURNMENT

The Hon. HENRY TSANG [Parliamentary Secretary] [1.27 a.m.]: I move:

That this House do now adjourn.

WATER SUPPLY INFRASTRUCTURE

The Hon. DON HARWIN [1.27 p.m.]: Members are well aware of shifting demographics in Australia. It is no secret that Australia's population is ageing rapidly and, as Treasurer Costello has said on a number of occasions, "demography is destiny". The Commonwealth Treasury paper *Australia's Demographic Challenges* recently addressed this point, and noted:

> The [intergenerational report] IGR projects that over the next forty years, the proportion of the population over 65 will almost double to around 25 percent.

Furthermore, the report states that "the age structure of the population is likely to stabilise with a far higher proportion of older Australians". There can be no doubt that this poses a significant challenge to intergenerational equity and will present governments with major difficulties regarding the provision and management of infrastructure. This unfolding change in demographics underlines the competing claims made on social resources by different age groups within the community. As the baby boom generation enters retirement, government obligations relating to pensions and age concession subsidies will increase. At the same time the

number of working Australians contributing to government revenue through taxation will decrease. This will severely compromise the ability of governments to undertake, in a financially responsible manner, the necessary infrastructure expansion projects with which they will be confronted.

The adequate supply of services in the future can be secured only if provision is made today for the planning and funding of infrastructure reform and development. The New South Wales Government has made no such provisions and the current water supply crisis illustrates its unacceptable record and lack of preparedness. Despite water restrictions in Sydney during the initial 18 months of the Carr Government's first term in office, it has neglected the need to reform our water supply infrastructure over the past nine years. The Government's strategy has been to reduce consumption by imposing water restrictions and promoting the use of more water-efficient appliances. This approach has attempted to make consumers, rather than government, responsible for solving our State's water supply problems.

While it has discussed such measures as increased pumping from Tallowa Dam and accessing deep water in existing storage facilities, the Government remains without a meaningful and effective plan for the long term. This inaction is despite various reports that have outlined measures that could have been implemented. For example, according to Sydney Water, a staggering 10 per cent of water released from storage reservoirs in the last year was lost through leaking pipes. Furthermore, only 2.3 per cent of water consumed in Sydney is currently recycled, making the city one of the worst water recyclers in Australia. As the Hawkesbury-Nepean River Management Forum has recently recommended, much of Sydney's sewage and stormwater could be recycled for irrigation use. Yet where is the Government action on either of these matters? Where is the commitment to pursue them? Country New South Wales leads the way.

For a shining example of the kind of infrastructure development the Government could be implementing in the Sydney area, one need look only as far as the Shoalhaven, where the Reclaimed Water Management Scheme irrigates 370 hectares of the lower Shoalhaven River flood plain. Upon completion of the project in 2006, 80 per cent of reclaimed water will be beneficially used in the drought-proof irrigation of 750 hectares of land used for dairy farming and recreation. The Government's continued infrastructure mishandling and lack of planning is in contrast to the position of the Coalition. As the Liberal and National parties made clear prior to the last State election, planning for the future needs of our State's infrastructure is a priority.

The Coalition is committed to conducting an extensive audit of our existing infrastructure's capacity and lifespan as part of an assessment of the investment required to undertake the necessary maintenance and expansion of our facilities. The Coalition has pledged to appoint a commission of experts and community representatives to produce a State plan that can adequately prepare for the future. Rather than placing the burden of solving the water shortage onto the shoulders of consumers only, the Government must take responsibility. It must improve its management of our water resources and it must take action now, while we can, to ensure that our infrastructure can provide us with the water we need in the decades ahead.

DEPARTMENT OF EDUCATION AND TRAINING DYSLEXIC STUDENTS DISCRIMINATION

Reverend the Hon. Dr GORDON MOYES [1.31 a.m.]: A Killarney Vale man, Mr Jim Bond, has fought the Department of Education and Training over its treatment of dyslexic students for nine years. Mr Bond is in the public gallery—I apologise that he has had to wait 12 hours for this moment. Recently, he had his cause taken up by the Human Rights and Equal Opportunity Commission. Jim Bond, who hid his own troubles with reading for 20 years, is representing a year 12 student who claims he was discriminated against on account of his learning disability. The basis of the claim is that, although State and Federal anti-discrimination laws consider dyslexia a disability, the Department of Education and Training categorises it as a learning difficulty. Mr Bond said that children with varying degrees of dyslexia and their schools were being denied funding and access to specialised computer software that had achieved positive results in America and Europe.

Those with dyslexia are often ignored as the department fails to recognise dyslexia as a disability. My personal experience as a primary student was that I was dyslexic before anybody was able to diagnose the problem. For years my mother took me to the Royal Children's Hospital in Carlton, Melbourne. There I was given speech therapy for years, and in my memory I was never given an eye examination. However, I did practise saying 5,000 times, "Thora thrust thick thistles through the thinning hedge." I am glad that that has been read into *Hansard* for all history. The turnaround in my life came when a State primary school teacher in the fourth grade persisted with me, telling students not to laugh at my reading because one day I would be the best reader in the whole school. What captured my imagination was that she said I would be the best reader not in the whole class but in the whole school! I have overcompensated over the years because of that.

I needed to build a special library to house my personal library of 30,000 books. I do not believe I have cured dyslexia by constant reading throughout my life. I still mirror read and am still inclined to call God "dog"—which is a problem for a minister of religion! For 44 years I have been a radio broadcaster and for 45 years I have hosted a weekly television program on the national Nine network. Interestingly, my wife recognises a recidivistic dyslexia when listening to me. She tells me I need a day off. She can hear in my speech the old problems reoccurring. When the mind is tired, dyslexia returns. The effect of dyslexia in society includes unemployment, poverty, alcoholism, drug abuse and dependency, and even family breakdowns. Children with dyslexia often have high IQs but poor reading and writing skills. They are sent to the back of the class or out of the room. This House wishes Mr Bond well in his cause. I call upon the education department to recognise dyslexia as a disability and to provide support for such students.

TRIBUTE TO MR TOM HOLBOROW

The Hon. KAYEE GRIFFIN [1.34 a.m.]: Tonight I note the recent passing of Mr Tom Holborow, a long-term resident of Roselands who died on 26 April this year after an extended period of ill health. Tom was born in November 1920. He was a true gentleman and very much a family man. His wife, Margaret, his children and his grandchildren will miss him greatly. He was also a great loss to the wider community, which was evident at his funeral on 30 April. The young sportspeople who attended reflected his love of sport and his commitment to the youth of the Canterbury community.

Tom Holborow had a long association with the Australian Labor Party and a very strong commitment to the trade union movement. Although in his 80s, he was an active member of his local branch, even last year during the State election. Tom was greatly committed to the local youth of my community, as evidenced through his long history of involvement in local sporting organisations. He was involved in junior rugby league for more than 30 years and his dedication and hard work over that time produced many a champion junior team, along with making an invaluable contribution to the overall development of the sport. He was a highly valued member of our community who worked with great passion to advance junior rugby league in the Canterbury area over many years.

Tom had been active in the St George Dragons Junior Rugby League Football Club since 1970. He was respected there for his great diplomacy and sportsmanship. He held executive positions on the board, managed football teams, assisted in the administration and fundraising aspects of the club, and later, despite his poor health, still enjoyed going along to Clemton Park as a spectator to watch his beloved Dragons play. However, Tom's devotion to youth and sport did not rest over the summer months. He became heavily involved in the Belmore Hotel Rovers Cricket Club in the early 1980s, serving as president and on various sub-committees for many years. Tom had the distinction of being a life member of both those clubs and to my knowledge he also held life membership of the Canterbury-Bankstown Junior Leagues Club.

Clemton Park, Kingsgrove, has been the home ground of St George Dragons Junior Rugby League Club since the mid 1960s. In 2002 the club executive moved to express its gratitude and acknowledgment of Tom's commitment to the club and the community by petitioning Canterbury City Council to name the playing fields in his honour. The honourable member for Bankstown, Tony Stewart, the honourable member for Lakemba, the Hon. Morris Iemma, the Hon. John Hatzistergos and the member for the Federal electorate of Watson, the Hon. Leo McLeay, wholeheartedly supported this proposal. As Mayor of Canterbury City Council I had the pleasure of not only officially naming the fields in Tom's honour on Saturday 13 July 2002 but also moving the original motion at the council meeting. I was delighted that we as a community had the opportunity to pay tribute to Mr Holborow in such a public way, and I will always remember with gratitude his contribution to the young people in our community.

Fortunately, the naming of the Tom Holborow Playing Fields was not posthumous and Tom was able to enjoy, if but for a short time, this very fitting tribute to the contributions he made. It was a joy to be with Tom on that day, with his family, his friends and all the members of the junior rugby league club. It was a great way for them to acknowledge the work Tom had done on their behalf for so many years. I believe Tom is a great example of the spirit of volunteerism and the support that can be given to young people through sport. I had many conversations with him about his aspirations for his young members' futures through training, apprenticeships and rewarding jobs. If he thought a young person needed assistance he would try to move heaven and earth to ensure that there was a positive outcome for that person. The affection in which he was held was apparent not only at the unveiling of the Tom Holborow Fields but also on the day we farewelled him. I was deeply saddened by Tom's passing and, in extending my condolences to Tom's family for their loss, I pay tribute to his strong commitment to and love of his family and, as well, the great contribution he made to my community.

PUBLIC LIBRARIES FUNDING

The Hon. CATHERINE CUSACK [1.38 a.m.]: Earlier I talked about the Government delivering great news to various communities. I referred to the great news delivered by CountryLink, which was code for the closure of the XPT service, and great news delivered by the Minister for Local Government regarding improvements to ratepayers, which was code for local government amalgamations. I refer now to great news delivered by the Government for country libraries. In a media release issued on behalf of the Premier on 27 February 2003, a record boost in funding of $25.9 million was announced. Unfortunately the fine print indicated that that amount was to be issued over four years, and fell well short of plugging the gap that public libraries—the worst-funded libraries in Australia—are currently experiencing.

The Country Public Libraries Association and the Metropolitan Public Libraries Association wrote to the Premier on 21 March last year, following the issue of the press release, expressing their disappointment at the meagreness of the four-year grant, which was further reduced because they had to pay $2 million per annum to maintain *nsw.net*. That amount did not cover ordinary cost escalation factors for country libraries. The library associations wrote:

> [we] respectfully submit that we have been drowning so long that even your most recent assistance still leaves us substantially submerged.
>
> Mr Premier, the associations—

that is, the country and metropolitan associations—

> in the interests of your library users, the great majority of people in your state, ask you once again to consider the merits of the library case and review the level of funding at the earliest opportunity. Perhaps there is something more we should be doing from your point of view—some strategic partnership you are seeking which we haven't identified.

I draw the attention of honourable members to the severe distress of our public libraries. Drowning is an appropriate description, because of the eerie silence that surrounds this slow death. Our public libraries are the most valued and highly regarded of all our public leisure services. Millions of children, adults, retired folk and people with special needs, rely upon libraries as their gateway to the information super highway. As a person who regularly visits libraries, I am astonished at the number of men, particularly young men, who use libraries. People attend libraries for a wide range of reasons, but employment services and looking for jobs and reading newspapers and periodicals appear to be particularly popular with young men.

Librarians seem to be the people in our communities to whom anyone with an embarrassing problem will speak when they are not quite sure where to go. Such is the nature of librarians that it is virtually unheard of for them to refuse a request. I refer specifically now to country libraries that often service communities with real isolation issues—people whose incomes are half that of those in metropolitan New South Wales, communities that have limited entertainment and leisure options. Those services are a fraction of the services provided to our city sisters and brothers. Libraries and librarians have quietly, without prompting or resources, revolutionised their vision of service. They are unsung heroes in our community, with a quietly passionate commitment to knowledge and of passing that knowledge on to others.

For very marginal increases in funding our libraries can deliver exponential improvements in services. There is no more efficient way, value for dollar, that the Government could enhance leisure options and the way of life for many people. Our libraries are falling through the funding cracks. They are funded partly by the Ministry for the Arts and partly by local government. Yet a great deal of major innovation money is provided federally. It seems that often that option is not being properly considered. Libraries provide a range of government services, including information, brochures, and promotional campaigns, at no cost to departments and agencies. I urge the State Government to review its funding of public libraries. I urge all honourable members to take an interest in this matter, and to take the opportunity to visit their local libraries, talk to the librarians and find out the work that they do. Their work is of immense value and, frankly, they deserve far greater support than they are presently receiving.

WILDERNESS ACCESS

The Hon. JON JENKINS [1.42 a.m.]: I continue my adjournment speech from 1 June. Events such as the McIntyre Hut fire in January 2002 devastated parts of Canberra. The fire was started by lightning strike in a national park. The National Parks and Wildlife Service [NPWS], being heavily influenced by the extreme Greens, had done nothing about hazard reduction, resulting in fuel loads claimed to be a minimum of 45 to 50

tonnes per hectare. Nonetheless, in the relatively cool and calm conditions the fire lay reasonably quiet for a few days, during which time it could have been put out. However, when conditions turned hot and windy, the fire rapidly got out of control, ultimately ravaging the Canberra suburb of Duffy. The excessive fuel loads led to catastrophic uncontrollable crowning wildfires, which killed everything in their path. Despite this, the conservation movement is still fundamentally opposed to hazard reduction burning, although it has had to indulge in a fair bit of ducking and weaving on that issue over the past few years.

The result is a procession of government apparatchiks and members of the conservation movement making claims in the media to the effect that the NPWS had carried out all the hazard reduction burning it could in a particular year; that we cannot hazard reduce the whole of New South Wales; that hazard reduction does not work; and that hazard reduction is only a small part of the answer. However, an interesting counter statistic comes from State Forests NSW. In 2001 State Forests managed approximately half of the area managed by the NPWS. State Forests hazard reduced approximately 120,000 hectares compared to 12,000 hectares by the NPWS in the same year.

The result was that in the December 2001 and January 2002 bushfires, State Forests had 70,000 hectares ravaged by bushfires, while the NPWS figure was nearer to one million hectares burned. As previously noted, those high-intensity crowning wildfires have a catastrophic impact on native wildlife killing everything in its path except the deep-burrowing animals such as wombats, foxes and cats. It is obvious that the greatest danger to the threatened species and biodiversity in Australia is the conservation movement, because of its opposition to hazard reduction burning. That opposition is not based in science, but rather on a pantheistic whim. This doctrine is killing our forests and our native animals. Further, it is killing also the cultural heritage of both the indigenous and non-indigenous peoples.

In adjournment speeches on 30 April, 4 May, 5 May, 6 May, 11 May, 1 June and today I have tried to present a coherent and scientific-based argument that details how the current management strategies of our national parks and wildlife areas in respect of fire management is killing our natural environment. For those reasons many scientists have coined the phrase "the greatest danger to conservation is conservationists".

AUSTRALIAN SOCIETY FOR THE STUDY OF LABOUR HISTORY

ROYAL AUSTRALIAN HISTORICAL SOCIETY

The Hon. JAN BURNSWOODS [1.45 a.m.]: I pay tribute to two organisations that are very much involved in preserving our history, in quite different forms. I refer first to the Australian Society for the Study of Labour History, particularly the Sydney branch of which I am a member. Recently I received its 2003 annual report, which contains a great deal of information about the activities of the society. One, which was very recent, and which members may have heard of, was the society's effort in putting on a seminar and other events entitled "Remembering Vinegar Hill, 1804". That seminar commemorated the uprising of the convicts, particularly the Irish convicts, and the events which led to deaths during the battle of Vinegar Hill that year. The speakers on that occasion were Paul Lynch, MP, Bob Gould, Andrew Moore and Peter Moore. Of course, the seminar was held in Blacktown as part of the official Vinegar Hill Bicentennial Program.

The program was organised by a number of Western Sydney councils. Amongst other events that the society has been involved in were a number of seminars focusing on events, particularly those of the 1950s. The society is planning the 2005 Biennial Labour History Conference, to be held in Sydney. The organisation operates on a shoestring, but plays a very important role in preserving all kinds of records of Labour history, conducting seminars and helping with publications and dissemination of books, films, articles and so on. One of the notable things over the past year was the production of a book called *Fighting Films,* a history of the Waterside Workers Federation film unit, which records a number of amazing films that were made in Sydney during the 1950s by, as it was then, the Waterside Workers Federation, now part of the Maritime Union of Australia.

The other organisation I would like to mention is the Royal Australian Historical Society. It has been around a long time and has played a major role in preserving all kinds of things in Sydney and New South Wales in general. It is pleasing to note that after a long time the renovation work at History House, the glorious sandstone building further down Macquarie Street, has started. That building is precious in itself, and it is good to see that the renovation work has started. Among the activities of the Royal Australian Historical Society are conferences, and particularly the local history conference which I know you have attended, Madam Deputy-President, to hand out awards, as have I over the years. That plays a valuable role in enabling all kinds of local

activities, publication of booklets, the inspection and preserving of cemetery records and genealogical activities of a variety of kinds.

The other work the Royal Australian Historical Society has been doing lately covers a variety of publications. Examples of some of the things that have been helped by the society in north-western New South Wales include a number of books such as *An old chum remembers: the story of Lightning Ridge 1906-1921* and *100 lives of Bourke: a cemetery interpretation book.* As I said, a major part of recording the history of a number of formerly thriving but now, unfortunately, very small communities is using the records of cemeteries. Another book is *A pictorial history of Wellington*, and there are many others. Most of these have been assisted either by the society or by a cultural grant from the New South Wales Ministry of Arts. [*Time expired.*]

NEWCASTLE BICENTENARY

The Hon. PATRICIA FORSYTHE [1.50 a.m.]: Earlier this year and tonight the House was reminded of the 200th anniversary of the uprising at Vinegar Hill. I wish to talk about the sequel to that uprising and another 200th anniversary that should be not only noted by the House but also commemorated by the community in a lasting way. Following the insurrection of Irish convicts at Castle Hill on 4 March 1804 that was put down at Vinegar Hill, the ringleaders were hanged but the rebels were sent to Coal River. Coal River, otherwise known as the Hunter River, had been the site of a small settlement in 1801 after being discovered in 1797 by Lieutenant John Shortland. In 1804 Governor King decided to make a permanent settlement at Coal River and announced that the settlement would be named Newcastle in the county of Northumberland. A commission was given to Lieutenant Charles Menzies and he entered the harbour on 30 March 1804. His description to Governor King was of "a delightful valley." So, 200 years ago Newcastle was named and settled permanently. This important historical event has not gone unnoticed but one could say it has not yet been marked in a way befitting its significance.

I am indebted to Doug Lithgow of the Newcastle parks and playgrounds movement for the background material on this. The City of Newcastle should be indebted to Doug for his untiring efforts and those of other citizens and businesses that have recognised the potential for an enduring tribute to the foundation of the city. Four years ago the Howard Government offered the city funding to be used toward a commemoration. Last year the Newcastle Permanent Building Society sponsored the Nobbys Coal River historic precinct workshop to discuss and plan a strategy for the identification, documentation and presentation of the precinct. The precinct comprises publicly owned land at the mouth of the Hunter River within the boundary of the Newcastle conservation area and with Nobbys headland as the dominant feature and focal point. Identifying the precinct is the easy part. What is missing is funding to realise the vision. The workshop led to a set of recommendations being developed which could be used to guide the direction of a project. The goal is to see the Coal River precinct developed as a unique part of the city with recreation, education and tourism features which express the city's heritage themes.

In my first speech in this House I referred to the strength that is Newcastle when everyone pulls together. This project requires such co-operation with the city council, business, the university and the community working together to develop the project. I know that a figure of $500,000 has been identified as the minimum needed to develop a master plan and stage one of the project. It is expected that both the State and Federal governments will provide joint funding. That may be possible but given the benefit that many firms derive from coal it would be a wonderful gesture if private enterprise would make a significant contribution. Clearly nothing will be in place during this 200th anniversary but the vision should not be lost. Leadership on this is needed. I urge Newcastle City Council to give this concept the priority it deserves by giving leadership to its promotion, and co-ordination. Coal has underpinned the Newcastle economy for 200 years. The history of the city in those 200 years and its Aboriginal heritage are important elements of the history of Australia. Wonderful tales are told of those early days. There is enormous tourism potential in developing this precinct. I urge action on this.

LOWER HUNTER BIODIVERSITY CORRIDOR

Ms SYLVIA HALE [1.55 a.m.]: I had the pleasure at lunchtime today of attending a presentation in relation to the lower Hunter green corridor, which is proposed to stretch from Stockton to Mount Sugarloaf, to the Watagans and beyond. It is an important location that will comprise wilderness, forests, parks, bushland reserves and wetlands that form a green arc on the edges of Newcastle, Lake Macquarie, Port Stephens, Cessnock and Maitland. Formal recognition for the corridor would strengthen protection for the ecologies of the area that face increasing threat from population and development pressures. It would also enhance the

conservation outcomes for species of regional, State, national and international significance. Vital to the realisation of the corridor is an area known as the tank paddock. I refer to a brochure produced in relation to the corridor, which says that the tank paddock is a privately owned 150-hectare paddock that is crucial to the creation of the green corridor.

[*Time for debate expired.*]

Motion agreed to.

The House adjourned at 1.57 a.m. until Thursday 3 June at 11.00 a.m.