

LEGISLATIVE COUNCIL

Wednesday 22 September 2004

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

The Clerk of the Parliaments offered the Prayers.

LOCAL GOVERNMENT AMENDMENT (DISCIPLINE) BILL

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

Motion by the Hon. Tony Kelly agreed to:

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

Second reading ordered to stand as an order of the day.

TIMOR LESTE DEVELOPMENT

Motion by Ms Lee Rhiannon agreed to:

That this House:

- (a) recognises that the development of Timor Sea resources has the potential to contribute significantly to Timor Leste's development and economic self-sufficiency,
- (b) welcomes the statement made by the governments of Australia and Timor Leste on 11 August 2004 that they will expedite negotiations and endeavour to conclude agreement on a permanent maritime boundary by the end of 2004,
- (c) urges the governments of Australia and Timor Leste to conduct negotiations in good faith, with a view to meeting this timetable, and
- (d) acknowledges the lead role Australia has played in support of Timor Leste's transition to independence.

PETITIONS

Oath of Allegiance

Petition praying that the oath of allegiance to Her Majesty the Queen be retained in the pledge of loyalty by members of the Parliament of New South Wales and by Ministers of the Crown, received from **the Hon. David Clarke**.

Department of Primary Industries Budget

Petition requesting support for primary producers and opposing Department of Primary Industries budget cuts that may affect key field staff, front-line services and research and development, received from **the Hon. Duncan Gay**.

BUSINESS OF THE HOUSE

Postponement of Business

Business of the House Notice of Motion No. 1 postponed on motion by the Hon. Rick Colless.

Government Business Notices of Motions Nos 1 and 2 and Government Business Order of the Day No. 1 postponed on motion by the Hon. Tony Kelly.

**CRIMES (ADMINISTRATION OF SENTENCES) AMENDMENT (NORFOLK ISLAND PRISONERS)
BILL**

Second Reading

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [11.10 a.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 Crimes (Administration of Sentences) Amendment (Norfolk Island Prisoners) Bill 2004 is a short bill which, I trust, will find support from all members of the House.

The background to the bill is as follows.

On 19 July 2004 Leith Buffet was charged with the murder of his father, a Minister in the Norfolk Island Government. On 20 July 2004 the Norfolk Island Court of Petty Sessions remanded Leith Buffet in custody.

Leith Buffet is 25 years old and has a history of mental illness.

The remand cell in which Leith Buffet is presently being held is unsuitable for long stays, especially for a person who needs psychiatric care.

The Norfolk Island Government has asked the NSW Government to accommodate Leith Buffet in Long Bay Hospital.

Long Bay Hospital is a highly secure general and psychiatric hospital which accommodates remand and sentenced inmates and certain persons found unfit to plead on mental illness grounds.

Long Bay Hospital is a proclaimed correctional centre.

Long Bay Hospital would be appropriate placement for Leith Buffet under the circumstances.

There is, however, no legislative mechanism by which the Norfolk Island Government is able to transfer Leith Buffet to a New South Wales correctional centre.

Sections 47 to 50 of the Crimes (Administration of Sentences) Act 1999 provide for the transfer from Norfolk Island to New South Wales of **sentenced** prisoners but not **remand** prisoners.

Leith Buffet is a remand prisoner.

The bill which I am introducing today will amend sections 47 to 50 so that not only sentenced prisoners but also remand prisoners may be transferred from Norfolk Island to New South Wales.

The amendments will mesh with Norfolk Island's Removal of Prisoners Bill 2004 which will be introduced into the Norfolk Island Legislative Assembly shortly.

The Norfolk Island Bill is modelled closely on the Australian Capital Territory's Removal of Prisoners Act 1968.

Under that Act, the ACT is able to transfer remand and sentenced prisoners to New South Wales.

The ACT Government pays the New South Wales Government a daily fee per prisoner in respect of those prisoners transferred from the ACT to New South Wales.

Both the New South Wales Bill and the Norfolk Island Bill provide for the relevant legislation to commence on the date of assent.

I wish to mention that, while the circumstances of Leith Buffet are the motivation for introducing the Bills, the Bills apply generally. I commend the Bill to the House.

The Hon. DAVID CLARKE [11.11 a.m.]: The Crimes (Administration of Sentences) Amendment (Norfolk Island Prisoners) Bill has the Opposition's full support. The background to the introduction of this bill is that on 19 July 2004 Leith Buffet was charged with the murder of his father on Norfolk Island and the following day the Norfolk Island Court of Petty Sessions remanded him in custody. The problem facing the Norfolk Island Government is that Leith Buffet has a long history of mental illness and there are no appropriate facilities on the island to accommodate him while he is held on remand. Accordingly, the Norfolk Island Government has asked the New South Wales Government to accommodate Leith Buffet in Long Bay Hospital, which is part of the Long Bay Correctional Complex and which has appropriate facilities providing psychiatric assistance and care.

Although sections 47 to 50 of the Crimes (Administration of Sentences) Act 1999 provide for the transfer of sentenced prisoners from Norfolk Island to New South Wales, there is no provision for the transfer of remand prisoners. This bill amends that Act to enable remand prisoners to be transferred from Norfolk Island to New South Wales and to be detained in New South Wales prison facilities until required for trial on Norfolk Island. The bill will be complemented by legislation that will be presented to the Norfolk Island Legislature some time today. That legislation is modelled on the Australian Capital Territory's Removal of Prisoners Act 1968, under which the Government of the Australian Capital Territory can transfer remand and sentenced prisoners to New South Wales. Under the proposed legislation, the Norfolk Island Government will contribute to the incarceration costs incurred in New South Wales in same way that the Australian Capital Territory does. In all the circumstances, the bill is appropriate and has the Opposition's full support.

The Hon. Dr PETER WONG [11.14 a.m.]: I support the bill. I thank the Government for the detailed briefing and acknowledge the urgency of this matter.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [11.14 a.m.]: This bill is obviously necessary. I recognise its urgency and support it.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [11.15 a.m.], in reply: I thank honourable members who participated in the debate on this bill. I am pleased that the bill received bipartisan support. Indeed, it received the support of all honourable members—Government, Opposition and crossbench. I particularly thank Opposition members who agreed to fast-tracking the bill so that it is in operation when the Legislative Assembly of Norfolk Island passes its legislation today. I am happy to acknowledge the contribution of the shadow Minister for Justice. The bill is designed to assist the people and Government of Norfolk Island. I think it reflects well on this Parliament that it has answered Norfolk Island's request for assistance by passing this legislation. Officers of my department and Norfolk Island officers will now make arrangements for Leith Buffet to be transferred to Long Bay Hospital as soon as possible after both this bill and Norfolk Island's own bill have received Royal Assent.

Motion agreed to.

Bill read a second time and passed through remaining stages.

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Orders of the Day Nos 3 and 4 postponed on motion by the Hon. Tony Kelly.

LOCAL GOVERNMENT AMENDMENT (DISCIPLINE) BILL

Second Reading

The Hon. TONY KELLY (Minister for Rural Affairs, Minister for Local Government, Minister for Emergency Services, and Minister for Lands) [11.16 a.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

This bill addresses councillor misbehaviour in local government. It brings forward the provisions contained in schedule 2 of the Local Government Amendment Bill 2003, which received its second reading in this House but did not further proceed. Later I will explain certain departures and refinements to those original proposals.

The bill reflects the Government's commitment to the proper functioning of local government. The Government recognises that if community confidence in local government is undermined and councils cannot function in the best interests of ratepayers the State Government must intervene.

The bill sets out the standards of behaviour that the community expects of persons both in leadership positions in councils and working for councils. It will do this by introducing a comprehensive code of conduct that all councils will be required to adopt and apply. While the Act currently allows for a code of conduct to be prescribed, the new bill sets out an improved system for the

adoption and application of a model code of conduct by councils that will link in with the new provisions on misbehaviour. I will outline those provisions later in this speech.

A model code of conduct is being drawn up with input from the peak industry bodies for local government in New South Wales, council representatives, the Independent Commission Against Corruption, the Ombudsman, and the Department of Local Government. We are confident that the foreshadowed code will assist councillors and councils to better understand their responsibilities in carrying out their functions on a day-to-day basis.

Not only will councils have minimum standards set out in the prescribed code; the bill also leaves room for councils to supplement those standards with their own provisions that are relevant to local conditions. This also permits councils to introduce more stringent provisions where they are appropriate. Councils will continue to be required to review their code after each election to ensure that it is consistent with the prescribed code and contains any other appropriate provisions.

It is expected that the vast majority of councillors will follow their code of conduct in good faith. No doubt they will welcome a code that assists them to clearly understand their responsibilities. However, the irresponsible actions of a few councillors can tarnish the good name of local government. This bill will ensure that irresponsible behaviour of councillors can be better dealt with by councils.

The bill sets out the sort of action or omission that will amount to misbehaviour. This includes the failure to comply with applicable requirements of the council's code of conduct, as well as acts of disorder that are committed by councillors during council or committee meetings. It is important that councils are able to restrain attempts by councillors to improperly disrupt council and committee meetings. Councillors should not be able to get away with irresponsible behaviour that inhibits councils from getting on with their business.

It is also important that breaches of the Local Government Act and regulations and failures to act in accordance with the council's code of conduct by councillors can be properly disciplined by councils.

With this in mind, the bill permits a council to formally censure a councillor for misbehaviour. However, this power should not be seen as a way of stifling proper process and debate at council meetings, nor of preventing minority representatives from putting forward their views on matters before council. The bill therefore requires a formal censure resolution to follow the usual requirements for notice and to state the grounds on which the council is satisfied that the councillor should be censured. These requirements will provide proper transparency and accountability for council decisions.

If a councillor does not respond properly to the attempts of his or her council to stamp out misbehaviour, the Director-General of the Department of Local Government will be able to suspend that councillor for a period of up to one month, where that action is warranted. The suspension for a short period of a councillor who is involved in misbehaviour will allow both the council and the councillor concerned to re-assess the situation with a view to returning to more appropriate behaviour.

For more serious misbehaviour, the director-general will be able to refer the matter to the Local Government Pecuniary Interest Tribunal, which will be given new powers and appropriately renamed the Pecuniary Interest and Disciplinary Tribunal.

Councils, the Ombudsman, and the Independent Commission Against Corruption will each be able to indicate to the director-general that grounds may exist to warrant a councillor's suspension. In addition, the director-general will be able to request a report from a council about a councillor's alleged misbehaviour. Suspension from civic office is not an action that will be taken lightly.

The bill sets out the serious circumstances in which a councillor may be suspended from civic office for misbehaviour. Suspension may be warranted where there is a pattern of disruptive behaviour over a period of time that includes instances of misbehaviour, or if a single incident of misbehaviour is of a sufficiently serious nature. The power to suspend councillors in these circumstances will act as an appropriate deterrent to councillors becoming involved in misbehaviour in the first place.

The Government is aware of concerns that majorities on councils might misuse their referral power to silence minority representation. To prevent such misuse, the bill limits the circumstances in which councils can begin the process for suspension of a councillor. A council will be able to refer a matter to the director-general only if it has already formally censured the councillor or expelled the councillor from a meeting because of the relevant incident of misbehaviour. This constraint will also encourage councils to deal with issues of misbehaviour at a local level, whenever possible.

The director-general will either consider a departmental report or a report by the Ombudsman or the Independent Commission Against Corruption before deciding to exercise the power of suspension. In all circumstances, the councillor will have an opportunity to respond to allegations of misbehaviour.

However, in many circumstances suspension may not be the appropriate solution. The director-general can therefore refer a matter back to the council with recommendations as to how the council might otherwise resolve this matter. This is in line with the Government's belief that issues of misbehaviour are best dealt with at a local level by the council concerned.

Councils are autonomous bodies in their day-to-day operations, and the Government will therefore intervene in a council's affairs only when other solutions are not apparent. The bill encourages transparent decision making and accountability. The director-general must give reasons for a decision, whether it is to impose or not to impose a period of suspension, or to refer a matter to the Pecuniary Interest and Disciplinary Tribunal. If the director-general makes an order suspending a councillor from civic office, the councillor will be able to appeal that decision to the Pecuniary Interest and Disciplinary Tribunal.

The tribunal is an independent body with a wealth of experience in dealing with councillors and others who are alleged to have failed to comply with the pecuniary interest provisions of the Local Government Act. It is therefore the appropriate body to be given the responsibility of considering matters of councillor misbehaviour.

To assist the renamed tribunal with its increased responsibilities, the bill will allow the deputy tribunal member to hear matters at the same time as the tribunal member. Where the director-general refers a misbehaviour matter to the tribunal, it will have complementary powers to the powers it currently exercises in pecuniary interest matters. This means the tribunal will be able to suspend a councillor from civic office for a period of up to six months in serious cases.

The tribunal will also be able to counsel or reprimand a councillor in less serious circumstances. A new power will enable the tribunal to suspend a councillor's right to be paid any fee or remuneration to which the councillor would otherwise be entitled, for a period of up to six months, without actually suspending the councillor from civic office. This power will not prevent councils from making payments outside the suspension period. However, the bill confirms that a council may not pay any fee or remuneration to which a councillor would otherwise be entitled in respect of any period of suspension, unless the Local Government Act specifically allows for this to occur. This will give the tribunal greater flexibility to ensure that councillors are appropriately and adequately sanctioned for irresponsible behaviour. As with pecuniary interest matters, the councillor concerned will have a right of appeal to the Supreme Court against the tribunal's decision.

The director-general will be able to refer requests from councils to the tribunal only where the relevant councillor has previously been suspended for misbehaviour. This will prevent any council from lobbying the director-general to refer matters to the tribunal when this is not appropriate. For example, complaints may be made about a councillor for factional or political reasons, rather than as a result of actual misbehaviour. The Government recognises the important role of the Independent Commission Against Corruption in dealing with particularly serious actions by councils and councillors. The bill consequentially amends the Independent Commission Against Corruption Act 1988 to make a substantial breach of an applicable requirement of the code of conduct a disciplinary offence for the purposes of that Act.

The Government recognises that councils are largely autonomous bodies that are accountable to their own electorate for the manner in which they conduct themselves. The primary responsibility for managing councillor misbehaviour therefore lies with individual councils. To reinforce this responsibility, and to prevent politically motivated referrals of misbehaviour to the director-general, the bill allows for the expense of investigating and dealing with misbehaviour matters to be borne by the councils themselves.

The Director-General of the Department of Local Government will be able to charge a council with the reasonable expenses of any investigation into misbehaviour matters that are referred to him by the council. Following consultation with the Local Government and Shires Associations of New South Wales, I have refined the original proposal regarding cost recovery. The bill allows a council to apply to the Administrative Decisions Tribunal for a review of the amount charged by the director-general if the council considers it is unreasonable. The right of review provides further accountability and transparency. Councils can be confident that they will be charged only with the reasonable expenses of departmental work relating to their misbehaviour matters.

I have also accepted that it is in the public interest for certain serious matters of misbehaviour to come before the Pecuniary Interest and Disciplinary Tribunal. In those circumstances, the expenses of dealing with the matter before the tribunal will not be charged to the council. The local community will not appreciate any waste of council resources on dealing with matters that could be resolved by the council, or that amount to factional or political grandstanding. Rather, the local community can generally expect councils to resolve misbehaviour issues. The power to recover expenses will be an additional incentive for councils to prevent councillor misbehaviour or to resolve matters at an early stage. However, it should not prevent councils that are unable to resolve continued disruption and serious misbehaviour from referring matters to the director-general.

Councillors and other council staff should be aware that they are dealing with finite public resources that are provided for the needs of the local community. Where councils incur deficiencies or loss due to the negligence or misconduct of a councillor, the general manager of a council or any other staff member, it is important that those persons can be made accountable for their actions or omissions.

To clarify that the Director-General of the Department of Local Government can permit a departmental representative to surcharge the person responsible for such negligence or misconduct in appropriate cases, the bill removes the need for culpable negligence to be proved.

The meaning of "culpable" in this context is unclear and has provided a barrier to the appropriate use of the surcharging power. The bill will remove that unintended obstacle. However, this amendment will apply only to alleged negligence or misconduct occurring or committed after its commencement. It is anticipated that this power would only be used in circumstances of serious negligence or misconduct. A right of review to the Administrative Decisions Tribunal already provides safeguards against any inappropriate use of this power.

The bill clarifies that neither a councillor nor a council may direct a member of staff of a council as to the content of any advice or recommendation. However, this will not prevent the council or the mayor from directing the general manager to provide advice or a recommendation. This minor amendment recognises the different roles of councillors, mayors, the general manager, and other staff of a council, and prevents inappropriate approaches to staff by councillors.

The Department of Local Government already undertakes various investigations into local councils and councillors under the Local Government Act. The bill makes clear that the director-general can also authorise preliminary inquiries about the activities of local councils to help decide whether to exercise any of the formal powers of investigation under the Act.

In conclusion, the bill will encourage councillors and councils to act in the best interests of their local community, free from any disruptive and irresponsible behaviour by individual councillors.

The bill will be welcomed by all those concerned about the proper functioning of local government in New South Wales, and I commend it to the House.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [11.17 a.m.]: The Opposition supports this bill—or, as my colleague the shadow Minister indicated in another place, it does not oppose it. It is strange that we have a Minister in this place tabling a speech made by someone representing him in another place. I suspect many honourable members would have preferred to have the responsible Minister detail his own thoughts on the reasons for introducing this legislation so that we could subject them to proper scrutiny. Concern was expressed when the previous Minister first decided to introduce what he and the media described as the "sin-bin" legislation that it was a further opportunity for him to use the populist rather than the popular press to name and shame. This Minister's predecessor had a nasty habit—which is unusual because he is a nice fellow, as is this Minister—of using the facts and figures that came out of local government reporting to get cheap and easy headlines and to name and shame. That became a real problem.

The genesis of this bill relates to a similar situation. One day, the previous Minister, in pursuit of popularity and press coverage, particularly in the tabloid press, decided it was time to have a council sin-bin. That demeans the thousands of councillors across the State who work very hard in their local area. To take an odd indication of someone stepping out of line and use that as the reason for introducing legislation to catch a populist wave of support is pretty ordinary. That is a concern for the Opposition, because local government representatives often say, "You make rules for us but you do not make the same rules for yourselves. Why should we adhere to those rules if you are not expected to?" By way of interjection, I indicated that those rules would be a welcome addition to this place, particularly in respect of Minister Costa. Minister Costa said that he would probably be better in the blood bin. But we believe that to have blood one has to have a heart, and he does not have a heart.

As I indicated, the Opposition does not oppose the Local Government Amendment (Discipline) Bill, but we will raise concerns, some of which I have already raised, that we would like the Minister to address. The bill amends the Local Government Act 1993 regarding the discipline of councillors, council staff and council delegates. This includes matters associated with codes of conduct, the formal censure of councillors, suspension of councillors' remuneration, and surcharges. It makes a number of amendments regarding the independence of council staff from direction in certain circumstances, and preliminary inquiries preceding a decision to institute an investigation.

The bill changes the name of the Local Government Pecuniary Interest Tribunal to the Local Government Pecuniary Interest and Disciplinary Tribunal. I did not have a problem with the old Local Government Pecuniary Interest Tribunal. Members may recall that when Frank Sartor wanted a pay increase to compensate him for the money he lost when he was no longer a member of the board of the Sydney Organising Committee for the Olympic Games, the tribunal granted him nothing. At that time I was pleased to issue a press release saying that Frank Sartor got the pay rise he deserved. I believe the Local Government Pecuniary Interest Tribunal certainly got it right in that instance. The bill amends the Independent Commission Against Corruption Act 1988 with regard to the jurisdiction of the Independent Commission Against Corruption to deal with conduct that could constitute or involve a substantial breach of a code of conduct applying to a council.

The Opposition does not oppose the bill, because it will develop a code of conduct and disciplinary procedures for councils. We also believe it will encourage better running of council meetings, which is to be applauded. However, we believe that the legislation may enable the majority of councillors to silence individuals or groups opposed to the ruling regime. For example, if an individual or group raises an issue that council does not agree with, provided the mayor and the chairs of committees agree, council could continue to silence that individual or group. We have seen instances, particularly in Rockdale and Liverpool, in which a number of councils have acted as a block. That is a matter of concern. The Opposition is also concerned that the Local Government Pecuniary Interest Tribunal adjudicating on these matters, regarding appointment and how procedures are put in place, would not necessarily be independent.

I was dismayed by the statement made by the Minister for Local Government on Channel 9 news that he was urgently introducing the legislation because of a report released by the Government today relating to the most complained about councils in 2003-04. In that media interview the Minister clearly said that he had urgently introduced the legislation because of the complaints that had been received. In 1993 the Minister introduced legislation to enable him to force council amalgamations. In an attempt to push the legislation through the House, the Minister included in it disciplinary provisions. The Local Government Association, the Shires Association and the majority of councils across New South Wales rejected the bill outright as some of its provisions were draconian.

The Opposition welcomes the fact that the Minister has relaxed some of those provisions in the legislation. However, the urgency that was indicated is a bit of a furphy, when one considers that the Minister's

predecessor had been working towards this. The Government should recognise that if community confidence in local government is undermined and councils cannot function in the best interests of ratepayers the State Government must intervene. I suggest to members and New South Wales ratepayers that the only reason community confidence would be undermined is the way in which the Government and the Minister have treated local government over the past 12 to 18 months. The Minister has gone into the community with his jackboots on, and he has forced councils to amalgamate. He has given councils a very hard time. Most New South Wales councils do not have a clue from one day to the next whether they will be dissolved. If there is bad behaviour in council meetings it is probably, rather than possibly, a result of the uncertainty created by the Government's jack-booted approach.

[*Interruption*]

Who said "Rubbish"?

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! Members are reminded that interjections are disorderly at all times and that members who have the call should not respond to them. The Deputy Leader of the Opposition may proceed.

The Hon. DUNCAN GAY: I was happy to acknowledge the interjection of the unnamed Labor member, but obviously they do not have the guts to stand by the comment because they know that what I am saying is not rubbish. The comment made by one of the Labor members was "Rubbish!" My colleagues have their own thoughts about who made the comment, but the Labor member who made the comment is not willing to stand by it.

As I said, the Minister has been pretty tough on councils. Any council that objected was dissolved, amalgamated or coerced into amalgamation. In a last-ditch attempt to save some councils, submissions were sent to the Government. The hypocrisy of the statement in the second reading speech is indicative of the behaviour of the Minister and the Government in their so-called reform of local government in New South Wales.

I, like many other members, have received a number of representations regarding the legislation from people across New South Wales, and I wish to briefly address the issues they have raised with me. Armadale Dumaresq Council said that the legislation did not provide a definition of "period", which refers to the amount of time for which a councillor may be suspended by a majority vote of council, backed up by a ministerial appointment, that is, the director-general of local government or someone he appoints. Council said that it could be argued that repeated incidents of misbehaviour might be defined as a week, a month or a term, but that it should be for the term of council. We do not know, as the period is not defined in the legislation. We seek the Government's assurance that it will take a non-partisan view in relation to a member being named or suspended under these circumstances.

A registered political party that controls a council could prevent an independent member of council from raising issues on behalf of constituents or issues of concern to him or her relating to planning processes, et cetera. If an independent member continues to raise those sorts of issues, council as a whole might find that member disruptive because he or she might insist on presenting important issues to council on behalf of his or her constituents.

On the basis of a partisan vote council could then suspend that member for an undetermined period. Frankly, that is not in the best interests of local government or the community. As we have seen, the new legislation dealing with council elections certainly favours people who are on a ticket or in a party and, frankly, members of my political party—who do not run for local government as a party—would be very disadvantaged in this situation. Everyone knows that the Labor Party and the Greens do not get together—they only exchange preferences on a regular basis—but there could be instances where they routinely get together to stop Independent councillors from putting their point of view. I know that the backbench members of the Labor Party and the independent members of the Greens and other parties would find that unfortunate.

The shadow Minister has no major problems with the proposed amendments, but he would like me to make two points. First, the original model code of conduct was so subjective as to be useless, notwithstanding that peak bodies had input into its preparation. We want to know whether the new code will be made available for public comment before it is formalised? The new code has been put out to consultation and we would certainly be interested to hear Mr Behl's views about it.

Second, proposed section 440K (3) (a) provides that a suspended councillor is not entitled to exercise any of the functions of the civic office. At one council, three councillors were concurrently suspended for three months by the Pecuniary Interest Tribunal. Their suspension resulted in a change in the factional balance of power. On their return from suspension the councillors successfully lodged a number of rescission motions to overturn decisions made in their absence. It appears to be against the spirit of the Act if suspended councillors can subsequently play a part in overturning decisions made during their absence, yet there is nothing in the amendment to prevent a repeat of that situation.

In addition, under proposed section 440H the director-general can instigate the process for the suspension of a councillor for misbehaviour. There is no explanation as to how these allegations can be made to the director-general, and there is the possibility of vexatious allegations being made. Safeguards against politically motivated allegations also appear to be lacking. I think that is a fair concern, and I would certainly be interested to hear the Minister's response. Having briefly put the shadow Minister's concerns and my own, I can inform the House that we will not oppose this legislation. However, we hope it is something of an improvement, rather than a jaded shadow of its genesis, which was just a populist offering for the tabloid press.

Ms SYLVIA HALE [11.33 p.m.]: The Greens oppose this bill. We see it as yet another example of a heavy-handed attack by the State Government upon local government, upon a level of government that is basically unable to defend itself from the slurs and accusations that the Minister and the Government routinely throw at local government and councillors, who frequently work under extraordinarily difficult circumstances and receive precious little remuneration for their efforts. I believe it is undoubtedly true that there have been cases of individuals whose behaviour has been disruptive—no one would deny that. But, it seems extraordinary to me that the activities of one or two individuals should be sufficient to impose upon all of local government such a heavy-handed and ill-considered response by the State Government.

I believe this is a further attempt by the Government to demonise local councils to somehow deny them legitimacy in the eyes of the public. Yet, any of us who participated in the debate on council amalgamations or participated in the inquiry by General Purpose Standing Committee No. 5 into the amalgamation process knows how strongly supported so many councils were by members of their community. Indeed, the whole amalgamation saga was characterised by suggestions by the Minister, without the production of any real proof, that councils were inefficient and money-wasting organisations, when we all know that the true purpose of those accusations, and the true purpose of the Government's policy in relation to local councils, has been to deflect attention from its policies of shifting cost onto local councils without giving them any compensation to make up for that added impost.

It became very clear in the course of the amalgamation inquiry that the Government was determined to stifle democratic representation. Indeed, the same sort of scenario was set up then as will be established under this bill: whole charades of inquiries, reports and recommendations. That whole amalgamation process ignored the outpouring of public sentiment against amalgamations, but the Government nevertheless still proceeded on the basis of reports that were universally recognised as being biased and unrepresentative of community belief. The reports were also widely recognised to have been written even before the so-called inquiries got under way.

The Minister says this bill is extraordinarily urgent because the release of the list of the most complained about councils prompted him to immediate action. Significantly, the list of councils complained about shows that Gosford had 88 complaints about it. I do not know whether other members have had the same experience as I have, but since I have been a member of the Parliament I have had 78 complaints from one individual about the activities of Gosford council. There is nothing in the list or the report to indicate the nature of the complaints or whether they were upheld or were even valid. It seems to me that it is a perfect case in point that one individual, for whatever reason, can so tilt a list of complaints that it is possibly totally unrepresentative of the true situation.

Most of the councils on the Minister's hit list are coastal councils. In that context an article in this morning's *Illawarra Mercury* had the following interesting comment about the matter:

The Shoalhaven City Council General Manager Russell Pigge ... said he believed it was no coincidence all the regional councils named on this year's list were located in coastal areas under considerable development pressure. "They are not only regionals but they're all coastal areas. I would say all those councils would be dealing with development issues" he said. Mr Pigge said Shoalhaven received more than 3,000 development applications in a year. "I think it is a major factor, just the growth rate and the number of developments we deal with and the amount of community action that brings into play." Wollongong City Council General Manager, Rod Oxley, agreed, "I think in the Wollongong context we've seen an unprecedented amount of development in the last 12-18 months. That inevitably causes a few people to raise issues."

The fact that a council is complained about does not say anything about the validity of the complaint. As the Local Government and Shires' Associations has made well and truly clear, it is totally unfair and underhanded—and I believe wrong—for the Minister to trot out this list and suggest it automatically conveys something to the community about the nature of a council, or about local government. There is no doubt in my mind that many complaints are legitimate, and there are avenues through which they can be dealt with; but this list should not be justification for the Government introducing this heavy-handed legislative response.

The other point I make is that a complaint about a faction or grouping in a council being disorderly or unruly is not necessarily unacceptable. I have in mind Warringah council, where council decisions were very heavily tainted with perceptions of corruption, unfairness or favouritism. The only way the minority councillors could prevent the council making what I think would be widely agreed as unacceptable decisions—decisions that verged on the corrupt—was literally to walk out of the meeting and so deny the council a quorum.

It could be said that their action impeded council in the performance of its business, but when that business was unacceptable and corrupt, their behaviour could not be described as disorderly, unco-operative, unprofessional or unbecoming. I certainly do not believe it could be described in that way. The Minister has been at great pains to say that this legislation will not be used in a way that favours majorities to the disadvantage of minorities. But, once the legislation is in place, once this Minister is no longer the Minister, there is absolutely no guarantee as to how the legislation will be applied. We cannot have legislation that is reliant upon the good intentions of individuals, because individuals change.

Let me give the House an example. The Local Government Act allows wards with as few as two councillors. One might say that is reasonable in country areas because often it is difficult to get people to stand for election as councillors; in such areas it might be unreasonable to insist on three or four wards. However, in the case of Botany council, that number of wards and the particular electoral method that applies to that council are used in such a way as to ensure the domination of the Labor Party in Botany. So much so, that in the 1999 local government elections, not one individual bothered to even contest the election because everyone knew the outcome was a foregone conclusion. That was not remotely a reflection on the competence or otherwise of the council.

The Hon. Duncan Gay: Isn't the council chamber laid out like a chamber of Parliament, with an Opposition side and a Government side? I do not know why they have an Opposition side.

Ms SYLVIA HALE: It is all show. It is not reality; it is all show. That is an example of how this legislation, despite the best intentions of those who may pass it, could be used in a way that is far from beneficial to the public interest. Can we assume, even under this Minister, that everything will be conducted in a manner that is above board, fair, and even handed? I direct the attention of honourable members to the transcript of the inquiry into the Orange Grove Road outlets affair. The transcript of Monday 20 September provides a useful insight into how the Labor Party conducts itself. A memorable witness, Mr Bargshoon, was asked questions and engaged in some sort of discussion or interchange of views with—

The Hon. Jan Burnswoods: Point of order: As honourable members are aware, the inquiry into the Orange Grove shopping centre has been going on for a couple of months. While the committee has had some deliberations about hearings and the calling of witnesses and so on, a number of issues have been raised about the evidence of certain witnesses, particularly the person to whom the honourable member is referring. This continues to be the subject of unreported matters before a committee of this House. I would argue that the honourable member is out of order. A reference in passing is one thing, but to refer to detailed evidence of a witness, particularly a witness who, as discussed by the committee the other day, has perjured himself—if anyone has any doubt about that I refer them to an article in today's *Daily Telegraph*, but this witness has perjured himself—

The Hon. Duncan Gay: To the point of order: The honourable member, under the guise of a point of order, took the opportunity to slur the character of a witness before a committee of this House. I should not have had to rise to my feet; I would have thought, Madam President that, you would have drawn the Minister to order immediately. It is unacceptable behaviour. Both you and the Hon. Jan Burnswoods know that if she wishes to refer to such matters she has to do so by way of substantive motion.

The Hon. Peter Primrose: To the point of order: I support the original point of order. The point I make relates to the reference to a substantive motion, which is required for an attack on another member. I suggest that the Deputy Leader of the Opposition should make himself more aware of the standing orders. The

Hon. Jan Burnswoods was making reference to a very prominent article in today's *Daily Telegraph*; she was merely citing material that appeared in the newspaper.

The Hon. Duncan Gay: But it had nothing to do with the debate.

The Hon. Peter Primrose: It went to the relevance of the matter before the House: the point of order as to whether Ms Hale is entitled to refer to an unreported matter from a committee of this House. The committee is deliberating on this matter, and it is totally inappropriate and out of order for that matter to be raised in the debate on this bill. That matter should be raised when the committee report is being considered, not now.

The Hon. John Ryan: To the point of order: We have just witnessed the most sensational piece of hypocrisy. The Hon. Jan Burnswoods took the point of order that Ms Sylvia Hale was raising material that was before a committee. In the course of doing so she did exactly the same thing herself by referring to a witness; in fact, she attacked a witness before the committee. I do not think we have previously observed a more sensational piece of hypocrisy. It is one thing to refer to the witness; it is another thing to attack witnesses before the committee. Frankly, the Hon. Jan Burnswoods has done enough in this House in that regard to justify being referred—

The Hon. Jan Burnswoods: You have been attacking witnesses day after day after day.

The PRESIDENT: Order! I call the Hon. Jan Burnswoods to order for the first time. I call the Deputy Leader of the Opposition to order for the first time. I call the Hon. Peter Primrose to order for the first time.

The Hon. John Ryan: In my view the Hon. Jan Burnswoods, by referring to that material, comes dangerously close to being in absolute contempt of the House; she might deserve to be referred to the privileges committee. In terms of her interjection about me attacking witnesses, I defy her to find, anywhere, one instance where I have attacked a single witness.

The Hon. Jan Burnswoods: What about Jennifer Westacott?

The Hon. John Ryan: I have not attacked Jennifer Westacott at all.

The PRESIDENT: Order! I remind the Hon. John Ryan that interjections are disorderly at all times, and he should simply ignore them.

The Hon. John Ryan: Indeed I should. The substantive point of order is that Ms Sylvia Hale is traversing material that is before a parliamentary committee. There is probably some merit to the point of order, but I object to the sensationally hypocritical matter in which the point of order was made.

Ms SYLVIA HALE: To the point of order: My initial remarks in relation to the witness and Ms Fazio were simply to set the context in which an exchange took place. I have no wish to refer in any way to any conclusions that might emerge from the inquiry, which is still under way. My sole intention was to read from the transcript of evidence given to the committee—evidence that is publicly available on the web to anyone who wishes to read it—and to do no more than that. I cannot see how reading from the transcript of a publicly available document is in any way out of order.

The Hon. Eric Roozendaal: To the point of order: After hearing Ms Sylvia Hale's explanation, I am greatly concerned that there seems to be a contradiction in her, as a committee member, citing Mr Bargshoon and, as a member of the House, speaking on a bill relating to local government. That contradiction may result in Mr Bargshoon commencing proceedings about the operation of the committee. I am greatly concerned about Ms Sylvia Hale raising the matter here. Also, I am greatly concerned that, in citing the evidence, the honourable member may be implying that the person she is speaking about may be a perjurer. What the honourable member is saying has serious undertones, and I believe it has the ability to change the processes of the committee. As a committee member, Ms Sylvia Hale should be concerned about reading into *Hansard* evidence from someone who is clearly identified in today's *Daily Telegraph* as a person with no credibility and who is a confessed liar. This process requires immediate action.

The PRESIDENT: Order! The point taken by the Deputy Leader of the Opposition on the Hon. Jan Burnswoods that a member may not make an implication against a person who has appeared before a

parliamentary committee as a witness unless by way of substantive motion is incorrect. However, I remind the Hon. Jan Burnswoods that in accordance with the standing orders members must not comment on matters that are before a parliamentary committee prior to that committee reporting on those matters to the House. I remind Ms Sylvia Hale also, as she concludes her speech, that although she may refer to matters that are in the public arena, she should not comment on proceedings that are presently before a committee of this House prior to that committee reporting on those matters. Accordingly, such references in her speech are out of order.

Ms SYLVIA HALE: I seek some clarification. Am I permitted to read from the transcript of evidence?

The PRESIDENT: Order! No. My ruling was quite clear: Standing orders state that members may not comment on proceedings that are before a parliamentary committee until that committee has reported on those proceedings to the House.

Ms SYLVIA HALE: Even to the extent of reading from a transcript of evidence?

The PRESIDENT: Absolutely! It would be out of order for the member to attempt to do so.

Ms SYLVIA HALE: I will not spend further time on that. I am sure that many members are familiar with the content of what has been said in evidence before the committee. I believe it has great relevance in some ways to the way the Government conducts itself in relation to the affairs of local government. The point I am making is that the Minister gave great weight in the second reading speech to the fact that this legislation will not be used to silence minority groups, that it will not be used in a way that will disadvantage minorities. I do not care who make up the minorities, whether they are Labor, Liberal, Coalition, Greens or whatever. Essential to the nature of a democratic society is that minorities should be able to express a point of view without any concern that they will be silenced, whether it is by suspension or a threat of suspension.

One of the more ludicrous provisions in the bill is that a councillor who is considered to be guilty of unruly or inappropriate behaviour may have their pittance allowance withdrawn, but they may continue to participate in council business. For the life of me I cannot see that the threat of losing one's allowance as a councillor is in any way a penalty that has any relevance to a council's conduct. If a councillor acts in a disruptive or disorderly way, or makes inappropriate attacks on other councillors, clearly the only way to deal with that matter is to prevent that behaviour from occurring. However, under the provisions of this bill, that behaviour will not be stopped; presumably the behaviour can continue. The only penalty that could or might be imposed would be the loss of a councillor's allowance.

Given how much time so many councillors devote to council activities, and given that they do their job well and appropriately, the amount they are paid bears absolutely no relationship to the work that is required of them. That is one of the more ludicrous provisions of this bill. There is great concern within local government that this is yet another way that the State Government is attempting to—

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

RAILCORP SENIOR STAFF EMPLOYMENT CONTRACTS

The Hon. MICHAEL GALLACHER: I direct my question to the Minister for Transport Services. Is the Minister or the chief executive of RailCorp, Vince Graham, planning to terminate the contract of up to three senior staff of RailCorp? If so, will the Minister indicate to the House the reasons for these impending terminations, and is he intending to put Michael Drury into one of the newly vacated positions?

The Hon. MICHAEL COSTA: I do not understand why this question is directed to me, and on this occasion, when the Leader of the Opposition had the opportunity to ask precisely this question in the estimates hearing. It was embarrassing to sit through the estimates hearing and have the quality of questions that were asked of us. The decision on RailCorp staff is a matter for the chief executive officer [CEO]; it is not a matter for me. Certainly I have a role in the appointment of the CEO. This is really a matter for Vince Graham. Hypothetically, if Vince Graham were to use Mick Drury in a position that had to do with matters that relate to his expertise, I would certainly support it. Mick Drury is somebody I got to know quite well when I was police

Minister. He is somebody I have enormous respect for, as do many police and the general community. I do not understand where the question is heading. I am happy to take advice from Vince Graham about any changes and provide that information to the Leader of the Opposition.

The Hon. Duncan Gay: I think that was a yes.

The Hon. MICHAEL COSTA: No, it is not a yes, because I do not know. Decisions made by RailCorp—it is a State-owned corporation—are made by the CEO and the board. That is the way we operate. I do not know what the Coalition did when it was in government. I suppose I should know, given the way it handled the Metherell issue. We can see how the Coalition interfered with the administration of public organisations. That is not the role we take. We appoint CEOs. If the—

The Hon. Michael Egan: Not to mention the Windsor matter.

The Hon. MICHAEL COSTA: The Windsor matter? I do not know anything about that. If the Opposition wanted this information, there was an opportunity to ask detailed questions of all of the CEOs at the estimates hearing. The opportunity was not taken. One has to question the value of estimates hearings, given the quality of the questions we were asked. Once again the Opposition is adopting the tactic of wasting our CEOs' time by calling back our CEOs in the transport portfolio for a further estimates hearing. Last year they were called back for six subsequent hearings. It was a complete waste of time. These people ought to be doing what they are paid for, which is running the rail system and other transport agencies, rather than wasting their time with inane questions which could easily have been—

The Hon. Patricia Forsythe: Point of order: The Minister is again debating the question rather than answering it, which is contrary to standing orders.

The PRESIDENT: Order! It is certainly contrary to standing orders for a member to debate a question, but the Minister is discussing the issue generally and is in order. However, I remind the Minister that he must not debate the question.

The Hon. MICHAEL COSTA: The opportunity that an estimates hearing provides is for detailed questions to be asked and information to be provided by executives of our rail agencies and other agencies. It has been striking in this round of estimates—and I have spoken to other Ministers—that the quality of questioning has been quite appalling, but to waste our general question time on matters of detail that are in the purview of general management is beyond belief. It is getting to the end of a couple of weeks of sitting and the Opposition is running out of questions. The *Sydney Morning Herald* and the *Daily Telegraph* have not run any information for the Opposition this week.

ARRIVE ALIVE GRANTS PROGRAM

The Hon. ERIC ROOZENDAAL: My question without notice is addressed to the Special Minister of State. Will the Minister advise the House how the Government is giving young people a voice in road safety in New South Wales?

The Hon. Duncan Gay: Is this a ministerial statement?

The Hon. JOHN DELLA BOSCA: No.

The Hon. Michael Egan: Is this a question without notice?

The Hon. JOHN DELLA BOSCA: Yes, it is. Honourable members may recall that last week I outlined how the Motor Accident Authority is helping to reduce child driveway deaths and injuries by inviting local government and health and community organisations across New South Wales to apply for driveway safety grants to create local safety campaigns. Continuing with its work to help to reduce injuries for all road users, the Motor Accident Authority is now giving young people, aged 16 to 25, a voice in road safety. Grants of up to \$10,000 are being offered to young people to implement local road safety ideas in their communities. Now in its third year, the highly successful Arrive alive grants program allows young people to take ownership of an issue that directly affects them. The program is successful because it helps to engage young people and influence their attitudes and behaviour.

Every year in New South Wales more than 7,000 young people are injured in motor vehicle accidents and a further 150 are killed. Risk-taking by young, inexperienced drivers is all too common, with speed, drink driving, fatigue and not wearing seatbelts being factors in many fatal crashes. The Arrive alive grants program gives young people the opportunity to develop road safety campaigns for their own peers. To qualify for an Arrive alive grant, young people need to be in a group of at least four aged between 16 and 25. Each group must also work with a support organisation such as their local council, youth centre, TAFE, university or, for example, scouts or guides. By tapping into the expertise of their support organisations, young people can have a real impact on an issue that so sadly and tragically affects many of their number.

Last year, the Motor Accident Authority provided more than \$170,000 to fund 20 Arrive alive program road safety initiatives across the State. Some of the innovative road safety projects included a youth camp on the Central Coast; the production of a short film by young people in Bega; the development of a road safety storybook in Wagga Wagga; and a radio, cinema and poster campaign in Taree. An important feature of the Arrive alive grants program is the support and encouragement provided to grant recipients.

As part of the grants program the Motor Accident Authority hosts the youth road safety forum, bringing together the young grant recipients and support agency representatives for advice on road safety, project planning and media skills training. I urge young people to apply for an Arrive alive grant and help reduce the road toll. Application forms can be downloaded from the Arrive alive web site, *arrivealive.com.au*. I look forward to providing the House with further updates on this innovative way of working with young people in addressing youth road safety issues.

SHEEP SCABBY MOUTH VACCINE SHORTAGE

The Hon. DUNCAN GAY: My question is directed to the Minister for Primary Industries. Is the Minister aware that the company Pfizer, the only manufacturer of scabby mouth vaccine in Australia, has currently run out of this vaccine and will not have any for up to two months? Is the Minister further aware of State regulations precluding the sale of sheep with scabby mouth? What action will the Minister take to ensure the State's sheep industry is not adversely affected during this critical time?

The Hon. IAN MACDONALD: That is a good question by the Deputy Leader of the Opposition. There are some difficulties involved in this issue. I am waiting for the department to report to me in relation to this issue. It is not easy, because—

The Hon. Duncan Gay: They are a bit short on staff.

The Hon. IAN MACDONALD: It has nothing to do with staff.

The Hon. Michael Gallacher: There are none.

The Hon. IAN MACDONALD: There are plenty of research facilities. As soon as they have reported to me on how we will handle this I will report to the House.

COUNTRYLINK CONCESSIONAL FARES

Ms LEE RHIANNON: I direct my question to the Minister for Transport Services. As many CountryLink rail services run with empty seats, has he considered removing the cap on the number of seats allocated to people holding concessions? Considering that the Minister often emphasises the need to increase revenue raised from rail services, would it not be financially sensible to have people paying concessional fares occupying seats rather than letting those seats remain vacant, as is so often the case on many CountryLink trips?

The Hon. MICHAEL COSTA: It is very pleasing that Ms Lee Rhiannon is concerned about the finances of our rail system. It is unique: she normally takes the view that public transport and public services are somehow funded through the—

Ms Lee Rhiannon: Point of order: Madam President, I draw your attention to the fact that the Minister is debating the question. Could you request that he just answer the question as it was asked, please?

The Hon. Michael Egan: To the point of order: It is not debating the question if a Minister, in giving an answer, points out that the premise of the question is wrong. That is an answer to the question. The honourable member cannot then complain that the question is being debated. The Minister is giving factual information.

The PRESIDENT: Order! The standing orders as they relate to questions state clearly that in answering a question a member must not debate the question. The point made by the Treasurer, however, is a very good one: In answering a question, a statement by a Minister that the premise of the question is wrong can in fact be an answer to the question. However, the Minister would realise that berating the member who asked the question is in fact debating the question and I will continue to rule that way.

The Hon. MICHAEL COSTA: The finances of the rail system are very important and I am always pleased to take questions in relation to the financial structure of the rail system. As the honourable member should be aware, we conducted an inquiry into the financial viability of CountryLink services and as part of that process—

The Hon. John Ryan: To scrap further services.

The Hon. Catherine Cusack: Part of that process was a moratorium for 12 months on any changes.

The Hon. MICHAEL COSTA: We know your position on Casino to Murwillumbah. Do not bring that up. You came in here time after time and said that you were going to deal with Casino to Murwillumbah and you came up with \$100,000. What a joke! You have been exposed as hypocrites.

The Hon. Melinda Pavey: You are the joke.

The Hon. MICHAEL COSTA: You are in big trouble. You said you had a report—

[*Interruption*]

The PRESIDENT: Order! I call the Hon. Melinda Pavey to order for the first time.

The Hon. MICHAEL COSTA: The Hon. Melinda Pavey should be very glad that I am not as silly as the Leader of the Opposition. I did not raise a point of order that she had misled Parliament even though she did mislead the Parliament. I did not want to waste the Parliament's time on that, as the Leader of the Opposition constantly does on petty points. We will deal with the issue. The fact of the matter is that CountryLink finances are important, and it is very pleasing to have a question asked of me about the state of CountryLink finances. It is clear that we are concerned about the state of CountryLink finances: that is why we commissioned the Parry report and that is why we are looking at a detailed response about CountryLink services. I have indicated on many occasions that we will be making a detailed statement, and I think that detailed statement will address many of the issues that the honourable member has raised in her question. I look forward to her support for that particular proposal. [*Time expired.*]

SYDNEY INTERNATIONAL CONVENTIONS AND CONFERENCES

The Hon. HENRY TSANG: My question is addressed to the Treasurer and Minister for State Development. Will the Minister please inform the House about Sydney's popularity as a destination for international conventions and conferences?

The Hon. MICHAEL EGAN: That is a very good question from the Hon. Henry Tsang. In 2002-03 the Sydney Convention and Visitors Bureau won a record 47 bids to hold international conventions in Sydney over the next nine years. Conventions held in Sydney provided New South Wales industry with an opportunity to develop international links and promote their products and technology to a global audience. The economic impact for the State is considerable. According to a survey conducted by the Sydney Convention and Visitors Bureau, international convention delegates spend an average of \$4,330 each during their stay in Sydney and are accompanied by an average of three persons. These figures exclude prepaid international airfares and package tours. Based on daily expenditure, convention delegates spend nine times more than other international tourists. Average international tourists to Australia spend \$2,569 during their stay, or \$92 per day. This figure excludes prepaid inclusive package tours and prepaid international airfares.

To take advantage of Sydney's attractions as a conference destination the Department of State and Regional Development recently supported two significant events at the Sydney Convention and Exhibition Centre. The first was the Sixteenth International Congress of Eye Research, which was held from 29 August to 3 September. The Sydney Convention and Visitors Bureau estimated that at least 700 international visitors attended the Congress of Eye Research. The Department of State and Regional Development took the lead by

hosting a business event where participants learned about ocular technologies being developed and commercialised in this State. Professor Brian Holden of the Vision Co-operative Research Centre—

The Hon. Melinda Pavey: Good bloke.

The Hon. MICHAEL EGAN: He is indeed. Professor Brian Holden, Dr Shanny Dyer of the University of Technology and Bruce Lyman, the Chief Executive officer of the Australian Technology Showcase member company Argus Solutions, were guest speakers.

The Hon. John Ryan: Oh, you had to give it a go.

The Hon. MICHAEL EGAN: The Australian Technology Showcase plays a big role in quite a number of things that happen in this city, in this State and in this nation. The second conference was the Nineteenth World Energy Congress, held from 5 September to 9 September. The Sydney Convention and Visitors Bureau informed me that some 2,200 people attended, 1,600 as delegates. Ninety per cent of delegates were international. The Government booked 30 square metres of exhibition space to promote New South Wales companies at the energy congress and hosted a networking event aboard the *Solar Sailor*, which is also involved with the Australian Technology Showcase. The department provided significant support in the lead up to the event. Delegates learned about business excellence in the world's energy markets. The Premier led a major public forum on climate change also at the congress.

The Hon. Jennifer Gardiner: Was that political climate change or just climate change?

The Hon. MICHAEL EGAN: Political climate change is about to happen in Australia on 9 October, a huge political climate change when Mark Latham becomes the Labor Prime Minister. That will be good not only for this State but for the whole of Australia, when John Howard and particularly Peter Costello are thrown out on their ears. I thank the Hon. Henry Tsang for a very good question. I look forward to October when we all celebrate the election of a Labor Federal government.

[Questions without notice interrupted.]

DISTINGUISHED VISITOR

The PRESIDENT: Order! I draw the attention of members to the presence in the public gallery of the Hon. John Dowd, a former Attorney General of New South Wales.

QUESTIONS WITHOUT NOTICE

[Questions without notice resumed.]

GREEN GULLY APPEAL

The Hon. JON JENKINS: My question is directed to the Minister for Justice, representing the Minister for the Environment. Could the Minister explain to this House why the National Parks and Wildlife Service is promoting the Green Gully appeal to protect brush-tailed rock wallabies from feral predators when the Minister has declined offers from as many as 10,000 people for volunteer activities worth millions of dollars to the department?

The Hon. JOHN HATZISTERGOS: I will refer the question to the Minister for the Environment.

SCHOOL AND TAFE CAPITAL WORKS

The Hon. CATHERINE CUSACK: I direct my question to the Minister for Commerce. When did the Minister for Education and Training raise with the Minister and/or his department his dissatisfaction with the inaccurate forecasting of total costs and completion dates for school and TAFE capital works?

The Hon. JOHN DELLA BOSCA: I have been addressing that issue with officers of the Department of Commerce. I think the honourable member is referring to a number of estimates for various school projects that are outside of the original financial projections. Indeed, the officers of the Minister for Education and Training and my officers have undertaken a very detailed analysis of patterns to determine why some of the

estimates have been unsatisfactory and to establish the programming and budget programming issues that have caused that situation. Significant progress has been made by the two departments in ensuring more accurate budgeting and an even spread of Department of Education and Training projects. I cannot recollect a specific occasion on which the Minister for Education and Training and I sat down and spoke about this matter in detail. Our officers have spoken about it in great detail and have had a number of meetings. The Minister and I have spoken about it in general terms on a number of occasions, but I would have to check my diary to enable me to provide a more precise response.

The Hon. Duncan Gay: But you will.

The Hon. JOHN DELLA BOSCA: I am happy to do that, but that is as precise as I can be at this time.

QUARANTINE LAWS

The Hon. TONY CATANZARITI: I direct my question to the Minister for Primary Industries. Can the Minister update the House on the outcome of an emergency meeting held with primary producers in this building this morning?

The Hon. IAN MACDONALD: I called an emergency summit this morning because of the growing threat to our agricultural industry from the Federal Government's attack on our quarantine system. The Federal Government is busy trading on the future of key industries that are the backbone of our rural communities to appease its overseas masters. This morning's summit united producers who have already come under attack with those who have just discovered that they are next on the hit list.

Representatives from the banana, apple and pork industries made it clear that they felt they had already been abandoned by the Coalition. For example, pig meat producers are resorting to the courts to try to reverse the pork import risk assessment. Representatives from the chicken meat, egg and citrus industries appreciated the opportunity to understand the kind of threat they are facing. As a priority, the summit endorsed the proposal of Federal Opposition agriculture spokesman Gavan O'Connor to conduct a thorough, independent review of our quarantine system. Federal Labor has proposed the review to allow us time to evaluate whether the system is working as effectively as possible for the benefit of our producers. The meeting also determined that science should be the overriding concern in this process, not trade. Unfortunately, in the past when Biosecurity Australia has sent a delegation to hear producers' concerns the official delegation has come from the trade division of the Department of Foreign Affairs and Trade. Fancy a trade delegation going to the apple producers of Batlow to talk about an import risk assessment and the science involved.

[Interruption]

These were the heads of the industry. There was a unanimous call for an independent body to oversee our quarantine system and to be responsible for determining the safety of agricultural imports. That would clearly require Biosecurity Australia to be removed from under the umbrella of the Federal Department of Agriculture, Fisheries and Forestry. The truth is that recent half-hearted Federal Government reforms simply do not go far enough. They are nothing more than a weak, knee-jerk reaction to criticisms of the existing process. Those criticisms were valid then and they are still valid now. However, the Federal Government is determined to cloud the process and to avoid transparency wherever possible. Industry has been ignored, my appeals were dismissed without good reason and information is virtually impossible to obtain. For example, when the Australian Chicken Meat Federation Inc. asked to review files—and it even had the correct file numbers—it was told it would cost a hefty \$18,850 for the service. I have a letter from Mr Jeff Maldon of the Department of Agriculture, Fisheries and Forestry addressed to the federation which states that the search and retrieval process would take 30 hours at a cost of \$15 an hour, a total of \$450.

The Hon. Duncan Gay: Tell us about your charter.

The Hon. IAN MACDONALD: Honourable members opposite are getting more and more embarrassed. The letter also refers to the copying of 7,250 pages at 10 cents a copy, giving a total of \$725, and postage of \$75. However, the important cost is the decision-making process. This is the crux of the Federal Government's strategy. The file numbers have already been identified, but the department has estimated that it will take 880 hours at \$20 an hour to make a decision! That is a grand total of \$17,600 for decision-making time. How extraordinary! What sort of department are they running? No wonder farmers are under threat.

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

The Hon. IAN MACDONALD: It is predicted that decision-making will take 880 hours—

The Hon. Duncan Gay: That is the same as your charter costs.

The Hon. IAN MACDONALD: He has said it now! I will contrast this with the work that NSW Agriculture has done. Last year, the department received 20 freedom of information applications at a total cost of \$2,115. That is a little more than \$2,000 for 20 freedom of information requests, not nearly \$20,000 for one. No wonder members of the chicken meat industry are upset about this. They need this information and the Federal Government is financially strangling them.

The Hon. Duncan Gay: This is rubbish!

The Hon. IAN MACDONALD: It is not rubbish. The meeting today made it very clear that the primary producers want consideration to be given to the likely economic impact of floods of international imports on farming families and entire communities.

The Hon. Duncan Gay: Tell us about your charter.

The Hon. IAN MACDONALD: The Nationals in this Chamber forget the farmers of New South Wales in this process. They should join me in telling the Federal Government that we do not want these import risk assessments undermining our rural industry. The CSIRO has warned that the chance of exotic diseases coming into this country has increased to between 95 per cent and 99 per cent over the next decade. The Leader of The Nationals keeps yelling insults across the Chamber.

The Hon. Duncan Gay: Because you will not divulge the information.

The Hon. IAN MACDONALD: This is a terrible risk to our \$660 million pork industry, but the leader simply flings a few flimsy insults across the Chamber. He should join me in telling the Federal Government and the Federal Nationals that we will not go that way.

FEDERAL PRISONERS HELD IN NEW SOUTH WALES GAOLS

The Hon. DAVID OLDFIELD: I direct my question to the Minister for Justice. How many people are being held in New South Wales gaols on behalf of the Federal Government and how many are not Australian citizens? If there are any non-citizens, how many of them are earmarked for deportation?

The Hon. JOHN HATZISTERGOS: I do not have the exact information; I do not carry statistics around in my head. I think that New South Wales has about 500 Federal prisoners in custody, some of them serving long sentences. We have about 50 periodic detainees serving sentences for Federal offences, and they are categorised as Federal prisoners. A small number of inmates categorised as Federal offenders have been in custody overseas and have been transferred to New South Wales to serve the remainder of their sentences. I point out that we get not one cent from the Federal Government to house those prisoners.

The Hon. Michael Gallacher: Why are we taking them?

The Hon. JOHN HATZISTERGOS: Because we have a constitutional obligation to do so. It was decided that the States should provide facilities to incarcerate Federal offenders. We would be in breach of the Constitution if we failed to fulfil our obligation in that regard. The Hon. David Oldfield asked about the number of prisoners who are not Australian citizens. I am not aware of that information; indeed, I am not sure whether such statistics are kept. However, I will take that part of the question on notice.

The Hon. David Oldfield asked also about the number of prisoners who are not Australian citizens earmarked and are for deportation at some stage. The figure varies because the Department of Immigration and Multicultural and Indigenous Affairs, which makes such decisions, makes them at various times and not necessarily at the time of sentence. I advise the honourable member that a number of prisoners who would otherwise be earmarked for deportation have applied to have their sentences transferred to overseas jurisdictions, and those prisoners will not be the subject of deportation. However, I will try to ascertain further information regarding that aspect and advise the House in due course.

BINNAWAY TO GWABEGAR BRANCH RAIL LINE CLOSURE

The Hon. RICK COLLESS: My question is directed to the Minister for Transport Services. Has the Rail Infrastructure Corporation approached GrainCorp with an offer to facilitate the movement of the remaining 4,000 tonnes of grain at the Gwabegar silo, provided GrainCorp guarantees not to receive further deliveries of grain at the Gwabegar silo? Is the Minister aware that this act of blackmail is unacceptable to GrainCorp? What quantum of funds has the Rail Infrastructure Corporation recently allocated to improvements to the Binnaway to Gwabegar branch line? When will this work commence, and will the line be operational for the 2004 grain harvest and beyond?

The Hon. MICHAEL COSTA: I have already answered this question.

The Hon. Duncan Gay: The Minister keeps saying he has answered the question, but he never has.

The Hon. MICHAEL COSTA: Not only have I answered this question, I have issued a media release on the matter, and I am happy to give members opposite a copy of that release. There is no point in wasting the time of the House—

The Hon. Rick Colless: Read it out.

The Hon. MICHAEL COSTA: If the Hon. Rick Colless wants me to read the media release to the House, I will do so. The media release, which is dated 16 September, reads:

The Government will undertake work on the Gwabegar to Binnaway restricted grain line to allow the movement of approximately 60,000 tonnes of grain from last year's harvest currently in silos on the line, Minister for Transport Services Michael Costa said today.

Funding will also be provided as appropriate to ensure the availability of other restricted grain lines during the 2004-05 harvest.

The Government is currently assisting the Industry Commercial Group—made up of GrainCorp, the Australian Wheat Board, and Pacific National—with an independent audit of NSW grain lines.

"I share the grain sector's goal of a sensible, long-term solution for the movement of grain in NSW," Mr Costa said.

"The audit will allow the Industry Commercial Group to work with grain producers to make decisions about investment in grain rail infrastructure according to usage patterns.

"It makes sense for NSW taxpayers to fund upgrades to rail infrastructure that the grain industry supports.

"Today's funding announcement provides certainty to grain producers for the coming harvest without pre-empting the independent audit.

"While discussions continue on long-term transport needs of the grain industry with the Industry Commercial Group and NSW Farmers, the Government has continued to invest in rail infrastructure ...

The Government has invested \$5.3 million in the upgrade of the Tottenham to Bogan Gate line. The media release continues:

"And yesterday I wrote to the Industry Commercial Group to advise funding will be provided to ensure the availability of 13 restricted grain lines during the upcoming harvest, with the funds to be offset against any future funding arrangements for those lines.

I could keep reading. The media release extends over two pages. I think we made the document available to members opposite, and it has been broadly reported on. I do not understand the point of the question. Regarding the allegations of blackmail, the Hon. Rick Colless made similar allegations last week—

The Hon. Eric Roozendaal: That was about Tony Windsor.

The Hon. MICHAEL COSTA: He was seen having coffee with Tony, was he not? I answered those allegations last week. Nothing has changed. I do not know what the Hon. Rick Colless is referring to when he speaks about blackmail. That is not how we operate. A private Industry Commercial Group was set up to discuss long-term grain usage patterns. We are not going to throw money around—like the Federal Government did, in a drunken attempt to pacify any group that has a particular view; we will do it sensibly. We will deal with the Industry Commercial Group, and it will be based on long-term analysis of grain usage patterns. The industry players have agreed to do that. They are participating in it; they are waiting on an audit of the restricted grain lines. The audit is being undertaken at the moment. I think the process with that line is sensible. Everyone supports it, except for The Nationals.

The Hon. RICK COLLESS: I ask a supplementary question. The Minister still has not answered my question. I asked whether the Minister's agreement to move the grain out of the Gwabegar silo was conditional on the Gwabegar silo not accepting any more grain this season. That is the blackmail I refer to.

The Hon. MICHAEL COSTA: I completely reject any notion of blackmail. The only form of political blackmail I have ever seen is the funding arrangements the Federal Government puts on a range of programs in New South Wales. We could talk about Casino to Murwillumbah. Talk about blackmail! That is probably the worst form of blackmail we have ever seen—

The Hon. Rick Colless: Point of order: The question specifically related to the Gwabegar silo; it had nothing to do with Casino to Murwillumbah. I ask you to direct the Minister to address the question he was asked.

The PRESIDENT: Order! The Minister's answer must be relevant to the question asked.

The Hon. MICHAEL COSTA: I am not aware of any blackmail other than what the Federal Government has perpetrated on New South Wales.

RURAL FIRE SERVICE HEADQUARTERS

The Hon. KAYEE GRIFFIN: My question is addressed to the Minister for Emergency Services. Will the Minister update the House on what the Carr Government is doing to help our Rural Fire Service volunteers in the ongoing fight against bushfires?

The Hon. TONY KELLY: Today I joined the Commissioner of the Rural Fire Service to inspect the service's new purpose-built headquarters at Homebush Bay.

The Hon. Melinda Pavey: With the marble bathroom?

The Hon. TONY KELLY: I am glad the Hon. Melinda Pavey raised that aspect. During the budget estimates hearing the commissioner was asked, in effect, "Is it true that you have granite benchtops in your bathroom at the new headquarters?" This morning I visited the headquarters and had a look at those facilities, and I can safely say that there is absolutely no benchtop, let alone a granite benchtop.

The Hon. Melinda Pavey: Yet.

The Hon. TONY KELLY: The bathroom is complete.

[Interruption]

It just has a hand basin. It is a pedestal-style basin. Madam President, as you normally rule, interjections are disorderly, but I could not help responding on this occasion. This is another example of the Government strengthening bushfire protection for the people of New South Wales. This week more than 200 Rural Fire Service staff relocated to the new, state-of-the-art facility, which incorporates the 24-hour State Operations Centre. The centre has been designed to meet the needs of the most severe fire seasons, and to provide enhanced technological support to our volunteer firefighters. The centre will co-ordinate thousands of firefighters, and hundreds of tankers and aircraft from across New South Wales and interstate.

The Hon. Duncan Gay: Where is it?

The Hon. TONY KELLY: It is at Homebush Bay, on some of the government land there.

The Hon. Duncan Gay: How many more tankers could you have bought with the money?

The Hon. TONY KELLY: That is a good question, and I will answer it when I get to the cost. Since the Carr Government came to office in 1995, we increased funding to the Rural Fire Service by 164 per cent. In contrast, during the seven years of the former Coalition Government, it provided \$197 million to the Rural Fire Service. This year alone, we have provided two-thirds of that amount.

The Hon. Michael Egan: You don't have to remind me.

The Hon. TONY KELLY: You are very generous, Mr Treasurer. We have allocated \$27.6 million for more than 530 new or refurbished local brigade stations and fire control centres. In addition, \$233.5 million has been allocated for almost 2,500 new and high-quality reconditioned bush fire fighting tankers. We have made the personal protective equipment to the Rural Fire Service personnel and volunteers the highest priority. We have put an end to years of neglect under the Coalition Government. We are putting the interests of the 67,000 hard-working Rural Fire Service volunteers first.

In investing in the new facility to provide this latest technology the Carr Government has spent—and this will answer the earlier interjection of the Deputy Leader of the Opposition—\$6 million on the new Rural Fire Service headquarters. That is not to purchase them, because the headquarters are leased. The entire \$6 million has been spent on fitting out of the new Homebush Bay headquarters. The new facilities include first-class communications technology, state-of-the art meteorological and mapping equipment, 100 per cent self-sufficient emergency power supply, improved public information and in-house training facilities for volunteers and staff.

The Rural Fire Service has been based in a spread-out series of ageing warehouses at Rosehill; four or five warehouses that were not connected. They have now been replaced by this new facility. Many areas of the service are now under the one roof for the first time. The move to Homebush has allowed for digital communication upgrading.

The Hon. KAYEE GRIFFIN: I ask a supplementary question. Could the Minister please elucidate his answer?

The Hon. TONY KELLY: This equipment helps locate fires and prioritise the deployment of resources such as tankers, aircraft and bulk water carriers to where they are most needed. The State Operations Centre also provides facilities for other agencies that fight bushfires—so they are all there together in the one building. These agencies include the New South Wales Fire Brigades, the National Parks and Wildlife Service, the Bureau of Meteorology, the State Emergency Service, NSW Ambulance, NSW Police and State Forests. As a consequence the co-ordination between the agencies, the operations centre and the incident management teams will be improved.

The new headquarters facilities also provide for greater technically detailed information to be communicated to fire-affected communities. With potentially a very difficult fire season approaching us, this facility marks a major step forward in our ability to fight bushfires, to support our volunteer firefighters and to protect the people of this State during fire emergencies.

DEPARTMENT OF COMMUNITY SERVICES KEY INFORMATION DIRECTORY SYSTEM

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: My question is directed to the Minister for Community Services. Has the client information system been completed and is it fully operational? If so, what was the final costing for the client information system and how does this compare to the estimated costs? What was the time overrun on delivery of this product to the department? If the system is not yet fully operational, when will it be fully operational? What reports does it deliver? And in what form and with what regularity might we expect such reports?

The Hon. CARMEL TEBBUTT: I thank the Hon. Dr Arthur Chesterfield-Evans for his question, but I believe that it would have been more appropriate to deal with it through the estimates process. We did have some discussion about the new client information system for the Department of Community Services [DOCS] known by the acronym of KiDs, the Key Information Directory System. I advise the honourable member that the system was introduced at the end of October 2003 and is now fully operational. As I reported to the House, there were some initial problems with system stability, but they have largely been rectified or are in the process of being fixed.

KiDs replaced the 15-year-old client information system, which no longer met the needs of the Department of Community Services. KiDs is designed to provide better data collection and reporting, and improve the management of child protection reports and information about children and young people in out-of-home care. The implementation of the system involved the transfer of some 24 million records and a major change in the way in which staff handle this information. So while the system is fully operational, many staff are still becoming fully comfortable with the new system, and certainly the benefits that we expect from the new system with regard to the types of reports that will be able to be generated are yet to be fully realised. As was

discussed at the estimates hearing last week, the introduction of the KiDs system has had an impact on the capacity of the department to provide data that is both timely and accurate, particularly, as I indicated, for the 2003-04 annual report because the implementation of the new client information system meant that case workers had to be trained in the use of KiDs and in the new processes that were introduced with the system.

A new reporting framework for Department of Community Services information also had to be produced. New processes were developed for data extraction and quality assurance, and new computer programs are being written to support these processes and to produce reports from the new client system. So this has delayed the provision of data for the quarterly Internet reports because we obviously do not want to be publishing data until we can be sure that the data is both accurate and consistent. This will also have an impact on the annual report. It is expected that the information in the 2003-04 DOCS annual report is likely to be similar to that which was provided in last year's annual report, but we certainly expect that by the 2004-05 annual report we will be able to provide much more detailed information as a result of the implementation of KiDs.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I ask a supplementary question. Do I take that to mean that the Minister intends to report only annually with this data, not quarterly?

The Hon. CARMEL TEBBUTT: No. As I think I indicated, we have given a commitment to report quarterly data. The point that I was making was that the information that we can provide quarterly at this point is being impacted on by some of the data issues that I have referred to with regard to the implementation of the KiDs. The department has not been reporting quarterly data while it tries to resolve this problem, but as I and the director-general indicated last week at the estimates hearing, the department is now looking at what information it can accurately provide on a quarterly basis. Certainly there is some information coming through the helpline that can be provided. Once the data is mediated and we are in a position to go forward with clear and accurate data, we will be reporting on that data on a quarterly basis as well as in the annual report.

UNBORN VICTIMS OF VIOLENCE LEGISLATION

The Hon. DAVID CLARKE: My question is directed to the Minister for Justice, representing the Attorney General. Has 16 months elapsed since the release of the Government-commissioned Finlay report entitled "Review of the law of Manslaughter in NSW", which recommended the introduction of an offence of killing an unborn child? Did the Attorney General announce in June last year that this recommendation would be enacted into law? When has the Government planned to introduce this legislation, and why has it been delayed for so long? Can the Attorney General provide any statistics on the number of unborn children who have been killed in the past 16 months as a result of actions that the proposed legislation is meant to address and codify as criminal?

The Hon. JOHN HATZISTERGOS: I will refer the matter to the Attorney General.

FILM INDUSTRY

The Hon. AMANDA FAZIO: My question without notice is directed to the Treasurer, and Minister for State Development. Will the Treasurer inform the House about the buoyant state of the New South Wales film industry?

The Hon. MICHAEL EGAN: I would be delighted to do so, and I thank the Hon. Amanda Fazio for her question. I am not up with popular culture, I regret to admit. I am pleased to report that a record \$389 million was spent on feature film and television drama productions in New South Wales in the last financial year, accounting for 66 per cent of total production spending in Australia.

The Hon. Duncan Gay: Will they remake *Democracy*?

The Hon. MICHAEL EGAN: They couldn't. They would not be able to properly cast it. We have all moved on from then. The Hon. John Della Bosca had a cameo role in *Democracy*, and he played it very well. A national survey of film and television production by the Australian Film Commission shows that the level of spending in New South Wales was \$248 million higher than that for the previous year. It is very pleasing to note that last year's results show Sydney has clearly established itself as the preferred centre for film production in Australia.

This State's performance is mainly due to a rise in the number of high-budget foreign productions shot here, and that is further pleasing news. The New South Wales Film and Television Office provided support to a number of major productions last year. Foreign features shot in New South Wales included *Star Wars III*, *Son of Mask*, *Stealth*, *Man Thing* and *Revenge of the Sith*. What is that?

The Hon. John Della Bosca: That is *Star Wars IV*.

The Hon. MICHAEL EGAN: I can proudly say I have never seen a *Star Wars* movie. I might be the only person in western civilisation not to have seen one. Producers of these complex projects chose New South Wales because of the State's reputation as one of the best international production centres for movies. Our technical, artistic and infrastructure talent will continue to draw big budget movies from overseas into New South Wales. There are strong prospects for more foreign productions in Sydney including high-budget feature animations. Significant Australian productions shot in New South Wales included *Somersault*—which I saw on the weekend; it is a very good film if anyone is looking for an Australian film to see—*The Oyster Farmer*, and *The Illustrated Family Doctor*. The Government also supported the telemovie *Small Claims*, three episodes of the tele-series *BlackJack* and the miniseries *The Farscape: Peacekeeper War*.

The annual production survey by the Australian Film Commission provides a good barometer of the film industry's health by tracking the production of feature films and television drama programs including miniseries, telemovies and serials. Last year, spending by foreign film productions in this State reached \$237 million, which is significantly higher than the previous record of \$143 million set in 2001-02, when the action movies *Matrix Reloaded* and *Matrix Revolutions* were made. I actually did see one of the Matrix movies. I must admit that I did not understand it. I got the baddies and the goodies mixed up.

[Interruption]

I mean it. I just cannot get used to it. Where is the Minister for Transport Services? I cannot get used to goodies being portrayed wearing black shirts. Spending on Australian productions in New South Wales also rose in 2003-04, reaching \$147 million compared with \$107 million in the previous year. By contrast, spending on feature films and television productions in both Queensland and Victoria fell last year. I do not want to rub it in so will not read the next couple of paragraphs. I merely want to point out that spending rose in New South Wales and fell in the other States.

The Hon. AMANDA FAZIO: I ask a supplementary question. Will the Minister please elucidate his answer?

The Hon. MICHAEL EGAN: On reflection, I think I will rub it in, and why not! Queensland recorded its lowest survey figure to date at just \$53 million, while in Victoria spending fell 23 per cent last year from \$150 million to \$115 million. The biggest fall in that State was in spending on foreign productions, which was down to less than \$1 million for the year. So, we clearly are the film-making capital of Australia. The Australia Film Commission Survey also looks at the performance of film production companies by State. New South Wales-based companies increased the value of production by 10 per cent last year to \$233 million, and New South Wales production houses almost doubled their spending on feature films. In comparison, Victorian companies generated \$85 million in production during 2003-04 while Queensland companies accounted for just \$17 million.

The Hon. Melinda Pavey: What about biotechnology comparisons with the other States?

The Hon. MICHAEL EGAN: Well, absolutely.

The Hon. Melinda Pavey: No, not as good as Queensland.

The Hon. MICHAEL EGAN: Oh, don't be daft. Nearly all the pharmaceutical companies, for example, are in New South Wales.

The Hon. Melinda Pavey: Biotechnology, I said.

The Hon. MICHAEL EGAN: Where does the member think pharmaceuticals fit in? Does she think they fit in the agricultural industry? There certainly are some dumb people opposite!

The PRESIDENT: Order! I remind the Leader of the House that interjections are disorderly at all times and he should ignore them.

The Hon. MICHAEL EGAN: I have explained to you before, Madam President, that I try hard. And I have told you before about original sin. I am prepared to provide a further explanation if members wish it. If one does not understand the concept of original sin, one cannot understand the way the world operates. As much as I to resist the temptation to respond to an interjection, I am not perfect and— [*Time expired.*]

RURAL MENTAL HEALTH SERVICES

The Hon. Dr PETER WONG: My question without notice is directed to the Special Minister of State, representing the Minister for Health. Is the Minister aware that there is a lack of 24-hour mental health crisis teams in rural New South Wales? Is he also aware that these crisis teams do not work on weekends? What is the Government doing to improve services in mental health to residents in rural and regional New South Wales?

The Hon. JOHN DELLA BOSCA: I am aware in general terms that the Government has taken a range of initiatives in relation to mental health issues in regional areas to enhance access to services. However, the honourable member has asked a fairly specific question and I will refer it to my colleague the Minister for Health and ask him to provide an answer as soon as practicable.

CITYRAIL STAFF INTERNET ACCESS

The Hon. JENNIFER GARDINER: My question without notice is directed to the Minister for Transport Services. Is the Minister able to confirm whether an internal investigation is currently under way within CityRail relating to more than 200 staff inappropriately accessing material on the Internet? Is the Minister able to indicate to the House the current status of that investigation?

The Hon. MICHAEL COSTA: I believe this matter was reported in a recent newspaper. There was certainly a media release about it issued by RailCorp on 24 August 2004. Once again, I thank the Opposition's research department for its very detailed investigation. The *Sydney Morning Herald* and the *Daily Telegraph* once again provide a great resource. Those opposite must have failed to pay their subscriptions because the papers are arriving late. The media release advised that two senior transit officers have resigned following an investigation into the spread of inappropriate material by email. A recent review of the Security Division's information technology network revealed the existence of amounts of inappropriate material, resulting in the investigation. The investigation into this serious breach of RailCorp's email and Internet policy, and the contravention of its code of workplace standards, was headed by former police detective inspector Mick Drury—a friend of the Leader of the Opposition—who is now Director of Ethics and Customer Service for the Transit Officer Program.

The Hon. Michael Gallacher: Why didn't Mr Platt do the investigation?

The Hon. MICHAEL COSTA: Who?

The Hon. Michael Gallacher: Mr Platt?

The Hon. MICHAEL COSTA: Who is he?

The Hon. Michael Gallacher: I thought he was the security officer.

The Hon. MICHAEL COSTA: I do not know him. Michael Drury, now Director of Ethics and Customer Service for the Transit Officer Program, conducted the investigation. A memorandum has been issued to all transit officers reminding staff of their obligation and advising them that disciplinary action will be taken against offenders. In fact, I have a copy of the media release and the memorandum issued to staff and transit officers.

SHEARING INDUSTRY OCCUPATIONAL HEALTH AND SAFETY

The Hon. IAN WEST: My question is directed to the Minister for Commerce. Will the Minister outline efforts being made by WorkCover to showcase safety improvements in the shearing industry?

The Hon. JOHN DELLA BOSCA: I certainly will. WorkCover will tomorrow conduct an open day at Quamby Park, near Walcha, to demonstrate safety initiatives in the shearing industry. Quamby Park is a premier merino stud and cattle property and visitors will be able to inspect the state-of-the-art shearing shed, developed with funding assistance from WorkCover's ShearSafety Program. ShearSafety has shown woolgrowers around New South Wales that occupational health and safety improvements can be made to sheds of any age, often with very modest sums of money. The modifications made at Quamby Park are, however, at the very top end.

The owners received the maximum grant of \$20,000 under a dollar-for-dollar program and have spent considerably more than that to invest in the safety and productivity of their property. A huge hangar-like metal structure was imported from Queensland to replace the century-old, rotting woolshed. It was adapted to incorporate the latest techniques and procedures in shearing, breeding technology and occupational health and safety. The new facility features an insulated roof, a non-raised curved shearing board, concertina moveable wool bins and adjustable height wool table, fixed sling points for shearers, a chemical containment area and separate staff amenities.

The open day is the last of seven to be held this year by WorkCover in partnership with FarmSafe New South Wales, the Shearing Contractors Association of Australia, New South Wales Farmers and the Australian Workers Union. A total of \$228,750 in grants has been paid by WorkCover to 13 woolgrowers to fund new or renovated shearing sheds at Caloola, Deepwater, Delegate, Forbes, Gilgandra, Harden, Holbrook, Middle Arm, Narrabri, Uralla, Wagga Wagga and Walcha. The open days demonstrate to industry that a range of financially affordable improvements can be made to sheds of all types and ages to improve both safety and efficiency of shearing activities.

WorkCover's ShearSafety Program is one of many initiatives the agency is taking to improve occupational health and safety, and to show employers simple and cost-effective ways of protecting employee safety and improving the output of their businesses. I hope tomorrow's open day at Walcha will be well attended, I thank WorkCover's partners for participating in the event and I commend the program to the House.

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

SHEEP SCABBY MOUTH VACCINE SHORTAGE

The Hon. IAN MACDONALD: The Deputy Leader of the Opposition asked me a question about scabby mouth vaccine. Scabby mouth infection in sheep is rarely fatal, but it can cause problems for live sheep exports, and that is the main reason for vaccinating sheep. I am advised that the vaccine for scabby mouth—also known as Orf or contagious acthyma—contains live scabby mouth virus. The virus used to produce the vaccine is grown in a laboratory in batches, with batches prepared from time to time as needed. This vaccine is only made in Australia by Pfizer—formerly CSL—because there simply is not sufficient demand for more, given the small size of the market.

The last batch failed its potency test and therefore cannot be used. Being a live vaccine, there are no large reserves of scabby mouth vaccine in the supply chain. Thus, there is now a shortage of vaccine, and I am advised that the next batch will not be available for another four weeks. This shortage has no effect on domestic sheep movements but may affect live sheep exports to some Middle Eastern countries. These markets require two vaccinations, the first usually at lamb marking and the second just before export. New South Wales will not be affected as badly as those States that are more dependent on live export markets. This is a market failure on the part of the vaccine manufacturer, not the Government.

Questions without notice concluded.

[The President left the chair at 1.01 p.m. The House resumed at 2.30 p.m.]

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders

The Hon. CATHERINE CUSACK [2.30 p.m.]: I move:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 122 outside the Order of Precedence, relating to an instruction to General Purpose Standing Committee to hear evidence from youth workers and staff at Kariiong detention centre, be called on forthwith.

The House divided.**Ayes, 18**

Mr Breen	Miss Gardiner	Mr Ryan
Dr Chesterfield-Evans	Mr Gay	Mr Tingle
Mr Clarke	Ms Hale	
Mr Cohen	Mr Oldfield	
Ms Cusack	Ms Parker	<i>Tellers,</i>
Mrs Forsythe	Mrs Pavey	Mr Colless
Mr Gallacher	Ms Rhiannon	Mr Pearce

Noes, 17

Ms Burnswoods	Ms Griffin	Ms Tebbutt
Mr Catanzariti	Mr Hatzistergos	Mr Tsang
Mr Costa	Mr Kelly	Dr Wong
Mr Della Bosca	Mr Macdonald	<i>Tellers,</i>
Mr Egan	Mr Obeid	Mr Primrose
Ms Fazio	Mr Roozendaal	Mr West

Pair

Mr Harwin

Ms Robertson

Question resolved in the affirmative.**Motion agreed to.****Order of Business****Motion by the Hon. Catherine Cusack agreed to:**

That Private Members' Business item No. 122 outside the Order of Precedence be called on forthwith.

GENERAL PURPOSE STANDING COMMITTEE NO. 3**Reference: Kariong Juvenile Justice Centre**

The Hon. CATHERINE CUSACK [2.37 p.m.]: I move Private Members' Business item No. 122 outside the Order of Precedence as amended, by leave:

1. That, in view of the answers given by the Minister for Juvenile Justice at the estimates hearing held on Thursday 16 September 2004, this House instructs General Purpose Standing Committee No. 3 to meet on Thursday 23 September 2004 at 6.00 p.m. for the purpose of hearing evidence from youth workers and staff at Kariong Detention Centre.
2. That the committee hold further hearings, as necessary, on Friday 24 September 2004 and on any other day or days as required, to take further evidence;
3. That for the purposes of these hearings, the committee has leave to sit during the sittings of the House.
4. That the following witnesses be invited to appear before the committee:

Mr Dale Bassett
 Mr Scott Bell
 Ms Helen Egan
 Ms Kim Emmerson
 Mr Luke Falconer
 Mr Brian Fitzpatrick
 Mr Mark Fitzpatrick
 Mr Peter Hawthorne
 Mr Andrew Makay
 Mr David Maryska
 Mr Michael Pedavoli
 Mr Mitch Walsh
 Mr Greg Jones
 Mr Byron Hill
 Mr Tony Hansen
 Mr Gary Hall

5. That all evidence be taken in camera and only made public by order of the committee.
6. That the committee report to the House any evidence made public by the committee by Friday 1 October 2004.

As honourable members are aware, a crisis has engulfed Kariong Juvenile Justice Centre in recent days. Without doubt, it is a political crisis for the Minister, the Hon. Diane Beamer, who last week expressed her full confidence in the professionalism and appropriateness with which Kariong is being managed. To the staff at Kariong the crisis has been building for much longer than the past two weeks. They have been struggling with the soft and naive policies of the Carr Government for more than a year. These policies have increased the number of adult detainees, who have been convicted of the most heinous offences imaginable, and have caused the erosion of discipline within the centre, thus preventing staff from appropriately managing the detainees.

Stronger discipline is needed but the Carr Government has taken the opposite approach by taking away the powers of the staff and diminishing their credibility in the eyes of the detainees. The Carr Government's policies now have given detainees in the centre too much power and staff are physically and psychologically at grave risk. The result has been an upsurge in violent assaults against staff, who have now become punching bags for the most vicious and manipulative young offenders in the State. Staff members are ordinary people, who are desperate to see the truth come to light about what is going on. In recent weeks I have developed the highest regard for these workers, who are being pilloried by management and now by the Minister and the Carr Government. But they are holding their ground; they want the truth to come out.

The Minister has staunchly defended the policies of her Government in the face of representations made to her directly by staff and in the face of issues raised by the Opposition on behalf of the staff. She dismisses our claims as being ridiculous and irresponsible. Has the release of the security videotape last week not signalled to her or to anyone in the Government that there really is a problem at Kariong? Staff are desperate and have taken all measures to bring the truth to light. This is a real crisis within the centre and not something to be media-managed to save the skin of the Minister.

It was made very clear to me when I met a large delegation some weeks ago that staff members have tried through their union, through management and through the department to bring attention to the upsurge in violence in the centre. They are very experienced workers. They say that the boys are not the problem. Rather, it is the new regime of management policies at the centre that has triggered a poisonous atmosphere against staff and made Kariong the most dangerous workplace in Australia. On 27 July they even spoke directly to the Minister and made the simplest of requests—for the Minister to fix the hole in the wall of the gymnasium? It is now September and the hole still has not been fixed. The worst part of this story is that when the Minister was asked about this during the estimates hearings last week she denied the conversation with staff ever took place.

The Minister has stated emphatically, and even aggressively, that the worker whose nose was broken and who was forced to apologise to the detainee who inflicted the injury upon him did so voluntarily. I say the Minister is telling lies. The Opposition says that a large group of elderly pensioners looking for a cafe were admitted through five electronic gates to the inner compound of Kariong where detainees have their activities. The Minister says four people looking for a prayer function at Baxter went through just two gates and were nowhere near where the detainees were held. Again I say the Minister is telling lies. The Minister said that this incident, which occurred on 16 April, was thoroughly investigated by the department and new procedures were adopted to ensure that there was no repeat. I say the Minister is either a complete fool or is telling deliberate lies. There was no investigation. I understand there was not even an incident report. No new procedures have been introduced. She just made it up to sound as though she is on top of the situation. She is not.

In relation to the MMK incident, where a sexual act took place in the visitors centre, the Minister has stated categorically that staff were disciplined. She has stated this on many occasions. This is simply not true. Nobody was disciplined. The Minister is telling lies. Only last Saturday the Minister said there was an incident where two boys were locked down in their rooms, set fire to their mattresses and in the ensuing melee four or five workers were taken to hospital. Again, this is simply untrue. The detainees were not locked down in their rooms. They were unsupervised in the programs unit, which is on the top floor of a completely different building. They barricaded themselves in the area and made a bonfire.

They did not rip the plumbing from their own rooms. They took a fridge door, ripped it from its hinges and smashed it against a door that had been barricaded. The unit manager had given them a telephone—I presume in order to avoid the Arunta system so they were not taped while they were calling—and they used that and other material to barricade themselves in. They then sprayed milk and the other contents of the fridge around the room. They ripped out the kitchenette plumbing, and huge amounts of water poured into the area,

flooding it, eventually cascading down the stairs and entering other sections of the building. These boys went berserk. Ten workers suited in riot gear forced their way in and subdued the detainees but not before a fire was lit and toxic smoke engulfed the room.

The Hon. John Hatzistergos: A moment ago you said they were not the problem.

The Hon. CATHERINE CUSACK: They would not be the problem if they were not allowed to be unsupervised in the programs room, with the provision of a telephone contrary to procedures. If they were not given that opportunity, they would not be a problem. Now, because of the policies of this Government, they are being allowed to roam free and do what they like. That is what places the boys at risk. We are saying a proper regime of discipline is needed in that centre, and that is the only way that the safety of the staff and the detainees can be assured. As I said, 10 workers forced their way in and subdued the detainees, but not before one worker was beaten viciously with copper pipe taken from the plumbing system. He fell to the floor and was beaten on the shoulder, presumably in an attempt to attack his head. I am told this man was hit six times with the copper pipe.

The workers tried to put out the fire but the hose failed. Only a bit of water dribbled out of the hose and onto the flames, doing nothing to douse the fire. Another fire hose was found. The boys were removed from the room, the fire was extinguished and then there was a second huge eruption of toxic smoke. Eleven workers were overcome by these fumes. A bus was brought from the neighbouring detention centre to take the workers to hospital. An ambulance transported the man beaten to the ground with the copper pipe. While these workers were in hospital receiving oxygen, most of them on respirators, another incident occurred in the Carinya unit and another detainee was taken to hospital. As they lay in hospital on respirators and receiving other treatment, the boys who put them there were tucking into pizzas—pizzas that had been treated to the entire detention centre.

I heard the Minister on the John Laws program on Monday, two days after the incident. If she could not have her facts and information right by then, what hope is there? Two full days after the incident she was still claiming that the boys had been locked in their room and only five workers had been injured. The Minister says that adults are in Kariong because the courts will not approve their transfer to prison. But her director-general says that in four years he can recall only one case where that happened. That case involved a person under the age of 18, so it bears no relationship to our claim that they will not transfer adults to prison.

Today we have reports from the Riverina. The Minister and her office have said there were no staff assaults in the Riverina Juvenile Justice Centre in the past year. However, the Wagga Wagga police assert that there have been 31 staff assaults since January. There are far too many lies. It is absolutely deplorable that a Minister with responsibility for any portfolio, much less one that involves the custody of human beings—and even more sensitive, the custody of children—could be telling so many lies. The staff at Kariong have behaved with great courage, not only in dealing with these explosive situations but also in their determination to get the truth out.

The Carr Government and Minister Beamer are now swerving desperately to avoid this collision with the truth. A police investigation has now been ordered into the workers. There is a professional conduct review into the pensioner bus issue, and there is the Dalton inquiry. These are being held in the context of the Minister saying that she has full confidence in the management and professionalism of the conduct of the centre. Let us be aware about what these inquiries are all about. The Minister supports the staff and the management of the centre. She supports these policies. These inquiries that she is instigating are not to help the whistleblowers, make no mistake about that; these inquiries are vindictive witch-hunts to try to stop the leaks. Stopping the leaks is not going to secure the centre.

I sincerely believe that the staff at Kariong today are at grave risk. The hearings proposed in the motion are for the sole purpose of obtaining evidence from these ordinary people, who are doing extraordinary work on behalf of the people of New South Wales. And they are doing this work in most disgraceful conditions that should not be allowed, which should not be permitted to continue. I make no secret of my fear that these people are being persecuted by this Government in the bullying, thuggish manner it has of treating whistleblowers. This is absolutely repugnant to our democracy and the future of the juvenile justice system. The crisis at Kariong is now a crisis of truth. Minister Beamer will say and do anything to cover up. Crossbench members have been in the pressure cooker. Pressure has been applied to delay these hearings to give the Government more time so that it can, as usual, get its act together and have its game plan to discredit the witnesses.

The Hon. Amanda Fazio: What is your game plan? Whatever Brogden tells you to do.

The Hon. CATHERINE CUSACK: My game plan is to have hearings where these people can simply put on the record the truth of what is going on in that centre and not be sacked and intimidated from their jobs as a result. That is all we are seeking to do. We are not seeking to inquire into this matter, to analyse the matter, to make a detailed report on the matter. The only report that will be made back to this Parliament as a result of these hearings will simply be the evidence obtained at these hearings. But, believe me, that will be very powerful evidence. I do not blame the Government for not wanting it to come out. Crossbench members have been in the pressure cooker to delay these hearings to give the Government more time to discredit the witnesses. I beg the crossbench not to assist the Government in this evil work.

This Parliament is not the Government's place; it is the people's place. These workers are without any power, except perhaps that they can come here and place the facts on the record without fear of retribution. This is their only option. Minister Beamer holds all the cards. She has the department, the Premier, the manager and all members on the Government side in this place. She also has the unfettered right to talk to the media and the authority to act to change policies. These workers have nothing—except perhaps they have us in this place. I ask crossbench members whether they will let down those workers. Will they, with the Government, slam these workers who have bravely come forward, put them back into the pressure cooker for another two, three or four weeks to wait and see what happens to them in that time while they are in that pressure cooker, or will they agree to the request of workers to simply come forward and give evidence in a way that will not result in adverse impact on them? I urge every member of this House to look into their conscience and to support this motion.

The Hon. AMANDA FAZIO [2.53 p.m.]: Madam Deputy-President—

The Hon. Duncan Gay: How could you say anything after that? There is no defence.

The Hon. AMANDA FAZIO: I think that explains why you are in the Opposition, Duncan. I speak against the motion of the Hon. Catherine Cusack that General Purpose Standing Committee No. 3 [GPSC 3] have a hearing into the Kariong Juvenile Justice Centre at 6.00 p.m. on Thursday 23 September 2004. That is tomorrow evening. She also wants to have hearings on Friday 24 September. The motion states in paragraph 1:

That in view of the answers given by the Minister for Juvenile Justice at the estimates hearing held on Thursday 16 September 2004, this House instructs—

instructs—

General Purpose Standing Committee No. 3 to meet on Thursday 23 September 2004 at 6.00 p.m. for the purpose of hearing evidence from youth workers and staff at Kariong Juvenile Justice Centre.

The motion then goes on to list 16 employees from the Kariong Juvenile Justice Centre that she wants called as witnesses. Anyone who has taken the time to look at the transcript of the hearing conducted by GPSC 3 on 16 September into the Juvenile Justice portfolio will find that the answers given to questions asked by the Hon. Catherine Cusack were detailed and certainly were not evasive. There are currently a number of questions on notice on this matter. The Government has not yet had a reasonable opportunity to respond to them as they were placed on notice only recently.

The Legislative Council should at least consider the information to be provided by the Government before a decision is taken to proceed with a further inquiry. Kariong Juvenile Justice Centre detains the most serious young offenders in this State. Whether they are in for a serious children's indictable offence or because they have exhibited extreme behaviour at other centres, the detainees present complex challenges for the staff. I recognise the good work done by the staff at all juvenile detention centres. It certainly is not an easy career choice to make, particularly not to work at Kariong with the number of very seriously disturbed young people there. But what we have to recognise is that the Kariong Juvenile Justice Centre has a number of serious design flaws. The centre was designed and built under the previous Coalition Government. It was originally built without a school or a kitchen. The site has since been improved but there is limited capacity for improvement. The school currently has room for 18 detainees only. The hole in the wall in the gymnasium that we have heard about is not a hole that has been punched through the bricks by the detainees; it is designed to be there and has louvres for ventilation over it.

The Department of Juvenile Justice has been working hard to implement recommendations from the Ombudsman's reports of 1996 and 2000 and the Council on the Cost and Quality of Government review in

1999-2000. All of these reports are publicly available. I now turn to the actions of the Hon. Catherine Cusack in putting forward this proposition. When did members of this House find out about her proposal? In an article on page 9 of the *Sunday Telegraph* on 19 September 2004—not yesterday as indicated by the Hon. Melinda Pavey. I quote from that article:

The State Opposition will convene a special parliamentary committee hearing into operations at the centre.

Opposition juvenile justice spokeswoman Catherine Cusack said the move had cross bench support.

At least seven staff members would be called to give evidence to the hearing, she said.

The focus of the hearing would be to counter claims by Ms Beamer, who had disputed several whistleblowers stories, Ms Cusack said.

The Hon. Catherine Cusack did not even have the courtesy to consult all members of the committee before she determined a timetable that suited her and ignored the operational needs of the Kariong Juvenile Justice Centre and the need to ensure that any future hearings are properly serviced by committee staff. It is highly unusual for the House to direct a committee—any committee—in such a prescriptive way, that is, giving the times and dates of when hearings are to take place, and to have a reporting date of one week, which, by the way, falls in the middle of the school holidays when the House will not be sitting. The Hon. Catherine Cusack has yet again demonstrated her disdain for the ordinary conduct of committees of the House by her motion. Once again, she believes she is entitled to special treatment. I might add that this motion that has been brought forward today certainly would not have been brought forward by the former Opposition spokeswoman on Juvenile Justice, the Hon. Patricia Forsythe, who conducted herself in a far more professional manner.

Let us now deal with the estimates committee hearings into Juvenile Justice. The Hon. Catherine Cusack was present at the hearing of GPSC 3 on 16 September 2004 as a replacement for the Hon. Greg Pearce. She may be the shadow Minister but she is not a substantive member of the committee. At that hearing the portfolio area of Juvenile Justice was allocated one hour and 30 minutes of the available time, that is, 90 minutes out of the two hours. The Hon. Catherine Cusack had half of the available time: she had 45 minutes to ask her questions. She initially had a block of 20 minutes of questions and a second block of 25 minutes of questions. The two crossbench members had a total of 30 minutes and the Government members had six minutes. Why do we need to have further hearings? GPSC 3 has already resolved to consider the need for further hearings after the answers to questions taken on notice were received, which is fairly standard procedure for many estimates hearings. But this was not good enough for the Hon. Catherine Cusack: she unsuccessfully moved an amendment to immediately schedule further hearings, but into what she did not say. There has been no attempt to avoid any further hearings by GPSC 3 into the portfolio area of Juvenile Justice, just an attempt to have any future hearings held in a proper and orderly manner after the questions taken on notice have been answered. There is no attempt by the Government to cover anything up. The motives of others are not so clear, and I will address that later.

I now turn to the safety of staff at Kariong. During the hearing the honourable member read out the graphic contents of a confidential departmental incident notice about the behaviour of a detainee and his girlfriend in the visiting area. The Hon. Catherine Cusack proffered the document for tabling despite the fact that it included the name of the officer who had reported the incident.

The Hon. Greg Pearce: Point of order: For some four or five minutes the honourable member has been relating to the House not only the contents of confidential deliberative estimates meetings of General Purpose Standing Committee No. 3 but also questions and answers given as evidence during the hearings. As you know, Madam Deputy-President, according to the standing orders it is not permissible to deal with these matters until the committee has reported. Indeed, earlier today the Government took the same point of order in relation to another member of the House who wanted to relate evidence from the estimates hearings. I ask you to ask the honourable member to cease revealing the contents of deliberative meetings and referring to evidence given at the estimates hearings.

The Hon. AMANDA FAZIO: To the point of order: If I have transgressed that standing order, I will not do so again.

The DEPUTY-PRESIDENT (The Hon. Patricia Forsythe): Order! The honourable member may proceed.

The Hon. AMANDA FAZIO: That was despite the article in the *Sunday Telegraph*, which included the following quote:

A staff member said violence had increased since detainees had been allowed to view their case files. Detainees would seek out those who had written negative comments to teach them a lesson.

The honourable member's bandying about a document containing a staff member's name would certainly not do anything to address that concern. The Hon. Catherine Cusack feigns concern for the staff of the Kariong Juvenile Justice Centre, but her own actions show she is prepared to exploit them for her own gain and to ignore the risk to staff of bandying about leaked reports containing the names of officers.

Further she has called for 16 staff to attend hearings before GPSC No. 3. The staff she has listed are all either unit managers or youth workers: the frontline staff who have day-to-day dealings with young inmates. The withdrawal of these staff, either in one block or in two blocks, would seriously compromise the operations and the security of the centre. A number of operational issues may affect the availability of all staff to attend the hearing simultaneously. Given the challenges that staff are managing in settling detainees after the recent media attention, I suggest that some consideration be given to their workload at Kariong. I have been advised that increased staffing ratios have been arranged in consultation with the Public Service Association to enable the supervision of some detainees on behaviour management programs.

It is doubtful that the Hon. Catherine Cusack is greatly concerned about the welfare and the potential for rehabilitation of the young people at Kariong Juvenile Justice Centre. During the estimates hearings she continually asked why the detainees were not subject to internal searches to try to find either weapons or contraband. The response from Mr Muir—which I have taken from the publicly available transcript—

The Hon. Greg Pearce: Point of order: The honourable member accepted the earlier point of order I raised in relation to quoting from the evidence before the estimates committee. As the President ruled earlier today, it is not acceptable to quote from the evidence of an estimates committee until the committee has reported. Madam Deputy-President, I ask you to ask the member not to quote from the deliberations of the committee until it has reported.

The DEPUTY-PRESIDENT (The Hon. Patricia Forsythe): Order! If the honourable member merely refers to the publicly available evidence of the committee, she may continue. However, she may not draw conclusions, given that committee has not yet reported. The honourable member understands that it is out of order for a member to refer to discussions in a deliberative meeting of a committee.

The Hon. AMANDA FAZIO: Mr Muir said:

Let us not forget that something like 66 per cent of all young people who come to our centres have been subject to abuse or neglect, and a very high proportion of those have been subject to sexual abuse. If we start getting those search powers more and more draconian, young people will take greater risks. They will start ingesting drugs or putting those drugs in other places that will create greater risk, and in fact make it harder, and not easier, for us to find. The response was:

But they cannot search the detainees internally, can they?

Detainees in a juvenile justice centre do have rights, despite the comments made by honourable members opposite. Section 11 of the Children (Criminal Proceedings) Act 1987 makes it an offence to disclose the name of a child connected with any criminal proceedings. Young persons involved in the juvenile justice system are granted confidentiality by the Children (Criminal Proceedings) Act, the Children (Detention Centres) Act 1987, and the Children (Community Service Orders) Act 1987. The Privacy and Personal Information Protection Act 1998 offers the protection of privacy for the young people involved in the juvenile justice system.

Any misuse of personal information of the detainees results in a breach of that Act, and any hearings would have to be conducted with those considerations in mind. The Legislative Council needs to consider very carefully whether an inquiry should proceed. In the past it has sought to uphold the principle of sub judice, even though it expressly reserves the right to debate matters in a particular case. While there are no proceedings before a court, and the issue of sub judice does not strictly arise, the principle that applies in this instance is similar.

There is potential compromise of a police investigation. I am obliged to advise that police were contacted on 16 September to investigate the possible theft of records at Kariong Juvenile Justice Centre. The matters currently under investigation may require certain staff members on the list to give evidence. I have

concerns that the proposed hearing may jeopardise that investigation. I am not aware of, nor should I be, the identity of any staff at Kariong who may be involved in the police investigations. The point is that no other honourable member in this chamber is or should be aware of that either. There is the potential that the police investigation may be seriously compromised if the hearings proposed by the Hon. Catherine Cusack go ahead.

I refer honourable members to Odgers' *Australian Senate Practice*, Tenth Edition, 2001 Supplement Updates to 30 June 2004, chapter 2, entitled "Parliamentary Privilege: Immunities and Powers of the Senate", page 46, paragraph 2, which states:

A criminal prosecution may be stayed if evidence is excluded because of public interest immunity (*R.-v-Lappas and Dowling* ACT Supreme court, ruling 26/11/2003, not reported), and the same principle would apply to evidence excluded because of parliamentary privilege.

I am not a lawyer, and many other members do not have legal training. Therefore, the question arises: Do we jeopardise a police investigation or wait and have this matter dealt with in a more appropriate time frame? What about the witnesses who will be appearing? Will they be inhibited in giving evidence, and how can they be sure, without obtaining legal advice, that they are not compromising their positions? As I said, holding an inquiry could prejudice the police investigation. This might occur if possible witnesses are influenced in giving their evidence to police by what they hear in a parliamentary committee inquiry. Parliament should not do anything that jeopardises this police investigation. I do not want to make imputations against the Hon. Catherine Cusack by speculating about her motives in seeking to have the supplementary hearings this week, but I will leave it to other honourable members to consider.

The Minister has commissioned an independent investigator, Mr Vernon Dalton, to conduct an audit of the critical issues raised at Kariong. Vern Dalton is a former Director-General of the Department of Family and Children Services and Commissioner of Corrective Services. He is a well-respected senior administrator. The review will include an examination of the operation and the implementation of procedures at the Kariong Juvenile Justice Centre. Mr Dalton has assured the Minister that a preliminary report will be available to her office within a fortnight. The final report will contain a number of recommendations that the Minister intends to act upon. As I said, Mr Dalton is well respected. I refer honourable members to the comments of the Hon. Catherine Cusack in May 2003 during debate on the Inspector General of Prisons, when she stated:

Ms Rhiannon has launched a disgraceful attack on Vern Dalton's integrity. I know him as a man of high integrity. Any respect I may have had for the honourable member has evaporated as a result of her attack tonight.

If she holds Mr Dalton in such high regard, why did she not wait for the results of his review before launching into her own investigation of Kariong—one she is not well equipped to undertake? The Hon. Catherine Cusack has said that this parliamentary hearing will clear up many of the issues. Current police investigations and the review being conducted by Mr Dalton will do the same in a more professional and constructive manner.

The Hon. Duncan Gay: Point of order: The honourable member is verballing the Opposition. Nowhere at any time has anyone questioned Vern Dalton's integrity. He is a fine public servant who has worked with the Coalition Government. The point that the Hon. Catherine Cusack was making is valid and it has nothing to do with Vern Dalton's integrity.

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

The Hon. AMANDA FAZIO: I can only speculate on why the Hon. Catherine Cusack is calling for these supplementary hearings with such haste. The only conclusion I can come to is that it is to abuse the committee process of the Legislative Council and to use the very troubled and disturbed young people at Kariong as pawns in her attempt to gain media headlines and to curry favour with the current leadership of the New South Wales Opposition. Let us stick to the facts. The Kariong Juvenile Justice Centre houses the State's worst offenders. That is why Kariong has the highest staff to detainee ratios of any of the centres, and, despite recent adverse incidents, there has been a drop in the number of workers compensation claims, and there have been no escapes from the centre.

The Minister has ordered a review of all visiting procedures at the centre, and she now receives daily operational reports from all the detention centres. The Minister is working with management to review and upgrade behaviour programs. The Minister is exploring legislative changes to make it easier to transfer the worst offenders to adult prisons. In the short term the Minister has improved the supervision of detainees by increasing staff levels and suspending contact visits for one detainee.

It is a fact that the Government has never resiled from the inherent problems of a badly designed Kariong. Vern Dalton, the former head of corrective services, is undertaking an independent investigation into all aspects and issues at Kariong, and the Government will act on his recommendations. It is a fact that the Minister advised that last weekend two young women visitors were turned away from the centre when sniffer dogs gave the indication of drugs. I hasten to add that such sniffer dog operations are part of upgraded procedures initiated by this Government. In accordance with procedure, the visitors were denied entry and the police were called.

I am advised that the two detainees the visitors had come to visit later became agitated and violent, and that staff locked them in a special unit isolated from the other detainees. I am further advised that the detainees broke off piping from the walls of the centre, barricaded themselves in, and became violent. Staff moved in when the detainees set a lounge alight, and the detainees were overpowered and locked down. One detainee was taken into police custody. I am advised that four staff were treated on the spot for smoke inhalation and that paramedics sent them to hospital for observation. Two staff were treated in hospital, one for rib injuries and one for neck injuries. As a precaution other staff members were taken to hospital to be examined for smoke inhalation, but none had to be admitted. The offending detainee is currently before the courts and the Minister is applying to send him to adult gaol.

The Hon. Catherine Cusack said a new regime of management has upset the staff. What she failed to mention was that the new regime of management is cutting back some previously organised, very generous overtime arrangements, which no doubt has upset the staff. Furthermore, she claims that there is no-one for the staff to go to talk to about these issues other than her and this Chamber. In fact, they have the right to go to the union, the Public Service Association. The people who work at Kariong, as do the detainees, deserve better than to be used as political footballs for the likes of the Hon. Catherine Cusack, who has shown by her actions today that she is not fit to be the shadow Minister because she has no concern for the welfare of the inmates of Kariong.

In response to the issues that the honourable member raised about the Riverina, I point out that actions described as assaults at detention centres can range from spitting and verbal abuse through to striking. Detainees are often transferred after serious violence, and all assaults are reported to police. I am disappointed that today the honourable member has made up more material to inflame her unseemly haste in requesting additional hearings without consultation with all members of the committee, with no consideration for due process, flouting the normal procedures of this House and showing, by seeking to have all the front-line staff appear before the committee yet again, that she does not care about the safety of detainees or staff.

The Hon. PETER BREEN [3.13 p.m.]: By calling on youth workers and staff at Kariong detention centre to give evidence to the committee the motion raises some unusual and difficult issues for the House. Not the least of the difficulties is that the motion names 16 staff and youth workers who appear, on the face of it, to be willing to give evidence. These people are either very brave or very foolish. None of us in the Chamber have the benefit of knowing the basis on which they wish to come before the committee. We can only assume they are willing to give evidence voluntarily, and on that basis I think they should be given the benefit of the doubt. That is, they are coming because they are brave rather than because they are foolish.

Any opportunity for anonymity or confidentiality in their evidence has been lost, and that really is an important issue for whistleblowers. I am reminded of the brave nurses who complained about the South Western Sydney Area Health Service and who, because of the inadequacies of the protected disclosures legislation, find themselves embroiled in proceedings of the Independent Commission Against Corruption.

The Ombudsman has said in an issues paper published last April that the protected disclosures legislation fails to achieve two of its three core objectives. There is no real protection for whistleblowers in New South Wales, and that is one of the reasons why this motion is before the House. Just as the nurses found there is no protection, so too, it appears to me, on the face of it, the youth workers and staff at Kariong have found themselves in the same position.

Similarly, the parliamentary oversight committee for the Ombudsman and the Police Integrity Commission, of which I am a member, has been saying for several years—I think since as far back as 1996—that the protected disclosures legislation fails to protect whistleblowers and that the recommendations the committee has repeatedly made over the years have been ignored. As a result of that, the latest recommendation that the committee explore protected disclosures was put off by the committee on the basis that all of its previous recommendations were largely ignored.

In the current environment where whistleblowers suffer retribution and ridicule, it is quite extraordinary that 16 people forming part of the management team at Kariong would want to come forward and make public assertions about how the detention centre is run. On another level, it is possible that whistleblowers in New South Wales have decided there is safety in numbers following the example of the brave nurses. I, for one, do not begrudge anyone the opportunity to use the Parliament as a forum to air their grievances. I say that with the caveat that I would not like to see the committee system of the Legislative Council brought into disrepute by frivolous or politically motivated complaints. Equally, I think it is quite wrong for members of Parliament to exploit genuine grievances in the community for their own political ends. Inevitably, grievances are dragged down to the level of grubby political debate and whistleblowers find themselves without a remedy and quite disillusioned about the matters they have complained about.

It takes a good deal of courage to be a whistleblower. Therefore, as the Ombudsman recently pointed out in the issues paper I referred to, whistleblowers need to be provided with appropriate support, they need to be assured that they have done the right thing, and they need to be given legal protection against anyone who does not support them or who seeks retribution. Of course, nothing in the Protected Disclosures Act achieves anything in the way of support, reassurance, or legal rights for whistleblowers. That is the principal reason why I support the motion. If the Government fails to provide protection for whistleblowers, this House needs to step into the breach through its committee system. Although naming the whistleblowers in a motion here is an unusual procedure, I believe it is justified in the present environment, where whistleblowers are labelled as troublemakers and liars and are afforded few protections.

By the same token, the procedures and dignity of the House need to be protected, and for this reason I also support amendments that have been foreshadowed by the Hon. John Tingle. The thrust of those amendments, as I understand it, is to remove the element of the House telling the committee when to sit, and to ensure that there is some system in place to give these people proper protection. I think the Hon. John Tingle has foreshadowed that the committee meetings ought to be in camera, but I am sure he will have something more to say about that.

One other issue that should be mentioned is whether the evidence taken by a parliamentary committee is likely to taint any police investigation presently under way at Kariong. The Hon. Amanda Fazio referred to that briefly and suggested there was a problem. I understand there is advice from the Crown Solicitor confirming that is a problem—not that I have seen the advice—

The Hon. Catherine Cusack: It does not exist. I am sorry, it is another lie.

The Hon. PETER BREEN: I was told that it existed, but if it does not exist I am not surprised.

The Hon. Catherine Cusack: It does not exist. It was a junior solicitor in the Department of Juvenile Justice who said something, not the Crown Solicitor.

The DEPUTY-PRESIDENT (The Hon. Patricia Forsythe): Order! The Hon. Peter Breen has the call.

The Hon. PETER BREEN: In the absence of such advice, during the lunch break I took the liberty of doing a Boolean search on the Austlii web site, asking for cases linking parliamentary privilege with police investigation. At the top of the list was *Amalgamated Television Services v Marsden*. It was a 100 per cent strike! Members will be aware, of course, that that was the Channel 7 defamation case in which John Marsden succeeded in proving that certain imputations were defamatory. In the judgment of the Court of Appeal the genesis of the allegations against Mr Marsden was a statement under parliamentary privilege by Deirdre Grusovin, the former member for Heffron.

Subsequently the police investigated the allegations and, far from inhibiting the investigation, the privileged statement of Deirdre Grusovin actually spurred on the police. In a recent report of the Police Integrity Commission titled "Operation Tower" the extent of the police investigation of Mr Marsden is examined in some detail. The point is that statements in Parliament or parliamentary committees do not inhibit police investigations; indeed, often they stir the police to action, as demonstrated by the Marsden case. The only disadvantage for police that might flow from the proposed inquiry is that the police will need to conduct their own inquiries and gather their own evidence; they cannot use the evidence that the parliamentary committee has gathered. That is not to say that the evidence cannot be given to the police separately, or that the same evidence cannot be given to them. But the police cannot simply rely on the information that is provided to the Parliament. In practice, that does not disadvantage the police.

The last matter I wish to refer to is the question of the House directing the committee—a matter referred to by the Hon. Amanda Fazio. I, too, feel uncomfortable about that. I believe that committees ought to operate independently and separately and have their own autonomy. Ultimately, of course, the House is the authority as to what happens in committees, but in my opinion committees need to be fairly unstructured. The Hon. John Tingle has foreshadowed an amendment that I believe will solve that problem. On the basis of his proposals and the thrust of the motion generally, I commend the motion to the House. I believe it is a novel initiative in some respects, but I believe it is an inevitable one given the problems with the protected disclosures legislation. I urge members to support both the motion and the amendment.

The Hon. JOHN TINGLE [3.22 p.m.]: Like the Hon. Peter Breen, I am a member of General Purpose Standing Committee No. 3, and obviously, like him, I have a particular interest in this motion and the results that could flow from it. Let me state without any equivocation that I totally support the idea of bringing Kariong whistleblowers before the committee. However, I have problems with the time frame and the way in which it is being done. In the current tense situation at Kariong there is no question that these people are certainly entitled to be heard, because it would seem obvious that they have a much more detailed view of the problems there than anyone outside could possibly have.

I commend the Hon. Catherine Cusack for the monumental amount of work she has done on this, and her obvious deep commitment to turning over the stones, as it were, to find out what is really going on at Kariong. But I have serious problems with calling the people she has nominated before the committee at this time when there is a police investigation into possible theft of records at Kariong. As other members have said, there is also an investigation into operational procedures by Vern Dalton, a person for whom I have a very high regard as a result of contacts I had with him long before I became a member of Parliament.

I have told the Hon. Catherine Cusack that I would be much more comfortable hearing from these people after the two investigations are complete. In fact, I was the mover of the motion adopted by General Purpose Standing Committee No. 3, after it heard evidence from the Minister for Juvenile Justice on 16 September, that the committee should not hold a supplementary hearing until it had received answers to the questions the Minister took on notice. I felt there was no point in a supplementary hearing without having that supplementary evidence available.

After that meeting the Hon. Catherine Cusack, who was a substitute committee member, said at that hearing that she wanted to bring Kariong staff before the committee, and she asked for my support in doing that. I gave that support readily because, as I have said, I believe it is essential. On Monday of this week I confirmed that with the Hon. Catherine Cusack in a phone conversation, when we also discussed when the hearings should be held. I suggested the hearings should be held not earlier than after the House had risen on Thursday 23 September, that is tomorrow. At that time I was not aware of the two investigations being conducted, and I have since indicated to the Hon. Catherine Cusack that, in light of those investigations, I would be more comfortable having those people appear before the committee after the investigations are complete.

It has been suggested to me that there are some risks in holding such a hearing at this time—and those risks have been referred to by the Hon. Amanda Fazio and the Hon. Peter Breen. It has been suggested that Kariong officers might prejudice a police investigation, in which they themselves might be involved, if they give public evidence on matters that the police might be investigating. I am not a lawyer, and I cannot say that I know those facts are correct, but I believe that the possibility gives us pause. I have also received advice that if the hearing is held in public, a witness who, even inadvertently, mentioned the name of the juvenile inmate whose name had previously been suppressed by a court might be in contempt of that court.

I am pleased that the Hon. Catherine Cusack amended her own motion to have the hearing held in camera. I certainly support that, and would be much more comfortable with it, given that such an inadvertent admission could be edited from the tape and transcript of the hearing, therefore protecting the name of the juvenile whose name had been suppressed by the court. I should also advise the House that, because I did not think this business should drag on unnecessarily, I asked the Minister whether she could expedite her answers to questions taken on notice, and she has undertaken to reply to them in 21 days rather than 35 days.

Another matter of concern is the manner in which the appearance of these people before the committee has been brought about. In my first discussion with the Hon. Catherine Cusack I advised her that since she is not a member of General Purpose Standing Committee No. 3 she should get an Opposition member of that committee to seek to have the committee agree to this. However, the Hon. Catherine Cusack has asked the House to direct the committee to meet at 6.00 p.m. tomorrow, 23 September, to hear evidence from the Kariong staffers. She has also asked that the committee also meet, if necessary, on Friday 24 September to hear further evidence.

I have advised the Hon. Catherine Cusack that I cannot be in Sydney for the hearing on Friday, and that I am advised that the Hon. Peter Breen, the other crossbencher on that committee, is not available either. I am distinctly uncomfortable with the idea of the House directing the committee to sit at a specific time and date to perform a particular function, because I believe that general purpose standing committees hearing budget estimates must have autonomy to decide their own course of action. I would have preferred the committee to make its own decision about this. I believe the motion should be amended to allow the committee to set down hearings. I therefore move:

That the motion be amended as follows:

- (1) Paragraph 1: omit the word "instructs", insert instead "requests";
- (2) Paragraph 1: omit the words "on Thursday 23 September 2004 at 6.00 p.m.";
- (3) Paragraph 2: omit the paragraph; and
- (4) Paragraph 6: omit the words "by Friday 1 October 2004", insert instead "within 7 days of the final hearing".

The purpose of the amendments is clear. Amendment No. (1) "requests" the committee, rather than "directs" it. This gives the committee the right to decide to conduct the hearing, which I know it will. Amendment No. (2) gives the committee the right to decide when it will conduct the hearing, rather than be directed to conduct it at a specific time and date, and to decide whether it needs supplementary hearings beyond that, which I am fairly sure it will. Amendment No. (4) replaces the stipulated reporting date of 1 October with a date not more than seven days after the final hearing. This is necessary in case the hearing is not held before 1 October.

As I said, I believe there may be the need for supplementary hearings, which is why I have included the words "the final hearing" in amendment No. (4). I believe this is a more proper and conventional approach to having an estimates committee conducting a hearing, and it removes the unease which I believe several members of that committee feel about holding the hearing before the investigations are complete and before the Minister's answers to questions on notice have been received. It also preserves the original motion of the committee after the 16 September hearing. In addition, I believe it is an equally effective but better way to deal with this matter.

The Hon. PATRICIA FORSYTHE [3.28 p.m.]: The rot at Kariong has to stop. Those who have been members of this House for a number of years will know that what is occurring at Kariong today is not unique. The centre has undergone riots and it has been the subject of allegations of mistreatment of staff and inmates since at least just prior to the 1999 State election. Throughout the past six years there have been ongoing and deeply troubling problems at Kariong Juvenile Justice Centre. That is the first point I want to make. It simply must come to an end.

The Hon. Amanda Fazio referred to the rights of inmates. I balance that by saying that staff have rights also, and I should have thought the most important of them is the right to a safe work environment. In recent weeks those rights have been significantly transgressed. The Hon. John Tingle expressed the view that we should allow other investigations to proceed first. When I heard last week that the Minister's response to the video incident was to say that she proposed to call in the police to investigate the apparent theft of the video, I knew that she had her priorities wrong. All that will succeed in doing is intimidate the staff. Already we have a Minister before the Independent Commission Against Corruption over whether staff of a department have been intimidated.

For a Minister to say, "This video has been inappropriately obtained by the Opposition, therefore I will now order a police investigation," smacks of intimidation of staff. To suggest that this House should wait until the findings of a police investigation are known is equivalent to us holding up a large sign to staff telling them that we will allow them to be intimidated. The Opposition's concern and the point of the motion by the Hon. Catherine Cusack is to give staff an opportunity to get their side of the story on the record so that we can move forward and there can be resolution of the serious problems that have underpinned the situation at Kariong Juvenile Justice Centre since at least the end of 1998, if not earlier.

Honourable members have heard that we should perhaps wait until the report from Vern Dalton is available. In answer to that suggestion let me say that Mr Dalton has particular terms of reference and they do not include examining the actions or comments of the Minister. The investigation that this motion seeks may help to resolve what the Minister has told the public and what the Minister believes to be the truth. If the Minister believes everything she has told members of the public, there is a serious concern about what she is

being told by her department. Either way, it is appropriate that a committee of this House undertakes such an investigation. We do not have to wait for a police investigation. There is ample evidence upon which the Parliament can act regardless of actions that might be taking place in courts. Honourable members are well aware of the sub judice rule, but it does not preclude this House from taking action. There is ample advice in that regard, to which I believe the Hon. Peter Breen alluded.

I conclude by saying that what we have seen recently at Kariong is not new. The Government has not been able to resolve this problem despite investigations by the Ombudsman and others since 1998. There have been riots and millions of dollars worth of damage has been caused. Honourable members know also that reports of fires at the facility are not new either; there have been a number of fires at the centre in recent years. Inmates and staff have been hospitalised; that is not new. The Minister cannot put a rosy gloss on this issue. The conditions at the centre have been appalling but, above all else, we have witnessed terrible management and terrible government policies. It is not a correct summary of the situation for the Hon. Amanda Fazio to say it all somehow dates back to design flaws.

The Hon. Duncan Gay: They have had nine years to fix it.

The Hon. PATRICIA FORSYTHE: Absolutely. Indeed, issues in 1998-99 had nothing to do with whether there had been a school, or a kitchen, there in the past; it is all about the policies of the day. It had been an enormously unhappy period for some members of the staff. That is why a review was undertaken by the Ombudsman. But apparently those issues have not been adequately resolved. It has been suggested that this House must wait for the outcome of a police investigation. In my view the purpose of that investigation will not be to inquire into the theft of a video but rather to intimidate staff. We must move forward, and move forward now, with an inquiry by a committee of this House. I urge the House to support the motion moved by the Hon. Catherine Cusack.

The Hon. JON JENKINS [3.34 p.m.]: I have some personal experiences with some of these issues; however, I will not delve too deeply into them. My priorities in respect of the matters raised are not related to covering up Government mismanagement or to helping the Opposition in its quest for publicity or press coverage. I have told the Opposition and the Government that, as a general rule, I will support calls for open and transparent government, even when that exposes poor management. Having spent much of my early life in a State institution, I am very sensitive to many of these issues and I refuse to be part of an attempt at sensationalism by using these poor people for political gain.

My priorities include making sure that one child—detainees are called children up until the age of 18 years—is dissuaded from a wasted life, because I know from experience that it can take only one event to change a person's life in these institutions. Another priority is to ensure that staff are protected from all forms of violence: from the clients of the institution, and from retribution on the part of the government on whom they blow the whistle. I have suggested that once the committee sits the Opposition will have no control over where the hearings will take the committee. I suggested at the crossbench briefing this morning that the sessions should be held in camera. I have concerns about any form of action to which staff may be subjected.

Having observed recent hearings of some committees—and I mention the Orange Grove inquiry as an example—and because of other issues that have arisen in the past few weeks, I am of the view that some committees are not working terribly well at the moment, and that does not reflect well on this House, especially so far as the general public is concerned. In my lengthy discussions with the Clerk on this matter I have been advised that the inquiry can be held in camera and the evidence taken before the committee released to the public at a later date. I have been advised further that the committee may decide which parts of the evidence can be released to the public. In the meantime the committee will have the opportunity to edit the evidence to, for instance, remove the names of juveniles wherever they occur. That process will provide the protection that is required.

Because the proceedings before the committee will be held in camera and in confidence, and because any police inquiry and the Vern Dalton inquiry should have concluded by the time the committee concludes its hearings into the matter, the evidence taken before the committee could not prejudice either proceeding. I have spoken at some length to several of the staff at Kariong and explained to them that raising issues about the veracity and competence of the Minister and her staff would allow the veracity and competence of all witnesses to be examined in detail. I explained also that that would not be a pleasant experience. However, to their credit, the staff have decided that they wish to continue. I will support them and I will support the motion, as it will be amended. I will support some of the amendments proposed by the Hon. John Tingle for the simple pragmatic

reason of getting that matter before the committee. I applaud the bravery of the whistleblowers and pray that they will be protected from retribution.

The Hon. HENRY TSANG [Parliamentary Secretary] [3.38 p.m.]: I thought I should take the opportunity to brief the Opposition on what is happening at the Kariong Juvenile Justice Centre. I would like the Opposition to understand that that centre contains the most serious of young offenders in the State. Whether they have been placed there for a serious children's indictable offence or because they have exhibited extreme behaviour at other centres, the detainees present complex challenges for staff. It has been recognised for some time that Kariong Juvenile Justice Centre has a number of design faults. It was originally built without a school or a kitchen. The site has since been improved, but there is limited capacity for improvement. Currently, the school has room for 18 detainees only.

The Department of Juvenile Justice has been working hard to implement recommendations from the Ombudsman's reports of 1996 and 2000 and the Council on the Cost and Quality of Government review in 1999-2000. These reports are all public documents. Members opposite referred to staff safety. I point out that the Department of Juvenile Justice takes seriously its responsibility for staff safety in juvenile justice centres, and complies with the full range of occupational health and safety legislation that applies to it.

The Hon. Duncan Gay: Point of order: My point of order relates to boring and repetitious speeches. The Hon. Henry Tsang seems to be delivering exactly the same speech as that delivered by the Hon. Amanda Fazio. I ask the Hon. Henry Tsang to indicate where his speech is different to the Hon. Amanda Fazio is, because I was listening intently to the Hon. Amanda Fazio and this speech seems to be very similar. If it is similar, I ask the Hon. Henry Tsang not to waste the time of the House.

The Hon. Amanda Fazio: To the point of order: I point out that I wrote the whole of my speech, with no help from anyone, and I have not given a copy of my speech to anyone, except Hansard.

The Hon. Greg Pearce: You didn't write it at all. Most of it was quotes from the transcript of the estimates hearing.

The Hon. Amanda Fazio: The Hon. Greg Pearce should be quiet. His face has gone blood red like a tomato, as usual. My speech was all my own work. I am not sure where the Hon. Henry Tsang got his speaking notes. I acknowledge that the Deputy Leader of the Opposition was listening intently to my speech, because he was looking for an opportunity to take a point of order to waste my time in order to protect the pathetic performance of the Hon. Catherine Cusack. I ask you to rule that there is no point of order, and allow the Hon. Henry Tsang to make his contribution. His speech might sound similar to mine, but that is simply because we are both telling the truth.

The DEPUTY-PRESIDENT (The Hon. Patricia Forsythe): Order! There is no doubt that a member who is providing material that is similar or identical to that which has already been given is in breach of the standing orders in terms of tedious repetition.

The Hon. Jan Burnswoods: To what standing order is the Chair referring?

The DEPUTY-PRESIDENT (The Hon. Patricia Forsythe): I am referring to Standing Order 94 (1). I will allow the member to continue, but he needs to be aware that in the minds of many members of the House much of what he has said is remarkably similar to that which the Hon. Amanda Fazio presented earlier to the House. Provided the member is able to present a speech that is not identical to one delivered earlier by another member, he may proceed.

The Hon. HENRY TSANG: Sometimes members opposite need to understand that if they cannot accept the truth when it is told to them by one Government member, other Government members must keep repeating the facts to them until they get it into their heads. Each juvenile justice centre in the State must have a staff occupational health and safety committee. Whether I said it or the Hon. Amanda Fazio said it, that is the truth. Those health and safety committee must meet regularly to review and address any problems that arise. There are also a number of other strategies relating to staff safety in detention centres. As the Hon. Amanda Fazio said, and I repeat—I am sure her assessment is the same as mine—the department has a program by which the assessment of all detainees is undertaken. It has 27-day induction training for new staff entering the profession. It has behaviour management plans for young people whose behaviour threatens staff, and there is a program to help improve staff knowledge of that.

As the Hon. Amanda Fazio said, under the Labor Government the staff ratio has increased, and we have been implementing all the Ombudsman's recommendations. Without intending to be repetitious, I restate that the child violence prevention strategy is very good. The development of a unit program model is taking shape, and soon the objective justification system will be implemented, which will further enhance the department's position to ensure the safety of staff and detainees.

All in all, the Government supports the pragmatic amendments moved by the Hon. John Tingle, because they will provide an opportunity for cool heads to prevail and will guard against any knee-jerk reaction. I thank the Hon. John Tingle for his amendments. Even with these amendments the motion will still provide an opportunity for members to voice concerns in the forum because it will allow time for the police investigation to take place. The amendments will allow sufficient time for investigation of the complaints and a report on that investigation to ensure the best possible outcome for everyone, especially the staff. So the Government supports the amendments. We hope that the crossbench members will have cool heads and vote for the amendments.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [3.47 p.m.]: It is unfortunate that this motion is necessary. There is little doubt that there is a lot of trouble at Kariong Juvenile Justice Centre. I must confess that I have been under the impression that things in juvenile detention were improving in that nowadays fewer kids are in juvenile detention. My understanding was that under Ken Buttram there had been significant reform to the way juvenile offenders were treated, and that a more progressive approach was bearing fruit. People had said that kids were getting away with murder, although not literally, and bad behaviour. The object was to keep kids out of custody, but problems were being experienced when detainees reached adult age and the usual excuses could no longer be given for their behaviour.

I had hoped that that was not the case, but I am concerned about the reports of misbehaviour and problems at Kariong. We certainly need to get to the bottom of those problems. I am not sure that the Minister's statements are credible, given the statements of more independent witnesses. I am concerned generally about the Government's ability to manage spin. Whenever Ministers tell me something I do not know whether to believe them. That in itself is a worry, given that a large amount of legislation in this House tends to increase the power of Ministers, who then say, "Trust me". It is often difficult—certainly for members of a relatively small political entity—to get information that allows an informed decision to be made.

My instinct is to try to get independent investigators and to use more open processes. Unfortunately, the trend with this Government is to control information so there is less independence and fewer open processes, and that worries me. A police investigation is now under way into the theft of records. This would seem in some ways to be almost intimidation of whistleblowers. I have worked in the medical system for a long time and I know the importance of confidentiality and what would happen if all information were made public. However, I think far more harm is done in this State by people keeping information secret rather than leaking it. Even if this information was leaked, there is no suggestion that the names of those responsible will end up on the front page of newspapers or that they will suffer in any way.

The information that was leaked with regard to Campbelltown Hospital greatly benefited those who used the hospital in the sense that the real problems in the health system came to light and the Government was forced, after having denied the problems for as long as it could, to make significant changes. If the resources and the organisational effort that have been put in as a result of this process mean anything, there will be an immense improvement out there. If we had pursued with this degree of zeal whistleblowers at Campbelltown Hospital and shut them down—and perhaps charged them for having breached confidentiality—nothing would have been achieved. I do not get any vicarious joy or gratification from seeing people's private information splashed across the front pages of newspapers, but we have to recognise that whistleblowers play a valuable role. Things will approach the realm of high farce if as a result of this police investigation matters are sub judice and we cannot, therefore, interfere and are forced to tug our forelocks.

This very day the Premier was before the Independent Commission Against Corruption to answer a charge of contempt for the process of investigation and because of the speed at which he drew conclusions about a matter in relation to which there had not been proper process. When I was told by members of the Opposition—whom I believe on this point—that police contacted the Parliament to where the leak came from, I thought that things had gone too far. This information was not leaked for some gratuitous benefit. Presumably the people involved were whistleblowing to people they thought could change things. The idea of police investigating this matter suggests almost a police state mentality. And that the Government suggests sub judice to make us cower, has its own message. I seek leave to incorporate in *Hansard* a letter I received from the Minister for Juvenile Justice.

Leave granted.

The Hon. Dr Arthur Chesterfield-Evans MLC
Parliament House
Macquarie St
SYDNEY NSW 2000

22 SEP 2004

Dear Dr Chesterfield-Evans

I refer to the notice of motion moved by Hon. Catherine Cusack MLC for the house to direct General Purpose Standing Committee 3 (GPSC 3) to hold supplementary hearings on Thursday 24 and Friday 25 September 2004. I understand that GPSC 3 has already resolved to hold supplementary hearings once the questions taken on notice have been returned.

I would ask that you take the following into consideration when you make a decision as to whether to support this motion or not.

I have commissioned an independent investigator, Mr Vernon Dalton to conduct an audit of critical issues raised at Kariong. The review will include an examination of the operation and implementation of procedure at the Kariong Juvenile Justice Centre.

Mr Dalton was able to assure me that a preliminary report would be available to my office within a fortnight with recommendations.

The police were contacted on the 16th of September to investigate the possible theft of records at Kariong Juvenile Justice Centre. The matters currently under the investigation may require certain staff members indicated on the list to give evidence. I have concerns that the proposed hearing may jeopardise the fairness of the investigation at hand and may be prejudicial to any evidence if it is required to be used in the courts.

The safety of staff is paramount. We must ensure that any temporary loss of staff resulting from this hearing does not affect the safety of staff at work. There are a number of operational issues which may affect the availability of all staff to attend the hearing simultaneously. Given the challenges staff are managing in relation to settling detainees after the recent media attention, I would suggest that some consideration be given to the staffing requirements at Kariong. I have been advised that increased staffing ratios have been arranged in consultation with the Public Service Association to supervise some detainees on strict behaviour management programs.

Section 11 of the *Children (Criminal Proceedings) Act 1987* makes it an offence to disclose the name of a child connected with any criminal proceedings.

Young persons involved in the Juvenile Justice system are granted confidentiality by the *Children (Criminal Proceedings) Act*, the *Children (Detention Centres) Act 1987* and the *Children (Community Service Orders) Act 1987*.

The Privacy and Personal Information Protection Act 1998 offers the protection of privacy for the young people involved in the juvenile justice system. Any misuse of personal information of the detainees results in a breach of the above Act.

Ms Cusack has said that this parliamentary hearing will "clear a lot of the issues". Current police investigations and the current review being conducted by Vern Dalton will do the same in a more professional and useful way.

I trust that this is of assistance, and in conclusion I would suggest that GPSC 3, along with other interested parties would be in a far better position if the Parliament and its members do not react in a "knee jerk" manner, rather they should allow due process to occur and be in possession of all the facts before embarking upon this proposal.

Yours sincerely

The Hon. Diane Beamer MP

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: The letter refers to this motion and the reasons I should oppose it. It states that Vern Dalton has conducted an audit of the critical issues raised. It worries me that an increasing number of consultants or experts are carrying out investigations and coming up with conclusions in processes that are closed to the public. I believe problems have to be aired in public forums and the conclusions then debated. Politicians of all persuasions and parliaments have to acknowledge that there are never easy solutions. There are ongoing problems and each party and each Minister has a certain time in which to deal with those problems. Different Ministers have greater or lesser success. The boast "Give the problem to me and I will fix it", is farcical, yet it happens at every election and can be found in almost every public statement in between.

It is offensive that an independent investigator can conduct such an inquiry at a time when the Parliament is told to butt out. I find offensive also this policy of throwing a lot of money at a consultant for an answer and a Minister releasing the solution and response at a time convenient to the Government. Of course, if the consultant does a job that the Minister likes, he will get further work. It is quite offensive and, fundamentally, an abuse of process, as is the idea that we have to wait until the report is published before we can comment.

There is, however, a string of reasons this motion should not pass. We are told the safety of staff is paramount. Given the history at Kariong, it sounds extraordinary that we must ensure that the temporary loss of staff at the facility, which will be the result of people being required to attend this hearing, does not adversely affect the safety of those who remain at work. That suggests that the whole place is pretty much on a knife's edge, and that is a worry. It does not reassure me at all.

It has been said that the staff have to settle the detainees after the problems they have had. Presumably, that means the detainees are very concerned and need settling—although that is blamed on the recent media attention. There are many more problems in Kariong than those that have received media attention. A further worry is that the officers, when giving evidence to the committee, might disclose the names of some detainees. Most of these detainees have been through the court system, in which there are perfectly adequate mechanisms for keeping their names away from public eyes and out of the media. Those same mechanisms could be used by any committee investigating this matter, and presumably would be used by any competent chair of any committee of this Parliament. It seems to me that the Minister is trotting out any excuse she can for not having an investigation.

I am not entirely in favour of this motion because I have a number of concerns about it. The first is that we are telling a committee of this House how to do its job. That is a worry, particularly when the committee has a majority of non-Government members. On the membership of General Purpose Standing Committee No. 3 the Government does not have a majority, so it cannot use its numbers to suppress the committee. A serious decision has to be made by a majority of non-Government members about the way any investigation is carried out. While I am critical of the Government using its numbers to suppress the activity of committees, I am aware that it cannot do so with this committee. It is one thing to tell a government-controlled committee what to do; it is another thing, and certainly a more radical step, to tell a committee with a non-government majority of members what to do.

Another concern about this motion is that it names the whistleblowers. I ask the mover to tell me in her reply to this debate whether the whistleblowers on that list wished to be named in Parliament? They are certainly highly conspicuous now, and any difficulties they thought they might have with the Government and their careers may now be exacerbated. Perhaps they are safer now that their names are public, because we can track their progress. But discrimination in employment can work in subtle ways and over many years. The idea that being outed gives one security for the remainder of his or her working life, even if one has considerable public sympathy, is a tenuous proposition.

The other concern is that it is sub judice and there are leaked documents. As I have said, whether that is really for the benefit of the people named or whether there is a larger leak, it is not yet sub judice in the sense that court hearings are pending, although one wonders whether that will be the situation. My general feeling is that our committee process should be as open as possible. I am concerned that we are telling committees how to do their job. The amendments of the Hon. John Tingle effectively re-empower the committee to take control of its own fate. The motion, on the other hand, imposes the will of the Parliament on the committee—and I certainly have some difficulties with that proposition. The general principle that whistleblowers have to have their say and have to be protected has been much neglected by Government members, who interject whenever I make a point that suits their case. The fact that they have done so much bad for whistleblowers and have tried to suppress truth to such an extent has brought this motion on. In a sense the motion is something of an overreaction, but it relates to a process of government that has been quite ill: openness to problems in every aspect of society in general and to juvenile justice in particular. I will look closely at the amendments proposed by the Hon. John Tingle but my basic instinct is to support the motion because I believe that whistleblowers have to be helped very publicly and at the time that they need it and not hung out to dry for a long period. We need to take a very open approach to the present difficulties in the juvenile justice system. However, I thought the less punitive approach would be the most progressive.

The Hon. CATHERINE CUSACK [4.02 p.m.], in reply: The Hon. Amanda Fazio gave a very lengthy speech. I accept her word completely that she wrote it herself. Although it contained a fairly substantial personal attack on me, I do not propose to take it personally because it is really just standard operating procedure for the Government. When somebody raises issues and attempts to get at the truth, the Government, instead of dealing with the substance of what has been put on the table, jumps straight into the mode of attacking the person who is trying to deliver the news. I could go through the speech of the Hon. Amanda Fazio blow by blow but that would not be beneficial to the debate, so I will take the attack in that spirit. If the Hon. Amanda Fazio is so confident that I am completely wrong in what I am saying and in the issues that have been raised, I ask her why is the Government so afraid to have the whistleblowers deliver their evidence at a hearing?

The Hon. Amanda Fazio: Point of order: The Hon. Catherine Cusack is misleading the House. At no time did I say that the committee was not prepared to have further hearings; I just said that they should be held not at her timing but with timing determined by General Purpose Standing Committee No. 3.

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

The Hon. CATHERINE CUSACK: A letter was circulated to the crossbench members by the Minister in one of a number of fronts of attack that the Government is making in order to delay and derail these hearings. If the Government is so confident that the Opposition is wrong on this issue, surely it would be to its benefit to have these people come forward. The Government can only assume that their evidence will support it if it believes that we have not been truthful. I point out that inconsistency in the Government's case against this motion. From remarks made by crossbench members it seems that there is a vital plan to delay any hearings for at least two weeks until the Dalton report and the police report have been completed. I am very curious to learn how the Government knows that the police report will be available in two weeks time. The Government appears to have a very curious level of insight into the police investigation that it initiated last week. I wish to make it clear that the evidence to be taken does not relate to the police investigation into a leaked document and it does not relate to the Dalton investigation into the issues referred by the Minister; it is about the veracity of the Minister's statements—

The Hon. Amanda Fazio: You do not know what they are.

The Hon. CATHERINE CUSACK: I do know what they are.

The Hon. Amanda Fazio: The matters referred to. He is looking into the operations of the centre.

The Hon. CATHERINE CUSACK: That is correct, and what I am seeking to do is to get witnesses to ascertain the veracity of statements made by the Minister. At no time has it been suggested that Vern Dalton is investigating comments made by the Minister, whether they are correct and why they are so wrong. I would be stunned to learn that the police are conducting an investigation into what the Minister said and why her statements are so wrong. I see absolutely no overlap or duplication in what this reference to the committee is seeking to do and those other two inquiries or perhaps I should say all the other inquiries that this Government is trying to institute in an effort to intimidate staff into backing down. This is a completely separate matter and I see no reason to delay the taking of this evidence on that basis. I see only another desperate attempt by this Government to stymie the whistleblowers.

A number of crossbench members referred to Crown Solicitor's advice. My understanding is that they have been informed that there is Crown Solicitor's advice to the effect that any police inquiry would be tainted if we were to conduct our hearings. On that basis, every time the Government decides that it does not like a process that is hurting its political interests it can refer the matter to the police and, therefore, effectively shut down any upper House hearings. That would be a very unhealthy approach for us to accept. It would concern me if the Crown Solicitor's advice supported that approach. However, it appears that, as on so many other issues of accuracy in this discussion that is not the case, there is no Crown Solicitor's advice. It is something that has apparently been said by a solicitor who works for the Department of Juvenile Justice, and this has been built up, I would imagine, again by people in the Minister's office, who are experts at spin, and turned into Crown Solicitor's advice. I ask crossbench members: Is this good enough? Is this litany of misleading, factually incorrect statements good enough from the Minister for Juvenile Justice? What confidence can we have in her and her administration? Is it not reinforcing the urgency of getting the people who know what is going on to put their evidence on the table as we have the right to do? The Minister and everybody else except the people who are directly affected seem to have that right.

I have to advise the House—I do this with concern—that since I gave notice of my motion yesterday already one witness has been contacted by a senior officer in the Department of Juvenile Justice. Questions were asked in relation to a matter that I will be wishing to ask witnesses questions about if there is to be a hearing. It is an offence to intimidate potential witnesses to a parliamentary inquiry, and I regard this matter very seriously. I can assure the House that we will be monitoring the situation very closely. I urge the Minister to make sure that her management is well aware of the rules in relation to people wanting to give evidence to parliamentary inquiries. Somebody was contacted within 24 hours of my motion arising.

The Opposition has agreed to the amendment moved by the Hon. John Tingle in relation to closed hearings, and it will be incorporated into our substantive motion. In relation to the timing of the hearing and the

fact that the House has been directed, this simply relates to the fact that the committee is chaired by the Hon. Amanda Fazio. I believe that the honourable member will seek to delay the hearings and to deny the whistleblowers the opportunity to speak until the last possible moment.

The Hon. Amanda Fazio: Point of order: I believe that the Hon. Catherine Cusack is impugning my reputation. I take exception to her comments about the way in which she thinks I may or may not chair General Purpose Standing Committee No. 3 meetings, or the way in which I may or may not deal with witnesses appearing before the committee. She is well aware of the fact that if she wants to make allegations of that nature she should do so by way of substantive motion. She is not prepared to do that and, quite frankly, I am not prepared to put up with that sort of comment from her. She has impugned the Minister's reputation during the debate by calling her a liar. I let that go because we enjoy a fair degree of latitude in our debates. However, I will not sit quietly and listen to that from this member, who, if she could ever be honest, would have to admit that I have treated her in a fair manner at the hearings to date. I will not allow her to impugn my reputation. In comparison to some committee chairpersons, I conduct meetings in accordance with the standing orders—I follow the rules—and the time allocations are more than fair. I ask the honourable member to withdraw her comments.

The Hon. CATHERINE CUSACK: To the point of order: I understand the honourable member's concern and I accept her remarks about her relative fairness as chair. I was going to say that this is not a reflection on her because it is her job to do her best for the Government. That is why I believe that these hearings will be delayed. I made that remark in the context of explaining why I am seeking to instruct the committee regarding timing.

The PRESIDENT: Order! I remind the honourable member that imputations against honourable members of this House or of the other House are disorderly.

The Hon. Jan Burnswoods: Point of order: I clearly heard the Hon. Amanda Fazio ask for a withdrawal of a very clear remark made by the Hon. Catherine Cusack that the Hon. Amanda Fazio would somehow use her position as chair to prevent certain things happening and to colour certain things. Madam President, for the Hon. Catherine Cusack to stand up after you had asked her to respond to the point of order and to say that her remarks were not meant to be a reflection on the Hon. Amanda Fazio but to suggest that she would do what the Government told her to do is even more offensive than the initial remark. I ask her again, rather than trying to be clever and to beat around the bush, to withdraw the remarks she made in the first place. The second remark was even more offensive.

The Hon. CATHERINE CUSACK: To the point of order: It was not my intention to be offensive to the Hon. Amanda Fazio. I was simply saying that I believe that she would be doing her job for the Government.

The Hon. Jan Burnswoods: Just withdraw.

The Hon. CATHERINE CUSACK: No, I will not withdraw the comment because I do not believe it was offensive.

The Hon. Greg Pearce: To the point of order: Madam President, you have ruled on numerous occasions that in circumstances such as this it is not a question of the honourable member withdrawing. If the Hon. Amanda Fazio feels that she has been insulted in some way, the correct course for her to follow is to make a personal explanation. An honourable member is required to withdraw only if unparliamentary language has been used. That has been your ruling on many occasions. There has been no allegation of unparliamentary language in this case.

The Hon. Amanda Fazio: To the point of order: I point out to the House that I find the comments offensive because, despite the fact that I am a member of the Government, and I am the only member of the Government who is a chair of a general purpose standing committee, I take my responsibilities as a chair very seriously. I have made an effort on all occasions to be fair in terms of allocating time for questions and in allowing honourable members to pursue lines of questioning without being interrupted. I take offence at this because I have tried in my chairing of General Purpose Standing Committee No. 3 to set a standard that some other chairpersons—I will not name them—could perhaps emulate. Some of them do not take their responsibilities seriously and that brings the Chamber and committee system into disrepute. I do not want to be a party to that. I find the honourable member's comment offensive and I ask her to withdraw.

The PRESIDENT: Order! It is certainly normal practice that when a member of the Chamber finds words offensive and I rule in that way the member who said them withdraws. I refer to the honourable member's comments relating to the Hon. Amanda Fazio's impartiality.

The Hon. CATHERINE CUSACK: I have said that no offence was intended in the sense that I believe she will be doing her job. I am puzzled about the offence.

The PRESIDENT: Order! The Hon. Amanda Fazio has taken offence to that part of the honourable member's statement referring to her doing the Government's bidding. That is obviously offensive and should be withdrawn.

The Hon. Amanda Fazio: Because a chair should be impartial, and I am.

The Hon. CATHERINE CUSACK: I withdraw my comments suggesting that she was doing the Government's work.

Amendment No. 1 agreed to.

Question—That amendment No. 2 of the Hon John Tingle be agreed to—put.

The House divided.

Ayes, 21

Ms Burnswoods	Ms Hale	Mr Tingle
Mr Catanzariti	Mr Hatzistergos	Mr Tsang
Dr Chesterfield-Evans	Mr Kelly	Dr Wong
Mr Cohen	Mr Macdonald	
Mr Costa	Mr Obeid	
Mr Della Bosca	Ms Rhiannon	<i>Tellers,</i>
Ms Fazio	Mr Roozendaal	Mr Primrose
Ms Griffin	Ms Tebbutt	Mr West

Noes, 14

Mr Breen	Mr Gay	Mrs Pavey
Mr Clarke	Mr Jenkins	Mr Pearce
Ms Cusack	Mr Lynn	<i>Tellers,</i>
Mrs Forsythe	Mr Oldfield	Mr Colless
Miss Gardiner	Ms Parker	Mr Harwin

Pairs

Mr Egan	Mr Gallacher
Ms Robertson	Mr Ryan

Question resolved in the affirmative.

Amendment agreed to.

Amendments Nos 3 and 4 agreed to.

Motion as amended agreed to.

BUSINESS OF THE HOUSE

Postponement of Business

Committee Reports Orders of the Day Nos 1 to 6 postponed on motion by the Hon. Tony Kelly.

Budget Estimates 2004-2005—Take-note debate postponed on motion by the Hon. Tony Kelly.

LOCAL GOVERNMENT AMENDMENT (DISCIPLINE) BILL

Second Reading

Debate resumed from an earlier hour.

Ms SYLVIA HALE [4.25 p.m.]: In conclusion, the view of the Greens is that this is an unnecessary and excessively heavy-handed response to what is a comparatively infrequent incidence of disorderly and inappropriate conduct on the part of councillors. I believe there is no overwhelming need or demand for this legislation. Significantly, neither the Local Government Association nor the Shires Association have asserted that the bill must be introduced. Indeed, I think councillors across the State have considerable reservations—

The Hon. Duncan Gay: Point of order: I draw your attention to previous rulings on the size of lapel pins in this House, that they should be no larger than the size of the Legislative Council pin worn by members. I draw your attention to the Hon. Sylvia Hale's pin, with offensive words on it.

The PRESIDENT: Order! I remind members of a ruling of Deputy-President Gay that badges worn by members in the House should be no larger than the Legislative Council badge.

Ms SYLVIA HALE: I have removed the offending item. As I was saying, I have seen no great demand from either the Local Government Association or the Shires Association for this legislation to be produced. I believe it is part of a concerted Government attack upon local government, whose objective it is to discredit and use the legislation as a means of not only diverting attention from Government policies—which are aimed very deliberately at shifting costs onto local government—but also diverting attention from the Government's endeavours to ensure that local councils are less representative and less democratic. This will be achieved through introduction of a framework that has the potential to be used to silence dissenting voices upon councils.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [4.28 p.m.]: I must confess this bill took me by surprise. I wondered at the necessity to discipline people in local government. I know that this is a law and order auction and the Government is working very assiduously on it, but I did not realise it was going to apply to local councillors as well, those miscreants who need something done about them. I notice that the bill provides for the suspension of fees while people are being investigated, and I know that if someone has engaged in grossly corrupt conduct, it is always galling that they continue to be paid while their conduct is being investigated.

In the case of local government, where the allowances are fairly minimal, it is a case of guilty until proved innocent. While one might accept that situation on the basis that a person is paid back if he or she is found innocent, it is something of an insult. In the sense that the downside is that corrupt people are paid while they are investigated for their corruption, I suppose people will tolerate this. If the code of conduct adopted by councils is more stringent than the model code, it is still acceptable, but the model code is the minimum code, and the code adopted by councils cannot be in conflict with it. That sounds fair enough, until one looks at the code of conduct as set out in new schedule 6A of the Act, which sets out the conduct provided for in proposed section 440 (2) (b). It reads:

- 1 Conduct that contravenes all or specified provisions of this Act or the regulations in all or specified circumstances
- 2 Conduct that is detrimental to the pursuit of the charter of a council
- 3 Improper or unethical conduct
- 4 Abuse of power and other misconduct
- 5 Action causing, comprising or involving any of the following:
 - (a) intimidation, harassment or verbal abuse
 - (b) discrimination, disadvantage or adverse treatment in relation to employment
 - (c) prejudice in the provision of a service to the community
- 6 Conduct of a councillor causing, comprising or involving any of the following:
 - (a) directing or influencing, or attempting to direct or influence, a member of the staff of the council or a delegate of the council in the exercise of the functions of the member or delegate
 - (b) an act of disorder committed by the councillor at a meeting of the council or a committee of the council.

Paragraph 5 (c) might be open to definition if one were not in favour of the service and opposed it for some reason. With regard to paragraph 6 (b), it seems that if there is any sort of a ruckus the other councillors could gang up on the offending councillor and effectively kick him or her out. It is of concern that if a disciplinary matter is reported to the director-general and investigated, the councillor in question could well be excluded from council deliberations for quite some time while the investigation is undertaken. "Disruptive behaviour", which is dealt with in new section 440I, then takes on a new meaning. Subsection (1) of that section reads:

- (1) The grounds on which a council may be suspended from civic office under this Division are that:
 - (a) the councillor's behaviour has:
 - (i) been disruptive over a period, and
 - (ii) involved more than one incident of misbehaviour during that period,and the pattern of behaviour during that period is of such a sufficiently serious nature as to warrant the councillor's suspension ...

Effectively, this would require a very subjective judgment by the other councillors. That is an important point. What is worrying about this is that the Government has just changed the electoral system to grossly disfavour Independents. Above-the-line voting effectively requires Independents to have a party behind them, which they have to establish for the purpose of the election, whereas other candidates can simply say, "I am an ALP or Nationals candidate, and as they are registered parties I do not have to do any of this mucking around to get supporters." Changing the electoral system grossly in favour of the major parties is a concern.

Proportional representation means that if you get 51 per cent of the vote in a two-councillor ward, you get two members elected, whereas, upon a logical mathematical best approximation, you should get only one member elected. That is, 51 per cent of the vote equates to 100 per cent representation rather than the more logical 50 per cent representation. Effectively, the electoral system has been seriously gerrymandered against the Independents and in favour of the major political parties. This is very worrying in terms of the composition of councils. The increasing propensity of councillors to do what their party wants them to do, rather than what their ratepayers might have expected or wanted them to do, is also very worrying.

Many people who are elected to council have an incentive to do the right thing. Developers, on the other hand, tend to seek election to council so they can get their developments through. There is a long and, one might say, rather inglorious history of that. There is also now an increasing incidence of political hopefuls cutting their teeth and getting some experience—one might say cutting notches on their belt or earning brownie points within their political party—so they can climb the political ladder. The concern is that they are not acting in the best interests of their community, particularly given the increased gerrymandered nature of the local government electoral system.

On the other hand there is the genuine person who wants to do some good, but who notes that being a councillor is extremely time-consuming, that they have to first establish a party, and that the allowance is very low. That person wonders why they should put themselves in that situation. The honest person jumps through all the hoops—establishes and registers the party, takes the flak, puts in the time, and receives the tiny allowance—and then gets ganged up on when they finally protest against some development that the big parties are pushing against the public interest. One can see this punitive legislation being severely abused as part of an overall framework that is very much against democracy at the grassroots level. I am quite concerned about that.

I note that Warringah council was replaced after protests by a person who was continually called a troublemaker. If that were not enough, under new section 440P the director-general may recover his expenses from council. The Government is supposedly providing some sort of an appeal process to deal with people who do the wrong thing, but it is not even willing to pay for that process in the interests of assuring good government. The Government is effectively saying, "If the council is willing to pay for it, they can have some justice, supposedly, from us."

A council may well be elected on the back of a gerrymander under the new electoral laws the Government brought in last year. The council may then gang up on a councillor who protests, even at meetings, and the councillor is referred to the director-general and suspended. During the suspension the councillor can presumably do whatever he or she likes, and the Government is happy to spend council's funds getting rid of this troublemaker. Subsequently the Government, which supposedly puts this system forward as some sort of disciplinary tribunal, wants its costs reimbursed. That is extraordinary. The Government acts like a corporation

rather than as a serious referee discharging a public duty. I note that the Pecuniary Interest and Disciplinary Tribunal will enforce this system. Whereas in the past it was a pecuniary interest tribunal, it is now a disciplinary tribunal.

I wonder at the wisdom of this legislation. Perhaps the Minister is naïve, but I would find that extraordinary. We always get from Ministers statements like, "It is not what you are thinking. My intentions are honourable. How could you misconstrue this?" What can one say? Is it suggested that the Minister is naive in introducing this legislation? Or is it some sort of calculated plot, in which case one sees the Minister as being diabolic as well as a conspiracy theorist? It appears that the legislation is dubious at best, and therefore it should be opposed.

The Hon. KAYEE GRIFFIN [4.38 p.m.]: I support the Local Government Amendment (Discipline) Bill, mainly because I served on a local council for 12 years, eight of them as mayor. During my first term on Canterbury City Council, from 1991 to 1995, council had to deal with many issues in relation to the disruptive nature of one councillor in particular. A councillor and the mayor were involved in two cases of assault that went before the Local Court. There were problems in relation to how to deal with a disruptive councillor, including the rights and responsibilities of council, and what council could do about removing the councillor from meetings so the meetings could continue. If council determined that that person should leave the council chamber, it had to determine whether staff should assist in removing the councillor. The staff were concerned, naturally, that if they assisted in removing the councillor and he threatened them with assault charges, the police would be called.

Police have many more important issues to deal with than being called to a council meeting to remove someone because of their disruptive behaviour. In my opinion it also makes the council look stupid in the eyes of the community, which elects people to represent them on their council. There have been numerous instances of councils being dismissed because they were not functioning properly. However, I do not believe that councils should be disciplined or should suffer merely because one councillor is disruptive. I believe that this bill will resolve some of the problems relating to disruptive councillors. I hasten to say that such people are in the minority, and that the majority of those elected to council want to work harmoniously. Those who are disruptive certainly make the work of council, the elected members, and the council officers very difficult. When people read in their local newspapers about council infighting they think that council is not functioning correctly and the business of the council is not being done. Councils do a lot of good for their community, but if there is disruption within the council the good things it does do not even rate a mention.

I believe that a mandatory code of conduct should be adopted by all councils, and I hope councils will agree to that course. Councils need to have a censure power in the event of misbehaviour; otherwise some councillors will simply thumb their noses and continue the misbehaviour that, in the long term, either brings the council down because it is unable to function properly or gives council a bad name. No-one wants to be involved with a council that the community has lost faith in because it is not undertaking its business or because councillors are fighting amongst themselves.

I also agree that in respect of serious matters of misbehaviour, a councillor should be suspended and their allowance frozen. During the course of this debate, various members have suggested that the council allowance is minimal. However, I believe that if a councillor is suspended for what are deemed to be serious matters of misbehaviour, the councillor should pay the penalty of having their allowance suspended for a certain period, just as others have to pay a penalty. I also believe that the matter should be dealt with by a tribunal and not directly by council. Regardless of whether the councillor is perceived to be good or bad, if there has been disruptive behaviour and a councillor is causing a great deal of trouble, the matter should be decided by a third party so that commonsense can prevail. Such a tribunal can hear both sides of the story and make an appropriate decision. I believe that if councillors are suspended because of misbehaviour, their appeal rights must be made clear. Justice cannot be done if both sides are not represented fairly.

Concern has been expressed about changes to the powers of mayors, as opposed to the powers of general managers in managing the day-to-day affairs of the council. This has been the case since the change to the Act in 1993, which I believe is still referred to as the new Local Government Act although it has been around for at least 11 years. Over the years there has been discussion about exactly what rights a councillor has with regard to directing a member of council's staff. It is an important point that councillors cannot direct staff as to the content of an advice or recommendation. Given some of the issues that have arisen in the past few years, particularly in relation to planning —

The Hon. Patricia Forsythe: This is Orange Grove, isn't it?

The Hon. KAYEE GRIFFIN: Yes, I am sure it is very important where Orange Grove is concerned because of some of the issues raised in that regard. The Orange Grove issue has been discussed and dealt with in this House previously, but if this discipline measure were already in place perhaps some of the issues that have plagued Liverpool council over the past few years would have been more easily addressed. If that had happened, perhaps the council would not have an administrator at present. I support the bill. I believe it is certainly time there was some outside body to consider serious misconduct or misbehaviour by a councillor.

Up to the present, if one councillor was involved in serious misconduct or misbehaviour the entire council might be sacked. It is unfair that the majority of councillors who stood for council for the right reasons, and who try to do a good job for their local community, should pay the penalty for one councillor who may be uninterested in issues relating to local government or good governance, but is interested only in matters they feel strongly about, which may not reflect the majority view or the appropriate way for council to deal with a matter. I support the bill.

The Hon. TONY KELLY (Minister for Rural Affairs, Minister for Local Government, Minister for Emergency Services, and Minister for Lands) [4.46 p.m.], in reply: I thank honourable members for their contributions to the debate. The shadow Minister spoke in the other place about a letter from the mayor of a Sydney council commenting on the length of the draft code of conduct. Neither I nor my department have a record of such a letter. However, I wish to clarify some of the issues raised by the shadow Minister.

The draft code of conduct is not, as was stated, 57 pages long. It is 14 pages long. There are other guidelines, but the code of conduct is 14 pages long. That is comparable with the new Victorian Local Government Code of Conduct that was recently introduced by my colleague in that State. Some confusion may have arisen as the working document of the draft code; and the guidelines that were circulated to councils for comment included draft guidelines to assist them in formulating their own misbehaviour policies. I do not believe that this amounts to overloading councils with information. Indeed, many of the issues dealt with in the draft code seem like very basic governance issues, and it is unfortunate that these matters need to be spelled out for some councillors.

It is inconsistent for the honourable member to claim on the one hand that the bill's definitions of misbehaviour are not detailed enough, and, on the other hand, that the draft code and guidelines are too detailed. The bill and the draft code and guidelines are part of a complementary package and I believe they comprehensively address the issues of councillor misbehaviour that need to be addressed. The honourable member also spoke about removing the word "culpable" in current section 435 of the Local Government Act. The meaning of "culpable" in section 435 is unclear and the word is an inappropriate term for this area of the law. Culpable negligence is only relevant to criminal law. This power would only be used in circumstances of serious negligence of misconduct. The other surcharging provisions do not mention culpability. However, they have never been pursued by the director-general.

Other jurisdictions already have the power to surcharge in relation to negligence or misconduct without reference to culpability in the context of local government. The Act already provides safeguards against any inappropriate use of this power in the form of a right to make submissions and a right of appeal to the Administrative Decisions Tribunal. I have received representations on this matter from the Hon. Gerard Martin, MP, on behalf of Wagga Wagga City Council, and yesterday I wrote to that council to address its concerns in the terms I have just discussed. I understand that the Local Government and Shires and Associations have raised concerns about the ability of the department to recover costs from councils for investigations undertaken as a result of the provisions of this bill. There is some confusion on this matter.

I want to make it clear that the director-general has a discretionary power to recover reasonable costs expended on investigations by the department. This will apply only to matters referred to the department for investigation by the council. Councils also have the right to appeal any request for costs by the Administrative Decisions Tribunal. The formation of a specialist tribunal has also been mentioned. However, the Government believes that the renamed Pecuniary Interest and Disciplinary Tribunal, with its new powers, is the appropriate body to be given the responsibility of considering councillor misbehaviour.

The tribunal is an independent body and has a wealth of experience in dealing with councillors and others who have failed to comply with the pecuniary interest provisions of the Local Government Act. The tribunal is to be given a range of powers to address councillors who misbehave, including the power to suspend councillors for up to six months in serious cases or to suspend a councillor's right to be paid a fee. However, in

keeping with the Government's commitment to look for long-term solutions to address councillor misbehaviour, the tribunal will also be able to assist a council or a councillor in less serious cases.

These measures give the tribunal the flexibility to ensure that councillors are appropriately sanctioned for irresponsible behaviour. As with pecuniary interest matters, the councillor concerned will have a right of appeal to the Supreme Court against the tribunal's decision. I shall address the concerns that a number of members raised about the position of minority councillors under this legislation. The Government believes that the provisions in this bill will benefit minority councillors. It is aware that some minority councillors and their supporters have concerns that majorities on council—this was referred to by honourable members—might misuse the referral power to silence minority representatives on council.

I again take the opportunity to reassure any councillors in that situation that the bill has measures to prevent such misuse. It imposes clear limits on the circumstances in which a council can begin the process of suspending a councillor. A council may only refer a matter to the director-general when it has already formally censured or expelled a councillor from a meeting because of relevant misbehaviour. This position will also encourage councils to deal with misbehaviour at a local level wherever possible.

Another safeguard against the misuse of this power is the requirement of the director-general to consider a departmental report or a report by the Ombudsman or the Independent Commission Against Corruption [ICAC] before deciding to exercise his power of suspension. In all circumstances councillors will have the opportunity to respond to allegations of misbehaviour made against them. I shall make a couple of general comments. The Pecuniary Interest Tribunal is convened by a judge, so there will be that level of independence. The Deputy Leader of the Opposition referred to the code of conduct. The code was designed by the department in conjunction with the ICAC, the Ombudsman, the Local Government and Shires Associations, and three councils: Bega in the country, Mosman in the city, and the regional Council of Wollongong. The code of conduct has been sent out to all councils for comment.

The bill provides a power to enable the director-general, for example, to suspend a mayor who expelled a councillor simply, perhaps, to alter the vote at a council meeting, and to enable the director-general to keep an eye on vexatious claims, as I said. In response to the Deputy Leader of the Opposition, there are 1,601 councillors in the State, and I agree with the honourable member that, by far, the vast majority are very good. They are primarily there for the community's benefit, and they give up a lot of their time for their community. The problem is that there is a very small number who give the others a bad name. It is hoped that this bill will be enough of a deterrent to solve that problem.

Ms Sylvia Hale mentioned the 1999 Botany council elections, which have been referred to previously. However, I refer her to the 2003 Botany council elections. At those elections no candidate stood against the sitting councillors, but a candidate stood against the mayor. The election was not gerrymandered in any way; it was an open election, and the whole of the community voted. The mayor got 86 per cent of the vote, the informal vote came second, and the Greens candidate came third. I commend the bill to the House.

Question—That this bill be now read a second time—put.

The House divided.

Ayes, 25

Mr Breen	Ms Griffin	Mr Roozendaal
Ms Burnswoods	Mr Jenkins	Mr Ryan
Mr Catanzariti	Mr Kelly	Mr Tingle
Mr Clarke	Mr Lynn	Mr Tsang
Ms Fazio	Reverend Dr Moyes	Dr Wong
Mrs Forsythe	Mr Oldfield	
Mr Gallacher	Ms Parker	<i>Tellers,</i>
Miss Gardiner	Mrs Pavey	Mr Colless
Mr Gay	Mr Pearce	Mr Primrose

Noes, 4

Mr Cohen
Ms Rhiannon
Tellers,
Dr Chesterfield-Evans
Ms Hale

Question resolved in the affirmative.

Motion agreed to.

Bill read a second time and passed through remaining stages.

GENERAL PURPOSE STANDING COMMITTEE NO. 1**Report: Serious Injury and Death in the Workplace**

Debate resumed from 15 September.

Motion agreed to.

STANDING COMMITTEE ON STATE DEVELOPMENT**Report: Inquiry into Port Infrastructure in New South Wales**

Debate resumed from 23 June.

The Hon. PATRICIA FORSYTHE [5.04 p.m.]: I am sure the House will recall that the inquiry into port infrastructure arose out of a reference from the Minister for Transport Services following the Premier's announcement at the Australian Labor Party conference in October last year of a so-called growth plan for New South Wales ports. A key feature of that announcement was that Sydney Harbour's days as a major freight harbour were numbered. To date the inquiry has received 98 submissions and heard from 61 witnesses. This interim report deals only with one aspect of the evidence taken by the committee.

Before turning to the substantive issues in this report, I acknowledge all those who have made submissions to or appeared before the committee. They represent a range of interests in Sydney, Newcastle and Wollongong and all have demonstrated a commitment to their point of view. I look forward to the committee resuming hearings shortly. Like much that this committee does, this reference is important, as it is about the future and represents an opportunity to influence the State's policy direction. However, the report is in essence about one aspect of the inquiry—that of the proposed Port Botany upgrade.

It is history now that the Minister for Infrastructure, Planning and Natural Resources changed the terms of reference for the commission of inquiry into the Port Botany expansion to ensure that all options for the port expansion were subject to inquiry by the commission. This caused the commission to suspend its inquiry until the new terms of reference were advertised and new submissions taken. I welcome that development, as certain aspects of the evidence to the committee troubled me. I am not suggesting that the Sydney Ports Corporation acted corruptly or even wrongly, but it could be concluded that the effect of an agreement entered into by the corporation in 1997 was to give a commercial advantage to Patrick Corporation in relation to the expansion of Port Botany. Paragraph 2.9 of our report states:

The Committee notes that the EIS briefly canvasses alternate expansion options. It also notes however, the evidence of Mr Greg Martin, Chief Executive Officer, SPC, to inform the Committee that planning for the current proposal commenced as early as 1997:

Indeed, as far back as 1997 Sydney Ports entered a commercial agreement with Patrick Corporation to grant Patricks an option over 18 hectares of the new area proposed to be developed at Port Botany in exchange for Patricks' agreement to immediately relinquish berth 8 Darling Harbour and adjoining terminal lands to enable Sydney Ports Corporation to construct the wharf 8 passenger terminal, which replaced the wharf 10 passenger terminal, and for agreeing to relinquish the balance of the Darling Harbour lease area in the future.

As I recall, in 1997 decisions were being taken about the use of Sydney Harbour during the Sydney Olympics, and I suspect the hand of the Government was firmly directing this action. Clearly, Patrick had a lease and the only way out for the Government, other than to pay hefty compensation, was the commercial agreement described in Mr Martin's evidence. My concern about this was sparked by the nature of the evidence the committee received. In summary, the shipping industry in Sydney can be described as consisting of two stevedores, a limited number of shipping lines and one port authority. In that very small club, the Sydney Ports Corporation's proposed model for the expansion of Port Botany seemed to have left one stevedore very unhappy. That did not make business sense. Paragraph 2.24 of the committee's interim report stated:

Mr Blood stated that P&O Ports has an alternate proposal which provides for expansions to be built at the end of each of the north and south sides of Brotherson Dock:

In part he said:

P&O Ports' alternate proposal is of less overall area—about 41 hectares versus 56 hectares—and requires about 20 per cent less reclamation as a result, despite the deeper water on the south side of Brotherson Dock, whilst maintaining the same berth length. P&O Ports would be able to make full and effective use of the additional berths provided within our proposed design, already having access to substantial land available both at Port Botany Terminal and at adjacent and nearby sites that are currently used for ancillary services.

In fairness, the proposal of the committee to widen the terms of reference was the correct decision, and I welcome the prompt response of the Minister. The former chair of the committee, Tony Burke, and I discussed the evidence and, to his credit, Tony Burke suggested the interim report as a means of dealing with what seemed a complex issue. It seems the chickens were coming home to roost for the Government over decisions taken prior to the Olympics.

It needs to be said clearly that this report does not in any way pre-empt either the commission of inquiry or the work of this committee. It does not in any way go to the merits of the issue of the expansion of Port Botany. This report sought to ensure that the Minister was aware of the committee's view that the proposal under inquiry by the commission of inquiry needed to consider all the relevant options—those that fulfil the commitment to Patrick Corporation and the position of its competitor, P&O Corporation. In terms of procedural fairness this would seem a better outcome.

It is clear that there are residents groups and others who oppose the expansion of Port Botany under any circumstances. As it happens, their position is not relevant to this report but I hope they see in the expanded terms of reference an opportunity to place their views on the record. My position on the expansion of Port Botany cannot be construed from anything I have said today. I look forward, as I hope do other members of the committee, to the remaining hearings with an open mind and a determination to act in the best interests of the whole of the State.

The Hon. MELINDA PAVEY [5.10 p.m.]: I follow the comments of my colleague the Hon. Patricia Forsythe by pointing out that the report released under the chairmanship of Tony Burke in May contained some very valid reasons for directing the Minister for Planning, Craig Knowles, to extend the commission of inquiry to look at another option put forward by P & O, the basis of which was the understanding that Sydney ports are very quickly running out of space and in another five to seven years they will have reached maximum capacity. The report was endorsed unanimously by the committee. However, there is concern that there could be a logjam in getting goods and services in and out of Sydney. Within an 80 kilometre radius of Sydney, 80 per cent of freight coming to New South Wales finds its way through the port of Sydney. Without planning, any blockages will have a severe impact.

On 21 October 2003 the committee received a request from the Hon. Michael Costa to look into port infrastructure in New South Wales. The Government did not want another general purpose standing committee—that is, a committee that does not have a majority of Government members—looking at the issue, so it got in first and requested the Standing Committee on State Development to conduct the inquiry. We remember the infamous speech that the Premier made at the State Labor conference. He had just got off a plane from, I think, the United States and did not have any good news stories in his speech to the conference, so with the help of Walt Secord he came up with the idea of moving ships out of Sydney Harbour. That is why the committee was given the reference. The Hon. Eric Roozendaal was probably at head office at the time and was privy to all this. Now he is chair of the committee. How the wheel turns! May was the last time that the committee met on this reference. The Hon. Eric Roozendaal was quickly made a member of this Chamber. We were enlightened about the sort of person he is during his maiden speech yesterday.

The Hon. Jan Burnswoods: His inaugural speech.

The Hon. MELINDA PAVEY: His inaugural speech. He certainly comes from a very interesting background. I learnt a lot from his inaugural speech about his background and the mountains that his parents and other family members have had to climb. It is those types of people, the migrants that have come to this country, that make Australians so much more interesting. I look forward to sitting down at a meeting of the Standing Committee on State Development and discussing this issue with the Hon. Eric Roozendaal and seeing where we are going. One day that may happen.

Mr Ian Cohen: After the election.

The Hon. MELINDA PAVEY: Do you think? The reference involved a serious issue. I have enjoyed my work on the committee so far. I give credit to former chair of the committee, the Hon. Tony Burke, who will no doubt be a Federal member of Parliament in about three weeks time. He forced the report through despite pressure from certain quarters that he not do so. Many people do not want any extra development at the port to proceed. The committee had evidence from the Department of Environment and Conservation that is contrary to the many arguments put by some of the local environmental lobby groups. When asked about the impact of the Sydney Ports Corporation expansion proposal on existing pollution of the Penrhyn Estuary and Foreshore Beach, Mr Colin Woodward, Executive Director of Operations of the Department of Environment and Conservation, stated:

The EIS that we have received and assessed in relation to the port development proposal indicates that there will not be a disturbance of that plume [in the Penrhyn Estuary] or a speeding up of that plume in any sense that would be created by the port development.

That is an excuse for not going ahead with the original plans put forward by the Sydney Ports Corporation. Local lobby groups, for very good locally based reasons, do not want any extra traffic movements. But the port has been operating since the early 1970s. We have to balance the needs of the State against the impact of port growth on local residents. I note that the report states:

2.29 The Committee recognises that there is community objection to any expansion, as expressed by Ms Jan Staples, Chairperson, Save Botany Beach:

Anything which involves reclamation of the bay is of concern to us, and anything that results in a tripling of the current volumes is of concern to us because, as I have been emphasising, this truck movement is the big issue.

It certainly is a big issue. There are other ways around it and the Minister for Roads, Carl Scully, may have to work closely with the local community to develop commonsense approaches. Botany Bay and the Sydney Ports Corporation are running out of capacity and we need to act relatively quickly to meet the needs of our growing customer base in New South Wales. We also have to take into account what the shipping industry is saying. It is behind the original proposal put forward by the Sydney Ports Corporation. I look forward to the first meeting of the committee with our new chair, the Hon. Eric Roozendaal. We will see where he takes us.

Mr IAN COHEN [5.18 p.m.]: I will speak briefly on the interim report of the Standing Committee on State Development. I agree with previous speakers that it has been worthwhile and interesting, if onerous, to deal with the important issue of the expansion of ports in New South Wales, whether at Port Kembla and the Hunter primarily. As has already been said by a number of other speakers in the debate, the report was rushed through to mesh in with the commission of inquiry and some of the issues put up by the Hon. Craig Knowles as Minister for Infrastructure and Planning. The Hon. Melinda Pavey mentioned that the committee has a new chair and that the previous chair was a former member of this place, the Hon. Tony Burke. Often crossbench members debate whether to seek membership on Government committees or on general purpose standing committees, which have a different balance of power. Generally speaking, the Government has a majority on standing committees.

Sometimes I find myself at odds because this standing committee has a certain degree of effectiveness. The Hon. Tony Burke did a good job as chair of the committee. He saw an urgent situation and realised that he needed to act, and he did so by contacting the Minister and having meetings with him. The honourable member was the prime mover behind this interim report. The inquiry allowed members to have a substantial input into a very important matter. I congratulate the Hon. Tony Burke on his last major effort in the short time he was in this Parliament. He acted responsibly and effectively, and I wish him well in his Federal future. He worked very well with other members and, all in all, his time as chair was positive for the committee. The new chair has informed me that we will have a committee meeting. I am looking forward to the committee recommencing its work, but I do not expect it to take off before the next Federal election.

Community sensitivity with regard to ports and their expansion is interesting. The potential Federal Labor member for Kingsford-Smith, Peter Garrett, commented, when community members raised their concerns about this issue, that he had not read the report. We are facing some monumental environmental and social issues, but that was his only comment. It is fantastic that we have a committee that can examine this ongoing situation, and that we could have in a safe Labor Federal seat a member who will take an incredible interest in it. I hope he sees fit at least to read the committee's reports. In support of Peter Garrett's position, I believe he has the opportunity to make a difference for the people of Botany. We are dealing with people in a safe Labor seat who have been treated poorly over the years. They are facing massive problems as a result of toxic pollution.

These are not new issues. I climbed the ICI tower—now known as the Orica plant—to demonstrate against pollution during the 1990 Federal election campaign. I hung a 20-foot banner carrying the words "Toxic vandal". I saw drums of hexachlorobenzene stored on the site then, and they are still there. I walked on the surface of a mountain of toxic waste that is capped with asphalt and used as a car park. There were signs erected at the time—I presume they are still there—warning people against piercing the asphalt. The toxic material is covered by plastic and there is a rising watertable. And we wonder why the plume is moving inexorably towards Botany Bay! The local community, the Greens and conservationists are very concerned about this issue. The committee appreciates the level of community input, particularly from Joan Staples of the Save Botany Beach organisation. Joan has been a major contributor and the organisation has been working long and hard.. Joan is a very eloquent spokesperson for that organisation in defending the people of Botany—people who have supported this Government and Labor federally for many generations.

The committee has shown a great deal of interest in this matter also. It received 98 submissions and heard evidence from 61 witnesses. Many people have participated in the committee's public discussions. Committee members have visited a number of major ports, and that has been a real eye-opener. Honourable members have also discussed the alternatives. As a previous speaker said, this issue is broader than the proposed expansion of the terminal; it also involves Darling Harbour, the Patrick Corporation moving out and serious concerns expressed by other stevedoring companies about how Patrick has been able to get a head start. Patrick appears to be the most favoured proponent for this development. At the same time, a great deal of material has been circulated about the benefits of both Port Kembla and the Hunter. It will be a major task for the committee to examine all these issues.

In this very good interim report the committee grasped the nettle and recommended that the Minister for Infrastructure, Planning and Natural Resources ensure that any expansion of the Port Botany terminal facilities be undertaken only after the identification and rigorous evaluation of all viable alternatives, including the current proposal. I hope the committee examines those alternatives further from all angles. I disagree with the speaker who said that sometimes local communities have to make sacrifices for the greater good. The greater good is achieved by treating everyone—those living in small and large communities throughout the State—in a balanced way and thereby delivering social and environmental justice to all. Whatever decision the committee makes after looking at all the viable alternatives, it must recognise that these people and the environment have rights.

The area in question is very beautiful. The wetlands, including the Penrhyn Estuary, provide habitat for threatened bird species that are protected under the Japan and Australia Migratory Birds Agreement and the China and Australia Migratory Birds Agreement. It is important to recognise that, apart from industrial growth, the area is facing a number of other major problems, all of which should be examined so that a balanced decision is made. Any decision made should not reflect the interests of only one corporation and the goal of expanding the Botany terminal; it should also take into account transport issues, the impact of noise on the local community and the capacity of rail infrastructure to cope with the proposed expansion. The committee's investigations have been valuable and I am confident that it will continue to produce positive results under the supervision of the new chairperson. Hopefully we will come up with a balanced report that encourages a positive future direction for all the ports of New South Wales.

Motion agreed to.

GENERAL PURPOSE STANDING COMMITTEE NO. 1

Report: 2004 Mini Budget

Debate resumed from 3 June.

The Hon. GREG PEARCE [5.29 p.m.]: Reverend the Hon. Fred Nile is no longer a member of the House so he is not here to speak on the report. I took a great deal of interest in the report and moved the motion that established the inquiry. To give the honourable member his due, I will mention a few of his comments

about the role of estimates committees and the reason that General Purpose Standing Committee No. 1 undertook an inquiry into the mini-budget.

Essentially, Reverend the Hon. Fred Nile emphasised the role of the Legislative Council as a House of review. His view was that if estimates committees are to be of any value at all, they must allow Opposition and crossbench members to examine in detail the Government's program for the year, not simply rubber-stamp what the Government is doing. He said that without a careful and detailed analysis we would have no opportunity to work out what the Government is doing in any department. That was the basis on which we proposed, and the House agreed to have, a short inquiry into the mini-budget.

Honourable members will recall that the mini-budget was announced on 6 April and the Treasurer claimed that it was necessitated by three matters: first, financial pressure imposed on New South Wales as a result of what he called "savage financial cuts" from the Federal Government purportedly amounting to \$376 million in that year; second, what he referred to as the recently awarded pay rises for nurses and teachers, alleged to have cost \$400 million in a year; and, third, a desire on the part of the Government to target savings and implement cost-cutting measures to ensure duplication is eradicated. The hearing found that these three purported reasons for the mini-budget were either lies or distortions of the truth to disguise the Government's mismanagement of the massive tax revenues that it has collected over the past nine years, and the fact that we were moving into deficit.

The Hon. Jan Burnswoods: Point of order: I know that the parameters of take-note debates are fairly broad but Opposition members are using the word "lies" whenever they please. Again I point out that if the Hon. Greg Pearce wishes to accuse the Treasurer of lying, apart from the fact that such an accusation is tasteless and unfair, under the standing orders he needs to make the accusation by way of substantive motion and not as a throwaway line, which happened earlier today in another take-note debate. I ask the Hon. Greg Pearce to withdraw the comment and to cease trying to turn this debate on a committee report into personal abuse of the Treasurer.

The Hon. GREG PEARCE: To the point of order: If you care to inspect *Hansard*, I did not at any stage suggest or say that the Treasurer told a lie. I would hope that the honourable member would not take up my time.

The Hon. Jan Burnswoods: Who were you talking about?

The Hon. GREG PEARCE: There is no point of order.

The DEPUTY-PRESIDENT (The Hon. Kayee Griffin): Order! I did not hear the Hon. Greg Pearce use the term to which offence was taken by the Hon. Jan Burnswoods. However, if it was used by the member, I ask that he not use it again. Indeed, members should refrain from using unpalatable language similar to that used in another debate earlier today.

The Hon. GREG PEARCE: Thank you, Madam Deputy-President, for your erudite ruling. The key factors in relation to the mini-budget can be summarised in those three areas that I mentioned earlier, the first being the question as to whether the State budget was \$376 million in the red because of any so-called savage attacks from the Federal Government. When I asked the Treasurer whether the budget for the current year included \$376 million in projections, he agreed that figure did not appear. In fact, as we now know, the 2004 Commonwealth grants from the December 2003 mid-year budget review show that New South Wales expected to receive an extra \$127 million from the Commonwealth when the mini-budget was brought down.

In relation to the foreshadowed pay rises for nurses and teachers, during questioning the Treasurer again conceded that those pay rises had already been included in the budget projections in the mid-year review, which was published in December 2003. So that again was not a basis for the mini-budget. As to the so-called savings, particularly in relation to the Department of the Environment, where major savings were to be obtained, and the former Department of Women, detailed questioning showed that no real savings would be achieved purely as a result of the mini-budget. Indeed, the Secretary of the Treasury, John Pierce, conceded that the mini-budget made public decisions that would have been necessary in the normal functioning of the budget. Therefore, the committee evidence did not support those purported reasons for the mini-budget.

What was of real concern at that time was the introduction of the vendor duty and the land tax. Even as late as today I noticed some eminent experts on the property industry lamenting in the media that the property

market has slowed and people were investing in States other than New South Wales—something Opposition members prophesied would happen. What was the most astonishing aspect of the vendor duty and changes to land tax was that the Treasurer did not have a model or analysis to support the introduction of these taxes, and I refer particularly to the evidence of the Secretary of the Treasury, Mr John Pierce.

We established also during the hearings that the department did not have any real evidence as to expected revenues from the vendor duty, and again I refer to the evidence of Mr John Pierce, who made it very plain that whilst various tax options had been considered in the lead-up to the meeting of Treasurers—which took place in Canberra the week before the mini-budget was brought down—in the week following, the Treasurer simply came up with this great idea to introduce new and unpleasant taxes without any analysis or model, and on which the Treasurer did not have any real information as to projected revenues. The target of \$600 million in revenue from vendor duty simply slotted into the expected budget deficit and made the numbers add up. Because the Government has moved into a deficit this year, we sought a breakdown of the figures that led to that deficit and, again, the Treasurer was simply not able to provide those figures to the committee, notwithstanding that that basic work should have been undertaken prior to implementing the mini-budget.

I shall detail the reasons that the Government was so unprepared for the measures it introduced in the mini-budget, and I refer the House to the evidence of the Office of State Revenue representatives, who made it clear that they did not have the necessary resources to implement the vendor duty and land tax changes before they were introduced. Of course, of great concern was the fact that some of the cuts seem to be designed simply to reduce staffing in various parts of government to achieve savings, which were not supported by any research. I thank the staff and committee members for their fine work in the conduct of the mini-budget hearings and in preparing the report. There was very little time available to do so and, as usual, we had great support from the staff.

The Hon. JAN BURNSWOODS [5.39 p.m.]: I will make a few comments on the report of General Purpose Standing Committee No. 1 on the 2004 mini-budget, which was tabled back in June, just before the budget for this year was produced. First, I acknowledge the work of Reverend the Hon. Fred Nile, as chair of the committee, and other committee members, several of whom were substitutes on this occasion rather than substantive members. This is an unusual report from a general purpose standing committee, in that it is something of a hybrid between an ordinary report and a budget estimates committee report. The Hon. Greg Pearce has already commented on that.

The report does not contain recommendations, because it is not a report in the form that we normally expect from a committee. It is like a somewhat elongated budget estimates committee report. Committee staff and the chair should be congratulated on the report because, on the whole, it is a successful attempt at being a fairly factual statement of the evidence the committee received. The minutes reveal that there was some argument amongst committee members, to which I will return later, about what evidence should and should not be allowed, but in most cases it was probably more a matter of emphasis than dispute as to the facts.

One major exception relates to the point of order I took during the contribution of the Hon. Greg Pearce. Without wishing to engage in a personal argument with him, a lot of it comes back to the old phrase about statistics. Depending on the type of statistics one uses, one can read almost anything into this report, and I certainly disagree with some of what the Hon. Greg Pearce has read into it. For example, if one refers to the real situation with regard to the Federal funds flowing to New South Wales, one gets a different picture from the picture one gets when referring to the financial aspect. One also gets a different picture if one refers to general purpose grants as opposed to specific purpose grants.

I will leave it to members, if they are interested in these matters, to look at them. I simply draw attention to table 1.1, which appears on page 1 of the report. The table quotes the Commonwealth Grants Commission, the report it released in February this year about its review on State revenue sharing activities and the recommendations it made about the underlying changes in the share of GST revenue received by each Australian State. The table shows a reduction of more than \$300 million for New South Wales, an increase of \$262 million for Queensland, an increase of \$230 million for Western Australia, and so on.

The report makes it clear that, as has often been said, New South Wales suffers badly because it is continually called on to subsidise certain other States. As the Treasurer has said on many occasions in this House, many people in New South Wales may resent the fact that the major beneficiary, Queensland, appears to be rolling in money and certainly does not need to impose the taxes that New South Wales imposes.

The inquiry process had some amusing moments. Those who know the Treasurer, and his ability to be on top of his portfolio and make his points very well, will not be surprised to hear that although he appeared before the committee together with a large list of people from Treasury, he dealt with most of the questions himself. He made effective use not only of his voice and his usual stylistic devices but also of a whiteboard that was erected in the committee hearing room. I think it would be fair to say that no matter what was thrown at him, the Treasurer managed to continue, successfully, to reiterate the reasons that the Federal Government's treatment of New South Wales had made the mini-budget necessary. By the time the report was tabled, of course, we were well on the way to the budget, and many of the allegations originally made about the mini-budget had been disproved. One of the more informative parts of this slim report is the minutes. I draw members' attention to the view of one Opposition member regarding the budget process. Towards the end of the inquiry the Hon. Catherine Cusack moved that the following paragraphs be included at the conclusion of the report:

The Committee expresses concern at the decision making process used by the Government for identifying savings measures. All five agencies that were asked how savings were identified indicated they were selected by the Ministers' Offices ...

Such a method exposes the decisions to the perception that they were political and not properly considered. The result is unjust and even perverse outcomes.

The amendment was lost, only the two Opposition members having voted for it. At that time the Hon. Catherine Cusack announced that she would incorporate those paragraphs in a dissenting report, but no dissenting report materialised. I draw the attention of honourable members to this because, on any reading of the two paragraphs, it is apparent that the Hon. Catherine Cusack, or perhaps the Hon. Catherine Cusack and the Hon. Greg Pearce—the Hon. Greg Pearce can speak for himself—fail to understand the kind of democracy in which we live, and the Westminster system in particular—

The Hon. Greg Pearce: Point of order: I followed the Hon. Jan Burnswoods' comments about the minutes of 2 June 2004. Nothing in those minutes indicates that the Opposition proposed to prepare a dissenting report. I certainly did not give any such indication. I draw attention to the motion moved by the Hon. Tony Burke—

The Hon. JAN BURNSWOODS: That is not a point of order; it is part of the debate. The Hon. Greg Pearce may give a personal explanation if he likes, but what he is saying—

The Hon. Greg Pearce: Madam Deputy-President, I have the call.

The DEPUTY-PRESIDENT (The Hon. Kayee Griffin): Order! The Hon. Greg Pearce may continue.

The Hon. Greg Pearce: Thank you, Madam Deputy-President, I appreciate your getting the Hon. Jan Burnswoods back in control; she is very difficult to control on some occasions. I simply make the point that the only motion in relation to a dissenting report that appears in the minutes of the meeting of 2 June is a motion of the Hon. Tony Burke, who is no longer a member of this place, that members wishing to make a dissenting report provide the dissenting report to the secretariat by—

The DEPUTY-PRESIDENT (The Hon. Kayee Griffin): Order! The Hon. Jan Burnswoods said that the Hon. Catherine Cusack said she was going to put in a dissenting report, not that it was in the minutes. There is no point of order.

The Hon. Greg Pearce: Point of order: The Hon. Jan Burnswoods specifically said what I have referred to, in the context of reading from the minutes. I simply sought to correct the minutes by pointing out that the Hon. Tony Burke moved a procedural motion and that that motion is referred to in the minutes. The Hon. Jan Burnswoods should not mislead the House. She is very good at trying to stop other people from misleading the House, so she should not mislead the House herself.

The DEPUTY-PRESIDENT (The Hon. Kayee Griffin): Order! That is not a point of order.

The Hon. JAN BURNSWOODS: To the point of order: The Hon. Greg Pearce's comments do not constitute a point of order. I read very carefully from the Hon. Catherine Cusack's motion, which is set out on the last two pages of the committee's report. The point I was making in reading those words is that they demonstrate that the shadow Minister has a fundamental misunderstanding of the Westminster system.

The Hon. Greg Pearce: Point of order—

The Hon. JAN BURNSWOODS: I am speaking to the point of order.

The Hon. Greg Pearce: To the point of order: The Hon. Jan Burnswoods is not taking a point of order but engaging in debate. I have risen on a point of order. She has to sit down.

The Hon. JAN BURNSWOODS: In continuing to speak to the point of order, the point I was making is that fundamental misunderstanding of the Hon. Catherine Cusack—

The DEPUTY-PRESIDENT (The Hon. Kayee Griffin): Order! I ruled on this point earlier. No point of order is involved in the matters raised by the Hon. Greg Pearce. When speaking to the point of order the Hon. Jan Burnswoods referred to the Hon. Catherine Cusack saying that she would move a dissenting report. That did not happen. There is no point of order.

[Time expired.]

The Hon. PETER PRIMROSE [5.50 p.m.]: I recall that, a few years ago, General Purpose Standing Committee No. 1 held an inquiry into the budget process. I considered it to be a very valuable exercise and members on all sides of the political spectrum learned quite a lot. Officers from Treasury and relevant departments appeared before the committee and we went through the matters step by step. I know that the Hon. John Ryan and those who participated took a great deal of interest in that committee, which was chaired by Reverend the Hon. Fred Nile. I believe we learned a lot about the budget-setting process that occurs in this State, its complexity and importance.

What distressed me, and it has been alluded to by the Hon. Jan Burnswoods, is that those Opposition members who were present during recent committee hearings and discussion on the 2004 mini-budget would have learned a lot and would have benefited from participating also in the earlier inquiry. A reading of the papers, particularly the comments on pages 55 to 60 of the minutes, reveals the proposition that because decisions were actually being made by Ministers and not by public servants this was, in some way, deleterious to the political process.

My understanding of the Westminster system is that Ministers make decisions on advice. The buck stops there. The principle of the original British Exchequer was that part of the Executive made the decisions—not public servants, not the Sheriff of Nottingham, but the King's men. Now that we have the Crown and an Executive, Parliament is responsible for allocating funding and the Ministers make determinations on how that expenditure occurs. To suggest that this is in any way a perversion of the Westminster system is a gross misunderstanding of the budgetary process, not only in this State but in all parliamentary systems based on the original Westminster system.

Motion agreed to.

GENERAL PURPOSE STANDING COMMITTEE NO. 2

Report: Complaints Handling within NSW Health

Debate resumed from 24 June.

Reverend the Hon. Dr GORDON MOYES [5.53 p.m.]: It gives me great pleasure as Chairman of General Purpose Standing Committee No. 2 to present the report entitled "Complaints Handling within NSW Health". The report was published and presented to Parliament earlier as report No. 17 of June 2004. This was a highly publicised inquiry. It concerned the complaints handling procedure within New South Wales, in particular, the culture of learning and a willingness to share information about errors and failure of systems, and an assessment of whether the system encourages open and active discussion of improvements in clinical care.

Honourable members would be aware of some of the events associated with the Campbelltown and Camden hospitals public relations issues concerning health care complaints handling. Committee members included me, as Chairman, the Hon. Patricia Forsythe, the Hon. Dr Arthur Chesterfield-Evans, the Hon. Amanda Fazio, the Hon. Peter Primrose, the Hon. Robyn Parker and the Hon. Christine Robertson. I might just say by way of appreciation to those members of the committee that we had a very difficult task. It was highly charged and emotional; it was constantly reported in the media—newspapers, television and radio. The media harassed many of those involved in making some of the 71 submissions and, consequently, it was a very difficult

complaints handling presentation that we were required to make. I would point out, as I did in the Chairman's foreword in the report, that simply being an inpatient in an Australian acute care hospital is 40 times more dangerous than being in traffic and only 10 times safer than leaping out of an aircraft equipped with a parachute. In other words, we have the very serious likelihood of major failures in health care while, at the same time, having an unrealistic expectation of health care and error-free medicine.

People go into hospital expecting to be healed or to come out better than when they went in. Unfortunately, very large numbers of people—and I will refer to the statistics on this a little later—do not face error-free medicine and many of them suffer adverse reactions. When permanent disability, or even death, results from time spent in hospital, we must learn how to handle that, learn from mistakes and put into practice systemic protocols to ensure that it does not happen in future. There are inherent risks in modern medicine and most people do not understand them. The inherent risks may mean not only miraculous cures but also adverse responses, such as permanent disability and even death. One of the most important factors in patient safety is being open about health care incidents and adverse events when they occur. This involves the whole question: How were the complaints handled? Unfortunately, evidence to our inquiry suggests we have a long way to go in developing a health care culture that is transparent about mistakes and is willing and able to learn from them.

Unfortunately, many people believe there is a strong culture of blame and, in an era of litigation, people are not willing to admit mistakes for fear of litigation. I place on record the committee's appreciation to everyone who helped with the inquiry, particularly the 71 people who made submissions. Many of those submissions were extremely emotional because they involved dear ones who had died during procedures within the health care system. Indeed, many staff members suffered what they believed to be severe harassment. Although some good systems are in place to encourage reporting of adverse reactions, the present culture is an unwillingness to be open about and to learn from them. Cultural change is needed and, to that end, our committee made a total of 19 recommendations.

I am pleased that the Minister for Health gave an open acceptance of those recommendations. The committee decided that, in the event of those recommendations not being put into practice by the current Minister for Health, it would reconvene on approximately 30 June next year to check progress within NSW Health and, if necessary, undertake further questioning.

Given the nature of this inquiry, it is necessary for the committee's secretariat to liaise extensively with officers from NSW Health and the South West Sydney Area Health Service. On behalf of the committee I place on record the excellent work provided to the committee by the secretariat. I also acknowledge that the relatively newly appointed director-general, Ms Robyn Kruk, appeared before the committee on several occasions and was always forthcoming on the issues we raised with her. Health care is a complex issue, and we do not live in an error-free environment.

I place on record the committee's appreciation of many staff, particularly those who have become known as the whistleblower nurses, who were the subject of much media scrutiny and, indeed, some harassment for their general bravery in coming forward and making clear what they were concerned about. I regard some people as being innocent in the whole procedure; somehow or other they got caught up in this issue. I make mention of Mr Ian Southwell, the Chief Executive Officer of South Western Sydney Area Health Service. His time in the job was terminated, yet no adverse findings were made against him. There may have been some knee-jerk reaction towards him.

Honourable members will be aware that the number of key events relevant to both Camden and Campbelltown hospitals ran over a long period, and they received intense media scrutiny. Throughout 2003 there was intense media interest in the various allegations about inadequate patient care. That was not only the subject of further inquiries, such as the Health Care Complaints Commission undertaking, but also the subject of what became known as the Barraclough inquiry and the special commission of inquiry into the Campbelltown and Camden hospitals, known as the special commission. In all this, many people got caught up in a feeding frenzy.

The inquiry that was established by General Purpose Standing Committee No. 2 was not intended to spend a great deal of time looking at specific incidents of what might be regarded as adverse reactions and poor responses towards staff and others who raised the issue. That was to be done by the Coroner and the special commission of inquiry. However, we were interested in looking at systemic issues relevant to complaints handling and seeing whether what was being revealed about the Campbelltown and Camden hospitals was typical of what was happening in other hospitals across the State.

As a matter of fact, in submissions and in evidence we gleaned indications of the inability of many within the health care system to admit mistakes and errors, to learn from them, and to communicate well with people who are suffering because of them. We found this was a serious issue not only in these two hospitals but in many other hospitals. We had evidence that some hospitals—it is not my role today to go through the list of those hospitals—had a worse record of adverse patient events than those reported out of Camden and Campbelltown hospitals. On specific issues and allegations regarding the patients—

Pursuant to standing orders debate interrupted.

ADJOURNMENT

The Hon. HENRY TSANG [Parliamentary Secretary] [6.04 p.m.]: I move:

That this House do now adjourn.

CASINO TO MURWILLUMBAH BUS SERVICE

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [6.04 p.m.]: Tonight I raise an important matter of serious concern to communities on the North Coast, particularly so since the decision of the Minister for Transport Services to axe the Casino to Murwillumbah XPT service. As honourable members are well aware, the Coalition has already committed to restoring this vital rail service upon attaining office in 2007.

The Hon. Jan Burnswoods: Point of order: I take the same point of order that I took earlier today, which the President upheld, in relation to another matter currently before General Purpose Standing Committee No. 4. That committee is currently conducting an inquiry into the Casino to Murwillumbah train service. The Leader of the Opposition is talking about the unreported deliberations of a committee of this House and therefore is out of order.

The Hon. MICHAEL GALLACHER: To the point of order: I am speaking about the CountryLink bus service.

The Hon. Jan Burnswoods: Further to the point of order: I am a member of the committee that travelled to the North Coast and took considerable evidence about the bus service. Indeed, the bus proprietor gave evidence to the committee in Byron Bay. All the issues about the replacement bus service are within the committee's terms of reference and have been considered in submissions and in oral evidence. As I said, they have been considered in the committee's deliberations but they remain unreported to the House. Therefore, the honourable member is out of order.

The Hon. MICHAEL GALLACHER: Further the point of order: It is obvious that the Hon. Jan Burnswoods is wasting time. Be that as it may, I am talking about the specific Sun State bus contract that is currently operating between Tweed Heads and Casino. There are concerns about the legality of that bus service contract.

The Hon. Jan Burnswoods: Which we heard evidence on.

The Hon. MICHAEL GALLACHER: It is not in the terms of reference. I am talking about the fact that the company's office is based in a milk bar in Murwillumbah and about the lack of depot facilities on the route. These are substantial matters.

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! The Leader of the Opposition need not erode any further his time for speaking. Members are well aware that unreported proceedings of committees are not to be discussed until they have been reported to the House. As General Purpose Standing Committee No. 4 has not yet reported to the House on the matter referred to, comments on issues either that were included in the terms of reference or about which evidence was taken should not be discussed at this stage. If the honourable member can confine his remarks to matters that are outside that scope, he may proceed.

The Hon. MICHAEL GALLACHER: I am more than happy to do so because certain issues are of real concern to the people of the North Coast, such as Sun State's depot facilities, or rather the lack thereof. Contrary to the contract, there are no depot facilities on the North Coast. Also, there is concern that the company's office address is allegedly a milk bar in Murwillumbah.

The Hon. Jan Burnswoods: Point of order: The Leader of the Opposition is flouting your ruling. As I said, and as other members of the committee can confirm, we had evidence about not only the trains but also the buses. Indeed, a large amount of evidence from a man from the bus company whose name I forget related to the complaint against the company, Sun State, that the member is talking about. Indeed, the bus proprietor talked about the location of depots and so on. I can only repeat that the honourable member is trifling with your ruling. He is talking about evidence before the committee. Members opposite set up these inquiries, lay down the rules, and determine what witnesses will be called. Then it is apparently not good enough for them to play by the rules; they come in here and trifle with the work of a parliamentary committee.

The Hon. MICHAEL GALLACHER: To the point of order: I wrote to the Minister for Transport Services on 5 August about these matters. There are serious allegations about the propriety of this contract. The Minister has not written back to me yet. These are serious issues about the propriety of the service.

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! I uphold the point of order.

[Time expired.]

MONA VALE HOSPITAL

Reverend the Hon. Dr GORDON MOYES [6.09 p.m.]: Tonight I wish to speak about the future of Mona Vale Hospital. We know that the previous Minister for Health, the Hon. Craig Knowles, made clear statements on the John Laws and Allan Jones radio programs that Mona Vale Hospital would be upgraded and remain open. The current Minister for Health, the Hon. Morris Iemma, has stated his commitment to retain Mona Vale Hospital, but his actions do not appear to support his words.

Why has Mona Vale Hospital not received any funding of any significance for upgrades this year, whereas Wyong hospital and Gosford hospital received \$22 million and \$35 million respectively this year? Does this look like the actions of a government committed to keeping Mona Vale Hospital open? In my opinion it appears that the Minister is starving Mona Vale Hospital of funds, thereby contributing to its slow death.

The Minister has stated that he has been briefed concerning the purchase of Dee Why Civic Centre as an alternative hospital site. The Minister is also aware that the projected cost for that site is approximately \$40 million. Given that Mona Vale Hospital is only 40 years old, I wonder whether it would make more sense to upgrade the existing hospital site rather than spend \$40 million purchasing and developing the Dee Why Civic Centre? We should be committing scarce public resources to upgrading existing public infrastructure rather than spending millions of dollars on unnecessary new developments.

The Minister's choice of Dee Why as the preferred hospital site is even more intriguing when you consider that Mona Vale Hospital is situated on nine hectares and therefore has ample room for growth in the future, whereas the Dee Why Civic Centre is on only three hectares and in an area that is already overcrowded with traffic. The hospital site at Mona Vale is in a central location and has good access both by road and helicopter.

I recently received a letter from Pittwater councillor Patricia Giles addressed to the Minister for Health. In this letter Patricia Giles referred to a story in the *Daily Telegraph* in which the Minister for Health pledged that Mona Vale Hospital would remain open. She asked the Minister how that assurance stacks up against the fact that he is starving Mona Vale Hospital of funds in the current budget? It appears that the Dee Why Civic Centre is a totally inappropriate site to build a hospital. Patricia Giles further said:

The Dee Why site has been judged of great heritage significance and cannot be used for a hospital. The three hectare site and location also make it an inappropriate choice.

Patricia Giles also made an important point when she said the community does not want any of the Mona Vale land sold for housing, as I suspect the Minister might have in mind. However, the value of Mona Vale Hospital can be measured not only by the first-class health care it provides but also by the local community support it generates. Last week some 250 local residents and representatives from local companies attended a fundraiser in the area. Over \$80,000 was raised for equipment for Mona Vale Hospital and some hospital items were also pledged as gifts. This is a clear example of the level of community support for Mona Vale Hospital. I commend the residents for their generosity. While reading through the *Manly Daily* I came across a letter to the editor which sums up community anger about the Minister's proposal. It simply says this:

We all know that the Dee Why site is not only unsuitable, it's a never gonna happen in this lifetime project. We'd like to know why the health of the residents of Pittwater is of little consequence, but our precious land is. Surely it should be need, need, need, not greed, greed, greed!"

TRIBUTE TO THE HONOURABLE LEO MCLEAY

The Hon. KAYEE GRIFFIN [6.14 p.m.]: I acknowledge the 25 years service to Federal Parliament of the Hon. Leo McLeay. Leo was elected in a by-election for the seat of Grayndler on 23 June 1979 following the sudden death of Frank Stewart, who had served as a Minister in the Whitlam Government. Leo was subsequently re-elected on five occasions to the seat of Grayndler, and, following a redistribution in 1992, he was elected to the seat of Watson on another four occasions—in 1993, 1996, 1998 and 2001.

Prior to his parliamentary service Leo served as a State organiser for the New South Wales branch of the Australian Labor Party and also as assistant secretary from 1976 to 1979. He was also an alderman on Marrickville Municipal Council from 1971 to 1977. Leo campaigned quite strongly about a second airport at Sydney during his local government career and campaigned strongly for a second airport site during his time in Federal Parliament.

Parts of the electorates that Leo represented—Grayndler and Watson—overlapped, so many people were his constituents for 25 years, particularly in the city of Canterbury. The electorates Leo was responsible for were very multicultural and contained a culturally diverse group of people. Consequently, their needs were diverse as well. Generally the issues in both Grayndler and Watson related to family vulnerability, employment, immigration, social security benefits, and, perhaps in a lot of cases, lack of support, particularly for people who came from non-English speaking backgrounds and were new to Australia, let alone to Grayndler and Watson.

Leo was a very committed member of Parliament. I had the honour of working with him as an electorate secretary when he was first elected in 1979. I also worked for him from 1996 until 2003, when I was elected to this House. He has always shown great friendship to me and to so many other people who have supported him. I look forward to catching up with him when he is no longer sitting in Federal Parliament, and generally discussing matters with him. I have always appreciated his support and advice, as I know many other people have. I am proud to be serving in a Parliament with his son, Paul McLeay. I am sure that Leo will not leave politics totally behind. He will always take an interest in what is happening with the Australian Labor Party, but he certainly has a number of other interests now, including a farm and looking after two wonderful granddaughters, who are the pride and joy of his life. I wish Leo and Janice and their family all the best for the future.

Over the years Leo earned a great deal of respect and thanks from the people of Grayndler and Watson. I recall one occasion when as mayor of Canterbury I officiated at a citizenship ceremony and Leo was my guest of honour. At the end of the ceremony he was like the Pied Piper. When Leo walked out, people followed him because they respected him so much for the work he did in my community, particularly with regard to immigration, social security benefits and welfare issues.

Leo showed a very caring attitude, particularly to young people who had issues with employment. In the seat of Watson a substantial group of young people are not in employment, and employment is one of the major issues he has been concerned about over the years. I know that Leo will not officially retire from the party, and I wish him good luck for the future in his retirement.

LEFT-HANDERS DAY

The Hon. CATHERINE CUSACK [6.19 p.m.]: The left and the right are well-understood concepts in Australian politics, and tonight I will stand up for the left, not in a political sense but for the 15 per cent of school students who are left-handed. I want to talk tonight about their needs and some of the simple things that can be done to make their lives so much easier. I confess a personal interest: I am a right-handed person who grew up in a house with a left-handed mother and two left-handed sisters, and it should not have been any surprise to me that one of my sons is left-handed. So, I have good reason to be interested in this topic. Friday 13 August is designated internationally as Left-handers Day. It came to my attention by way of the *Tweed Daily News*, an excellent publication. Left-handers Day is on the thirteenth because 13 is regarded as an unlucky number. The newspaper report quotes Sandy Ellis, the principal of Duranbah Public School, and reads:

This year Left-Hander's Day also falls on Black Friday, which is appropriate because left-handedness was once superstitiously considered bad luck or evil, according to Steve McGuirk, spokesman for the Sydney-based firm Lefty's, a resource centre for left-handers.

His specialist firm sells a wide range of goods... pencil sharpeners which work anti-clockwise to left-handed can-openers.

Mrs Ellis said most left-handers simply learnt ways to adapt such as by using scissors upside down, although her school has several pairs of left-handed scissors, allowing children to cut safely and accurately. ...

Mrs Ellis said many people did not realise most keyboards allowed the mouse to be easily changed from left to right. She said about 25 per cent of the 27 students in her school are left-handed.

"Today's students do not experience any prejudice in that area," she said and added that teachers usually tried to ensure a left-handed child sat to the left of a right-hander so they do not knock elbows, both when writing and when taking lunch.

I was very interested in this information. Although I have a left-handed son, I had not thought through those simple, practical ideas. I am aware they are not being implemented in his classroom or in his school. I undertook further research to find out what is being done to meet the needs of left-handed students, who, as I said, represent a very substantial proportion of the student population. I discovered that, because of the way their brains work, seating left-handed students toward the centre of a class makes them feel more comfortable and settled. It apparently can be used to counter the natural tendency of lefties to mirror write. They mirror write because they are moving their hand across the page in the direction that is most comfortable to a right-handed person.

I learnt that large triangular-shaped pens and pencils are a very simple way of correcting handwriting problems by encouraging a correct grip. If this technique is used for a time the problem is corrected permanently and the student can then go back to using a ballpoint pen. I also learnt that none of our teacher education at university addresses left-handedness and that virtually all knowledge on the subject by teachers is gained anecdotally in the staffroom problem-solving discussions in relation to their left-handed students. The Department of Education and Training has no advice or support for schools and parents on left-handedness.

It is probably too late to assist my son with these simple techniques, but I encourage the Minister for Education and Training to consider simple in-service enhancements for teachers. Perhaps 30 minutes of one in-service course would make a tremendous difference to the lives of all our left-handed students. As I said, computer mouses can be changed to suit a left-hander. As a right-handed person who has tried to use a mouse left-handed I am amazed that left-handed kids can do it. Of course, they adjust and adapt, but how much learning have they missed out on in the interim?

As I said, it appears that 15 per cent of the school population is left-handed. This is a very substantial group. For a very small investment in understanding in the future, universities and the Department of Education and Training can make teaching and learning significantly easier and a more positive experience for left-handed students. I urge the Government to investigate the suggestions.

THREATENED AND ENDANGERED SPECIES CONSERVATION

The Hon. JON JENKINS [6.24 p.m.]: Recently I had a meeting with some so-called environmentalists. In the course of the meeting it became even more apparent to me why so many species in this State are listed as threatened and endangered. On the basis of land usage, New South Wales can be split roughly into two parts. The first part is that land east of a line drawn down the Great Dividing Range; the second part is to the west of that line. Looking first at the eastern side of the line, on the coastal plain approximately 40 per cent of the land area is now owned and managed by the National Parks and Wildlife Service.

So, as the service manages nearly half of the coastline, why is it that so many plants and animals are listed as endangered species and that their numbers are continuing to decline? These endangered plants and animals are supposed to be protected and preserved in the national parks estate, so why are they still sliding into extinction? The simple answer is that the current strategy of the National Parks and Wildlife Service is simply not working, and the reason it is not working is that it is driven by ideology rather than by simple science.

We know that plants and animals cannot survive bushfires where the fuel load is in excess of about 10 tonnes per hectare. And yet the so-called environmentalists continue to oppose the only solution to these ferocious fires that obliterate everything in their path: regular fuel load reduction burns. The Aboriginal people understood that necessity for the past 50,000 years, just as most scientists do today. Two-thirds of one of our premier national parks has been left a barren desert as a testament to this refusal to fire-manage our bushland areas properly. Representatives of the environment seem to think this is an acceptable outcome and that the management procedures that led to that result are responsible and appropriate and should continue. When I pointed out to the representatives that the scientific records of Sir Joseph Banks and Sir Charles Darwin—

Mr Ian Cohen: Point of order: The honourable member is saying that burnt out, barren, national park areas are seen by environmental representatives as an acceptable outcome. I was at the meeting and that was not the case. I ask the honourable member to retract such an inaccurate statement.

The Hon. JON JENKINS: That is not a point of order, Madam Deputy-President.

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! I think the basis of the point of order of Mr Ian Cohen was that the Hon. Jon Jenkins was misleading the House. However, the Hon. Jon Jenkins may proceed.

The Hon. JON JENKINS: He was just trying to take up some time, Madam Deputy-President. When I pointed out to the representatives of this environmental group that the scientific records of Sir Joseph Banks and Sir Charles Darwin, the Aboriginal history and practices from both European and Aboriginal records, and even the original paintings of the native landscape of New South Wales show that much of the bushland was not thick bush but rather was grassy plains and that bushfires were almost unknown before 1850 they tried to tell me that this was "a debatable point".

The second-largest threat to a native animal population is feral predators, primarily the fox, the cat, and the wild dog. We know that these animals are a direct threat to the most endangered species on the Australian mainland and yet again these environmentalists refuse to support programs that will ameliorate the effect of these terrible predators. Current research indicates that there are approximately three feral predators per hectare and that each takes approximately three native animals or birds per day. In the 8 million hectares in the National Parks and Wildlife Service estate that means that approximately 72 million native animals are consumed every 24 hours. Yet the supposed conservationists oppose almost every effort to control these predators.

In many of our national parks and wilderness areas, introduced weeds—particularly blackberry and lantana—have completely obliterated the native flora. At Bendethra, for example, vast areas of wilderness are completely covered in five-metre high weed banks. And yet again the so-called conservationists refuse to allow people and machinery into national parks and wilderness areas to keep these weeds under control. In stark contrast, these people continue to contend that the minuscule amount of land clearing done for urban development—less than 0.01 percent per year—is somehow a major threat to our native animals and native plants. And these are the people who are driving the environmental agenda!

I turn to the area west of the Great Dividing Range, where much of the debate centred. Typical of the blind fanaticism of this group, they insisted that the greatest threat was the tiny percentage of renegade farmers who are still participating in some form of illegal broad-scale clearing. This is simply an outright lie. We know from extensive satellite coverage that broad-scale land clearing has effectively ended in New South Wales. Thank goodness. The group's assertion that most farmers are still participating in illegal broad-scale land clearing is an absolute lie.

Recently I went on a tour of western Queensland. A number of feral cats were shot, and most had an average of about four native animals in their gut, including the most endangered animal on the Australian mainland, the bilby. Truly, I have met environmental evil! It is not a renegade farmer with a drag chain. It is not some redneck four-wheel driver. Rather, it is the Nature Conservation Council and its refusal to address the real dangers to our current environment.

AGEING IN AUSTRALIA

The Hon. PETER PRIMROSE [6.29 p.m.]: This evening I draw the attention of the House to the most recent in an excellent series of briefing papers published by the Parliamentary Library. The paper to which I refer deals with ageing in Australia, which is a topic of particular interest to me because I have worked as an aged care adviser. My contributions in this place demonstrate my interest in aged care issues. I am pleased that the Parliamentary Library has taken the time to prepare this publication for the information of honourable members and the public generally.

The paper is entitled "Ageing in Australia" and was produced by Talina Drabsch. It explores some of the issues associated with ageing at the national level and in New South Wales in particular. Australia's population is ageing as a result of increased life expectation, declining fertility rates, lower mortality rates and migration levels. The economic effect of an older Australia is expected to be significant, particularly as greater demands are placed on the health and housing systems. While the paper acknowledges that people age at different rates depending on their lifestyle, biology and environment, it classifies older people as persons aged 65 years and older.

The paper is divided into a number of sections dealing with specific issues. Section 2 deals with some of the economic concerns associated with an ageing population. The impact on Government expenditure,

particularly in relation to health and pensions, is also discussed in this section. The economic contribution of older Australians is identified, and the value of their unpaid work and their role as consumers has been given particular attention. The section examines some of the ways in which Australia can prepare for the impact of an ageing population.

The current rate of mature age work force participation and the changes that have occurred over the past 20 years are measured in section 3 of the paper, which highlights the main occupations and industries in which mature age workers are employed. It also analyses unemployment and underemployment. The characteristics of mature age workers are identified, as are some of the avenues for improving the rate of mature age work force participation. The paper also discusses Australia's retirement system and the trend of early retirement.

One area that I am particularly interested in exploring at another time is the impact of the microeconomic structural adjustment that has occurred in Australia in the past couple of years. In Australia in particular that change has created a major problem with underemployment. I suspect that that problem affects not only the young but also increasingly the aged. I am very interested in exploring that issue further, and this paper is an excellent beginning.

Section 4 examines age discrimination. The paper details the various pieces of legislation that were passed in the late 1980s and the early 1990s by all Australian States and Territories prohibiting age discrimination. The Commonwealth Parliament passed the Age Discrimination Act this year. Aspects of the State's Anti-Discrimination Act 1977 and the Commonwealth Age Discrimination Act 2004 are discussed in some detail.

Section 5 deals with the lifestyle of older Australians. The introduction of strategies by various Governments to encourage healthy ageing is also discussed. The section examines the leisure activities in which old people engage in the home and at various cultural venues. It highlights the extent to which older people use computer technology and take advantage of educational and travel opportunities. The key factors that hinder the involvement of older people in leisure activities include income, transport and information. The living arrangements, mode of transport and health issues of older Australians are also discussed. The paper has two other sections: one deals with older people and the care that they receive; the other deals with crime, abuse and neglect. I commend the paper to the House.

Motion agreed to.

The House adjourned at 6.34 p.m. until Thursday 23 September 2004 at 11.00 a.m.
