

LEGISLATIVE COUNCIL

Wednesday 20 October 2004

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

The Clerk of the Parliaments offered the Prayers.

SPECIAL COMMISSION OF INQUIRY (JAMES HARDIE RECORDS) BILL

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

Motion by the Hon. John Della Bosca agreed to:

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

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

ATHENS PARALYMPIC TEAM

Motion by the Hon. Carmel Tebbutt agreed to:

That this House congratulates the 23 New South Wales athletes recently returned from the Paralympics in Athens and applauds their tremendous achievement in winning 31 of the total 100 medals, including 7 gold medals, 16 silver medals and 8 bronze medals.

RETAIL LEASES AMENDMENT BILL

Bill read a third time.

ATHENS PARALYMPIC TEAM

Motion by the Hon. Patricia Forsythe agreed to:

That this House:

- (a) notes the outstanding results achieved by the 2004 Australian Paralympic team at the Athens 2004 Games, and
- (b) extends our congratulations to all members of the team and the team officials.

UNPROCLAIMED LEGISLATION

The Hon. John Hatzistergos tabled a list detailing all legislation unproclaimed 90 calendar days after assent as at 19 October 2004.

PETITIONS

Department of Primary Industries Budget

Petitions 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. Patricia Forsythe** and **the Hon. Duncan Gay**.

Oath of Allegiance

Petitions 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** and **the Hon. Patricia Forsythe**.

BUSINESS OF THE HOUSE**Postponement of Business**

Government Business Notices of Motions Nos 2 and 3 postponed on motion by the Hon. John Della Bosca.

Government Business Order of the Day No. 2 postponed on motion by the Hon. John Della Bosca.

ADMINISTRATIVE DECISIONS TRIBUNAL AMENDMENT BILL

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

Motion by the Hon. John Hatzistergos 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.

SPECIAL COMMISSION OF INQUIRY (JAMES HARDIE RECORDS) BILL**Second Reading**

The Hon JOHN DELLA BOSCA (Special Minister of State, Minister for Commerce, Minister for Industrial Relations, Assistant Treasurer, and Minister for the Central Coast) [11.17 a.m.]: I move:

That this bill be now read a second time.

As the speech has been given in the other House I seek leave to incorporate it in *Hansard*.

Leave granted.

People around Australia and overseas were outraged by the recent report of the Special Commission of Inquiry into the Medical Research and Compensation Foundation. The report laid bare a long and unsavoury history of corporate manipulation and manoeuvring by James Hardie at the expense of ordinary workers and other victims of asbestos. The New South Wales Government shares the community shock and disappointment at the behaviour of James Hardie. The attitude of James Hardie and its managers towards workers and others struck down by lethal diseases—acquired from its products—defies comprehension. I again urge James Hardie to meet its obligations towards its former employees, their families, and other victims of its products without further delay.

This afternoon the Secretary of the Australian Council of Trade Unions, Greg Combet, and representatives of the victims groups, led by Bernie Banton, are talking to the appointed representatives of James Hardie. It could not be said that negotiations are moving with any speed, due to the position taken by the company. This may be hard to believe but that is the conclusion we are to draw from progress, if it can be called that, so far. The Government is not going to rely on James Hardie to do the right thing.

This bill demonstrates the Government's commitment to do all it can to make James Hardie and its executives accountable for their actions. The bill will assist victims of James Hardie to pursue adequate compensation, and assist regulators, such as the Australian Securities and Investments Commission [ASIC], to investigate James Hardie's conduct. The measures in the bill will ensure that James Hardie cannot avoid its moral responsibilities by using legal technicalities to frustrate litigation that may be instituted against it.

The bill will achieve two main objectives. First, it will transfer the records of the special commission of inquiry to the Australian Securities and Investments Commission. It will ensure that government regulators can make use of those records in the continuing fight to make James Hardie accountable for its actions. Second, it will ensure that the Medical Research and Compensation Foundation, the body set up by James Hardie to handle the compensation process, can make full use of the material it holds in civil litigation against James Hardie where the Attorney General has given his approval. This will maximise recovery of further funding for the victims of asbestos diseases.

As honourable members will know, ASIC is the Commonwealth body charged with regulating companies and their officers under the Corporations Act and its predecessors. We set up the Jackson inquiry. The foundation came to us and said that it had been set up by James Hardie, by the company, to handle compensation, but that it had short-changed the foundation and that it is running out of money, that it has been underfunded and that the company has taken millions of dollars in shares offshore. The foundation came to the Government and said that, and the Government responded by setting up this public inquiry.

Commissioner Jackson conducted his inquiry and found that James Hardie and its management had breached a number of significant provisions of the Commonwealth Corporations Law. The commissioner particularly criticised James Hardie for making misleading public statements about the extent of its asbestos liabilities. James Hardie said the foundation would be fully

funded. It said that to the Stock Exchange; it said it to the court; it said it to the unions; and it said it to the Federal Government and the State Government. It said it was setting up this foundation and that the foundation would be fully funded.

It made these misleading statements before it then, some months later, abandoned Australia to set up shop in The Netherlands, taking along its valuable assets. The commissioner described James Hardie's announcement as "a pure public relations construct, bereft of substantial truth". That statement was part of a pattern of deceit by James Hardie that continues to have far-reaching consequences for the company's victims. The commissioner noted that prosecuting the company and its officers for making false and misleading statements was now a matter for ASIC. ASIC has specifically requested that this Parliament enact legislation to transfer the inquiry's records to it. That is, all material gathered by the Jackson commission of inquiry—great crates of it, boxes of it—can, through passage of this legislation, be lifted from the State Government and invested in ASIC. It is estimated that that will shave 6 months to 12 months off the time ASIC would take to go about its prosecutions.

In other words, ASIC can roll up its sleeves and get right down to work. It does not have to go through the process of identifying documentation and setting up the procedures involved in a search. It gets the documents right out of our commission of inquiry and it can take the matter into court. ASIC requested this legislation and we are responding by seeing that it gets all of this material valuable to its purposes, as it was valuable to the purposes of the Jackson inquiry. The bill will, as I said, save ASIC considerable time in pursuing its investigations. It is similar to legislation enacted by the Commonwealth Government following the HIH royal commission. This bill goes further, however, in that it also provides ASIC with the special commissioner's own internal records, not just the evidence it obtained.

The bill makes clear that ASIC may use the records for the purposes of its investigations regardless of any claim for legal professional privilege that might be made in respect of the records. Consider the importance of that: legal professional privilege, important as it is, being set aside to enable this matter to proceed. The bill provides that the records can be used in proceedings to challenge a claim of legal professional privilege in relation to the relevant records. In regard to other proceedings, the bill provides that the records are to be treated as documents obtained under ASIC's own legislation for the purpose of New South Wales legislation. ASIC will be able to use the documents in civil and criminal proceedings as if it had obtained them under Commonwealth law.

This means that any legal professional privilege and confidentiality in the records will be overridden despite the New South Wales Special Commissions of Inquiry Act 1983 to the extent provided for under ASIC's legislation and general powers. The bill will not give ASIC more power over these records than over any other records it uses to prosecute Commonwealth offences or to pursue civil penalties and other remedies. However, the bill ensures that New South Wales law will not limit the use of these records through protecting legal professional privilege or confidentiality. The Government recognises that legal professional privilege is an important common law right. But when abhorrent corporate conduct on this scale is uncovered the offenders should not be able to avoid prosecution or other proceedings by hiding behind spurious claims for legal professional privilege. The special commissioner's report found that James Hardie's records were littered with claims for legal professional privilege that would be very difficult to justify.

Clause 4 (2) of the bill also makes it clear that ASIC may provide the transferred records to third parties. This is very interesting and it recognises that conduct identified in the special commission's report raises criminal and disciplinary issues under other legislation and in other jurisdictions. The bill will ensure that the information transferred to ASIC can be used by other regulators. The bill will ensure that the information can be used in this way. For example, ASIC will be able to disclose the records to another regulator such as the United States Securities and Exchange Commission. It was with great pleasure that I recently wrote to the director of the commission sending him the 1,000 pages, the fat two volumes, of Commissioner Jackson's report saying, "This company, now operating in the US—the bulk of its revenues arise from US activities—has engaged in activity that you may well be interested in." I want the SEC to consider whether James Hardie has breached any United States companies and securities legislation.

The Australian Prudential Regulation Authority will also be able to obtain records from ASIC. This will enable it to consider the conduct of the actuaries involved in the establishment of the foundation. Remember, the advice of the actuaries was, "There is enough money here to look after the needs of victims." Commissioner Jackson revealed that to be a hoax; there was not enough money there to look after the needs of the victims. Similarly, the conduct of lawyers can be scrutinised by the Office of the Legal Services Commissioner in New South Wales. ASIC's legislation allows information it obtained to be given to an agency of a State government. The bill will ensure that this can also occur in relation to the records of the special commission.

The second object of the bill is to support civil litigation by the foundation to recover more money for asbestos victims. The foundation appears to be in the best position to seek further compensation for victims from James Hardie through litigation. The Government remains hopeful, however, that it will not be necessary for the foundation to resort to further litigation. The bill will allow the records obtained by the foundation throughout the special commission to be used in civil proceedings brought by the foundation to which the bill applies. Under clause 11 the Attorney General will be able to make an order declaring that the provisions of part 3 of the bill will apply to particular proceedings. The Attorney will be able to make the order only where he believes that the proceedings are in the public interest. The primary public interest that the Government is seeking to advance in introducing the bill is the public interest in ensuring adequate compensation for James Hardie's asbestos victims. It is this public interest that the Attorney will consider before making an order under clause 11 of the bill.

The bill removes legal professional privilege over the records so that they can be used in these proceedings. The bill also makes it clear that orders made by the special commission restricting the publication of material no longer apply to the purpose of proceedings to which the Attorney General has given approval. While this aspect of the bill is unique, these measures are justified because of the impact that James Hardie's conduct has had on the ability of victims in the future to recover compensation for their illnesses. The public interest requirement and the application of part 3 of the bill only to civil proceedings recognise that it is a very serious matter to abrogate legal professional privilege and existing rights to confidentiality. The rights of individuals in relation to avoiding self-incrimination, however, are not affected. At this stage this part of the bill is limited to proceedings to be instituted by the foundation and the former James Hardie subsidiaries Amaca and Amaba. If it appears that proceedings by other bodies might also assist in recovering sufficient funds for victims these additional bodies can be prescribed by regulation. James Hardie knows what it owes its current and former workers, their families and the other victims of its products.

It also knows what it owes the Australian community. James Hardie has the financial capacity to act fairly. That was confirmed in the commissioner's report, in which he said—and I think these are the most eloquent words in the report:

To put it directly, JHI-NV still has in its pockets the profits made by dealing in asbestos, and those profits are large enough to satisfy most, perhaps all, of the claims of victims of James Hardie asbestos.

However, it remains to be seen whether the company has the ethical backbone to put victims before profit in providing the compensation they deserve. As I said, negotiations are continuing this very afternoon between the ACTU and victims' groups on the one hand and James Hardie representatives on the other. Those negotiations are taking longer than the victims or the unions expected. I am sure that every member of this House hopes to see James Hardie meet its responsibilities as soon as possible. I hope this legislation can pass with the expedition and broad support it deserves. I commend the bill to the House.

The Hon MICHAEL GALLACHER (Leader of the Opposition) [11.18 a.m.]: On behalf of the Liberal-Nationals Coalition I indicate that we do not oppose this bill. All members would be well aware of the plight confronting asbestos victims. Thousands of Australians have faced tremendous suffering and horrible deaths as a result of asbestos. In my previous role as shadow Minister responsible for industrial relations matters and workers compensation I met with many workers who had suffered from workplace injuries, some of them obviously quite serious. However, I put it to all honourable members that the suffering experienced by asbestos victims and their families is a tragedy and a unique case, particularly as it resulted from the use of what was once regarded as an invaluable building material. It is amazing that nearly every person one speaks to who grew up in a blue-collar family, particularly in New South Wales and South Australia, is related to or knows of someone who has been affected by a dust-related disease. My uncle, who lives in Whyalla and who worked for BHP, is suffering the pain and stress caused by a dust-related disease. I fully understand and appreciate the pain and anguish that such diseases cause not only to individuals but to entire families.

Last month the Special Commission of Inquiry into the Medical Research and Compensation Foundation, headed by David Jackson, released its report. The report identified a serious shortfall in the funds available to meet future asbestos liabilities. It also identified potential breaches of the Corporations Law and the Trade Practices Act by James Hardie and certain senior executives that are now being investigated by the Australian Securities and Investments Commission [ASIC]. This legislation provides for the transfer of the special commission's records to the ASIC to assist its investigations and provide that such records may be shared with other governments and agencies where necessary. It amends New South Wales laws so as not to prevent the ASIC from using these records in court proceedings. It also overrides legal professional privilege and confidentiality in respect of the special commission's records so that the foundation can use them in civil litigation with approval from the Attorney General.

I congratulate the shadow Minister for Industrial Relations, the honourable member for Gosford, on his contribution to this debate, particularly his examination of legal professional privilege in this context. I make the observation that Ministers have advisors, assistants and the time to devote to the Government's legislative approach. The honourable member for Gosford was given the legislation and told when it was to be introduced in Parliament. His contribution to the debate on this bill in the other place this morning reveals the depth and the quality of Opposition members, who can understand legislation quickly, identify the issues and get to the nub of the debate. Let us not lose sight of the fact that there have been some problems with the Government's approach—one might even argue with the Government's conduct—in preparing this legislation. However, I do not intend to traverse that matter today. The honourable member for Gosford advanced a strong case, exploring not only the merits of and the background to the bill but the Government's approach to it.

Undoubtedly the problems with asbestos continue. If the Government is serious about the asbestos issue why is it not conducting a full State audit of its asbestos liabilities, such as those relating to railways and housing? The Opposition has suggested such an audit. Yesterday I raised in this Chamber the issue of asbestos removal from the Bondi Junction railway tunnel. That is a serious matter not only for the workers involved but for those who travel on that rail system. There is no doubt that in the past few years the community has become more aware of the threat that asbestos poses. More and more people are taking the time to ensure that when they come into contact with asbestos they comply with the latest advice and guidance regarding its removal. Anyone who does not do so is simply a fool because the evidence shows that asbestos must be handled with extreme care. Not to do so is to put oneself and others at risk.

That is why I raised the issue of asbestos removal in the Bondi Junction tunnel. I suspect that breakages will occur in the course of that work. The cables in the tunnels, which are made of asbestos and sprayed with PVC, are being removed and undoubtedly some breakages and subsequent dust contamination will occur. I think it is fair to ask what is being done to ensure that not only workers but passengers—especially those who are the first to use the rail system in the morning; the work will also proceed during the day—are protected from any contamination. We have raised in this Chamber and elsewhere our concerns about the health of electricity workers. We will continue to put pressure on the Government in that regard.

When asked in this place about the State's potential liabilities in this area, the Treasurer replied, "The State can meet its liabilities". That is the same reply that James Hardie gave in 2001. I am sure that point is not lost on the State's work force, particularly those involved in the electricity and rail industries, and all honourable members should bear it in mind. I make that point not only for the edification of Opposition members but for Government backbenchers. I urge them to take note that the Treasurer gave the very same reply as James Hardie offered in 2001. I draw their attention to that fact and call on Government backbenchers to keep Ministers honest. They must not lose sight of the fact that they have a responsibility to the unions and the workers of this State to ensure all that can be done is being done with regard to asbestos.

We do not know whether the State will be able to meet its future liabilities. James Hardie's potential liability was found to be more than \$1 billion and I suggest that the State Government's potential liability will be far greater than that. There has been no audit of that liability because the Government has refused to conduct such an audit. It had the capacity to seek further information in 2001 but, once again, it chose not to act. I think it is only fair to ask why. It falls to Government backbenchers to ask Ministers that question and to ask what they are doing now to ensure that future liabilities are covered and that the workers of this State are being protected.

No matter what the Premier says, the Government's action in 2004 with respect to the special commission and this legislation does not make up for its inaction in 2001. It is our responsibility to take what measures we can to assist asbestos victims. The Coalition must accept the Government's assurances about the need for this legislation but we are entitled to raise the concerns to which I have referred. Workers in New South Wales should be very concerned about the Premier's failure to act with regard to James Hardie in 2001 and the Government's failure to conduct an asbestos audit in this State. We join Commissioner Jackson in expressing our regret to the many victims of asbestos. As I said at the outset, the Opposition does not oppose this legislation.

Ms LEE RHIANNON [11.27 a.m.]: The Greens certainly support the Special Commission of Inquiry (James Hardie Records) Bill. We feel very passionately about this issue. Workers' health has been damaged and their lives shortened because they worked hard to make profits for a big company. We are reminded of why we, as legislators, have a responsibility to step in and assist these people—particularly when they are challenging a company like James Hardie. The company is again dragging the chain when it comes to doing the right thing by thousands of workers who are now in a terrible predicament—their lives have been shortened and their health is poor. We have all seen the dramatic photographs of James Hardie factory workers, usually young men, covered in asbestos dust. They were completely unaware of the dangers of the product that they were working with. Builders are also suffering similar dust-related diseases and we have been alerted to the fact that renovators of buildings constructed from asbestos material could be the next generation to suffer in this terrible manner.

The Greens support this bill which will allow the release of records from the inquiry into the Medical Research and Compensation Foundation to the Australian Securities and Investments Commission [ASIC] so that they can investigate potential breaches of the law by James Hardie. The Greens see value in facilitating the work of the ASIC to pursue criminal action against James Hardie and its directors. The ASIC must be able to investigate freely any breaches of corporations law by James Hardie executives. The Greens also recognise the need to open up the possibility for the Medical Research and Compensation Foundation to be able to more successfully pursue adequate funding from James Hardie for victims of asbestos through civil litigation.

Time is of the essence for the victims who are facing life-threatening illnesses and whose families are faced with uncertainty about their future. On last night's *7.30 Report* some victims told their tragic stories. A man who had worked so hard for James Hardie spoke about his sadness about not seeing his young son go to school or proceed in life. I am not sure if the word is "congratulations" but at the moment that is the best word I can think of for the many victims of this disease who have worked so hard to bring this tragedy to our attention. I believe that if they had not made their contributions, with the back-up of unions and community groups, we would not have this bill before us. It is very much a case of community pressure being essential to ensure that the Government does the right thing.

James Hardie's conduct in skipping the country and leaving inadequate funds behind to pay for asbestos-related claims will be remembered as one of the most shameful acts, and possibly the most shameful, in Australia's corporate history. Through a combination of corporate skulduggery and deception it is clear that James Hardie has not met its current and future compensation obligations, and that is a disgrace. The Greens have been fighting, alongside the union movement, to support justice for asbestos victims, at local, State and Federal levels, to bring James Hardie to account. We have been pursuing boycotts of James Hardie products.

The Greens believe that it is important to no longer purchase the goods and services of James Hardie until the community is sure that all compensation owing to the thousands of sufferers of asbestos-related diseases will be paid. We know that we still cannot be confident of that. James Hardie is again slipping out of a commitment it gave two weeks ago to asbestos victims.

Greens councillors from across New South Wales have taken a stand and secured boycotts of James Hardie products at their local council. I asked the Premier to enact a similar boycott and he has replied that "if some form of boycott is necessary to ensure that this occurs then it deserves the fullest consideration". We hope the Government does give a boycott the promised fullest consideration. My Federal colleagues have moved similar motions in the Federal Parliament. The Greens initiated the call for political donations from James Hardie to be handed back. I moved a motion in this House about that very matter and I was pleased that it got all-round support. We know that some of the major parties—the Liberal Party and the Australian Labor Party—have handed that money back. Kerry Nettle, my colleague in the Senate, successfully moved a motion calling for all political parties who took donations from James Hardie to put that cash into a trust fund for victims and their families, and that pressure has added up. Paying back the money from James Hardie would be a good first step to achieving the justice that victims deserve. The money received by political parties from a company that dealt in such a deadly product should rightly go into a trust fund.

The Greens hope that returning donations given by James Hardie will have a snow-balling effect, starting a trend for all political parties to draw a line in the sand and in future reject donations from corporations that deal in such deadly products. James Hardie has been hiding in The Netherlands while asbestos victims wait for justice. Recently, it has been having meetings with some of the victims of asbestos and unions and it is deeply disappointing that it is just talking and not acting. The Australian Greens worked with the Dutch Socialist Party in The Netherlands to lobby both governments to sign a treaty that would make court judgments mutually enforceable. This would allow Australian asbestos victims to use Australian courts to chase James Hardie for compensation in The Netherlands. Through this work we learned that the claim made by the Attorney General, Philip Ruddock, that The Netherlands had not responded to Australia's request for a treaty was false. According to our colleagues in The Netherlands, Australia had made no such request.

The Dutch Socialist Party [DSP] also tried to lobby James Hardie itself in The Netherlands. The people at the Amsterdam headquarters told the DSP advisers that they would have to contact Australia for information, which raises the question as to what kind of headquarters James Hardie really has in The Netherlands. The Greens certainly believe that the work with the DCP has been most important in opening up an avenue for asbestos victims to pursue James Hardie, which has turned on victims and headed overseas in order to protect its profits. The former Greens member of Parliament for Cunningham, Michael Organ, met the Dutch Ambassador in Australia and presented a letter from the two political parties—the Greens and the Dutch Socialist Party—and also from 90 Dutch-Australian members and supporters of the Greens demanding justice for asbestos victims. This company has shown such contempt on a continuing basis for asbestos victims. James Hardie knew how dangerous its product was years ago and did not warn its workers, give them protection or move to stop using this lethal product. James Hardie has been ducking and weaving, restructuring and moving off-shore to escape liability. It is our responsibility to ensure that it pays up in full to all victims of this deadly product, asbestos, now and into the future.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [11.36 a.m.]: Asbestos disease is one of the most horrific conditions. Asbestosis is the more benign of the two. It is a worsened form of emphysema where lung fibrosis effectively means that people cannot get the air into their lungs and slowly asphyxiate, with exacerbations and remissions over a period of time in a generally downward trend. Many of them survive only by increasing the amount of oxygen in the inspired air and walk around with oxygen tanks or oxygen separators within their homes and live that sort of death in life for some years. They can live for quite a long time. On the other hand, mesothelioma is a tumour of the flora, the lining of the lungs, and when it grows it effectively takes up the space between the lungs and the chest wall. A tumour in that sensitive area is extremely painful, as anyone who has had pneumothorax, air in that space, or an infection in that area will know.

As the tumour grows relatively rapidly it constricts the lungs growing inwards because the chest wall limits it outwards. The tumour effectively crushes the lungs so there is no residual lung left with which to breathe. It seems to be incurable, although one case seems to have been cured by a new American treatment, but generally mesothelioma is fatal and causes a horrible death. Asbestosis and mesothelioma were described, I believe, as early as 1917, and was certainly well known by the 1930s. It was extraordinary that asbestos was still in widespread use until the mid-1980s. When we were children many of us built things made with fibro. We built two sheds in our backyard with fibro and I was instructed by my father to blow the dust away as he sawed along the line of the fibro sheeting. I suppose we are all at risk from asbestos sheeting.

James Hardie, which continued to make a profit, went overseas but has finally been outed. I refer to information from the Asbestos Diseases Foundation of Australia [ADFA]. The ADFA believe James Hardie acted dishonestly and criminally and feel vindicated by the submissions tendered at the commission, including counsel assisting the Jackson commission, John Sheahan, QC. The overview of the ADFA is that from at least 1995 James Hardie engaged in a scheme designed to remove and quarantine the company's operations from its asbestos liabilities. Its aim was to reduce the amount of money available to victims of asbestos disease caused by the negligence of James Hardie.

Between 1995 and 1998 James Hardie and Company Proprietary Limited paid management fees and dividends to its parent company, James Hardie Industries Limited [JHIL], and sold off its assets to other members in the James Hardie group. In doing so it removed \$1 billion to \$2 billion in assets in net present value. In February 2001 James Hardie Industries Limited separated its subsidiary companies with asbestos liabilities by setting up the Medical Research and Compensation Foundation [MRCF] with assets of \$293 million, a sum JHIL said would fully fund all anticipated asbestos claims. JHIL knew this sum was a gross underestimate of the James Hardie asbestos liabilities. In October 2001 JHIL entered into a scheme of arrangement whereby the parent company of the group was changed from the Australian company JHIL to a Dutch company JHINV. The link between the two companies was \$1.9 billion in partly paid shares held by The Netherlands company in the Australian company.

James Hardie told the Supreme Court of New South Wales that these shares were there to provide protection for creditors, including asbestos victims. In March 2003 the partly paid shares were cancelled, leaving the old Australian parent company, JHIL, with assets of approximately \$20 million and severing any link between it and the Dutch company, therefore reversing any link between the present profit of the company and its asbestos liabilities. In October 2003 the MRCF announced that it would run out of money in the next four years. JHINV said it had no liability to pay any further compensation to asbestos victims. The New South Wales Government called a special commission of inquiry into the MRCF to find out how and why the MRCF was underfunded. That is as good a summary as I have been able to find as to what happened. The Jackson inquiry basically revealed sordid details of the way the company had restructured its affairs to limit its liabilities to asbestos victims.

James Hardie, having been extremely dilatory in identifying and acting on the risk of asbestos to employees and the public, had the gall to ask the Asbestos Diseases Foundation of Australia [ADFA] to come to the launch of the Medical Research and Compensation Foundation to give credibility to their triumphant gesture that would enable them to pay their liabilities. The Asbestos Diseases Foundation of Australia chose not to attend the launch because they were not sure that it was not just a ruse to get rid of liabilities. They were suspicious. They did not trust the company, and why would they? They had not been warned about and in fact its members were dying from the effects of James Hardie's products. Why would they assume that the foundation was funded adequately? It would have been a great coup for James Hardie to have asbestos victims at the launch because they would have given credibility to its Medical Research and Compensation Foundation. It is a wonderful name—medical research is like motherhood—although I am not sure how much medical research is done.

The Asbestos Diseases Foundation were concerned that not enough money was in the foundation. They did not know how much money was in the foundation and they did not understand it. However, they were asked to attend the launch at short notice but chose not to because they were suspicious. The Australian Securities and Investments Commission [ASIC] were not so suspicious. They appear to have swallowed this hook, line and sinker even when the media started to ask questions about the nature of the foundation and the transfer of shares. Our watchdog was very sleepy, as it had been with HIH. The rather dozy approach of ASIC revealed their lack of concern for asbestos victims. They are much better at watching money than they are at watching compensation, although the HIH fiasco would incline one to say that they did not watch money very well either. The head of ASIC, Joe Hockey, has been removed. One would have to say that was necessary.

It is interesting to note that the Jackson report states that the commissioner did not believe the Government could compel James Hardie to do anything. It is worrying to note that Commissioner Jackson is basically saying that voluntary compliance is the only way anything can be done legally under the present or future laws. The current public image of James Hardie is extremely poor, everyone is baying for blood and the Government has introduced special legislation to deal with the matter. But time passes and memories fade. It has been said that the asbestos epidemic has not yet peaked in Australia. In the next 10 to 15 years when asbestos victims are still coming out of the woodwork they will find it extremely difficult to obtain financial compensation. James Hardie continues to be cagey. They have suggested they want a fund and that they want to

get rid of the cost of lawyers. They want a statutory scheme, which is all about limiting liability. It is one thing to say that there are not many lawyers and nobody minds if the legal process is streamlined.

If liability is admitted and it is merely a question of quantifying damage according to a formula, the cost of legal representation can be minimised as a percentage of the payouts. It is one thing to streamline the legal work, but it is another to have a statutory scheme. We have seen what I call the absolute farce of the American Medical Association guidelines for the assessment of permanent impairment, which do not even make the distinction between impairment and disability. They have a silly formula that relates to virtually nothing, then extremely limits liability to a percentage of total impairment, whatever that means. The insurance companies and a few legal precedents mean that it adds up to a certain amount of money, which would be desirable to a defendant and an insurer. James Hardie, even when they are at the nadir of their public image, continue to say that they will pay so long as there are caveats, such as a statutory scheme and not much money for lawyers, which will mean that injured workers or members of the public are poorly represented.

James Hardie has not come to terms with its liabilities. It was interesting to note that Meredith Hellicar, the new Chairman of James Hardie, said that she has not come face to face with an asbestos victim despite being on the board for 12 years. My position has always been that there should be restorative justice. A chief executive officer in whose company a worker has been injured or killed industrially should come to terms with those who suffer major injuries or the relatives of those who are killed so that they realise the impact of what has occurred. They should not be able to flow along or live in some gated community in United States of America or some relatively socially isolated area away from the people who are suffering. They should have to meet them face to face in a restorative justice situation.

The Hon. John Della Bosca: Hunters Hill.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I acknowledge the interjection from my colleague the Special Minister of State. I note that he has done nothing about this, nor has he supported my calls for corporate manslaughter legislation, which is recommended by that wildly leftist body the Standing Committee of Attorneys-General as part of the national model criminal code, so that if behaviour is totally reprehensible, which I believe the James Hardie behaviour represents, those responsible are called to account eventually. But while we sit in this place passing legislation that demonises criminals who kill a person in a desperate attempt to get money for drugs or whatever, put them away and subject them to truth in sentencing, we do not make our corporate citizens who make decisions that will kill hundreds and hundreds of people face the courts.

We do not even suggest that they might perhaps come down from their high horse and be responsible for the consequences of their decisions. I do not suggest for a moment that this is not a good bill. It means that evidence from the Jackson report cannot be obstructed by various legal processes, which I do not understand. The idea is that only certain types of evidence can be used. Obviously the information collected by Jackson needs to be used expeditiously and I totally support that. But it is interesting to note that 12 people a day die of tobacco-related disease in New South Wales alone and the Government has done very little about that. In fact, it has done nothing in the nine years it has been in office to deliver smoke-free indoor areas or even a significant QUIT campaign.

This Government has done nothing to take direct action against tobacco corporations or assist in the prosecution in Australia of tobacco companies concomitant with prosecutions in the United States that have been based on the discovery of documents. British American Tobacco escaped prosecution because it had a policy of destroying what were referred to as "deadwood documents", which is tobacco industry parlance for the destruction of incriminating evidence. In Australia the process of the destruction of documents has been successfully completed. In the United States, documents have been successfully destroyed. Honourable members would be aware of the story, *The Insider*, and its main character, Jeffrey Wigand, who was a paralegal whose task was to destroy incriminating documents held by a tobacco company. He was so horrified by what he saw that he retained the documents and passed them over to others to ensure that justice would be done. The discovery of documents in some of the court cases conducted in America may be propitious to the prosecution of the tobacco industry in Australia, which is responsible for killing just as many people here on a per capita basis as is the case in the United States.

Sadly, although the Carr Government has taken strong action against producers of asbestos, it has taken no action against the producers of tobacco. It is distressing that prosecution of tobacco companies will not occur in Australia, and equally horrifying that the Carr Government has postponed taking any action to prevent people

from smoking and contaminating indoor air until after the 2007 election. If the Carr Government claims to be extremely concerned about workers and that its action against Hardie is being taken for the good of the workers, why is it postponing action to protect the wellbeing of workers, assuming that enforcement is a realistic proposition, until July 2007 while 12 workers a day are being killed as a result of tobacco smoke poisoning? The current rate of enforcement of the prohibition against smoking in the workplace by prosecution against people who do not observe the laws is a disgrace.

I support this obviously necessary legislation, but the Government should do much more to protect the health of workers. The Government should have wider restorative justice policies, corporate manslaughter legislation—which I would be happy to introduce at short notice—and tobacco industry policy that is modelled on prosecutorial action that has been taken to protect workers from diseases related to asbestos. The Government should not introduce a statutory scheme: Victims of asbestos-related diseases are eager to use the existing scheme to obtain compensation. I support their rights to do so and suggest that the processes of justice involved in awarding compensation should be expedited.

Reverend the Hon. Dr GORDON MOYES [11.52 a.m.]: I congratulate the Hon. Dr Arthur Chesterfield-Evans who preceded me in this debate on his longstanding interest in medical health issues and on making some excellent points on the Special Commission of Inquiry (James Hardie Records) Bill. I am delighted to note that the Hon. Dr Arthur Chesterfield-Evans once more has managed to dovetail his comments on asbestos-related diseases with smoking-related diseases and to beautifully segue from asbestos to nicotine. The objects of the bill are very important. The Christian Democratic Party congratulates the Government on this bill which follows the Jackson report and widespread media concern. Members of the Christian Democratic Party have met many of the victims who are seeking support and compensation, and we agree with the direction taken by the Government in the introduction of this bill.

The main purposes of the bill are to provide for the transfer of the control of records of the Special Commission of Inquiry into the Medical Research and Compensation Foundation to the Australian Securities and Investments Commission [ASIC], to make provision with respect of the use and admissibility in proceedings of the transferred records, and to facilitate the use of records of the special commission, which are held by the Medical Research and Compensation Foundation, in certain civil proceedings brought by the foundation in New South Wales courts by preventing certain claims of privilege from being brought in respect to those records. Part 2 of the bill provides for the statutory transfer of records to ASIC.

Section 23 of the Special Commission of Inquiry Act 1983 makes an answer made, or record produced, by a witness to or before the special commission, who objects to answering the question or producing the document on the ground of legal professional or other privilege or any other ground, inadmissible in evidence against the person in civil or criminal proceedings. Part 3 of the bill includes provisions to overcome the effect of section 23 in this respect and to ensure that privilege cannot be claimed which would make evidence inadmissible in civil proceedings brought by the foundation and certain other bodies and persons. Part 3 of the bill also provides that certain directions given by the commissioner of the special commission do not apply to prevent or restrict the publication of evidence that is contained in the specified records.

The Christian Democratic Party believes that this bill is commendable. Corporations must be held accountable for their actions that damage the health and welfare of their employees, even though there may be a long tail to the evidence that is produced to establish the ill-health and subsequent death of employees. This bill is of utmost importance in providing grounds for access to information that may reveal the dealings of companies, such as in the case of the well-publicised dealings engaged in by James Hardie in hiding potential victims' money in The Netherlands. This episode has been a salutary lesson to other corporations, but unfortunately the possibility of the continuation of such practices still exists. This legislation is a necessary step in ensuring the accountability of companies for their workers in the future.

Corporations are invariably in privileged positions. They have abundant financial resources to obtain the best legal guns for hire. Their financial resources provide a key to escaping potential liability or having to face the music in relation to the harm suffered by employees under their care. Honourable members may recall that I have directed questions on this issue to the Special Minister of State and I have congratulated him and the Government on the progress of Government actions to date. ASIC, as the company watchdog, must be placed in a position of being able to ensure that companies are made accountable to their employees, especially in the light of the sufferings endured by James Hardie employees. This is essential because to date ASIC has not exercised its powers, nor demonstrated its concerns, widely enough. ASIC should be encouraged to be more diligent in its watchdog role. The consequences to the health and welfare of asbestos victims are far from fully

ascertained. The potential for suffering may continue to affect employees for decades. This bill is essential for the future wellbeing of the victims. The Christian Democratic Party supports the Government in its introduction of this legislation.

Ms SYLVIA HALE [11.56 a.m.]: The Greens support this bill whose purpose is to ensure that James Hardie is made fully accountable for its actions and to ensure that the victims of its actions receive adequate compensation. It is clear that only the first wave of victims of asbestos-caused diseases has come to light and we may anticipate a second, more horrifying wave of victims in the future. The second wave will be made up in part of people who grew up with asbestos fibro—the building material of choice for many people right up until the mid-1980s. As a child I, in company with other children with whom I went to school, searched for broken pieces of fibro to use in games such as hopscotch, for which fibro was eminently suitable. Pieces of fibro were actively sought by children and it was not difficult to find because so much building in the post-war era incorporated asbestos fibro.

One only has to bring to mind the large estates in Riverwood and Liverpool to appreciate how asbestos fibro predominated in the construction of homes. There would be hardly a kitchen or a bathroom that was put together in the 40-year period after the war that did not contain asbestos in some form or other. It is because of the proliferation of that material throughout our housing stock that considerable concern is being felt regarding the future impact upon the health and certainly the wellbeing of many members of the community who might otherwise not have had any connection with James Hardie. That is particularly so given the current mania for renovating kitchens and bathrooms—asbestos must be proliferating, particularly in the areas I have mentioned. In that context it is important to draw attention to the way in which community groups respond to the threat posed by asbestos. I congratulate particularly Ashfield council on the moves it has undertaken to require people who are renovating, improving or applying for development approval within its area to provide an asbestos clearance certificate.

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

SYDNEY FERRIES SAFETY PROCEDURES

The Hon. MICHAEL GALLACHER: My question without notice is directed to the Minister for Transport Services. On the afternoon of 27 September did Sydney Ferries divert the vessels *Borrowdale* and *Lady Northcott* to the Overseas Passenger Terminal following a bomb threat? Is it true that the passengers could not be evacuated at that terminal because that terminal does not have ramps suitable for ferries, and also that no attempt was made to evacuate the area around the Overseas Passenger Terminal? Has the Minister investigated why Sydney Ferries bomb threat procedures, which require vessels to immediately divert to Garden Island, where the Navy has bomb-disposal experts and where passengers can safely disembark, were not followed in that case, particularly given the heated discussion about the incident at a recent Sydney Ferries management meeting? What action has the Minister personally taken to ensure that Sydney Ferries' safety procedures are followed to the letter and that there is no repeat of what happened on 27 September?

The Hon. MICHAEL COSTA: I am not aware of the incident that the Leader of the Opposition referred to. I am happy to obtain appropriate advice from Sydney Ferries about the actions taken and provide it to the honourable member. As I have said on many occasions, I do not know whether the information on which the Leader of the Opposition based his question is correct, given the history of questions asked in this House and the Government's investigation of those questions. Plausibly, it may not be based on fact.

The Hon. Michael Gallacher: You tried that last week, remember?

The Hon. MICHAEL COSTA: I was not here last week. I do not know what the Leader of the Opposition is talking about.

The Hon. Michael Gallacher: A lot of baloney last week.

The Hon. MICHAEL COSTA: You said "last week", and I was not here. I do not know what you are talking about.

[*Interruption*]

The PRESIDENT: Order! The Minister should not be diverted by interjections, which are disorderly.

The Hon. Michael Egan: What about questions from me?

The PRESIDENT: No, they are out of order.

The Hon. MICHAEL COSTA: What are out of order?

The PRESIDENT: Questions from the Leader of the Government. The Minister for Transport Services has the call.

The Hon. MICHAEL COSTA: As I said, I will investigate the allegations to ensure that the information is correct. As I said, I do not accept that it is, based on the track record of the Opposition; most of the time it is not correct. I will report back to the House on that matter. Of course the Government takes national security and counter-terrorism measures seriously. We have put in place a set of procedures that come into effect almost automatically when necessary. It is not the case that Ministers or members of the Government need to be consulted about counter-terrorism measures, because measures are in place for appropriate officers to enact the necessary counter-terrorism activities as required.

If members of the Opposition are proposing that officers of any statutory authority or government-related activity have to consult a Minister before taking counter-terrorism measures they have rocks in their heads. The Government does not work that way; it works on the basis of putting proper established procedures in place and ensuring that they are followed. We will continue to do that. The Opposition ought to be mindful of the Federal Government's approach to those matters, because it works on precisely the same set of principles: that is, putting in place a set of procedures that automatically come into effect when these matters arise, rather than having Ministers overseeing and authorising counter-terrorism measures. Clearly the Leader of the Opposition does not understand anything about counter-terrorism. The question will be taken seriously, the information will be checked and the Government will make sure that an automatic system is in place to deal with those matters as they arise, and not be subject to direct ad hoc ministerial intervention.

ANTI-POVERTY WEEK

The Hon. KAYEE GRIFFIN: My question without notice is directed to the Minister for Community Services. Will the Minister provide information about Anti-poverty Week 2004 and measures to combat poverty in New South Wales?

The Hon. CARMEL TEBBUTT: This week is Anti-poverty Week, an Australia-wide initiative that aims to increase understanding of the causes and consequences of poverty and hardship, and to encourage research and action to address those problems by individuals, communities, organisations and governments. Anti-poverty Week brings together a large number of organisations and individuals who want to understand and address the serious issues around poverty. While we live in an environment and society in which economic prosperity is growing, it is very unfortunate that many people still experience poverty and we have not found a way to adequately share what is available so that the needs of everyone are met.

Some examples of events in New South Wales are the Parramatta and Holroyd Anti-poverty Week Awareness and Information Stall, the launch of the "Literacy for Life" study and an exhibition at Woollahra of images of the Northern Territory Jawoyn communities. The New South Wales Government supports a range of measures to strengthen communities and address poverty, including the Community Solutions and Crime Prevention Strategy, which provides an innovative multi-agency response to social issues affecting targeted priority communities. The community solutions strategy currently has 28 initiatives in place in targeted locations across New South Wales. To date more than 250 projects have been funded. Just one example of a community solutions project that grew out of community consultation and co-operation is the Community Kitchen at Warrawong, which provides nutritious meals to disadvantaged children and families.

As part of Anti-poverty Week local church congregations have been asked to donate food or money to the Community Kitchen. Other initiatives providing services to disadvantaged children, young people and families include breakfast programs in Wilcannia, Nimbun, Taree, Walgett and Warrawong; the Homeless Young People Case Management Project in Wyong, which aims to improve young people's access to

accommodation and related support services; the Canterbury-Bankstown Family Violence Response Team, which aims at improving service co-ordination for family and community violence services; and the Outreach Service Development Co-ordinator Project in Bellambi-Corrimal, which is helping reduce the social isolation of families.

The community solutions project is just one way the New South Wales Government is working to address the issues of poverty. Other measures include the Supported Accommodation Assistance Program, a joint Commonwealth-State funding initiative that supports about 400 services helping people in New South Wales who are homeless or at risk of homelessness. Those programs, along with the Area Assistance Scheme, will now be combined in the new Communities Division within the Department of Community Services [DOCS]. That combination brings together a critical mass of effort directed at disadvantaged communities and will provide better planning, integration and delivery of our community development efforts.

The impact of poverty on families is insidious and can impact on their capacity to support and nurture children. Poverty is also a significant factor in drug and alcohol abuse, domestic violence, stress and social isolation—all of which can be risk factors for bringing children into contact with the child protection system. There is no doubt that poverty is one of the contributing factors to the increase in the number of reports of concern to DOCS. In New South Wales we have seen an overall increase in child protection reports of 509 per cent between 1995-96 and 2003-04. Demand is growing and so are our efforts to protect children and help families. The \$1.2 billion increase the Government gave to DOCS provided an additional 875 caseworkers to work with families and protect children. However, the work the New South Wales Government and its partner organisations do with vulnerable families is not done in isolation. The actions at other levels of government, and the economic and social security of those vulnerable in the community, affects the success of the work we set out to do. [*Time expired.*]

The Hon. KAYEE GRIFFIN: I ask the Minister a supplementary question. Will the Minister elucidate her answer?

The Hon. CARMEL TEBBUTT: I will. I note that the Australian Council of Social Service, and four of Australia's largest charities—Anglicare Australia, the Brotherhood of St Laurence, Catholic Welfare Australia, and UnitingCare—have called on the Federal Government to make the most of Australia's economic prosperity and commit to a national anti-poverty plan within its first 100 days of government. It would be a fine development to see such a commitment made in this week, which is Anti-poverty Week in Australia. Anti-poverty Week is a worthwhile initiative that depends on community willingness to be involved and to bring to light the issues relating to poverty. There are no easy solutions for some of the complex problems we face, but all governments need to develop policies that break down barriers and create opportunities, not penalise those who struggle. During Anti-poverty Week we should remember that if we fail to address poverty in our community those who will be most affected are the children.

MOUSE PLAGUE

The Hon. DUNCAN GAY: My question is addressed to the Minister for Primary Industries. With most eyes focused on the war against locusts, what action is the Minister taking to ensure farmers remain equally vigilant in reporting mouse plagues following reports of an explosion in numbers and concerns from rural lands protection boards that landholders are not looking hard enough for mice? Is the Minister aware that six tonnes of zinc phosphide bait have been sold since July this year when in a normal season only two tonnes of mouse bait are used for the whole year? Has the Minister grown complacent about an impending mouse plague?

The Hon. IAN MACDONALD: I assure the honourable member, The Nationals and members of the Opposition that I am very concerned about the potential outbreak of a mouse plague, particularly in western New South Wales.

The Hon. Duncan Gay: And northern.

The Hon. IAN MACDONALD: Yes, it is not only in the north-west, which I will explain in a moment. Up around Narrabri and Moree there have been reports of instances of mouse activity at unusual levels. One of the local boards down south has been issuing zinc phosphide, to which the honourable member referred, to protect canola and pulse crops—mice love pulse crops—and there has been one report of mice in a barley crop near Coleambally. This is a problem in various parts of the state. Each week the Department of Primary Industries hosts a teleconference with all rural lands protection boards to discuss the plague locusts and mouse

situations. It is not simply to discuss the locust plague; we are on to the fact that there is enhanced mouse activity in New South Wales.

On Monday 11 October the northern slopes, Narrabri, Tamworth, Walgett, Moree, Naranderra, Hay, Riverina and Murray Rural Lands Protection Boards [RLPBs] reported activity. As I said to the honourable member, the problem is not confined to the north-west. In fact, it is virtually from north to south on the slopes and plains. The rural lands protection boards have been issuing zinc phosphide to protect canola and pulse crops. I urge farmers not to be complacent, as we are not complacent. Mouse populations can increase rapidly and farmers and the RLPBs need to continue to monitor the situation and report activity. A number of mouse control workshops have been held across the state and RLPBs are able to provide landholders with information about monitoring and control. Mouse bait for perimeter and in-crop use can also be purchased from the RLPBs, as the honourable member would be aware. The department is not complacent about this. We are aware of the situation. It is not receiving the media attention that the horrendous locust plague is receiving, but the mouse plague—

The Hon. Duncan Gay: Are you going to go out in the paddock and let the mice run up your moleskins like you did with the locusts?

The Hon. IAN MACDONALD: I will just explain that interjection from the honourable member. I visited Narrabri, I think it was, in relation to the first of the locust control centres and there, with local farmers, I participated in a number of activities that highlighted the development of locust plagues. I would point out to the honourable member that I am prepared to go to most lengths to ensure that the public of New South Wales knows of the difficulties being experienced by farmers in western New South Wales as a result of the locust plague.

LUNA PARK AREA DEVELOPMENT

The Hon. JOHN TINGLE: My question is directed to the Minister for Transport Services, representing the Minister for Infrastructure and Planning. Has the Luna Park site now been subdivided into four separate lots without the intention of that subdivision being publicly announced and without public exhibition or consultation? If the Sydney Harbour Foreshore Authority did in fact make such a subdivision last June, why has there been no announcement of this fact? Does this subdivision separate the so-called cliff top site from the overall site, and if so does that mean the cliff top site is not subject to the same planning restrictions as the rest of the site, allowing the controversial high-level tower to be built to the detriment of existing properties?

Mr Ian Cohen: Yes.

The Hon. MICHAEL COSTA: I do not know if the answer is "yes" so I will do the appropriate thing and obtain a response from the appropriate Minister to the honourable member's detailed questions. I think implied in the questions is a lack of clarity about information so I do not know how one could conclude that the answer is "yes". I will obtain the appropriate response from the relevant Minister and report back to the House.

PARALYMPIAN SPONSORSHIP PROGRAM

The Hon. TONY CATANZARITI: My question is addressed to the Minister for Commerce. Will the Minister describe how the Government is using the experiences of injured workers to educate and inspire the New South Wales work force?

The Hon. JOHN DELLA BOSCA: I thank the honourable member for his ongoing interest in Paralympic matters, particularly how Paralympians and Olympians can play an educative role across the New South Wales community. Seriously injured workers can offer valuable insights to New South Wales employers and workers by sharing their own injury and recovery experiences.

The Hon. Catherine Cusack: Just like at Kariong. That is what Kariong is all about.

The Hon. JOHN DELLA BOSCA: You are a monomaniac. For this reason WorkCover proudly sponsors five talented athletes through its Paralympian Sponsorship Program. One of these athletes, Heath Francis from Booral, recently had phenomenal success at the Athens Paralympics. From Heath's five events, he took away three silver medals and two bronze medals. I am sure all honourable members would join me in congratulating Heath on his brilliant result. Heath was seven years old when his arm was so badly injured at his

family's workplace—which, incidentally, was a farm—that it had to be amputated just below the elbow. Heath has not let his injury prevent him from achieving his goals as a sportsman and was named Junior Male Paralympic Athlete of the Year in 1999 and again in 2000. During the Sydney 2000 Paralympic Games he won gold in the 400-metre track athletics event and was part of the world-breaking track relay teams, winning a total of four medals.

Unfortunately Heath's injury was not the first tragedy endured by the Francis family. Heath's father was killed in a tractor incident. Heath has subsequently discussed issues of rural safety, addressing farmers, farmer's associations, family groups, business groups and school students in rural communities. Heath's experiences underline the need for the important financial incentives and legislative changes introduced by this Government to improve rural safety, particularly in the farm workplace. Each of the athletes sponsored by WorkCover was injured in the workplace. They have not only overcome their considerable disabilities but have gone on to successfully represent Australia in their chosen fields. Through WorkCover's sponsorship, these athletes are available to share their inspirational stories and promote important messages about workplace safety and recovery.

Athletes participating in the Paralympian Sponsorship Program attend workplaces, conferences and other community events to give first-hand accounts of how their injuries occurred. For example, in June this year Heath attended the pilot Safer Towns and Cities Program where he spoke to senior students at Bathurst High School and All Saints College about workplace, home and farm safety, and participated in a Young Worker Safety Seminar. They also discuss measures that could have been taken to prevent the incident and outline their rehabilitation and the ways in which they have successfully, in most cases, returned to the work force. Through their presentations these athletes deliver the message that workplace safety is the responsibility of both employers and employees.

Another athlete in the WorkCover Paralympic Sponsorship Program is John Marshall, a strong, capable and dedicated police sergeant. Over 20 years ago John was involved in a motorcycle accident while on duty and that accident left him a paraplegic. John continued his career with NSW Police and developed a keen interest in the sport of archery, representing Australia in the Sydney 2000 Paralympic Games. More recently, John competed in the able-bodied national archery championships in Perth where he won gold as part of the New South Wales team. John was a keynote speaker at Safety Week 2004, launched in March at the Sydney Opera House. Another inspiring athlete is Terry Giddy who became a paraplegic at the age of 15 years after a tree-felling accident while working with his grandfather. [*Time expired.*]

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

The Hon. JOHN DELLA BOSCA: I will elucidate my answer. Terry, an active teenager before his accident, developed an interest in athletics during his rehabilitation and he has represented Australia in track and field at six Paralympic Games, winning six Olympic medals. He has also won 17 gold, three silver and five bronze medals at Commonwealth Games and world titles, and held the world record in discus from 1981 to 1996. Terry designed, built and runs his own gym from his backyard, demonstrating further that one can have a productive and meaningful life, even after a devastating injury. Earlier this year Terry spoke to mid North Coast employers at the opening of a new injury management centre. Terry was well placed to discuss the importance of good injury management and an appropriate exercise regime during rehabilitation to improve the long-term prospects of an injured worker.

Nigel Smith lost his leg when it was caught in a chain conveyor on an industrial plant machine. Following his rehabilitation from his injury Nigel returned to work with the same company where he has remained a constructive employee ever since. Nigel played for Australia in the volleyball world championships before representing Australia at the 2000 Sydney Paralympic Games. Nigel and the WorkCover Paralympian team are able passionately to deliver a message emphasising the importance of safe working practices—a message that has been well received by their audiences and something that I have seen first hand on a number of occasions. Once again I send my congratulations to Heath Francis on his success in Athens, and I join the House in congratulating the Paralympic team as a whole.

PROTECTED DISCLOSURES ACT ISSUES PAPER

The Hon. PETER BREEN: My question without notice is directed to the Special Minister of State, representing the Premier. Is the Premier aware that the New South Wales Ombudsman published an issues paper

in April 2004 in which he concluded that the Protected Disclosures Act, as it is currently drafted, is inadequate to achieve two of its three core objectives? Can the Premier inform the House what action has been taken in the six months since publication of the issues paper to address inadequacies in the Protected Disclosures Act? In view of the decision of the Independent Commission Against Corruption not to refer to the Supreme Court contempt allegations involving nurse whistleblowers, are there any limitations on the way whistleblowers may be denigrated and vilified under New South Wales law?

The Hon. JOHN DELLA BOSCA: There are a number of imputations in the member's question that I do not accept. I think the member clearly is asking an argumentative question. I will ask the Premier to provide me as soon as practicable with an answer to those parts of his question that are in order and I will forward them to the honourable member and to the House.

SHOALHAVEN HIGH SCHOOL STUDENT SUICIDE

The Hon. JOHN RYAN: My question without notice is directed to the Minister for Community Services. Why did the Minister tell the House yesterday that concerns raised by Shoalhaven High School in relation to the safety of a 15-year-old girl who had taken her life at Tomerong on the South Coast in the company of a 23-year-old man had been given a high priority and that efforts were made to contact the young person but her whereabouts could not be determined, when both the manager of the Nowra Community Services Centre and the allocated caseworker told staff from the office of the member for South Coast that before her death on Friday the Department of Community Services had rated the matter at category 3, which does not require a high priority response, and that it was not taking further action because it had received information from an associate of the young woman, by telephone, that she was safe and well and not at any risk of harm? In allocating this matter for a category 3 response, what consideration was given to the fact that the young man was known to police and had been previously arrested for murder?

The Hon. CARMEL TEBBUTT: Yesterday I provided information to the House regarding this matter. The information the honourable member put forward today relating to the rating of the child protection report does not accord with advice that I have received from the department. As I indicated yesterday, the matter was accorded a high priority by the department. In regard to this case there is no doubt that the department did not locate the young person who was referred to. As I understand it, the teacher reported her to the police as a missing person, so no doubt there were some real difficulties in relation to this case. I am not at liberty to provide any more information to the House than what I provided yesterday because the matter is subject to investigation by both the police and the Coroner. As this case involves the death of a child who had been reported to the Department of Community Services, the Ombudsman, who now has the capacity to investigate child deaths, will also investigate it. I believe that as at the end of last year that responsibility was moved from the Child Death Review Team to the Ombudsman.

The Hon. JOHN RYAN: I ask a supplementary question. What category was allocated to this complaint if it was described as high priority, since category 3 is not actually a category of complaint? What category was it given? Did the department make any further contact with the local school to find out whether the teacher who had reported the matter in the first place could have provided further information to assist the Department of Community Services in locating the girl?

The Hon. CARMEL TEBBUTT: I have already provided information on this matter to the House and I do not intend to provide any more.

The Hon. John Ryan: What category?

The Hon. CARMEL TEBBUTT: I have already indicated that this matter was given a high priority by the department.

The Hon. John Ryan: One, two or three?

The Hon. CARMEL TEBBUTT: As I said, this matter is subject to an investigation by the Coroner and the police. I do not intend to compromise those processes by providing further information at this point.

FRUIT FLY MANAGEMENT

The Hon. JAN BURNSWOODS: My question without notice is directed to the Minister for Primary Industries. Will the Minister update the House on the State Government's efforts to fight fruit fly in New South Wales?

The Hon. IAN MACDONALD: Outbreaks of the Queensland fruit fly are yet another example of risk associated with farming in New South Wales. Recently we have had plenty of other examples of the regular challenges that landholders face in sustaining our valuable agricultural industries. We have had drought, bushfires, floods, citrus canker in Queensland and, of course, locusts. The fruit fly is another insidious pest that poses a major threat to our horticultural industries in the Riverina, Sunraysia and Riverland regions. Combined, those industries generate an estimated \$900 million in through-chain economic value each year.

On top of that, our growers export product worth over \$100 million every year to South-East Asia, New Zealand and the United States of America. I am sure that the Hon. Tony Catanzariti would join me in commending all our horticultural producers for their contribution to healthy, productive agriculture in New South Wales, particularly in the Griffith and Leeton areas. This contribution must be protected and developed, which is exactly where the combined expertise of researchers and support staff at the new united Department of Primary Industries comes into play.

I have said in the past that the creation of the department has unlocked unprecedented opportunities to pool resources and knowledge for the benefit of our primary producers. Today I am pleased to inform honourable members of just one example, which shows the real benefits that the new department is already generating for people on the land. It relates to the way in which we monitor the presence of Queensland fruit fly in the New South Wales fruit fly exclusion zone. This monitoring program is a vital part of our ability to quickly and effectively treat outbreaks, which limits the impacts of the pest on our valuable horticultural crops. There are more than 20 towns or localities in the fruit fly exclusion zone that are critical to our monitoring program and any subsequent control measures.

[Interruption]

The Deputy Leader of the Opposition should take this matter seriously. It is a matter of great importance, particularly in the south of our State.

The Hon. Michael Gallacher: You are verballing him.

The Hon. IAN MACDONALD: I am not verballing him; I am just listening to his interjections. He made a number of statements. In the past we have been forced to issue separate orders to monitor for fruit fly in each of these 20 areas. I inform honourable members that I have now authorised changes to that system to make it easier for our fruit fly inspectors to do their job efficiently. Under the new arrangements a single order will be issued to enable the inspectors to enter any public or private land to carry out control against fruit flies. Having this single order will give inspectors much more flexibility in carrying out their control to give the utmost protection to our agricultural producers. Specifically, the new order will cover the following towns: Barellan, Barham, Barooga, Berrigan, Corowa, Darlington Point, Deniliquin, Finley, Griffith, Grong Grong, Hay, Hillston, Howlong, Jerilderie, Kamarah, Leeton, Mathoura, Merriwagga, Moama, Mulwala, Narrandera, Tocumwal and Yenda. Residents in these areas will be notified about the blanket order—it avoids notifying each town individually—through advertisements in local newspapers. The full text of the order will also be available on the New South Wales Department of Primary Industries [DPI] web site, in DPI district offices and local government offices. Landholders will be provided with a comprehensive treatment brochure after fruit fly treatment is carried out.

HALAL FOODS

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: My question is directed to the Minister for Primary Industries. What has been done in New South Wales with regard to the production and certification of halal foods? Has there been any calculation of what this market is worth? Is there a State and/or national policy in this regard? Has New South Wales made representations to the standing committee of agriculture Ministers or to Food Australia, and if so what was the nature of those representations?

The Hon. IAN MACDONALD: Madam President—

The Hon. Michael Egan: Don't forget to congratulate him on the Democrat vote in the Senate!

The Hon. IAN MACDONALD: I congratulate the Hon. Dr Arthur Chesterfield-Evans on the Australian Democrats winning 1.4 per cent of the vote in the Senate. I think we will all have to work together to ensure that the honourable member gets up at the next election. We will have to discuss ways and means of giving preferences to him, because I think he will need every preference possible.

The New South Wales Food Act 2003 and the Australia New Zealand Food Standards Code require all foods, including those labelled as halal, to be safe for consumption. However, the national food standards code does not control the production and certification of halal food. Only the Islamic religious organisations accepted by the Islamic community can certify halal food products and the production facilities that manufacture them for the local market. The Australian Quarantine and Inspection Service credits a number of halal certifying organisations, such as the Australian Federation of Islamic Councils, the Islamic Co-ordinating Council of Australia and the Halal Certification Authority of Australia, for the purpose of granting permission for halal products to be exported to overseas markets and to ensure that the legal requirements of the importing countries are met.

Since the early 1970s the Australian Federation of Islamic Councils has worked with the food industry to enhance the reputation and the international acceptance that Australia's halal exports now have. The Muslim community has become an important part of multicultural Australia. According to the 2001 census figures, Australia has a Muslim population of around 250,000, comprising migrants from most Muslim countries around the world. I am not aware of any specific government policy on the production and marketing of halal food. However, the national food industry strategy, which is designed to drive a five-year blueprint for growth of the Australian food industry, is highlighting the potential for the growth of exports of halal food.

Based upon the food strategy's publications, the international halal food export trade is estimated to be worth \$US150 billion per year. The Australian food industry is making some inroads into this market, with worldwide sales estimated at \$18 million a year. I am not aware of any representations about this issue to the ministerial councils of agriculture or food but I am happy to take up the matter further with the honourable member.

KARIONG JUVENILE JUSTICE CENTRE OCCUPATIONAL HEALTH AND SAFETY

The Hon. CATHERINE CUSACK: My question is directed to the Minister for Commerce, and Minister for Industrial Relations. Does the Minister stand by the following advice he provided to the House about Kariong Juvenile Justice Centre:

WorkCover has been working with management at the centre to ensure that occupational health and safety matters are addressed appropriately.

Has WorkCover endorsed policies that limit search powers so that detainees are able to smuggle in cigarette lighters that they use to start toxic fires? Given that these fires almost claimed the lives of four detainees last November, did WorkCover approve the type of mattresses—

The Hon. Amanda Fazio: Point of order: At lunch time today—in just 25 minutes—General Purpose Standing Committee No. 3 will conduct a meeting in connection with its inquiry into the Kariong Juvenile Justice Centre. This question should be ruled out of order because this sort of question cuts across the work of the committee and anticipates the findings of that inquiry. Madam President, I ask you to rule the question out of order. If the Hon. Catherine Cusack wants to pursue the matter, she will be able to do so during the committee inquiry.

The Hon. CATHERINE CUSACK: To the point of order: Is that an undertaking from the Hon. Amanda Fazio that I can expand the terms of reference of the General Purpose Standing Committee No. 3 inquiry to include this question? Unless she is giving that undertaking I am not able to pursue this matter through the terms of reference of that inquiry.

The PRESIDENT: Order! That has no relevance to the point of order.

The Hon. CATHERINE CUSACK: My question—

[*Interruption*]

The PRESIDENT: Order! The member has the right to speak to the point of order.

The Hon. CATHERINE CUSACK: My question does not relate to the matters before the upper House inquiry into Kariong. It relates to fires being set in the centre, the use of toxic mattresses in the centre and WorkCover's role in monitoring the situation at Kariong—which the Minister said was being monitored correctly. My question relates to the fact that the workers at Kariong have no breathing apparatus to use in the

event of fire and that fire hoses at the centre do not function properly. It relates to the role of WorkCover in ensuring that the centre is a safe workplace. Those issues were not raised in questions to the Minister during the estimates hearings, which are the subject of the committee's inquiry.

The Hon. Duncan Gay: To the point of order: Madam President, it might assist your ruling on this point of order if the Hon. Catherine Cusack were allowed to ask her question in its entirety. At present you are ruling on a question that you have not heard because the Hon. Amanda Fazio raised the point of order before the question had been completed.

The PRESIDENT: Order! I do not need to hear the remainder of the question. The terms of reference of the committee's inquiry involve looking into the circumstances surrounding the answers given by the Minister on a previous occasion. The question is in order provided it seeks information about an incident different from that into which the committee is inquiring.

The Hon. JOHN DELLA BOSCA: Thank you, Madam President. I thank the Hon. Catherine Cusack for her question—

The Hon. Michael Gallacher: Point of order: I realise that the time permitted to the Hon. Catherine Cusack had expired, but in fairness to the Minister I suggest that the Hon. Catherine Cusack should be given the opportunity to ask her question in full.

The PRESIDENT: Had the Hon. Catherine Cusack finished her question?

The Hon. CATHERINE CUSACK: No.

The PRESIDENT: Order! The member will read just that part of the question that had still to be read.

[Interruption]

The PRESIDENT: Order! I call the Hon. Jennifer Gardiner to order.

The Hon. CATHERINE CUSACK: Given that these toxic fires almost claimed the lives of four detainees last November and resulted in the hospitalisation of 12 workers last month—

The PRESIDENT: Order! I remind the member that questions must not contain argument.

The Hon. CATHERINE CUSACK: —why has WorkCover approved a type of mattress that generates highly toxic smoke when set alight? Is it appropriate that there is still no breathing apparatus at the centre to protect workers whose task it is to fight fires and rescue detainees overcome by smoke? Is it appropriate that the fire hose used to put out last month's fire had to be found on another floor? Given that the detainees have all been supplied with flat screen television and remote controls, why is the centre not able to afford—

The PRESIDENT: Order! I remind the member again that questions must not contain argument.

The Hon. CATHERINE CUSACK: Does the Minister still say that—

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

The Hon. Jan Burnswoods: Point of order: Earlier when the Hon. Amanda Fazio took her point of order there were 21 seconds remaining to the Hon. Catherine Cusack to finish asking her question. Although I asked for the clock to be turned on, it was not. However, I kept a careful account of the time, and I advise that the Hon. Catherine Cusack has gone well over the minute she is allowed by the standing orders to ask her question. I therefore ask you, Madam President, to interrupt the honourable member and not permit her to use up any more of question time.

The PRESIDENT: Order! When I allowed the Hon. Catherine Cusack to continue I was under the impression that she would conclude her question in just a few words. It is quite clear that in the past I have ruled that if members cannot conclude their questions within a minute—which is the time provided for in the standing orders—even if points of order are taken in that time, they will have to ask their question when they are next

given the call. The Hon. Catherine Cusack continued to ask a question that contained considerable argument. Therefore, I rule the rest of her question out of order. The Minister may answer those parts of the question that were in order.

The Hon. Catherine Cusack: They are trying to defend you, Della.

The Hon. JOHN DELLA BOSCA: I do not need any defending. I stand by, and refer the honourable member to, the remarks I made in this House, because most of the issues to which she referred either directly or indirectly have been answered previously. Honourable members will recall that previously I advised the House that WorkCover is working with management at the Kariong Juvenile Justice Centre to ensure that occupational health and safety matters are addressed appropriately—that is, within the current regulatory and legislative framework, which provides for consultation about health and safety issues with the work force, obviously a risk management approach and the identification and mitigation of hazards where appropriate.

I can report very reliably to this House that those discussions have taken place in the specific context of the incidents in October and November 2002 to which the honourable member directly or indirectly referred in her question. In relation to the investigation by WorkCover of these incidents, I have already advised the House that, pursuant to the Premier's memorandum on litigation between government agencies, a Premier's conference has been held with representatives from the Department of Juvenile Justice and WorkCover to address the matters. Yesterday I advised in a supplementary answer after question time that on 18 October WorkCover commenced prosecution against the department after the Premier's conference. I stand by what I indicated then: given that prosecution is under way on that matter, it would be inappropriate for me to make any further comment.

I will, however, make a couple of general points about some of the arguments in the question of the Hon. Catherine Cusack. Whether it be in a private workplace like the Kariong Juvenile Justice Centre or in a private sector workplace—or for that matter, Madam President, this Parliament, for which you are responsible—obviously it is not possible for the management of every component of the economy across the State to be the responsibility of WorkCover. Implicit in the honourable member's question is the idea that WorkCover is involved in every management decision relating to everything from the use of materials through to safe working methods. Safe working methods, the whole point of the regulatory framework, remain the responsibility of the employer. It is WorkCover's job to make sure those methods are being carried out and to explain effectively an employer's obligations in that regard. Frankly, I suggest that if the honourable member hopes to get some political capital out of this line of questioning, she is barking up the wrong tree.

With regard to the general administration of the Department of Juvenile Justice by the current Minister and by our colleague the Hon. Carmel Tebbutt, who was the previous Minister, attention needs to be drawn to the fact that one of the indicators of successful injury and risk management programs is a favourable outcome in workers compensation premiums. In relation to claims and lost time incidents, premiums for the Department of Juvenile Justice decreased from \$8.33 million a year in 2002 to just \$4.824 million the following year, and that is an indication of very successful risk and injury management programs. The general criticisms of the Hon. Catherine Cusack of the two Ministers and their administration of the department are ill founded. I cannot go into any further detail about the incidents at Kariong because the matter is currently before the Industrial Commission.

The Hon. CATHERINE CUSACK: I ask a supplementary question. Given the information the Minister has just relayed to the House with regard to workers compensation payouts by the Department of Juvenile Justice, will he confirm that in spite of that change in performance the department is still the worst performing public sector agency in New South Wales with regard to workers compensation payouts?

The Hon. JOHN DELLA BOSCA: I am happy to provide that information to the honourable member, although I should have thought she would have saved it to ask in a future estimates hearing.

INDUSTRY CAPABILITY NETWORK

The Hon. HENRY TSANG: My question is addressed to the Treasurer. Will the Treasurer advise the House of the success of the Government-sponsored Industry Capability Network in replacing imports with home-grown contracts?

The Hon. MICHAEL EGAN: The Industry Capability Network is a national network of offices that works to identify contract opportunities for Australian businesses. Its main aim is to find local suppliers who can

provide an alternative to imports. This means more Australian jobs and healthier Australian industries. The Industry Capability Network in New South Wales is supported by a \$1.5 million a year allocation from the Department of State and Regional Development. I am pleased to report that in the past financial year New South Wales firms secured \$126 million of work from the Industry Capability Network, a 24 per cent increase on the previous year. A total of 119 firms benefited from the network's support, which helped sustain 630 direct jobs and 1,638 indirect jobs.

I am also pleased to inform the House that the bulk of the success is not in Sydney but in the regions. Regional firms have secured \$97 million worth of contracts with 77 regional firms benefiting. The Industry Capability Network has recently appointed a new Executive Director in New South Wales, Philip Sellars, who previously worked as managing director and chief executive officer of an Australian subsidiary of the German multinational engineering company ThyssenKrupp: Thyssen TransRapid Australia.

The Industry Capability Network services New South Wales from its Sydney office and from offices in Newcastle, Orange, Grafton, Tamworth, Wagga Wagga and Albury. Network consultants also operate from Goulburn and Dubbo. Consultants are assigned to specific companies to work on projects in which there are significant import replacement opportunities and commitment to local industry participation. For example, the network representatives at Wagga Wagga helped secure \$6.7 million in local engineering equipment contracts with Pace Farm poultry developments at West Wyalong and Griffith.

In the Central West, six local companies were engaged for the construction of the Office of State Revenue building in Lithgow, receiving a total of \$650,000 in work. In the past two years, and as a result of opportunities identified by the Industry Capability Network, Australian manufacturers have secured more than \$64 million in contracts to design, produce and commission longwall mining equipment for New South Wales coalmines in the Illawarra, Central West, Southern Highlands and the Hunter Valley. Equipment that otherwise would have been imported included hydraulic packages, coal handling systems, monorails, electrical packages, armoured face conveyors and longwall equipment refurbishment programs. I congratulate the Industry Capability Network on its great results for the past financial year, and I look forward to hearing more about its successes.

BRIGALOW BELT SOUTH BIOREGION

Mr IAN COHEN: My question is addressed to Minister for Primary Industries. What protection is the Government giving to identified moratorium areas in Biddon State Forest and Goonoo State Forest, in the Dubbo forest management area, in the Brigalow Belt south bioregion?

The Hon. IAN MACDONALD: These areas are under active consideration by the Government. I should imagine a decision will be made in due course, and members opposite can be assured that it will be a very wise decision.

FISHING FEES

The Hon. JENNIFER GARDINER: My question without notice is directed to the Minister for Primary Industries. Is the Minister aware of concerns that up to 70 per cent of commercial fishermen in New South Wales are expected to leave the industry as a result of higher fishing fees under the category 1 share-managed fishery?

The Hon. Eddie Obeid: That's old. Are you still on that?

The Hon. JENNIFER GARDINER: Life just gets worse. What is the Minister's response to the leaked report that states that only 30 per cent of fishers will be able to afford the new fees? Will any incentives or relief be offered to commercial fishers to help them remain in the industry, or is the Minister using these fees to rationalise the industry?

The Hon. IAN MACDONALD: I am really pleased the Hon. Jennifer Gardiner asked this important question. I would think there is no basis for suggesting the percentages referred to by the honourable member. In 1998 the Independent Pricing and Regulatory Tribunal [IPART] conducted what was described as a limited study of the New South Wales commercial fishing industry. The subsequent report of IPART entitled "Pricing Principles for Management Charges in New South Wales Commercial Fisheries" concluded that approximately 70 per cent of commercial fishers would encounter problems in their capacity to pay higher management

charges. I repeat: encounter problems. The conclusions of IPART subsequently found their way into the New South Wales Parliamentary Library and Research Service report entitled "The New South Wales Fishing Industry: Changes and Challenges in the 21st Century". The report, which was released in September, was prepared by Dr John Wilkinson. I have the utmost respect for the independence and professionalism of the staff of the New South Wales Parliamentary Library and Research Service. Over many years I have found it highly informative. Its reports are useful, especially with regard to the manner in which they compile precise overviews on policy.

Since IPART prepared its report in 1998 the New South Wales Government has been working hard to ensure that the economic base of the commercial fishing industry is placed on a firmer economic footing. I note that Dr Wilkinson also acknowledges some of the Government's efforts in this regard. It is important to note that Dr Wilkinson does not state—as is claimed by some in the commercial fishing industry and as has been claimed today by the Hon. Jennifer Gardiner—that only 30 per cent of fishers would be able to afford higher management fees. Rather, he highlights the uncertain operating climate faced by many commercial fishers and notes that further adjustment in the industry is likely. I agree with his conclusion and share his concern about the overall levels of financial performance in the commercial fishing sector. This is why I have been working hard with the industry to make changes that underpin increases in the incomes of commercial fisheries and lift the overall economic performance of the industry as a whole.

My colleague the Treasurer has agreed to suspend collection of the community contribution for both the abalone and rock lobster industries while a review of the method by which this contribution is determined is conducted. I have taken a similar approach in agreeing to suspend collection of the observer program charge on advice of my department pending a review of the matter on which that charge is levied. I am also advised that my department has taken action to review cost-recovery charges for the abalone fishery following representations from the industry. The outcomes of this review may be applied also to the rock lobster fishery. This review may point also to changes to the current cost-recovery framework, which can benefit the State's commercial fisheries. I make it clear that it is the Government's intention to ensure that both cost recovery and community contributions are affordable and that they are fairly distributed among commercial fisheries. We are aware of some of the difficulties in this regard, which, as the Deputy Leader of the Opposition knows, have existed for a long time. We have been working to deal with it. As honourable members would know, we have pursued the original intent of share management to include that overarching category.

The Hon. Duncan Gay: It's the fees that are the problem.

The Hon. IAN MACDONALD: We know that the fees are a problem, and if the member had been listening he would have heard how we are dealing with the problem.

The Hon. Duncan Gay: No, I heard "may" and "might".

The Hon. IAN MACDONALD: No, the collections have been suspended.

ELDERLY HOME OWNERS ASSET ASSISTANCE

The Hon. ERIC ROOZENDAAL: My question without notice is directed to the Treasurer, and Minister for State Development. What is the Government doing to assist elderly home owners to access their assets?

The Hon. MICHAEL EGAN: This is an important issue. Recently I announced that the Government would defer the imposition of stamp duty on a proposed equity release scheme that allows elderly people to gain access to funds tied up in the value of their homes. The new scheme has been developed by Bendigo Bank. It is designed to provide home owners with funds in exchange for their agreement to pay a specified percentage of the future sale proceeds of the house when it is eventually sold. As members of the House would be aware, many older people—like the Deputy Leader of the Opposition—have a lot of money tied up in their homes, but they earn only small incomes.

The Hon. Michael Gallacher: This is your last day as father of the House.

The Hon. MICHAEL EGAN: No, that is not right. Reverend Nile will not become the father of the House. He will replace the Hon. Eric Roozendaal as the baby of the House.

The Hon. Michael Gallacher: The Hon. Eric Roozendaal will remain the baby for a long time.

The Hon. MICHAEL EGAN: He has got a bit stored up for the Leader of the Opposition, I can assure him. This scheme is designed to help older people, like the Deputy Leader of the Opposition, who have money tied up in their homes but who earn only small incomes. It simply means that elderly retirees can access the wealth they have in their home. By the way, the Real Estate Institute of New South Wales tells us that over the past 10 years the median house price in Sydney has risen from \$194,000 to more than \$520,000.

These arrangements require as collateral a contract between the financier and the home owner that would currently attract transfer duty even though the actual sale might not be completed for some years. Under the equity release scheme the home owners right to reside in, sell or lease the property would be unaffected. The scheme is different from a reverse mortgage arrangement under which the home owner takes on debt. Some home owners may have concerns that, with a reverse mortgage, interest rates or compounding interest could cause problems. In an equity release scheme the liability is capped to a share in the sale of the home. The duty exemption for the equity release scheme will apply only to a principal place of residence. Treasury and the Office of State Revenue are developing guidelines to decide whether other financial products for older home owners should be given stamp duty concession.

The Hon. Duncan Gay: Can I get equity on your home?

The Hon. MICHAEL EGAN: You probably could if we came to that arrangement, but I would not come to that arrangement.

The Hon. Duncan Gay: You'd be much better off.

The Hon. MICHAEL EGAN: I do not think so. If the honourable member wants to do a property swap I think I would get the better part of the bargain. If he would care to make an offer, we could negotiate.

HOME CARE SERVICE OF NEW SOUTH WALES AUDIT

Ms SYLVIA HALE: I direct my question to the Minister for Community Services. Does the Minister's department endorse the recent Auditor-General's report into the Home Care Service of New South Wales that recommended moving towards a more user-pays approach? Are the funding cuts made by her department to the Adult Training, Learning, and Support Program and the Post School Options Program—disability programs—a step in this direction? Will her department use the Auditor-General's report to justify further funding cuts to disability services? If so, what possible justification can she advance for imposing a user-pays regime on some of the State's most needy people?

The Hon. CARMEL TEBBUTT: That is one of the most confused questions I think I have ever had asked of me in the whole time I have been a Minister. Nonetheless, I will attempt to address some of the issues raised because certainly they are relevant to the broader portfolios for which I have responsibility. First, I turn to the audit of the Home Care Service, which was undertaken by the Auditor-General. As I indicated on the day the audit report was released, the department welcomes the audit report. The Home Care Service is one of the largest providers of home and community care services in New South Wales, including domestic assistance and personal care services. It has developed a reputation for the delivery of quality services. This was affirmed by the Auditor-General, who highlighted a range of areas of good practice in the Home Care Service, including the establishment of a statewide Aboriginal region, the handling of client complaints with a dedicated phone line, and the re-establishment of the Home Care Advisory Board.

In regard to the Government's response to the report, I point out that the service is already working to improve its efficiency in regard to a range of issues that have been raised by the Audit Office. I will ask the Home Care Advisory Board to provide me with further advice relating to some specific recommendations of the Auditor-General. As to the suggestion of a lack of capacity, I point out that the Home Care Service is one of many providers of home and community care services in New South Wales. Traditionally people seeking a home or community care service, domestic assistance or support in the home turn to the Home Care Service because it is one of the better-known providers. But the reality is that there are many home and community care providers in New South Wales. I approved \$4.9 million in 2002-03 and over \$8 million in 2003-04 to non-government organisations for the delivery of domestic assistance, personal care and respite care services throughout New South Wales.

The Auditor-General raised the issue of fees and of client contributions. I am aware of suggestions that some clients should contribute to the cost of services, and I make it very clear that clients already contribute to the cost of home care services. There is a client contribution policy that has three elements: full costs are recovered when services are delivered to other government agencies, full costs are recovered when clients have received compensation as a result of an insurance claim, and for other clients fees are set in accordance with the National Home and Community Care Guidelines. It is not right to refer to a user-pays system as though it is new or unique. The Auditor-General also raised an issue relating to consistency, which will be examined closely.

It is important to be mindful of the fact that the Home Care Service operates within the National Home and Community Care Guidelines because a significant proportion of its funding is derived from the Home and Community Care Program. The guidelines make it clear that an inability to pay cannot be used as a basis for refusing services to those who are assessed as requiring a service. That is as it should be because there can be no doubt that many Home Care Service clients are vulnerable and do not receive a high income. More than 90 per cent of clients receive some form of government pension or allowance. There is already a capacity for, and procedures in place to provide for, client contributions, and that is what currently occurs. But the issue of consistency must be closely examined, as the Auditor-General suggested. I will ask the department to consider that recommendation and provide me with further advice. I fail to see that there is any connection between reforms to programs for young people with a disability after they leave school—commonly known as post school programs—and home care services.

The Hon. MICHAEL EGAN: If honourable members have further questions, they may wish to place them on notice.

SYDNEY FERRIES SAFETY PROCEDURES

The Hon. MICHAEL COSTA: Earlier during question time I was asked by the Leader of the Opposition about an incident that occurred on 27 September on the first-class motor vessel *Borrowdale*. I have sought advice about this incident—

The Hon. Michael Gallacher: Two boats; there were two.

The Hon. MICHAEL COSTA: There were two incidents?

The Hon. Michael Gallacher: Two boats.

The Hon. MICHAEL COSTA: The date that I have been given is 28 September, so I do not know whether the Leader of the Opposition and I are referring to the same incident. However, I will report on the incident about which I have sought advice and which occurred on 28 September 2004. I am advised that the Sydney Ferries Corporation emergency management plan was followed in response to the incident. The staff on board the vessel responded immediately on being notified of the incident by carrying out a white level security inspection. All operational staff are trained in the use of this procedure: this year all staff underwent refresher training for the procedure. No items were found. Prior to this incident senior management had conducted a review of the emergency management procedures. As I said in my earlier response, these procedures are automatically locked in. We do not have Ministers making decisions about matters that ought to be dealt with immediately.

The Hon. Michael Gallacher: There would be a bit of a problem if they found something

The Hon. MICHAEL COSTA: The Leader of The Opposition should allow me to continue. Sydney Ferries Corporation advises that it was instructed by NSW Police to berth the vessel alongside the Overseas Passenger Terminal.

The Hon. Michael Gallacher: That's not what your operating procedure says.

The Hon. MICHAEL COSTA: Clearly we will follow the advice of the police on these matters.

The Hon. Michael Gallacher: You've got to rewrite your policy then, because your policy is wrong.

The Hon. MICHAEL COSTA: I hope the Leader of The Opposition is not saying that the police cannot, in any circumstance, override a general policy instruction.

The Hon. Michael Gallacher: Then you've got to look at your policy.

The Hon. MICHAEL COSTA: No, that is not right at all. We have a policy, but the police should, in all circumstances in which they are the lead agency, have the ability to alter general policy on the ground, having regard to circumstances that may arise. I hope the Leader of the Opposition is not suggesting that something else sought to be put in place. NSW Police instructed that the vessel be berthed at the Overseas Passenger Terminal so that officers could carry out another inspection of the vessel. That occurred in accordance with the emergency management procedure for such an incident, which states, "Make maximum safe speed to the nearest appropriate wharf." That was done under the advice of NSW Police. The vessel was then driven to Campbells Cove, where all passengers disembarked.

The Hon. Duncan Gay: Are you saying that they were taken to a wharf where they could not get off?

The Hon. MICHAEL COSTA: Let me answer the question. As I stated in my earlier response, the Opposition obviously has been exposed again for making things up. The Deputy Leader of the Opposition should let me go through the remainder of my advice. Procedures in relation to bomb threats will not be determined in this Chamber. They will be determined by the people who have the most appropriate ability, and the police will take the lead agency role. The police will provide advice on this, as is appropriate, and I fully support it. There is no standing order for vessels to go to Garden Island in response to a bomb threat. Rather, there is a list of options for berthing freshwater class vessels, such as the Manly ferries, because of their size.

The Hon. Michael Gallacher: Don't you think it needs to be looked at?

The Hon. MICHAEL COSTA: Members of the Opposition have been exposed and will not allow me to finish my answer because they are embarrassed about the question. They should let me continue to give the information they asked for. Garden Island is documented as a primary location. This procedure did not apply as the incident involved the *Borrowdale*, which is a First Fleet class vessel. In accordance with good practice, a debriefing of the incident has been conducted. Sydney Ferries Corporation will work with the New South Wales Water Police, the New South Wales Maritime Authority and the Sydney Ports Corporation to further enhance the co-ordination of those agencies in response to such incidents. As I said, the appropriate procedure was put in place—one that has been practised and for which training has been undertaken. That is the appropriate response. It is not up to Ministers to intervene or meddle in affairs in which they have no expertise.

Questions without notice concluded.

TABLING OF PAPERS

The Hon. Michael Costa tabled the following papers:

- (1) Anti-Discrimination Act 1977—Report of the Anti-Discrimination Board of New South Wales for the year ended 30 June 2004.
- (2) Legal Profession Act 1987—Report of NSW Bar Association for the year ended 30 June 2004.
- (3) Listening Devices Act 1984—Report of Attorney General under section 23 of the Act for the year ended 30 June 2004.

CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) ENFORCEMENT AMENDMENT (UNIFORM CLASSIFICATION) BILL

PROFESSIONAL STANDARDS AMENDMENT BILL

Bills received.

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

Motion by the Hon. John Della Bosca agreed to:

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

Bills read a first time and ordered to be printed.

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

LEGISLATIVE COUNCIL VACANCY**Joint Sitting**

The DEPUTY-PRESIDENT (The Hon. Patricia Forsythe): I report the receipt of the following message from Her Excellency the Governor:

Marie Bashir
Governor

MESSAGE

I, Professor MARIE BASHIR AC, in pursuance of the power and authority vested in me as Governor of the State of New South Wales, do hereby convene a joint sitting of the Members of the Legislative Council and the Legislative Assembly for the purpose of the election of a person to fill the seat in the Legislative Council vacated by the Reverend the Honourable Frederick John Nile, and I do hereby announce and declare that such Members shall assemble for such purpose on Thursday the twenty first day of October 2004, at 3:45pm in the building known as the Legislative Council Chamber situated in Macquarie Street in the City of Sydney; and the Members of the Legislative Council and the Members of the Legislative Assembly are hereby required to give their attendance at the said time and place accordingly.

In order that the Members of both Houses of Parliament may be duly informed of the convening of the joint sitting, I have this day addressed a like message to the Speaker of the Legislative Assembly.

Office of the Governor
Sydney, 20 October 2004

The Honourable the
President of the
Legislative Council

GENERAL PURPOSE STANDING COMMITTEE NO. 2**Report: Complaints Handling Within NSW Health****Debate resumed from 22 September.**

The Hon. KAYEE GRIFFIN [2.43 p.m.]: Normally it would give me great pleasure to speak in support of a committee report that I believe has the potential to play a valuable role in the improvement of complaints handling within the New South Wales health system. However, my comments are tempered by the negative publicity that surrounded the release of the report. I will say more about that later. I will focus my comments on the positive work of General Purpose Standing Committee No. 2 when inquiring into those matters. I acknowledge the hard work of the committee secretariat during this inquiry and commend them for the high standard of research and support that they provided to all the members of the committee. I am sure all committee members acted with great diligence in taking evidence and in the following deliberations.

The committee was assisted by the large number of detailed submissions that were received, by the quality of evidence provided by witnesses from within the health system, by external experts and also by being able to utilise the work of concurrent related inquiries. The evidence given by the nurse informants and patients who had unfortunate experiences with the health system were generally compelling. I would be remiss if I did not mention the high level of co-operation that was provided by NSW Health, which gave the committee a detailed understanding of the internal workings of that department. Three Government members of the committee, the Hon. Peter Primrose, the Hon. Christine Robertson and the Hon. Amanda Fazio, did not always agree with the recommendations included in the draft report and furnished a statement of dissent, which I urge honourable members to read as an agenda to the report. One of the main areas in which Government members did not agree with the report was in relation to statewide comparisons of complaints handling.

The committee heard extensive evidence from the staff and management at South Western Sydney Area Health Service [SWSAHS], some evidence about complaints handling mechanisms from senior management at Central Sydney Area Health Service and limited evidence about innovations in the Hunter. In view of that, and taking into consideration the issues raised in the submissions received, I believe the assertions made about the situation statewide cannot be supported and should have been removed from the report if the report is to be seen as credible and evidence based. The vast bulk of clinicians and staff at SWSAHS are good at their jobs and patient outcomes were generally also good. Issues particular to SWSAHS that required addressing included a combination of avoidable incidents, poor treatment of staff and no culture of open disclosure. Along with those particular issues is the need to acknowledge that errors and adverse incidents will always occur

within any health system. Undoubtedly, there are serious cultural and system-related problems concerning complaints handling in south-west Sydney. The committee found that complaints handling systems could be improved across the entire State and noted that the department has instituted a comprehensive program to do that.

The treatment of nurse informants by the former management of South Western Sydney Area Health Service was inadequate and demonstrated that even though the process that had been put in place by NSW Health for complaints handling was a good system, it will not work when managers opt to cover up poor patient outcomes and to victimise those staff members who legitimately raise complaints and concerns. The treatment of the theatre nurses who appeared before the committee was appalling and that was reported upon by the Health Care Complaints Commission [HCCC]. The committee supported the recommendation of the HCCC that "the Department of Health reviews the disciplinary action and processes taken by Macarthur Health Service against the four nurses who underwent formal disciplinary action as a matter of urgency." Those nurses, who were highly trained and should have been regarded as valuable assets, were denied natural justice and were in effect drummed out of the health system by the treatment they received from local managers.

It is unfortunate that an attempt was made to criticise the New South Wales Nurses Association for the way in which it allegedly responded to requests for assistance from some of the nurse informants. Those attempts were based on some evidence given by witnesses. The Nurses Association provided a supplementary submission on 26 March 2004, which indicated that at the time one of the witnesses contacted the association for assistance—14 June 2002—she was not a member of the association and did not join it until 12 July 2002. The General Secretary of the New South Wales Nurses Association, Mr Holmes, advised that assistance was being provided to all members in the special commission of inquiry. Further, Mr Holmes stated that the association had been hampered in providing assistance to some of the nurse informants as they engaged their own legal advisors. When they approached the association again after dispensing with their private legal advice, the association provided assistance.

Of the 19 recommendations contained in the report, only two were opposed by Government members of the committee. The other recommendations make positive suggestions and I would comment specifically on a few of those. It was recommended that the Minister for Health raise the following matters with his counterparts on the Australian Health Ministers' Advisory Council: whether the criteria used by the Australian Council on Healthcare Standards in its accreditation surveys of health services is an appropriate measure of quality; the possible elevation of complaints handling in the Evaluation and Quality Improvement Program, conducted by the Australian Council on Healthcare Standards; incorporation of the Open Disclosure Standard in the current version of the Evaluation and Quality Improvement Program conducted by the Australian Council on Healthcare Standards; and the provision of an annual update on the implementation of the Open Disclosure Standard for the first two years following its incorporation into the Evaluation and Quality Improvement Program conducted by the Australian Council on Healthcare Standards. In relation to the training and ongoing professional development of health workers the committee recommended:

That NSW Health discuss with the relevant health professional bodies in New South Wales to ensure that all training programs incorporate competencies regarding quality and safety issues, including the Open Disclosure Standard, as part of the registration process.

That evidence of ongoing professional development in these issues should be an essential requirement of registration ...

That as part of their performance agreements all health managers in NSW undergo training in quality and safety principles, including the Open Disclosure Standard, and that this become an essential requirement of their continued employment.

A lot of discussion occurred in relation to the accreditation process in the Macarthur Area Health Service at the time when adverse events were taking place and when staff were attempting to raise complaints about quality of care. The committee recommended:

That a suitable mechanism be identified by NSW Health to ensure the results of accreditation surveys conducted by the Australian Council on Healthcare Standards be provided to the Department within two weeks of their completion.

That NSW Health publish all accreditation reports prepared by the Australian Council on Healthcare Standards and any rectification reviews prepared by health services in response to these reports.

Professor Barraclough told the inquiry about the safety improvement program already instituted by the Institute of Clinical Excellence, which has led to a dramatic increase in the reporting of severe adverse events to the Department of Health and to individual health areas. Professor Barraclough said:

This is what we aim to do: We aim for a dramatic increase in reporting so that we can know where problems exist and so that the vulnerabilities can be corrected.

The establishment of the Clinical Excellence Commission is an important and positive step forward in the improvement of health care standards in New South Wales and the improvement in complaints handling mechanisms. It became clear during the inquiry that many members of the public had unrealistic expectations of the New South Wales health system. The committee made a number of recommendation regarding the Clinical Excellence Commission, including:

That the proposed Clinical Excellence Commission in conjunction with NSW Health undertake an extensive public education campaign to inform the community about:

- simple steps to make health complaints
- the nature and extent of adverse events in the health care system
- realistic expectations of health care
- changes to the regulatory framework for health care complaints and consumer rights ...

That the NSW Clinical Excellence Commission conduct a study on the feasibility of introducing mandatory reporting of all or certain classes of incidents to health service management and to the Department of Health.

That NSW Health ensure that in all area health services each clinical team should have regular review meetings on a protocol set up by management and audited by the Clinical Excellence Commission.

I conclude my remarks by commending the report to the House and once again acknowledging the work done by both the secretariat and members of the committee.

The Hon. ROBYN PARKER [2.53 p.m.]: Many honourable members would be aware that the inquiry into health care complaints was undertaken in an environment in which many other inquiries were being conducted. This inquiry was established because of the need to look at systemic problems—a gap that was established in a number of other inquiries that were being conducted. This inquiry was established because of the courage and determination of some whistleblower nurses who raised concerns and who were determined in their advocacy for the people of New South Wales and for the health system. I admire their courage and determination in bringing those issues to the fore and in creating a situation in which they could not be ignored or put off.

The committee was given an opportunity to take on board those concerns, to address systemic problems and to come up with outcomes that would lead to a better health system. Health care and medicine are not perfect sciences. There is always an opportunity for things to go wrong in the health area; that is the nature of health care. However, when mistakes happen and things go wrong it is in no-one's interest to ignore or hide those incidents. Mistakes can occur at an individual level and at a systemic level. Those whistleblower nurses had the courage of their conviction. We all need the courage of our conviction to acknowledge adverse events, to take them on board and to do something about improving the safety and wellbeing of patients in the health system.

I said earlier that I was grateful that those nurse informants brought these issues to the fore, particularly in relation to the Camden and Campbelltown hospitals. If they had not done so, the problems that were occurring at the time would still be occurring. The committee undertook a large task in an environment in which there was a great deal of interest in what occurred. I pay tribute to committee members and to secretariat staff for their incredible commitment to their task. As a result of this inquiry we wanted to establish a better complaints handling system and the ability to communicate with people in NSW Health, patients, health care professionals and members of the community. All those issues were addressed.

Witnesses who gave evidence to the committee often referred to sad and traumatic events that had occurred in their lives. All honourable members should be grateful to them for referring to things that had gone wrong and had not been dealt with. Those experiences will enable us to create an environment of learning. We can learn from their experiences and thus improve the health system for the betterment of others. In large part that has required a cultural change and it has resulted in an increase in resources for Camden and Campbelltown hospitals. We heard a great deal of evidence about the opening of Camden maternity ward—the political expediency of opening it when it was clear from a number of medical professionals that it was inappropriate to do so. However, I acknowledge that resources have now been allocated to Camden and Campbelltown hospitals.

We have evidence of similar incidents that have occurred across New South Wales and those problems must be addressed. The most important factors in patient safety relate to being open about health care incidents

and adverse events, creating an appropriate complaints handling system and being willing to learn from mistakes. I said earlier that this inquiry was concerned mainly about complaints that had been made by health professionals. However, I acknowledge that some of the issues that were raised in evidence and submissions were also relevant to consumer complaints.

Health professionals are reluctant to report adverse events and delays in investigating complaints, and certain managers respond inappropriately when complaints are received. The recommendations in this report will also improve complaints-handling procedures for consumer complainants. Key outcomes of this inquiry were all about building the best possible complaints-handling system, understanding complainants, developing sound solutions, establishing that those solutions were in place and establishing a culture of learning.

If the number of reported incidents increases as a result, that might be a positive sign: A service that is concerned about patient safety should not hide problems but bring them to the fore. But effective complaints handling is not just about having the correct systems in place; it is about the culture and attitudes of managers and staff throughout the health care system. All health care staff—from the top to the bottom of NSW Health—must make sure that there is open disclosure, not cover-ups and denials. They must acknowledge mistakes, take advice on board and change attitudes so that effective communication is possible and issues are dealt with appropriately. We do not want to create a no-blame environment—when professional misconduct occurs blame must be apportioned appropriately. However, we must focus on the system when there is a systemic problem, not point the finger at individuals.

I acknowledge the courageous efforts of the whistleblower nurses and the outstanding work of many professionals in the health care system, who make every effort to do their very best for patients. They are committed professionals. Sometimes the system lets them down, sometimes their organisation lets them down and sometimes the Carr Government lets them down by not providing enough resources and funding and by making decisions based on politics, not need. I think this report has gone some way towards addressing some systemic problems and acknowledging our need for communication and the courage of the whistleblower nurses who brought these issues into the open and forced them to be addressed. I thank other Committee members and the secretariat for their incredible work in compiling the report, and I think its outcomes will be well received. I look forward to reviewing the progress and implementation of these recommendations.

The Hon. AMANDA FAZIO [3.03 p.m.]: My speech follows on from the remarks of the Hon. Kayee Griffin. I also point out that the Hon. Christine Robertson, who is very interested in this report, is unable to participate in this take-note debate. Government members of General Purpose Standing Committee No. 2 strongly opposed two of the report's recommendations, which I will detail now. Recommendation No. 9 states:

That NSW Health publish comparative data of adverse events in Area Health Services across New South Wales in Annual Reports and on its Website.

I oppose that recommendation because I believe there is no way of comparing the number of serious incidents, deaths and so on across the health system in New South Wales as no two hospitals or health facilities are the same. This recommendation could lead to a false impression about the standards of care available at health facilities and could skew demands for care in an unwarranted and unsubstantiated way. Facilities that do not have a culture of open disclosure and low reporting rates would automatically appear to be the best, thereby promoting false confidence among health consumers. Hospitals that were scrupulously honest about reporting could be perceived to be the worst, which would be a disincentive for an open culture of learning. Additionally, we must ask: Should the number of incidents be the measure or is the appropriateness and timeliness of the response the critical issue? Recommendation No. 10 states:

That the New South Wales Government convene a summit on medical adverse events within the next 12 months.

I also oppose this recommendation. The proposed benefits or outcomes of holding such a summit were not discussed and the recommendation was not supported by evidence received. I believe a recommendation that called on the New South Wales Minister for Health to raise with his counterparts on the Australian Health Ministers' Advisory Council the concept of holding a national conference on clinical excellence would have been far more constructive.

The committee also heard a lot of evidence about existing barriers that inhibit the development of a culture of openness and learning within the health system. The major cultural barriers to effective complaints handling are twofold. First, the hierarchical structures within the health system—both inside the different schools of professionals and between them—need to be recognised and the power imbalances redressed before

those lower in the hierarchy will feel free to raise concerns about patient care attributable to their superiors. Secondly, the general reluctance of health professionals to report adverse incidents must be overcome. Dr Llewellyn, a Health Services Union member, gave some interesting evidence to the committee, and stated in his written submission:

Most junior doctors are threatened about voicing criticism in front of more senior clinicians. They automatically assume that because of their position, the senior clinician has more knowledge and more authority. Personal career paths may be threatened or perceived to be threatened by speaking up or speaking out of turn.

We acknowledged the frictions between doctors, nurses and other health professionals regarding reporting and open disclosure and the role of NSW Health in encouraging open cultures and environments. We also noted the role of relevant professional organisations, including colleges, registration boards and so on, to change this culture through their education programs. I believe NSW Health should trial ways of breaking the hierarchical barriers that currently work against a culture of learning through strategies such as the use of teams of professionals, ensuring that junior medical staff are aware of the role delineation, and introducing safeguards to ensure that doctors are accountable for their actions and do not relegate blame to nursing staff.

It was unfortunate that much of the reporting of the evidence given to the inquiry was so sensationalised. A lot of the evidence given by some of the nursing informants—notably Ms Fraser and Ms Martin—was reported in a very sensational manner yet subsequent evidence given by people to whom they referred that contradicted their version of events was not given any media coverage. At one stage Ms Fraser claimed that there had been a cover-up because she believed she had been given an assurance by the internal audit section of NSW Health that certain complaints would be referred to police. In response, on 19 March the committee heard from Ms Victoria Walker, the auditor concerned, who said:

I read the transcript and I just thought that it was completely muddled. It was completely false, from my point of view. I never had any view that any specific matters should go to the police. I deal with the police in another part of my administration. We deal with the police on criminal matters. They are busy people. You do not send them a bundle of emails or allegations until it has been assessed properly that they are criminal matters. No, when I read that in the transcript I was completely puzzled about it. It was not correct.

The evidence given by Ms Martin about staff attending Medical Emergency Team calls being physically assaulted did not go unchallenged. On 29 March 2004 Ms Jennifer Collins advised:

I have got no information, and no-one ever raised with me that anyone was physically assaulted from raising a METS call.

It is unfortunate that the media did not print that statement to provide more balanced coverage of the inquiry. It is also most unfortunate that the inquiry was used as a vehicle to attempt to smear the good reputation of Associate Professor Picone. The comments about her were not based in fact and are part of a politically motivated attack on a well-respected senior member of NSW Health. The report did not focus enough attention on the many positive changes that have been implemented at South Western Sydney Area Health Service under the administration of Associate Professor Picone, which have led to faster, more appropriate responses to adverse incidents and improvements in staff morale. These positive changes appear at appendix 3 of the report. It should also be noted that Associate Professor Picone's establishment of the Professional Practice Unit at South Western Sydney Area Health Service and its medico-legal mediation model of grievance handling will be implemented across the State in all area health services.

The committee spent a considerable amount of time discussing the Camden Maternity Service. The basis of the report's conclusions on this matter rely too heavily on the evidence of Dr Mary Prendergast, who was a member of a consortium of specialists who bid unsuccessfully to provide services to the Camden Maternity Unit, and do not provide an accurate picture of the quality of the service offered. It is disappointing that the committee did not give due recognition to the findings of the Henderson-Smart review of maternity and perinatal services in the South Western Sydney Area Health Service. The review found that Camden hospital was designed to provide antenatal, birthing and postnatal services for women with essentially normal pregnancies—that is, level 3 and level 2 neonatal. Camden hospital has a level 3 maternity unit and a level 2 neonatal unit for normal pregnancies, with appropriate on-call anaesthetic cover and on-call paediatric support. The review team recommended:

- That this role delineation should continue as long as medical support is available at the required level.
- Units and hospitals know exactly what patients they are resourced and delineated to care for and when a patient needs to be transferred to a higher-level unit or hospital.
- Ensuring appropriate access to Area midwifery and neonatal clinical nurse consultants.

The findings of the review support the decision to operate the service as a low-risk service from the beginning. The committee's conclusion that the maternity unit was reopened for political motives was not based on the evidence before the inquiry. Rather, this conclusion was politically motivated and not soundly based.

I would also like to discuss the media coverage surrounding the release of the report. In recent times changes have been made to the way in which committees operate to ensure that the chair's foreword accurately reflects the views of the majority of committee members. When this change was instituted I am sure it was not envisaged that when releasing reports committee chairs would wilfully make comments that were not based on the majority view of committee members, and in fact were not based on any evidence given to the committee during the inquiry either by way of submissions received or evidence given at hearings.

The real damage caused by these comments, as noted by my colleague the Hon. Christine Robertson in her notice of motion on 29 June was that rather than emphasising the very important recommendations of the report, the chair of the committee offended many senior women who work in NSW Health and distracted the media from focusing on the detailed recommendations that will help to improve complaints handling and engender cultural change in the health system. I am, of course, referring to the comments of the committee chair in respect of an "old girls' network". I refer to an article on page 25 of the *Daily Telegraph* of 25 June 2004. In a two-page spread under the headline "An 'old girls' network' at the heart of health woes" the following comment was made:

But it was Mr Moyes' comments about the New South Wales health system's "old girls' network", which protected its members in times of trouble, that really caught attention.

This was but one of many media reports which focussed on this furphy rather than on the report. The term "old girls' network" was never used in the inquiry and no evidence was received that referred to the existence of any such network. The fact that the committee chair publicly named senior health administrators who he claimed were part of this network further compounded the damage that he did to the report of the committee. As the Hon. Christine Robertson stated, there was absolutely no reference in the report to an "old girls' network", the inference is very offensive to women, about 70 per cent of the health work force are women, and only in recent times has there been an increase in the percentage of women in general management within the health sector. It is very regrettable that the reputations of these women health administrators has been brought into question, especially when these statements are the personal comments of the committee chair and represent his personal prejudices.

The damage has been done to the reputations of these women, but on behalf of the other Government members I apologise to the women named as part of the so-called old girls' network and note that these women have all worked in the health system under both Liberal and Labor governments. As my colleague said at the outset, the report included many positive recommendations and I urge all honourable members to support them. I commend the report to the House, with the exceptions of recommendations 9 and 10. I also place on record my thanks to the committee secretariat and staff for their hard work in this inquiry. It was particularly harrowing for them because some of the people who came to give evidence to the committee, both nursing informants and people who had been the subject of adverse incidents within the hospital system, were very emotional when they appeared before the committee. They were very uncertain about appearing before the committee and needed a lot of reassurance from the staff about their rights and the way in which they would be treated.

I also thank those people for being brave enough to come forward, in what for many of them were very emotional and difficult times, to state publicly where they thought the health system had let them down, where they thought they had done the right thing by raising objections and complaints with their supervisors, and where, in a number of cases, they were clearly inappropriately dealt with, victimised and in some cases drummed out of the health system. I extend my apologies to those people as well because I believe that they have a valuable role to play in the health system if they decide to come back into it.

The Hon. Dr PETER WONG [3.13 p.m.]: I congratulate the committee on its report. I agree with most of the recommendations in the report. I note the chair stated in his foreword:

While the Committee has identified serious problems regarding complaint management at Campbelltown and Camden Hospitals, similar problems undoubtedly exist across the health system. NSW Health has some good systems in place to encourage reporting but these will only work if supported by the necessarily cultural change.

Indeed, I think the chair's statement is quite appropriate. The complaint against mismanagement is not restricted to the Camden and Campbelltown hospitals. In fact, I had quite a few medical college complaints of similar

problems in many hospitals. Indeed, as a member of the joint parliamentary committee supervising the Health Care Complaints Commission [HCCC] I inform the House that the committee for a long while had severe concerns about the competency of HCCC and its ability to manage complaints in the past.

Of course, the Camden and Campbelltown hospitals issue highlighted, apart from its inability to manage individual cases, that the HCCC had no expertise, knowledge or will when a major systemic problem arose, as mentioned in the report. The recent reform of the HCCC has certainly shown good improvement, at least initially. Furthermore, the establishment of the Institute for Clinical Excellence, now known as the New South Wales Clinical Excellence Commission, will further improve the existing situation. I hope what happened in the past in the Camden and Campbelltown hospitals will not be repeated in many of our hospitals. Again, as mentioned by the chair, unless there is a cultural change, unless the Government puts in a lot more effort and funding into our hospital system, the same mistakes can still happen.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [3.16 p.m.]: This inquiry is extremely significant because we are witnessing the falling apart of the universal health system in our country, and what has happened to this small group of hospitals on the outskirts of Australia's major city is symptomatic of the decline. I have a 10-step program to fix the Australian health system on my web site, www.chesterfeldevans.com. This inquiry was conducted because some whistleblower nurses, in particular Nola Fraser, were concerned about the quality of health care being delivered in Campbelltown hospital. People in other hospitals have said to me that the standard of medicine is declining in our hospitals for many reasons.

In late 2001 and during 2002 Nola Fraser took her concerns, which she felt were not being addressed, to the Health Care Complaints Commission [HCCC], the management of the South Western Sydney Area Health Service, and finally to the Minister. The HCCC was not set up for such an extensive inquiry and simply could not cope. It was trying to adopt a systemic approach to identifying problems in a non-blaming fashion, but it was not set up to investigate systemic problems within hospitals. The famous incident occurred when the operating theatre nurse, who had slightly different complaints, although from the same hospital, took her complaints to the Minister and took up much of the time in that interview. Nola Fraser went with her brother, a solicitor, to the Minister and was concerned that while the Minister said, "Yes, I will set up an inquiry," he did not realise the real depth of the problem. When she tried to impress that upon him, according to some accounts he said, "Once the train leaves the station you could lose your house," which gave rise to the question of whether that was threatening. That comment was given a great deal of play in the ICAC hearing.

The key point was that the whistleblowers, particularly Nola Fraser, took the matter to Alan Jones and to *60 Minutes*. Although I had heard rumours of the problem and had been asked to look into it, I had not got around to it until after the *60 Minutes* program. I then contacted Nola Fraser and asked for whatever material she had. They were clinical cases of gross mismanagement. I say that as a doctor and stake my reputation on it. That view that those cases were badly managed has been vindicated by the findings of a number of groups looking at them, including the Institute of Clinical Excellence and, I believe, the Walker inquiry. On 12 October 2003, I moved a motion that the select committee be appointed and report by 13 May.

I told the Government I thought it would go ahead, but it would be better if it was done by a judicial commission. The Government, in response to the motion, set up the Walker inquiry, which tended to look at it very legalistically. Like the Health Care Complaints Commission [HCCC], it was not set up to review individual cases but to look very much at Campbelltown and Camden rather than the system more widely. In a sense Bret Walker, who had faith in torts as a quality control mechanism, was looking at the evidence of other quality control systems, particularly in the oil and aviation industries, where alternatives to torts and recognition of mistakes were found to be a better way of controlling quality. But it was difficult to feed that into his terms of reference, and producing good mechanisms to fix it were difficult. Perhaps that is why ICE, the Institute of Clinical Excellence, was transmogrified into the Clinical Excellence Commission. If the fear of blaming and shaming continues it will be difficult to get that up and running, which is a major issue.

When General Purpose Standing Committee No. 2 examined the issue the Opposition wanted to examine everything in health, which was noble but ultimately impossible, and the Government wanted to look at nothing very much. The compromise I suggested was that we look at complaints handling, which is reflected in the terms of reference. In a sense we looked at complaints handling within the health system because the whistleblower nurses have had such a hard time and the HCCC was not regarded as a solution as it was not working. But there was a great bias towards Campbelltown and Camden hospitals because of the problems they had experienced. Camden Hospital had been a cottage hospital on the periphery of Sydney and its provision of obstetric services had been controversial. I believe it was given obstetric services for political reasons.

Obstetricians at Campbelltown, which is relatively close—about 20 minutes in non-peak periods—thought that it was silly to have two obstetric units so close together. It is all very well to say it is a midwife unit, which is fine for non-acute deliveries, but if the hospital has an obstetrics unit it must have a 24-hour functional operating system that can perform caesareans at short notice and provide resuscitation for babies.

Campbelltown remains open under the contract, which involves expensive consultation by two or three obstetricians who provide 24-hour care. It is the worst of all worlds because even though it is a comprehensive service the cost per healthy non-risk delivery is very expensive due to the cost of maintaining a Rolls Royce service. Staffing problems in the health system are worse on the periphery. This is a problem not only for Newcastle but everywhere, except in the major teaching hospitals. However it can create a problem for the major teaching hospitals because of the buck-passing from the public system to the private system to try to offset costs. There are now four sources of funds: the private health insurance system, the individual patient or relatives, the State system, and the Federal system. Buck-passing by both the State and Federal governments has been a major driver of policy and has resulted in our not getting a comprehensive health system. As John Menadue commented when he was asked to look at the health system, nobody is in charge, which makes it very difficult to achieve quality.

People from the Illawarra have said to me, "Gosh, we're glad you didn't do a Campbelltown on us. We would have been in big trouble." It is interesting to note that the Medical Error Action Group, an amateur group that survives on the smell of an oily rag, says things like, "Campbelltown Hospital certainly is not the worst." Jennifer Collins, the Chief Executive Officer, was highly criticised. In my dissenting report I compared her response with that of Owen James, who, when asked to close Wallsend Hospital when he was head of Hunter Health, said, "No, I will not close Wallsend Hospital because if I do that Hunter Health will have the longest waiting lists in the State." Hunter Health was subject to three corruption inquiries in six months, which found absolutely nothing, but Owen James was sacked anyway. Wallsend Hospital was then closed. As Owen James predicted, the Hunter region then had the longest waiting lists in the State. He pointed out that he could not deliver results because he was building John Hunter Hospital, the largest hospital being built in the State. There was an earthquake in the middle of the building program, but despite that he had come in within a few per cent of budget. He came back to an earlier hearing of General Purpose Standing Committee No. 2 to salvage his reputation.

On the other hand I presume that Jennifer Collins accepted the budget cuts and therefore had to defend them. With the budget she had, she felt that she could do no more than hire the staff she had. If the level of staff expertise was less than what she wanted there was not a lot she could do about it. If she was then harsh on her staff it was because she was the ham in the sandwich. Although the point the whistleblower nurses made, particularly Nola Fraser, was that with the same money and more astute management, better outcomes could have been achieved. The committee, dare one say, was something of a bunfight. It is all very well to gloss over these things, but it could have been considerably more hard hitting. Nevertheless, the committee achieved major resource changes. I seek to table my two letters to the Walker inquiry, which show some of my concerns. I would like to speak briefly to my dissenting report. I seek leave to seek an extension of time of five minutes. *[Extension of time agreed to.]*

The report could have been more wide-ranging had it not been so politically sensitive. I wrote a dissenting report, which I did not do lightly. I would have liked a more consenting report. In my experience in the British National Health Service I had seen a very poorly managed service where the bureaucracy had lost touch totally with the grassroots. Indeed, in many cases they had moved physically from working in the hospital to working in offices separate from the hospital. They had taken over some of the nice little country hospitals as offices miles from where the action was, and made major decisions without any contact with grassroots services. From my observations in Britain in the 1970s and my observations in health service in the early 1980s, New South Wales was considerably better, but the bureaucracy was being strengthened at the expense of face-to-face medicine—the bedside having the political power within the system. That trend has been accentuated. I have asked the Minister to look at the number of people who have clinical jobs as opposed to administrative jobs with no clinical contact. It is a problem.

Fiona Tito, who chaired the Federal Government's very famous Professional Indemnity Review of 1994, had a background in safety management in industry. She asked, "How many adverse medical events are there in the health system?" If that question cannot be answer then we really must get a system that will give us an answer. If we cannot get an answer to how many adverse medical events there are then we cannot measure progress, we cannot see where those events come from, and we will not know how to fix them. In the legal model, which has been a huge and ongoing problem, everything is hidden and nothing is admitted. Although it

was defined by the Walker report, he still criticised sufficient numbers of people to make it difficult, particularly for the HCCC. I am not sure that we have advanced very much in that regard. I would like to give an analysis of the Walker report, but I have not yet had a chance to do that. The important question that has to be considered is how administration can be quality controlled. There is no analogy between that issue and the medical and nursing boards. The assumption that it is either the doctors' or nurses' fault is not reasonable. To say that all of it is the administrator's fault, when the administrator may or may not have medical knowledge and may or may not have an adequate budget to do what he or she is being asked to do, is another question altogether.

Medical service providers must be responsible to the communities they serve. Hospital boards, which are all appointed by the Minister, could become "yes" boards. The danger inherent in that is that chief executive officers loyal to the Minister would suppress hospital boards and they would again become highly compliant. Upward management of an economically stressed administration leads to an emphasis on making the figures look good while suppressing problems. Grassroots reporting needs to be improved in the provision of medical services. The report's recommendations relating to clinical excellence will, hopefully, address that issue, but improvement has to be achieved at the grassroots level. I do not think that grassroots reporting can be imposed from above. A lack of fear among medical practitioners is very important in achieving an improved outcome. Medical indemnity must be dealt with as part of those improvements.

The Nurses Association was of little assistance to whistleblowing nurses. It is difficult not to see union and political ties overriding a duty to quality. Brett Holmes's statement that the deed of release was routine practice was simply not backed up by evidence from the department. The deed of release certainly looked very much like a deal between the management and unions, and that effectively meant that the unions would agree to management sacking the nurses if management did not say that the nurses were incompetent, thus preserving the ability of whistleblowers to obtain other employment. It may have suited unions and management to be rid of whistleblowers. The Australian Council of Health Care Standards needs to be subjected to closer scrutiny because it gave the Campbelltown Hospital a glowing report, despite the events that were occurring. That is not satisfactory.

Of concern also is the fact that whistleblowers are given such a hard time. Whistleblower nurses are still being hung out to dry. Their future in nursing is probably beyond hope. This is the fate of people who had incredible courage against incredible odds to stand up to a system that was not delivering good care. Frankly, I believe their complaints relate to the system as a whole. I thank the committee staff, who did very well in a fairly adversarial frame work. I conclude by putting in a plug for the Utah model of medical indemnity insurance.

The Hon. PATRICIA FORSYTHE [3.31 p.m.]: The committee owes a huge debt to the many people who wrote submissions and who in other ways participated in the inquiry. The committee received a total of 71 submissions and heard from 70 witnesses in 8 hearings. It is interesting to note that 17 submissions were sent in confidence or partially in confidence, and that I believe says something about the culture of NSW Health. We owe a huge debt to the brave doctors and nurses who put their careers on the line to ensure that their concerns about aspects of the administration of the public health system in New South Wales were brought into the open so that the prevailing culture of cover-up could be challenged and addressed. The community of New South Wales owes those people a huge debt. The committee will be able to repay that debt only if we are able to assure ourselves when the outcome of the committee's work is reviewed later this year that the culture of cover-up and denial has been challenged and changed. The committee looks forward to the Government's response, which is due within six months of the tabling of the report.

The committee made 19 recommendations. Never again should the prevailing culture be one of politics first and people and their lives and careers second. No-one could be other than moved by some of the evidence that the committee heard. The time I have been allocated to speak in this debate cannot do justice to the many issues that confronted the committee. The inquiry was my first exposure to the Health portfolio, despite my many years of service in this House. The Health portfolio is not one in which I have previously done any work, so I came to the inquiry with an objective view. It was interesting to note how many of my committee colleagues placed on the record at the outset their previous involvement with NSW Health in a variety of ways. I saw my role on the committee purely objectively, but it was certainly not my first exposure to politics or to an examination of the New South Wales bureaucracy.

While the committee was unable to focus on the point I am about to make, I could not help but think throughout the inquiry, particularly as I listened to evidence from nurses employed by the South Western Sydney Area Health Service, that an underlying factor in all of the problems that emerged is that at the time the

incidents that were the subject of the inquiry took place, the then Minister for Health was the local State Parliament representative for the area and that that was a prevailing aspect of the culture. As I said, much is owed to doctors and particularly nurses who had the courage to blow the whistle on aspects of health administration in this State. They did so at great cost to their own positions, as the Hon. Dr Arthur Chesterfield-Evans mentioned a few moments ago in his contribution to this debate.

The committee devoted an entire section of the report to the impact of whistleblowers, in paragraphs 4.65 to 4.69 inclusive. I will quote very briefly from the report because the committee noted that whistleblowers have a vital role to play in the development of an open and effective public sector. One of the nurses stated that the impact of being a whistleblower on her and her colleagues was that they had lost sleep, homes, friends, faith in the system and, in some cases, even family. I place that on the record because quite often members, as they go about their work on committees, forget the human factor and personal cost involved in public sector reform. In the case of complaints handling within NSW Health, the Government forgot the human cost. The Government tried to demonise the nurses who had come forward, and tried to make them, rather than the message they were bringing, the issue. As is so often the case with this Government, it shoots the messenger and does not listen to the message.

Unless this Government listens to the message, nothing will change. Regardless of not being able to hold positions they previously held within NSW Health, the nurses involved should take pride in having been able to force some changes, despite the fact that those changes are not commensurate with all the hard work and effort that they have put in. Among changes that have occurred are those that have taken place within the Health Care Complaints Commission [HCCC]. However, it is evident that there is still some way to go in the achievement of change. That is obvious from what occurred during question time earlier today. The committee particularly noted that the Protected Disclosures Act 1994 as it relates to the Health Care Complaints Commission does not afford whistleblowers an appropriate level of protection, given the type of evidence from people I would describe as nurse whistleblowers. Paragraph 4.31 of the report states:

The former [Health Care Complaints Commission] HCCC Commissioner, Ms Amanda Adrian pointed out that the Commission officers were obliged to warn the nurses that if they provided documents to the HCCC, they may not be protected under the protected disclosure legislation.

The committee therefore recommended in recommendation 17:

The *Health Care Complaints Act 1993* and the *Protected Disclosures Act 1994* be amended to protect the identity of whistleblowers when they require it and to provide protected disclosure safeguards for health practitioners, including nurses in both the public and private sectors.

A measure of the Government's response to this report and to the evidence given by brave doctors and nurses is whether the Government is prepared to provide the level of protection suggested in recommendation 17. The evidence and the actions of the Government are tantamount to an admission that the actions of the HCCC throughout 2003 represented an inappropriate level of inquiry into the complaints made by the nurses. Subsequently, significant changes were made, not the least of which was that throughout the period of the inquiry the HCCC commissioner was moved on, and that was appropriate.

In the short time that remains for my speech I wish to flag other important aspects of the report, particularly those relating to resources. Behind all the so-called adverse events is the fact that clearly there are shortages of resources in the South Western Sydney Area Health Service and in the Macarthur region in particular. Earlier the Hon. Dr Arthur Chesterfield-Evans referred to the provision of resources. I note that after the Opposition called for the inquiry, and while evidence was being taken, the Government announced in January 2004 a \$7.1 million enhancement of resources for the South Western Sydney Area Health Service. Even if the Government was not prepared to say that it had got it wrong and that the nurses had got it right, by its actions it has now acknowledged that the nurses have highlighted significant problems within the system.

Earlier I talked about politics, and politics was at its most evident when the committee was dealing with decisions about resourcing the Camden Maternity Service. Paragraphs 5.47 to 5.54 cover the failure of the Government to properly resource the Camden Maternity Service. Paragraph 5.50 states that the committee heard from doctors and nurses who were concerned that the maternity service had been funded and who said that it would have been better had resources been allocated to Campbelltown hospital. In the lead-up to the March 2003 State election the Government was determined to win the seat of Camden and took a political decision on what should have been a fundamental health issue: the resourcing of the Camden Maternity Service.

I will not go into the detail of the conclusions reached by the committee. Suffice it to say that doctors and nurses made it very clear that inadequate resources were allocated for what was expected at the Camden facility; too little was spread too far to the detriment of patients in Camden and Campbelltown. The chairman of the committee was asked a question when he tabled the report and responded by referring to an old girls' network. Later in the day he referred to an old boys' network. Both comments were applicable to the conclusions he drew. I sum up that response by saying that a health club was operating in New South Wales. One need only listen to the witnesses, and hear of their career backgrounds, to understand that most of them have worked together for years, sometimes in the union, sometimes in management, sometimes on the hospital floor. So, whether they can be said to be members of a network or a club, the fact is they— [*Time expired.*]

The Hon. PETER PRIMROSE [3.41 p.m.]: I was pleased to play a part in the inquiry conducted by General Purpose Standing Committee No. 2 into complaints handling within NSW Health. As other committee members have said in this debate, the inquiry was worthwhile on a number of fronts. All members of the committee, despite their opposing perspectives on a number of aspects and different experiences in the health system, all took a deep interest in the inquiry. I thank the committee secretariat for their sterling job in managing the volume of information received. Most importantly I congratulate and thank those who took the time and made an effort to contribute to the inquiry. I turn now to the substantive part of the report.

Pursuant to standing orders debate interrupted.

COMMITTEE ON THE HEALTH CARE COMPLAINTS COMMISSION

Reports

The Hon. Dr Peter Wong, on behalf of the Chair, tabled the following reports:

Report No. 5/53, entitled "Report into Alternative Dispute Resolution of Health Care Complaints in New South Wales", dated October 2004

Report No. 6/53, entitled "Report into Draft Amendments to the Health Care Complaints Act 1993 and Related Legislation", dated October 2004

Ordered to be printed.

BUDGET ESTIMATES AND RELATED PAPERS

Financial Year 2004-2005

Debate resumed from 1 September.

The Hon. PATRICIA FORSYTHE [3.44 p.m.]: There is something vaguely ridiculous about contributing to debate on a budget that was presented to the House months ago, and there is much that is wrong with the way this Government continues to seek to avoid scrutiny. Having said that, I suppose this opportunity is better than no opportunity. In recent years members have had almost no opportunity to debate the annual budget.

The Hon. Duncan Gay: There was none.

The Hon. PATRICIA FORSYTHE: There was none, as my colleague reminds me. However, debating the budget in October, months after it was presented to the House, allows us to comment on the way in which it is impacting on and hurting the community. I am now able to comment on the budget from a position of greater wisdom rather than merely anticipating its effect. The Treasurer, in his typical divide-and-conquer approach on behalf of the Government, would have the community believe that much of what he does is in some way benevolent. He said that in taking a bit from here and giving a bit there somehow we would all be beneficiaries.

The Hon. Duncan Gay: There has been more taking than giving.

The Hon. PATRICIA FORSYTHE: The Deputy Leader of the Opposition is absolutely right. In recent months as I moved around the State I took the opportunity to talk to people, including those in the club industry. Honourable members would recall that the Treasurer said that the new tax on poker machines would

assist small clubs, and that all clubs should be grateful. The Treasurer suggested that because clubs tax revenue is earmarked for hospitals the community should be supportive of it. The difficulty with that approach is that a community has no guarantee that money taken from it by the tax will be returned to it in the form of hospital services. The community will feel the losses, and there may not be any local gains. The loss of revenue for many clubs will have a direct and discernible impact on many communities.

I shall share with the House the impact on one large club of the actions of the Carr Labor Government, and I will focus on the Queanbeyan Leagues Club, which has traditionally given much to its community. Honourable members would be aware that the Queanbeyan Leagues Club is closely associated with the Canberra Raiders rugby league team, and also has sponsored teams playing in local rugby league competitions across the whole south-east region. As well it has provided funds to other sports such as Queanbeyan hockey and Queanbeyan rugby union and to the Queanbeyan squash club. It is not possible for Queanbeyan Leagues Club to meet its tax obligations and continue the level of support it has provided in the local community. The community will be the loser, and that has caused much consternation for the club and its directors, who are proud of their good name in the community. Overall, the Canberra Raiders will reduce their expenditure this year by \$300,000 to compensate for the grab of money by the Government.

Sadly it is junior sport that is the big loser. The focus for the club as a consequence of the budget cuts it must make will be on buying-in senior players rather than developing local talent; something it has always done. In the years ahead rugby league will be the loser and already young people are losing out. Two full-time jobs in junior development will be axed, saving the club \$100,000. School development programs supporting talented players from school to open-age football will be cut by \$50,000, and \$10,000 will be cut from school football support. It is clear that the effect of having to take such harsh decisions is an uncertain future for young talented players. Eighteen local teams playing in two local competitions will lose support. For example, teams from Goulburn, Yass, Bungendore, Crookwell and Binalong will lose their grants. I am sure that honourable members recognise that those communities are doing it tough during the drought, and the loss of grants will put at risk the capacity of some teams to continue to participate. None of this has been acknowledged by the Treasurer.

For many years the club has had access to, and has maintained, Seiffert Oval in Queanbeyan, which is on State Government land. Should the club get out of that lease, it would save more than \$100,000, but it would come at the cost of loss to the community. Would the Government take over the maintenance of that facility for the community? Obviously not. Local jobs, local amenities, local sport—these are the losers because of this Government's inability to manage the services of the State. The program objective of the Department of Sport and Recreation is described in Budget Paper No. 3 as follows:

... to create opportunities and facilitate active involvement so that people benefit from participating in sport, recreation and physical activity.

Sadly those words ring hollow when one places them beside the actions of the Government. It is time the Carr Government took a whole-of-government approach to issues. Queanbeyan is a loser in other ways as well. My information on this aspect has come from an unusual source. Clearly there is local concern that insufficient funds have been made available to support local road construction. There can be no other explanation for the petition that was being circulated during the Federal election at the Jerrabomberra shopping centre, and, indeed, on election day at the Jerrabomberra polling booth, by no less than the Australian Labor Party [ALP] candidate for Eden-Monaro.

The Government can proclaim its support for the people of Monaro but, clearly, even its own party members do not believe it. The ALP candidate for Eden-Monaro has shown what he thinks of the impact of the Carr Government's budget, not only on the people of Eden-Monaro, but also on the people of Bega. We witnessed the extraordinary situation during the last weeks of the campaign in which, first of all, the Labor candidate arranged a particularly interesting or extraordinary stunt whereby he organised a rally to be held in Batemans Bay to protest about facilities at the Batemans Bay hospital. The last time I checked, hospitals were the responsibility of the State Government—in other words, the Carr Government. The ALP candidate for Eden-Monaro organised the rally; we knew he was behind it because the leaflet distributed at the rally showed that he was the authorised printer of the leaflet. As part of the stunt he even arranged for the Premier to visit the electorate and make an announcement about the emergency ward at Batemans Bay hospital. The problem with that, however—and this was well highlighted by the member for the electorate of Bega—was that the announcement had already been made the year before!

As part of the stunt, with its focus on State issues clearly suggesting that the budget was inadequate for the area, the ALP candidate fell flat on his face—particularly when it was pointed out that during the visit of the

Premier the hospital was closed to new admissions. Anyone seeking an indication that this Government is not looking after the south-east region of New South Wales has only to look at the sorts of issues upon which an ALP candidate chose to run in the context of a Federal election. He talked about local roads and hospitals, all of which suggested that, in respect of the budget and the interests of the people of the south-east region, this Government was not acting appropriately.

Across the south-east region of New South Wales people are hurting because of the failure of the Carr Government to properly resource their schools and hospitals. The forced closure of Monaro High School for a few days at the beginning of last term because of the failure of the school's heating system highlights the problem schools face in providing even the most basic necessities. They are hurting, too, as a result of the loss of funding for local programs, such as the business development role of the Cooma Business Enterprise Centre. In communities such as Temora and Deniliquin there is a fear of funding cuts to local agriculture research facilities as a result of portfolio cuts the Minister for Primary Industries is clearly being required to make by the Government to compensate for its poor management of the State's economy—portfolio cuts that have potential to impact significantly on local communities. The loss of a single government facility in a Sydney suburb may go largely unnoticed, but it would have a major impact on a community the size of Temora or Deniliquin.

What this budget lacks is the framework for a vision for New South Wales. The Treasurer said in his Budget Speech that Bob the Builder would be everywhere, but it seems to me as I have analysed the budget and talked to people in the communities of New South Wales that it is "Costa the Cutter" and "Michael the Miserable" who are prevailing in this budget. When I travel throughout rural and regional New South Wales, but especially in rural areas and especially the southern parts of the State, I am reminded frequently of how communities feel isolated from this Sydney-centric government. The Premier laments the rapid growth of Sydney, but offers little by way of incentive to encourage an outward migration of residents to other areas of the State.

This budget represents the tired response of a tired and arrogant government. The time-worn rhetoric of the Government—"But for what we give Queensland we would be able to do more for you"—rings hollow when we know that, despite all the States being Labor States, no attempt has been made by the Carr-Egan Government to have this State's share of Commonwealth grants reassessed. The Government's bluff has been called on this issue. New South Wales needs a fresh vision and new ideas. It needs a Coalition government, a government that will ensure its focus is on the needs of communities throughout the State and not a Newcastle-Sydney-Wollongong approach to New South Wales.

The Hon. ROBYN PARKER [3.55 p.m.]: Today, once again, I draw attention to the failure of the Carr Government to deliver key, and often reshaped, promises for Newcastle and the Hunter in its budget. I acknowledge the comments of the Hon. Patricia Forsythe that this debate is taking place some time after the budget was brought down. In my view, no amount of time could compensate for the Government's lack of commitment in real dollar terms to the Hunter. After the State election Premier Carr stated that the Hunter, with 9 per cent of the population, received 9.67 per cent of the 2002-03 works budget. That sounds pretty good until a breakdown of the capital works budget reveals that the Government's capital works spending allocates more than \$15 2 million in funding to the Millennium train project.

While this project provides some manufacturing jobs in our region, the trains produced by it will never hit a track in Newcastle. Some say they rarely hit a track in Sydney! Some lines in Newcastle and the Hunter still run the old red rattlers—rather, they are grey now, but they still rattle. If one removes the Millennium trains from the capital equation, one finds that spending in the Hunter equates to \$613 a head, well below that in the Sydney area at \$759 a head. Last year a \$227 million black hole in government spending on the Hunter was reported, and in the past six years the Carr Government has allocated \$390 million in capital works for the Hunter. In that same period the Premier miraculously located \$11 billion to spend on infrastructure works in Sydney. A breakdown of that figure shows that for every dollar spent by the Carr Government in the Hunter Valley \$2.50 was spent in Sydney.

As I said before, keeping election promises to the Hunter is not Mr Carr's strong point. Labor campaigned for the umpteenth time at the last election on the promise of building a primary school at Ashtonfield, just as it had done for more than eight years. Nine years later Ashtonfield school finally made its way into the budget. It was only on 17 March last year, less than a week before the State election, that John Watkins, then Minister for Education and Training, was quoted in the *Maitland Mercury* as saying:

I know that with Ashtonfield there has been some concern that it has been on the books for some time but now there are obvious steps to get it going and this will keep on rolling. We're determined to build the school as quickly as possible because this community needs it.

At the time he was in the area, campaigning with the member for Maitland, John Price. Ashtonfield school certainly is needed, and was needed when it was first promised by Labor back in 1995—a promise that evaporated, and budget allocation plans evaporated along with it. So, after nine years the school got some real money and a completion date of 2007. Isn't it a great pity that the under school-age children of 1995 are now looking to attend high school rather than a primary school!

The Carr Government has let down a whole generation of schoolchildren in this area. More than 300 children would have been admitted in the first Ashtonfield school intake, but instead they were enrolled into already crowded existing schools in the area, all but one of them a bus ride away. Those schools have been bursting at the seams due to the increasing growth of surrounding suburbs. I emphasise that I am referring to 300 children only in the first year. On a number of occasions in this place I have applauded the community for its continued patience and determination and for the work that it has done in relation to Ashtonfield Primary School. I have also expressed total disappointment that this project is constantly left out of the budget. I again pay tribute to the community for its efforts.

It is a shame that the Government has not honoured its promise. This is yet another indication of the Government's arrogance and disregard for the real needs of the people of the Hunter. That attitude is evident yet again when reference is made to Raymond Terrace police station and to its courthouse. In 1996-97 this Government made a commitment to allocate \$2.6 million for a major new works project for Raymond Terrace courthouse and police station, to be completed in 1999. The Government dumped its plans for the new police station and the \$100,000 planning money was reallocated. The funding vanished into thin air and has not reappeared. Every time the Treasurer brings down a budget, police officers who are working at Raymond Terrace police station, which is a rabbit warren, expect that money to reappear.

Last year the Minister for Police inspected 43 police stations in New South Wales and confirmed that half of them were in need of urgent repair and were not up to standard. I am not sure whether he inspected Raymond Terrace police station but the conditions there are appalling and our police deserve better. The Minister admitted that police stations across the State are too small and that the Government has not invested enough in accommodation for police. Police at Raymond Terrace would like to know where they are on the list of priorities, when they might get that budget allocation and when the Carr Government will do something about their conditions.

In October 2001 the Carr Government announced with great fanfare its plans for the resumption of steel making in Newcastle, and reference was made to the Austeel project. It was reported that the entire steel production for the first 15 years of the Austeel project had been presold for \$40 billion. It was hoped that the site would inject \$2.8 billion into the Hunter economy. However, that proposal was reliant on State Government approval. We all know the upshot of the Austeel project, which has been spoken about often in this place and in the other place. Looking back in *Hansard* it is evident that the Government avoided answering questions relating to that project.

The 10,000 jobs that were to eventuate as a result of the Austeel project vanished into thin air. Paul Murphy, when speaking to the Newcastle Business Club, said it was difficult to keep investors in the Hunter region because those sorts of projects kept falling apart. The Government wasted \$21 million of taxpayers' money on the Austeel project, money that could have been used for disability services or to implement Sydney Water's sewage treatment plant upgrade program. That money could have been used to provide additional police services so that people in the Tilligerry peninsula and other areas in the Port Stephens electorate had the police coverage that they need. That money could have been put into hospitals in New South Wales or it could have been used to reduce the tax burden in Australia's highest taxing State.

This budget shows yet again a Government that is addicted to tax and to waste. The Government is expected to raise \$15.5 billion in taxation this coming year, but it was evident this week that those forecasts are quite rubbery. The people of New South Wales have been left wondering where all the money has gone. Our hospitals are not any better; our schools are not being maintained and they do not have the facilities that they require; our trains are either not running on time or they are not running at all; our buses are not airconditioned; and a number of school classrooms are not airconditioned. There is a huge maintenance backlog in schools in New South Wales. Bob Carr's and the Treasurer's tenth budget has failed the people of New South Wales. It has certainly failed the people of the Hunter. This Government is addicted to tax and waste. This budget demonstrates that the Government is out of ideas, out of steam and out of favour with the people of New South Wales.

The Hon. KAYEE GRIFFIN [4.06. p.m.]: I am pleased to contribute to the debate on the budget that was brought down on 22 June 2004. This budget, which is fair, will provide much for the people of New South Wales, that is, despite the added financial pressure placed on this State by the Howard Government and its continued short-changing of New South Wales to the tune of almost \$3 billion a year. Many people will benefit from this year's budget. Highlights include a record capital works program of more than \$30 billion to be spent over four years and an extra \$717 million for Education and Training. Other major funding increases include \$707 million for Health and hospitals, \$100 million for community services for children, and \$110 million for people with disabilities, older people and their carers.

When Treasurer Egan handed down this budget he announced the biggest public works and infrastructure program in this State's history, with a record \$29.902 billion in funding over the coming four years. That is an increase of almost 20 per cent on expenditure in the previous four years. This investment will help our State continue to flourish, with new and improved assets and infrastructure. Over the next four years the Carr Government will invest heavily in building and upgrading health and hospital facilities, schools, TAFE colleges, roads, public transport and public utilities. Along with these building works I welcome the aspects of this year's budget that will make a positive contribution to addressing some of the social inequities in New South Wales.

The Carr Government is committed to giving children the best start in life. That means paying special attention to families where there is an economic or social disadvantage. Last year I was pleased to be involved with the Standing Committee on Social Issues when it released its report on its inquiry into early intervention for children with learning difficulties. The positive contribution that the Families First Program makes to families and children in New South Wales was acknowledged in that report. The fourth recommendation suggested an extension of the program so that more families and thus more children can benefit from a stronger support network of prevention in early intervention programs. These assist not only in building communities that work to help families and children; they also help children to start school and better equip them to learn.

From basic advice and information, improved access to services, to the provision of extra early childhood nurses who are able to contact more families with newborn babies, the Families First strategy provides fundamental support to families all over our State. I was pleased to welcome this Carr Government initiative and I applaud the commitment to the program shown in last year's budget. This year Families First continues to flourish under the new communities division of the Department of Community Services with the Government's continued financial support. One of the key aims of this Government, which is reflected in this budget, is to provide help and advice to parents and families, especially those in situations or circumstances that make them vulnerable to family breakdown or neglect.

It is a sad reality that not every child has a stable and loving home environment. As the Treasurer said on budget day, in this coming year it is expected that the Department of Community Services will deal with around 190,000 child protection reports and provide out-of-home care services to some 16,000 children and young people. Providing support and alternative care options for children and young people is extremely important. I am proud of the Government's continued commitment to out-of-home care, child protection and early intervention, with a further \$100 million being made available in this budget to provide further assistance to children and families in need.

Major initiatives in this year's budget include increased staff resources in the department to cope with the increasing demand for child protection services. Specifically, funding will see the employment of 100 new caseworkers and support staff in out-of-home and foster services for children. These new positions will help the Department of Community Services to continue its work to improve the provision of permanent, stable, safe and appropriate placements for children and young people who are unable to live at home. The Department of Ageing, Disability and Home Care also benefits from the budget, with the allocation of an additional \$110 million. This includes extra funding to provide more in-home support to people with a disability and provision for a broad range of intensive support services for children with a disability. In addition, an extra \$31 million will be provided under the joint Commonwealth-States Home and Community Care Program to assist frail older people and those with disabilities to remain living independently.

I also take this opportunity to congratulate the Government on its continued commitment to public education. In the coming 12 months the Education and Training budget will be increased to more than \$9.7 billion, which represents an increase of \$726.6 million on last year's budget. One of the main reasons this increase is so important is that it will fully fund the recent 12 per cent pay increase awarded to teachers from additional funds and not from existing educational resources. Just as importantly, this increase in the Education

budget will also assist in the planned continued reduction in class sizes. These measures continue to affirm the Government's commitment to public education in New South Wales. I am proud that our teachers continue to be the highest paid and look forward to seeing this \$462.5 million in funding being spent over the next four years to employ additional teachers and provide new classrooms in order to reduce class sizes in kindergarten to year 2, as promised.

I applaud the increased level of funding for health services and hospitals in this budget. With our hospitals, their staff, doctors and nurses under increased pressure—of course problems are compounded by the Howard Government's continued efforts to destroy Medicare and bulk-billing—the Carr Government is working to ease the pressure on our health system and will deliver record levels of funding for health services in the coming year, reaching an all-time high of \$9.97 billion. During the year an additional 973 hospital beds will be provided, including an additional 563 permanent beds and 410 extra beds to cope with increased winter demand. Of course, with more beds comes the requirement for extra nurses and medical staff, and this funding will ensure that these new positions are funded.

It is not only city hospitals that will benefit from these increases. Families living in rural and regional New South Wales will also benefit from a boost of \$181.5 million—a 7 per cent increase on last year's funding—making a record allocation of \$2.78 billion for improved health care. When compared with equivalent funding in 1994-95, that represents a 106 per cent increase. I am pleased also to see increased expenditure in this budget for mental health services. I congratulate the Treasurer on the boost of an extra \$68 million, representing an increase of 9.5 per cent, for mental health services in this State. This increase will bring the level of program expenditure for mental health services to a record \$783 million in the coming financial year. I have mentioned several of the highlights in this year's budget, which I believe is responsible and fair. It confirms the Carr Government's commitment to providing first-class front-line services to the people of New South Wales.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [4.13 p.m.]: As honourable members are limited to speaking for 15 minutes in this debate on the budget estimates and related papers I shall focus on only a handful of matters. The budget allocates an additional \$4.5 billion to health services, starting with an additional \$707 million in 2004-05—I note that the real increase is only \$707 million but the Treasurer announced the total expenditure over a number of years to make it sound better. In the past two years 3,000 extra nurses have been employed permanently in the New South Wales public health system. That is great—I give credit where it is due. It is interesting to ponder where they have come from.

Some universities have abandoned nurse training and hospitals are unwilling to conduct training in house. The obvious consequence is that it might become too expensive to train nurses. It is difficult to coordinate university courses and hospital secondments so that nursing students can gain valuable practical experience. Hospitals are no longer willing to train nurses because State funding is lacking. The appalling cost shifting between the Federal and State governments—combined with the cross shift to private insurers and its distorting effect on health priorities—makes health difficult to manage. I have said that numerous times in this House. I remind honourable members that John Menadue in his prescient report said, "Nobody is in charge and that is the problem."

The Government has said that it will provide 973 hospital beds, comprising an additional 563 permanent beds and 410 beds to cope with extra winter demand. The problem will be staffing those beds: There is no point simply opening more beds if there are no nurses to staff them. That is a recipe for disaster. An additional \$241 million is dedicated over the next four years to improving mental health services, together with an additional \$24.6 million in the 2004-05 budget. That is a modest increase, for which I take credit as I initiated and established the mental health inquiry that highlighted the current problems with those services.

I thank Dr Brian Pezzutti for his good work on that committee. Parliamentary Secretary Cherie Burton has endeavoured to implement the report's recommendations, although I think the reply is a little too vague as yet. I note that the Mental Health Sentinel Events Review Committee chaired by Peter Baume examined the same issues as the parliamentary mental health inquiry and reached similar conclusions. That committee reported in December 2003. The Government's reply to that report has not been made public. I believe it exists and that the committee was very unhappy with it. I have requested a copy of that report and the committee's response to it. This Government's culture of secrecy is completely unsatisfactory.

I am waiting for the Minister for Health to work out the streamlining of the 17 area health services in New South Wales. The amalgamation of health services that serve large areas is a worry. For example, the amalgamation of the Greater Murray Area Health Service and the Southern Area Health Service would cause

geographical distance problems. I believe lack of health prevention measures in areas such as tobacco control remains a huge problem. Mr Carr claims to be concerned about worker health but for nine years he has done nothing to ban smoking indoors and has now postponed any further action on smoking in pubs and clubs until after the next election. That is a disgrace. His unwillingness to enforce any restrictions in that area does not bode well for the enforcement of any restrictive measures that may be introduced in the future. The Government is putting its interest in gambling revenue before the health interests of the people of New South Wales.

The Department of Community Services [DOCS] budget continues the \$1.2 billion six-year program to boost child protection and family support. The department will receive another \$100 million for children and families at risk. I take credit for initiating the DOCS inquiry that led to this funding increase. Some may scoff, but I moved a motion regarding the terms of reference of that inquiry 20 months before I received the Opposition support that led to the establishment of the DOCS inquiry. The \$100 million will fund 100 new child protection workers and early intervention caseworkers and a further 50 caseworkers to support staff in out-of-home and foster services for children. If my memory serves me correctly, the same number of caseworkers was in last year's budget. Information I have received suggests that the Department of Ageing, Disability and Home Care is having problems—perhaps it will be the subject of a parliamentary inquiry. Money may have been diverted—but we will have to look more closely at what is going on in that department.

The House recently passed the Water Management Bill. As most honourable members are aware, the bill contained provisions imposing a stamp duty on the transfer of licences. However, I have failed to find in the budget papers any projected estimates of revenue from this new stamp duty. For the environment and conservation of the State's natural heritage \$294 million has been allocated to manage national parks and wildlife and \$57 million has been allocated for major environmental protection programs. However, the downside is that the Government is selling Crown land in the Western Division for 3 per cent of its lease value. There is much speculation about the Carr Government's future plans for State Forests. The Australian Democrats and many in the conservation movement would greatly appreciate a response from either the Treasurer or the Minister for Natural Resources. We look forward to receiving a commitment that no Labor government will privatise State Forests

This year's budget also abolishes the Sustainable Energy Development Authority [SEDA]—how ironic from a Government that takes pride in its greenhouse abatement credentials! SEDA has done a great job. The Government wanted the prestige of establishing SEDA but took no real action in that area, and the more astute members who could see which way the wind was blowing have been leaving the organisation for some time. Nevertheless its abolition is most unfortunate.

The Government has announced an investment of almost \$30 billion in building new assets such as schools and TAFE colleges, public health and hospital facilities, utilities, roads and public transport. But Bob the Builder, as he fancies himself, is leasing out all the construction work and handing the liabilities over to the New South Wales taxpayer through public private partnerships which, of course, are quietly being trumpeted in this Parliament. Bob the Realtor might be more like it! Bob is unwilling to borrow because of the doctrinaire position of the Treasury in this State that is leading to the sale of assets in order to fund things in a disgraceful fashion. The private sector is making a fortune from investing when, with a triple-A credit rating, New South Wales could borrow and have debts backed by equity.

From the point of view of normal accounting and business, if one has assets, and debts which are less than those assets, it does not matter. The way property prices are going the Government would be quite capable of borrowing and building assets rather than simply flogging off assets so that it can claim it has no debt. That foolish objective is currently fashionable amongst Australian governments, both Federal and State. Under the asset acquisition for the Education budget, the budget provides for the commencement of new schools at Ashtonfield, near Maitland, and Hamlyn Terrace, near Warnervale. The figure of \$364 million is given for construction and enhancement of schools for this financial year.

What the budget papers do not say is that the cost of these schools and some 32 other big projects are not included in the stated expenditure, as they will be privately financed. In fact, it has already happened. This year four privately funded schools were built by ABN AMRO, St Hilliers, Hansen Yucken and SSL Facilities Management, or Spotless. Treasury is very keen on this model for funding infrastructure because it does not appear on the books as debt. It is, however, a total fiction that it is value for money, as the amount of lease payments over the 30 years of these contracts, even if there are no unforeseen costs, is more than if the money were borrowed at competitive rates by the State in the first place

We need only look at the United Kingdom experience since 1992 in public finance initiatives [PFIs], which are the British equivalent of private public partnerships. An article by Allison Pollock in the *British Medical Journal* of May 2002 analysed the relative costs and benefits of the two approaches. She said that the way PFIs operate in the hospital sector is that the private consortium designs, builds, finances and operates the hospital. In return the Government, through a National Health Service [NHS] trust, pays an annual fee to cover both the capital cost, including the cost of borrowing, and maintenance of the hospital and any non-clinical services provided over the 25- to 35-year life of the contract. Furthermore, there is no evidence that PFIs have increased overall levels of service.

On the contrary, their use has had two adverse effects. Firstly, they have moved the burden of debt from the central government to the NHS trusts, and with it the responsibility for managing spending controls and planning services. Secondly, the high cost of PFI schemes has presented the NHS with an affordability gap. This has been closed by external subsidies, diversion of funds from clinical budgets, sale of assets and more reliance on charitable donations. This has led to a 30 per cent cut to bed capacity and a 20 per cent reduction in staff in hospitals financed through PFIs. Allison Pollock concluded:

Not only are the macroeconomic arguments in favour of PFIs illusory but there is also a negative impact on levels of service ... The government claims that PFIs deliver value for money through lowering costs over the life of the project because of greater private sector efficiency and because the private sector assumes the risks that the public sector normally carries.

The M2 is an illustration of this in New South Wales, as is the Sydney airport rail link. The Government had to pay an extra \$704 million in 2000 when the Link consortium defaulted on a \$200 million loan from the National Bank. In March 2003, before the last election, the Premier gave a commitment to provide \$80 million for refurbishment and additions to the Mater hospital in Newcastle. In the second half of 2003—surprisingly, after the Carr Labor Government had been re-elected—word was out that the Government had another plan. You guessed it! The Mater hospital would be redeveloped by a public private partnership. The plan will also include the integration of the services presently provided at the James Fletcher mental health facility on the Mater site. This is an unfortunate development, and obviously the Government has plans to make up some of the money for the Mater development from use or sale of the James Fletcher site. The site is within a stone's throw of Newcastle surf beach and would be highly desirable to any developer. It is basically part of Bob the Realtor's selling-off-the-farm project.

It seems ludicrous that the Government should pay lease payments to a private consortium where there will be a guaranteed higher than market rate of return, say 12 per cent to 15 per cent, when this money could be borrowed from the bank at a lower rate, and in the meantime the Government owns the infrastructure, which is likely to be appreciating. The Treasurer is always boasting about this State's triple-A credit rating, so borrowing the money would be no problem. The project's estimated budget is only \$132 million, and given the modest projected budget deficit of \$379 million for 2004-05 it is not a great deal of money. It is a total fallacy that the private sector can run a business more efficiently than the public sector.

The private sector will always provide a minimum or substandard service in order to maximise the return for their investors. The investors are always a higher priority than the customers, by definition. This is why customers of banks are second-class citizens to the shareholders. It becomes more critical when the service provided is a health service. There are no free lunches: the Government must prioritise and manage. Prioritisation in Health is difficult enough with vested interests in drug companies and technology, et cetera, and public private partnerships make it even harder.

The M2 is a shining example of this new south sea bubble in New South Wales. The M2 prospectus firstly overestimated the number of vehicles that would use the road. Some estimates of the percentage of available traffic that would use a toll road if there was an even slower free road range as low as 10 per cent. So the overestimation of traffic for the tollway allows the promoters of the scheme to sell the idea to governments. The promoters in many cases are government agencies, such as the Roads and Traffic Authority, in concert with the consortium that gets investors on board. Returns to shareholders for the M2 were promoted at 15.8 per cent. This figure is essentially underwritten by the Government because, whether in the building or operating stage, the project will have to be completed and kept running.

It is likely that the railway in the north-west sector of Sydney, which is absolutely necessary, has not been built because the M2 contract did not allow any competition. That is an example of competition stopping sensible planning in this State. The recent photo opportunity for Minister Carl Scully at the completion of drilling for the cross-city tunnel served to underline the lost opportunities in planning Sydney's transport system in this new millennium. The Carr Labor Government continues to throw millions of dollars at road transport

while ignoring more environmentally friendly and efficient options. There have been two chances now for the Carr Government to put in place a light rail network to ease traffic congestion in the city, and it has missed them both.

The plan to run trams from Central station to Kensington to carry the 20,000 students who commute to the University of New South Wales daily was floated at the time of the Eastern Distributor tollway project. The idea was again raised when the latest city road, the cross-city tunnel, was mooted. Once again the light rail plan was passed over. On any analysis, light rail should have been the preferred option. The cost of the cross-city tunnel was originally announced to be \$273 million. The latest cost is now estimated to be \$640 million. For this money we get a 2.1 kilometre tunnel that will fill with cars.

For less than half this price we could get 4.4 kilometres of tram track that would take thousands of cars off the roads, with most of the route being along Anzac Parade. The carrying capacity of one tram is approximately equal to that of 35 cars. The Lane Cove Road tunnel will cost \$815 million but the Government has shelved plans to build the Carlingford to Epping rail link despite the fact that the equipment to build it was in place and will be extremely expensive to put back. The rail link should have gone from Epping to the north-west sector. This Government does not have a transport strategy; it has a roads strategy, which will not alleviate the traffic problems of Sydney. It is economically and ecologically unsustainable and not appropriate for this new century.

The other important matter that needs to be mentioned is the level of secrecy of this Government. The database of government-owned land assets. It was noted in the *Daily Telegraph* that Jennifer Westacott said that these assets must be sold quickly before the people have organised resistance at a local level to save each piece of land that is about to be flogged off. Again, it is an absolute disgrace for the Government to flog off assets as quickly as possible. The committees of this House spend a great deal of time trying to get to the bottom of this Government's approach of secrecy. The open government bill was passed in this House and referred to the lower House, where it was flicked off to the Public Accounts Committee. The Government does not want to know about open government, which is the key to excellence and efficiency in government because it is accountable. This Government is not.

The Hon. GREG PEARCE [4.28 p.m.]: Honourable members will recall that this budget was brought down in a somewhat hysterical context following the urgent mini-budget brought down by the Treasurer on 6 April. The principal reason for the mini-budget was the Treasurer's claim at the time that the New South Wales budget was going to be cut by \$376 million by the Federal Government. That was a lie. It was always a lie and was a political stunt. But it raises something that needs to be clarified, and I know that sensible people who look at the New South Wales budget understand the real position with the Commonwealth-State financial arrangement and the substantial funding that comes to New South Wales from the Federal Government, particularly GST revenue and other grants.

When the budget papers were presented—I am looking at section 7 of Budget Paper No. 2—they contained a more rational overview of the financial arrangements with the Commonwealth. They include a recalculation of the claim that was made by the Treasurer, which indicates that the true figure was not \$376 million but \$345 million. They explain it was not a cut in any sense, but rather a calculation based on the reform of the financial arrangements, which was due in 2004, and reflects the allocation of funding between the States. The Premier, Mr Carr, and the Treasurer, Mr Egan, entered into that arrangement when they agreed to the GST package. The fact that they continue not to be able to come to terms with their agreement with the Commonwealth is another cause for concern about the management of the budget in New South Wales.

The other major reason given for the mini-budget was the need to find an extra \$400 million for nurses' and teachers' pay increases. The inquiry into the mini-budget proved that to be incorrect because funding already was included in the budget. The result was that the mini-budget introduced a series of expenditure cuts and savings, which were part of the process in any event according to the head of Treasury, and introduction of the vendor tax. We will see what happens with the vendor tax, but all of us know that it represented another rip-off by this tax-and-spend Government and by the Treasurer, who has never seen a tax that he does not like. I want to spend some time on the Government's management of its asset program and the allocation of funds to it. The real concern is that this Government has been in office for nearly 10 years during which time we have experienced what will become the legacy of this Government: the legacy of lost opportunity.

We have seen a constant run-down of the State's infrastructure and a lack of appropriate investment and management of that investment. In large part that has manifested itself in cost overruns and delays in the very few infrastructure projects the Government has been prepared to undertake. One of the largest current

infrastructure blow-outs disclosed in the budget relates to half of the Chatswood-to-Parramatta railway. It is interesting to note that in prior years the budget paper estimate for the cost of the railway was always shown in dollar figures that were not relevant to the current year. This year, for the first time, the estimate is based on current figures. The cost for half of that railway has blown out to \$2.038 billion, a total blow-out of \$1.217 billion over the period of planning and budgeting for the railway. It is a \$417 million blow-out in the current year for half the railway that was promised originally. It is a terrifying example of the Government's inability to manage infrastructure projects and yet another example of its focus on spin through the announcement and re-announcement of projects.

Clearly the Government has no serious policy program for transport renewal, just as it has no serious program for health, education and other important infrastructure renewal. Other areas of infrastructure and asset management are typical of what I have already referred to as the legacy of lost opportunity: a run-down in infrastructure and the inability of the Government to manage infrastructure and asset projects. A quick review of the budget papers indicates that the Government has set a new record for financial mismanagement with a total blow-out of \$438 million in the cost of 54 of its capital works projects, which I can identify. A detailed analysis of the 2003-04 budget papers reveals blow-outs of up to 500 per cent on one project and an average blow-out of 56 per cent on the projects I have identified, which is an indication that the Premier's and the Treasurer's financial management skills are simply non-existent. Some of the projects are quite extraordinary. For example, how does an integrated information system for the transport ministry increase in cost from \$4 million to \$9 million in 12 months? Why did the planned stabling and train service facilities rise from an estimated cost of \$5 million to \$12 million in the same period?

An information technology project for the Department of Health blew out by \$2.5 million, while the redevelopment of the Long Bay prison hospital blew out by \$14 million. These blow-outs raise more than just questions about the competency of the Carr Government's financial skills, they also suggest that projects are not being managed efficiently and that taxpayer dollars are being wasted. If the State Government were able to manage its projects on budget and on time we would not have the budget in deficit and a crumbling and ageing infrastructure. An analysis of the budget papers also revealed that building and infrastructure improvements for the Sydney Harbour Foreshore Authority had blown out by more than \$10 million, while work on the State Records Repository building has blown out by \$6.5 million. If these blow-outs occurred in just one or two capital works projects there would be cause for concern, but the fact that 54 projects have blown out is cause for total alarm. I will take a few moments to inform honourable members of some of the most extraordinary blow-outs.

One wonders how some of these blow-outs could occur. They are right across all areas of government. For example, the Department of Health had a Newcastle strategy that blew out from \$236 million to \$296 million, an increase of 26 per cent or \$60 million in one year. How can a strategy have a blow-out of 26 per cent? The Sydney Catchment Authority's program of upgrades blew out from \$44 million to \$91 million, a 104 per cent increase. The Department of Community Services Case Worker Accommodation Program blew out from \$36 million to \$63 million, a 72 per cent increase. Sydney Water Corporation has a series of projects called Water Reuse Projects that increased from \$15 million to \$40 million, or 167 per cent. Sydney Catchment Authority Prospect Reservoir upgrades, which would be an interesting topic at this time when the Government cannot guarantee water supply to Sydney, blew out from \$30 million to \$52 million, a blow-out of \$22 million or 75 per cent. The Department of Corrective Services Long Bay hospital redevelopment increased from \$50 million to \$64 million, a 28 per cent blow-out. All these blow-outs occurred in one year. The Department of Health Children's Hospital Westmead research facility blew out by 277 per cent from \$5 million previously estimated to nearly \$19 million.

The Sydney Water Corporation's integrated information capture and telemetry project was the subject of a blow-out of 20 per cent. The costs blew out from \$67 million to \$81 million. Mismanagement is apparent right throughout this Government, which simply cannot manage projects and budgets or deliver projects within budget constraints. The cost of the information systems enhancements in the Department of Commerce blew out from \$6.8 million to \$15.8 million, which is an increase of nearly \$9 million or a 131 per cent blow-out. Thank goodness the Sydney Water Corporation has been busy. It has a project for the Blue Mountains sewerage system, but again it was unable to properly cost the project and costs blew out from \$81 million to \$90 million, which represents an 11 per cent blow-out.

Not to be outdone, the State Rail Authority's train service facilities and stabling project blew out from \$4.9 million to \$12.3 million, which represents an increase of \$7.4 million or a 150 per cent blow-out. That makes the Millennium train project appear to be almost a significant achievement by the State Rail Authority. I

note that legislation is in the pipeline concerning the State Records Authority, which is constructing a stage 6 repository building. The cost of that project blew out from \$14.3 million to \$21 million last year, which is an increase of \$6.7 million or a 47 per cent blow-out. The list of project mismanagement and cost blow-outs goes on and on.

The Hon. Patricia Forsythe: Where is the money going?

The Hon. GREG PEARCE: I am telling the House where the money has gone.

The Hon. Patricia Forsythe: Waste?

The Hon. GREG PEARCE: It has been spent on the complete mismanagement of these projects, and waste. The cost of the Sydney Ports Corporation's bulk liquids berth increased from \$8.8 million to \$15.4 million, which is an increase of \$6.6 million or a blow-out of 75 per cent. Let us not leave out any areas of government. The Muswellbrook police station was estimated to cost \$1 million but ended up costing \$6 million, which is an increase of \$5 million or a blow-out of 500 per cent.

The Hon. Eric Roozendaal: There you go—attacking the police again.

The Hon. GREG PEARCE: That one takes the record. The Attorney General's Department's CourtLink project, phase two, was estimated to cost \$15.7 million but the cost increased to \$20.9 million, which is an increase of \$5.26 million or a 34 per cent blow-out. I am pleased that the Hon. Eric Roozendaal is present in the Chamber and is listening to the figures I have mentioned because he knows a lot about raising money and it is good for him to learn a little bit about the financial mismanagement of this Government.

The Hon. Eric Roozendaal: Point of order: I appreciate how boring the honourable member's presentation is, but I believe there is a standing order that disallows members reading novels or books while someone is speaking, which is what the Hon. Patricia Forsythe is doing. I ask for a ruling on that.

[*Interruption*]

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! The Hon. Melinda Pavey will cease interjecting. The Clerk has advised, and the *Rulings of the President of the Legislative Council* confirm, that members must not read either newspapers or magazines in the House. The reading by members of other material, including comic books, is also not permitted. However, there is no prohibition in either the standing orders or the *Rulings of the President of the Legislative Council* on the reading of books by members. No point of order is involved.

The Hon. GREG PEARCE: It is a pity that the Hon. Eric Roozendaal does not understand that people read. I will conclude my remarks because the time allocated for my speech has almost expired. I point out that the list of examples of the Carr Government's completely inadequate financial management goes on and on. The list shows the lost opportunity that has been forced upon this State because of the run-down of infrastructure and the run-down of the State's assets by this State's incompetent Premier and the Treasurer. [*Time expired.*]

The Hon. ERIC ROOZENDAAL [4.43 p.m.]: I am grateful for this opportunity to commend the Government for its work on the 2004-05 budget. I particularly thank the Treasurer, the Hon. Michael Egan, for his efforts. I have no doubt that all members of the House are aware of the financial pressures placed upon the State by the unfair Federal grants system. While that system remains unchanged, the task of fairly allocating our State's resources will be a difficult one. It is all right for members of the Coalition to laugh about the fact that this State has been ripped off by a Coalition Federal Government—I know they think it is hilarious—but the people of Richmond and Parramatta got it right and sorted the Coalition out at the recent Federal election. This year's budget is one that reflects current financial pressures.

The Hon. Charlie Lynn: Point of order: Madam Deputy-President, you have ruled that members are not allowed to read comics. It is obvious that the Hon. Eric Roozendaal is reading a comic.

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! I thank the Hon. Charlie Lynn for his attempt at being a comic. There is no point of order.

The Hon. ERIC ROOZENDAAL: The point that should be noted is that what I am reading actually has writing, as distinct from the picture books that members of the Coalition relate to. Although this year's

budget reflects current financial pressures, it also succeeds in maintaining adequate funding for the State's infrastructure and services. It is a sound budget—the hallmark of an experienced Treasurer and a Government that is strong on economic management.

I note particularly the massive investment in infrastructure to which the Government has committed itself. This Government has recognised the importance of capital works spending to State development and is prepared to spend a whopping \$29,902 million in this area over the next four years alone. This represents an increase of over \$4,787 million on expenditure over the previous four years or an increase of 19.1 per cent. I elucidate that point because I know that Coalition members will run out of fingers if they try to work it out. The increased capital works expenditure represents the largest in the State's history in both real dollar terms and in what the Treasurer, the Hon. Michael Egan, has referred to as "after-inflation dollars". What makes the increase even more remarkable is that capital works funding over the past four years has not been inadequate. Over that period the Government spent a massive \$25,115 million. I commend the decision to invest more in this area.

[*Interruption*]

Residents of New South Wales will benefit from improved infrastructure and our economy will benefit from the stimulation that an extra \$4,787 million in capital works spending will provide. I note that in the next year alone new Government investment in infrastructure will total \$7,463 million. Out of that total, \$3,614 million will be spent in the general government sector and \$3,852 million will be spent in government business and utilities.

[*Interruption*]

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! The Hon. Greg Pearce will cease interjecting.

The Hon. ERIC ROOZENDAAL: This spending will benefit education: \$448 million will be spent on new and upgraded schools and TAFE colleges. This spending will benefit health: \$600 million will be provided for new and improved hospitals. Moreover, this spending will benefit both public and private transport: \$1,048 million will be spent on new and upgraded rail lines, rail carriages and stations, and \$2,400 million will be spent on roads capital works and maintenance. This represents total statewide investment—investment which will benefit all State residents. But the fruits of this investment will be particularly observable at a local level. As the duty member of the Legislative Council for Coffs Harbour, Manly, the South Coast and the upper Hunter, I note the capital works spending that the budget devotes to these electorates. The electorate of Coffs Harbour will receive \$38.05 million in capital works funding over the next year. Of this amount, \$6 million will be spent on the Coffs Harbour radiotherapy project.

The Hon. Melinda Pavey: Good.

The Hon. ERIC ROOZENDAAL: I am pleased that the Hon. Melinda Pavey is very supportive of the Government's actions. In addition, \$1.3 million will be spent on improving access to hospital beds at the Coffs Harbour Base Hospital; \$640,000 will be spent on two new \$320,000 fire engines for the New South Wales Fire Brigades stations at Bellingen and Bowraville; \$30,000 will go to the Coffs Harbour State Emergency Service to assist in the acquisition of four new emergency response vehicles; \$25,000 will complete the major \$2.3 million upgrade of the Dorrigo High School, which will be completed later this year and which will include a new administration building, a canteen, access ramps, covered walkways, a car park and bus sector area; \$2 million for the planning of dual carriageways on the Pacific Highway at Bonville, Sapphire to Woolgoolga, and Macksville to Urunga; and \$2 million on road resurfacing and architectural treatment of homes at Sapphire and Korora as part of the \$18 million Pacific Highway noise abatement program.

The Hon. Melinda Pavey: That is where I live—Korora.

The Hon. ERIC ROOZENDAAL: I thank the honourable member for her support. The total expenditure in the Coffs Harbour electorate also includes \$180,000 to install permanent variable message signs and remove roadside hazards along the Pacific Highway as part of the State Government's \$14 million road safety package which was announced in March this year; and \$6,085 will be allocated to the Bellingen State Emergency Service to assist in acquiring two new emergency response vehicles.

In the electorate of Manly, key areas of local expenditure this year are \$2.3 million for education, \$2.7 million for roads, and \$4.8 million toward upgrading of the North Head Sewage Treatment Plant.

Specifically, \$3 million has been allocated to the \$10 million Manly Wharf refurbishment, \$1 million to the widening of the Spit Bridge and approaches, and \$2.3 million for stage two of the Harbord Public School upgrading.

In the South Coast electorate, \$3.776 million will be devoted to the Attorney General's Department, \$1.5 million for public housing, and \$16.4 million for local roads. Specific examples of State funding for projects include \$3.7 million earmarked for the Nowra Courthouse, \$9 million for the upgrade of the Nowra to Nerriga road, \$800,000 to widen the Princes Highway at South Nowra at the Browns Road roundabout, \$200,000 for a bus bay on the Princes Highway and Croziers Road, Jaspers Brush, and \$800,000 for the Jervis Bay National Park.

Finally, the electorate of Upper Hunter will benefit from \$116 million in capital works funding, of which \$41 million will be spent on local roads. An example of a specific project in the Upper Hunter is the completion of the reconstruction and realignment of the Golden Highway at Devils Elbow, on which \$150,000 will be spent. Another example is the widening of the Golden Highway west of Four Mile Creek, for which \$900,000 has been allocated. In addition, \$325,000 has been allocated to upgrade public housing in Muswellbrook and \$5.857 million on the Muswellbrook police station.

The list of capital works funding commitments in Coffs Harbour, Manly, the South Coast and the Upper Hunter is an impressive one. It is clear evidence of the Government's commitment to investing in infrastructure statewide, and I commend that commitment. Yet, I note that improvements in infrastructure will not come at the cost of the deterioration of other services. The budget dedicates an extra \$100 million to community services and children, and \$110 million to people with disabilities, older people and their carers. In total, an extra \$717 million will be spent on Education and Training and an extra \$707 million on Health. A Labor government will always be willing to support essential community services, even while the Federal Government continues to deny this State its fair share of revenue.

This is a practical budget, a budget that leaves New South Wales with the second-best balance sheet of any State government in the nation. Only Queensland is in a better situation, and Queensland is massively subsidised by New South Wales under the Federal grants system. New South Wales does not have the Federal grants system to thank for its strong position; New South Wales has a strong leadership team that continues to keep the State in a strong fiscal position.

The Hon. IAN WEST [4.54 p.m.]: I take great pleasure in contributing to this take-note debate on the budget estimates and related papers for the financial year 2004-05.

The Hon. Greg Pearce: Have you read them?

The Hon. IAN WEST: I have been through them in some detail. The 2004 State budget delivers everything that the Government can afford to deliver as it balances the books. This year there was a deficit of \$379 million and a budget turnover of \$37.44 billion, which represents a 6.4 per cent increase on last year's budget. As outlined in the April mini-budget, extraordinary measures had to be taken given the raw deal that New South Wales gets from Federal revenue. Those cost-saving measures and changes to stamp duty outlined in the mini-budget were necessary due to cuts in Federal funding such as the vicious cuts to GST revenue, which are cost neutral. That neutrality will not change until some time in the 2007-08 fiscal year.

The Treasurer stated in his mini-budget speech that New South Wales has 34 per cent of Australia's population and contributes 37 per cent of the nation's GST revenue yet receives back only 28 per cent. In monetary terms that equates to New South Wales giving approximately \$12.5 billion to the Federal Government and receiving back only \$9.5 billion. That is a rip-off to New South Wales taxpayers of \$3 billion—an absolute disgrace. There can be little argument that New South Wales loses out on the GST roundabout, which has been shown to be an absolute farce. New South Wales is subsidising other States and does not get back anywhere near the amount that its taxpayers pour in. Even members on the Opposition benches would be able to work out those mathematics: \$12.5 billion in, \$9.5 billion out, not very good for New South Wales.

That allocation is deceitful and deliberately unfair, and adversely affects the State budget. New South Wales taxpayers are paying more for GST-funded government services than they will ever get back. Despite that, the State budget delivers on a number of significant programs including a massive capital works program, an increased education budget of about \$10 billion and a record health budget of about \$10 billion sequentially over the past nine years. Even with limits to extra funding, the budget provides for further improvements to our

social and community infrastructure. The budget continues the sound economic management of New South Wales by the Carr-Refshauge Labor Government over the past nine years.

This year the Government has allocated, once again, significant funding to all areas including core areas such as health, education, community and disability services, public transport and the environment. All are at record levels of funding and eclipse the amounts spent by the Coalition when it was in government. Unlike the latest Federal Coalition budget the New South Wales budget is one of targeted funding and minimisation of waste. It is not a pork-barrelling exercise designed to maintain legitimacy and, unlike the Federal budget, the State budget has a real and demonstrable commitment to the next generation by leaving it with a manageable debt, an increase in public assets investments and renewable infrastructure.

The budget deficit is modest, despite the difficulties faced from the Federal sphere, as I have indicated. The deficit stands at a very manageable \$379 million and is expected to decrease to \$118 million next year, before returning to surplus in 2006-07. The highlights in this year's budget, in which Bob the Builder continues his work, despite limited pocket money from the small but perfectly formed Treasurer, are many. In health, spending has increased by \$707 million to just under \$10 billion, including an increase of \$4.5 billion over the next four years. That will allow 973 additional hospital beds to be provided over the coming year, comprising 563 permanent beds and 410 additional beds for winter. Mental health services will receive an important boost to \$241 million over the next four years. That is a serious social justice commitment.

Once again, funding has been committed to research and development programs such as the Cancer Institute and the new Clinical Excellence Commission. The State Labor Government continues to meet the challenge of rebuilding and development of our health system across the State. Another great initiative of the Carr Labor Government is the mobile surgical service that delivers specialised high-tech procedures to remote and regional areas. That means that people in the bush do not miss out on the best health care services that the State can provide. Hospitals and area health services are most in need of financial support and there are real and serious challenges to the State's health system to ensure that families and patients in the remote areas receive that support, which only this Labor Government can deliver. The efficient and effective distribution of resources in the health system under Labor means equal and increased access to better quality services, and no doubt that will help to ensure better health for all. Every teaching hospital in New South Wales has been upgraded, redeveloped or built by the Carr Government.

Education spending this year will be more than \$9.1 billion, providing quality education and training in the State of New South Wales. That is an increase of \$717 million from last year, and it demonstrates further the Government's commitment to education. This budget also includes the fully funded 12 per cent teachers' pay increase awarded by the Industrial Commission. Families will also continue to receive the much-needed Back-to-School Allowance to assist them with school expenses in the new year. The Coalition would get rid of this allowance—

The Hon. Henry Tsang: They will never have the chance to do that.

The Hon. IAN WEST: That is right. The Coalition does not understand how much parents in New South Wales rely on this additional assistance. Every extra dollar counts for families educating their children. The early years of schooling are especially important. Labor has promised to reduce class sizes for kindergarten, and years 1 and 2, for which funding of \$373 million has been allocated over the next four years. Also over the next four years funding of \$250 million has been allocated to aid teacher professional development and to ensure an adequate supply of teachers in key learning areas.

The expansion of the numeracy and literacy plan has been an important step, with in excess of \$500 million to be spent over the period 2004-08 to ensure that these key areas of education receive the resources that they desperately need. This expansion has helped New South Wales perform strongly in the recent national and international literacy and numeracy tests, and it will guarantee further successes. Education technology initiatives, including upgrading of bandwidth and the roll-out of e-learning accounts for teachers and students are ongoing programs, with almost \$800 million being allocated for that purpose. The capital works programs for schools is set to continue with \$364 million allocated for the construction and enhancement of school facilities as part of a four-year \$1.2 billion program.

TAFE has been the subject of some controversy in the course of its recent restructure, during which it has been claimed that TAFE will be destroyed. Despite these claims, TAFE in New South Wales will receive a 4.7 per cent budget boost to \$1.6 billion. Once again, despite the Treasurer's wish for a tight budget, Labor is providing plenty of reasons to remind the Opposition parties that it is led by the education Premier.

A record community services budget of \$803 million this year will assist children, young people and families. This amount includes \$47 million for improvements to out-of-home care and \$26 million to improve the child protection system. That is unbelievable. Intensive and statutory intervention services programs will receive \$187 million to provide services to protect children from risk and harm. I emphasise this record funding to enable the members of the Opposition to come to grips with the fact that the Treasurer has brought down a great budget for 2004-05.

Early intervention services will receive \$188 million as part of an important approach by this Government to prevent problems from escalating. This is essential for children, young people and families at risk of drug and alcohol abuse, as well as those at risk of child abuse or family breakdown. I know there are members on the Opposition benches who are concerned about drug and alcohol abuse, child abuse and family breakdown and who will wish to congratulate the Treasurer and the Premier for this allocation of \$188 million for such an important cause. Prevention services will receive almost as much funding—\$183 million. This includes allocations for preschools and day-care centres, community development projects, youth support services and financial assistance to vulnerable families.

This budget demonstrates the Carr Government's commitment to child and family services, and the principles behind them, such as early intervention. The budget for the Department of Ageing, Disability Services and Home Care has increased by 9 per cent this year to \$1.3 billion. An estimated 500,000 people on low incomes will be assisted with housing this year. This includes measures to subsidise those in the private rental market as well as long-term public housing residents and those needing crisis accommodation. [*Time expired.*]

The Hon. MELINDA PAVEY [5.09 p.m.]: John Singleton, who has quite a reputation in the advertising industry and who is well-known to the Labor Party, started a tradition some years ago with the slogan that went something along the lines, "Where do you get it?" I can assure the House that the taxpayers of New South Wales are echoing as one the slogan "Where has the money gone?" That question will long remain in the minds of the people of this State.

The Hon. Rick Colless: Everyone is asking.

The Hon. MELINDA PAVEY: Everyone is asking, "Where has the money gone?" New South Wales is the highest-taxing State in the Commonwealth of Australia. That is not something of which we should be proud, especially with our population base the way it is. New South Wales should be able to achieve some better economies of scale than those of other States. That is the basis of the Grants Commission rulings—which the Premier of this State has been happy to abide by, as illustrated in his book. In 1998 he clasped his hands and prayed, hoping against hope that the Grants Commission would do the right thing by New South Wales. And the Grants Commission did do the right thing by New South Wales in that year according to the Premier, because it did its job. It did what it is supposed to do: be non-political.

This Government defends the land tax, the vendor tax, and every other tax it has introduced, and uses the excuse that inadequate Federal funding has caused business enterprise centres to close across New South Wales and is the reason that new schools and roads are not being built and that our road network is crumbling. For all this it blames the Commonwealth. Well, that just does not stack up. If one were to add up the funding that Labor suggests the Commonwealth has not provided, the result would be billions of dollars. That argument just does not wash. It is a complex and cynical exercise.

I thank the people of New South Wales for being so astute. Ten days ago they said, "We do not trust Labor with money. We do not trust it with taxpayers' money, with our money, with any money, with interest rates." Their judgment is well founded in the delivery of this State budget, which continues the tradition of this Government relying on high taxes and waste to preserve inflated spending. The Carr Government's mismanagement affects mostly the people of country and coastal New South Wales. If the Government is to make a cut, it will do so in areas it really does not care about, in areas in which it does not hold seats. Despite the protestations of Country Labor, Labor does not have good representation in country areas. Even though we all know about its support for our so-called Independent members, the Government does not look after those seats particularly well either—as I will illustrate shortly.

This budget maintains the tradition of overspending and mismanagement by Labor. While waiting lists in our hospitals grow eternally longer, our classrooms continue to crumble and our roads deteriorate, the Carr Government greedily lines its pockets with taxpayers' money. Well, the people of New South Wales know all

about it and they are pretty sick of it. Ten days ago, at the last Federal election, they voted with their feet not to support the claims by the State Government that everything that was wrong with New South Wales was the fault of the Grants Commission and the Commonwealth. They have seen, once again, that Labor cannot be trusted.

It is disappointing that the Treasurer and Premier Carr have attacked those who are most able and willing to prepare for their retirement and to maintain their lifestyles in retirement without burdening the taxpayers of New South Wales. I am talking about those who have bought units or who have planned to be self-funded retirees and to look after themselves rather than rely on taxpayers to look after them later in life. Whether we are talking about mum and dad investors, grandparent investors or whatever, those people have been hit by vendor and land taxes. That has had a profound effect on the property market in New South Wales. So profound has been its effect that in August the vendor tax raised only \$29 million. In the previous month it raised less than that. The Government hoped it would raise \$690 million a year, which on average is about \$50 million a month. So the Government is well under budget on that front because it basically killed the goose that laid the golden egg.

This Government has ridden high on the coattails of the property boom that has been experienced in this State over the past decade. The sad part about it is that we have not had tax relief; we have just had tax increases. Tragic also is the fact that we will not have a vision or a legacy for infrastructure programs as a result of that property boom in New South Wales. The Government can be sure that in March 2007 the taxpayers of New South Wales will vent their spleen. These decisions are made at the top. The Treasurer does his best, but if one morning Bob Carr reads a report in the *Daily Telegraph* of a problem, he turns on a tap and pours out millions of dollars in an attempt to put a band-aid over a problem—and, ultimately, that is poor management.

One has only to read one of the tomes written about Bob Carr to know that respect for him within his own organisation—the Labor Party—is poor. Ron Greenstreet was absolutely appalled at the state of the Maroubra branch of the Labor Party when he took over responsibility of the branch after Bob Carr became a candidate for the seat of Maroubra in the late 1970s. It took him some months to sort through the couple of shoeboxes in which all the receipts had been stuffed. He was not alleging any impropriety, but he was saying that it was a pretty poor state of affairs. That is what is wrong with the management of this State's economy. We have a Premier who will spend money where he thinks it needs to be spent without imposing strict guidelines or thinking through the potential impacts of such decisions.

As an example, since 1995 the budget for the Premier's Arts ministry has blown out by almost 300 per cent—in 1995 it was \$31 million and it is now \$120 million. A healthy Arts ministry budget is vital for a culturally aware society, but a 300 per cent growth in that portfolio shows that the Premier is playing favourites with his pet projects. The money made available to fund that 300 per cent increase—from \$31 million to \$120 million—would certainly fix a lot of potholes and pay for many surgical operations. It could build almost 10 new primary schools. I am not saying that there should not be some increase in the budget of the Arts ministry, but 300 per cent! In 1995 the Arts ministry was left in a fairly healthy state by former arts Minister and Leader of the Opposition, Peter Collins. He was a great fan of the arts and did very well in obtaining funding for that portfolio.

Bob Carr increased that expenditure by 300 per cent off a fairly high base. Expenditure in the Arts ministry has been dependent on budget blowouts and not planned increases. Year after year the Arts budget has blown out. On average it has blown its budget every year by 37 per cent and staff in the Arts ministry has increased by 35 per cent—to 38 people. It is important to realise that the budget for the Arts ministry does not include funding for the New South Wales Art Gallery, the New South Wales Film and Television Office, the Australian Museum, the Powerhouse Museum, or the State Library. Basically the ministry runs a bureaucracy that gives welcome grants to communities. I have not been able to ascertain how much country electorates receive in the form of Arts ministry grants, but it seems that significantly money is going from the Arts ministry to bureaucrats and for staffing rather than for projects on the ground.

It is not a particularly exciting tale for the electoral areas of Monaro and Port Macquarie. According to the budget papers the Monaro electorate received only \$9.7 million in capital works funding this financial year. When The Nationals represented that seat it received on average \$30.9 million in five years from 1998 to 2003. Since Labor's Steven Whan was elected Monaro has received only half that amount, with an average of approximately \$15 million in the past two State budgets. The people of Queanbeyan are disappointed that there is no capital works funding this financial year for the upgrade of Queanbeyan hospital. That was expected because of the Government's commitment not to commence any construction until 2007, which coincidentally

happens to be an election year. So we will see the bulldozers out there when the State election is a couple of months away.

The people of Queanbeyan have demonstrated that there is an urgent need for that hospital. A three-year planning process is under way for a hospital upgrade, a very nice way of prolonging and delaying the inevitable construction of that hospital. I think the people of Queanbeyan were disappointed that the Government was not able to commence construction a little earlier. Funding for the Queanbeyan ring road has blown out by \$1 million—from \$5.8 million to \$6.8 million—with \$3.9 million to be spent this year. So the Monaro electorate has not been particularly well looked after. Recently we saw the closure of the business enterprise centre [BEC] in Cooma, a sad decision that has angered and disappointed communities in the Cooma area that were supported by the BEC. We kept the pressure on Steve Whan and the Labor Party.

The Hon. Patricia Forsythe and I have been working hard to establish whether we can alleviate the situation by ensuring that funding for that BEC is continued. We met local mayors and community representatives in that regard. This week the State Government announced that it would give the local council \$100,000 in special funding. The catch-22 is that the local council must meet that funding dollar for dollar. The Government gives with one hand and takes with the other. We will keep working on that issue because the BEC in Cooma does a fantastic job and deserves to keep operating.

Funding for the Port Macquarie electorate is interesting. The budget allocates a lot of money for work on the Pacific Highway. Works on that highway—which are funded jointly by the State and Federal governments—are moving north from outer Sydney areas to Myall Lakes and Port Macquarie. The Nationals clearly provide better representation for their constituents. The honourable member for Myall Lakes, John Turner, has received \$150.8 million in capital works this year but the honourable member for Port Macquarie, Robert Oakeshott, has received only \$96.185 million. John Turner is clearly doing a better job. The budget allocates \$3.5 million for the stage 1 upgrade of Bulahdelah Central School. The honourable member for Myall Lakes has worked hard on that project: He has written hundreds of letters and represented his community absolutely brilliantly.

I was disappointed that we were not able to meet today with the Minister for Education and Training, Andrew Refshauge, to discuss the proposed Lake Cathie school. We were supposed to meet Andrew Refshauge at 11.30 this morning—I thank him for that opportunity—but the local member of Parliament could not attend so the meeting has been rescheduled for next week. I plead with Andrew Refshauge to put Lake Cathie school at the top of the forward-planning priorities in next year's budget. The school is much needed by the fast-growing community in that area. My comments on the subject are well documented. According to my calculations from the budget papers, three National party electorates received the most funding over the six years from 1998 to 2004, with an average spend of \$130 million in that period. The Independents received only \$80 million on average during that period. So any claims that the Independents are representing their areas better are clearly untrue. We will continue our work. [*Time expired.*]

The Hon. AMANDA FAZIO [5.21 p.m.]: I am pleased to speak in the debate on the budget estimates and related papers. But before I turn to the details of my speech I must respond to several points made by the Hon. Melinda Pavey, particularly her rather spurious analysis and comparison of funding for roads in the electorates of Myall Lakes and Port Macquarie. The Hon. Melinda Pavey compared the road funding allocations for those electorates and claimed that they showed a far superior level of representation on the part of—

The Hon. Melinda Pavey: No, it was school funding.

The Hon. AMANDA FAZIO: No, you compared roads funding.

The Hon. Melinda Pavey: I was referring to school funding when I made the comparison.

The Hon. AMANDA FAZIO: In any case, when roads and schools were developed on the mid-North Coast of New South Wales members of The Nationals represented most electorates in that area. If the Hon. Melinda Pavey insists on comparing current funding levels in those two electorates, I must remind her that the Carr Government funds rural electorates honestly. We provide funding on the basis of need. If the electorate of Myall Lakes has been poorly represented over the years by Coalition members, we will naturally give it more funding to help it catch up with the level of service provision in Port Macquarie. This Government does not allocate funding in order to buy political favours from anyone. It allocates funding on the basis of need.

While I am on the subject, I shall refute a few other assertions. We all know that about 26 per cent of the State's population lives outside the sprawling metropolises—which have almost joined—of Sydney, Newcastle and Wollongong. Under the Carr Labor Government's current budget that 26 per cent of the population will receive 36 per cent of the \$8.6 billion capital works and road maintenance budget. We are happy to do that. Labor does not hold most rural seats but they are areas of need and we like to fund areas of need. This budget increases health funding for people who live in regional and rural New South Wales to more than double its level when Labor came to office. Almost \$2.8 billion of this year's record health budget is allocated to rural and regional New South Wales.

I can give a few more examples of the Government's funding for rural and regional New South Wales. This year the State has been put on bushfire alert months earlier than usual. In this budget the Rural Fire Service will receive a 16 per cent boost in funding to \$150 million, and that will allow the service to buy more than 200 new and high-quality reconditioned tankers. That is most important. We believe in supporting volunteers in the Rural Fire Service by ensuring that they are resourced properly to assist their local communities.

I turn to my duty electorates. They are all held by members of The Nationals but that has not affected the Government's funding of them. This year's budget has delivered a record \$7,463 million to the Ballina electorate, which will be spent on new roads, schools, hospitals, public housing and power and water networks. I shall list some of the projects and plans for Ballina. Expenditure on the Ballina electorate this financial year totals \$48,450,600. That is being spent on projects such as the Lake Ainsworth Sport and Recreation Centre at Lennox Head, which will receive \$500,000 to continue works on an indoor recreation hall and sea wall. The Waterways Authority will receive \$100,000 to investigate the development of Ballina harbour. As for the Pacific Highway, \$34 million will be spent this year on the Brunswick Heads to Yelgun dual carriageways, \$2.8 million will be spent on the North Coast Noise Abatement Program and \$1 million will be used to plan the Ballina bypass. The shoulder on the Pacific Highway will be widened from Wardell to the Bruxner Highway, and \$9.5 million will be spend on the Alstonville bypass on the Bruxner Highway.

In Ballina the intersection of Kerr and Bentwick streets will be improved, and \$55,000 will be spent to continue the cycleway from the East Ballina overpass to Flat Rock. Ballina council will receive \$35,000 for planning pedestrian access and mobility programs. It will also be given provision to employ a road safety officer. The Bruxner Highway at Alstonville will have a protected right-turn bay at Green Street, and a protected right-turn bay will also be installed at the intersection of Coolamon Scenic Drive and Myocum Road in Mullumbimby. Ballina and Brunswick Heads fire stations will each receive new \$320,000 fire engines. Byron Bay State Emergency Service will receive a \$3,500 subsidy to help it purchase an emergency response vehicle. The Mullumbimby High School upgrade will be completed this year, with \$560,000 in funding for new classrooms, toilets, a canteen, dark room and science laboratories. There is record health funding for the region. The budget includes a \$4.5-million increase in recurrent funding to address waiting lists for surgery and \$900,000 to enhance the emergency department at Lismore hospital. That funding is provided on the basis of need not on the basis of who represents the electorate.

This year expenditure on the electorate of Burrinjuck will total \$97.3 million. An amount of \$1 million will be spent on Gocup Road widening and rehabilitation, and \$5 million will be spent on the Hume Highway at the West Street interchange. Work on cycleways will continue, with funding of \$40,000 for Boorowa Council, \$30,000 for Yass council and \$25,000 for Gundagai council. The Island Picnic Ground at Blowering Dam boat ramp will have \$13,678 spent on improvements. A total of \$2,282,015 will be spent on rail in Burrinjuck: on track reconstruction, re-railing, underbridge renewal, rail grinding, ballast cleaning, tamping and signal and electrical renewal.

Business and information technology, general education, arts and media studies programs at Goulburn TAFE will receive funding of \$500,000. The Department of Environment and Conservation will receive \$850,000 for the local sewerage upgrade program. An amount of \$2 million will be spent to upgrade educational facilities for local police, and \$965,000 will be spent to replace fire pumper appliances for the local fire brigades. A total of \$10,330,000 will be allocated for new works on State forests in Tumut and Batlow. State Water will receive \$2,960,000 for the Blowering Dam structural upgrade, and Goulburn Correctional Centre will receive \$684,000 to continue its improvement program.

In the Upper Hunter—for which I was responsible at the time of the budget but which is now the responsibility of the Hon. Eric Roozendaal—the total expenditure is \$117.8 million, which includes \$5 million for the realignment of the New England Highway at Halcombe Hill, \$10 million for the Newell Highway at Wallumburrawang, \$22,717,848 for the electorate-wide maintenance of roads, \$1,200,00 for new works to the

Dunedoo Health Service, and \$5.8 million to continue works in progress at the Muswellbrook police station. RailCorp will receive \$552,531 towards track reconstruction, rerailing, underbridge renewal, rail grinding, ballast cleaning, tamping, and signal and electrical renewal; and \$726,000 for routine maintenance.

Upper Hunter Community Transport will receive \$100,651 to provide transport for frail older people, and younger people with disabilities and their carers, and Upper Hunter Community Transport will receive \$211,232 to provide transport for people disadvantaged by physical, social or geographical factors. Mudgee TAFE will receive \$1.98 million for new multipurpose workshops and student amenities. An amount of \$50,000 has been allocated to miscellaneous works in State forests and \$315,000 will be used to replace fire pumper appliances for the local fire brigades.

The Hon. Melinda Pavey referred to spending in the Arts portfolio. She has raised this issue previously in the House and during the estimates committee examination of the Arts portfolio expenditure. I have no problem at all with the Arts portfolio expenditure having increased by 300 per cent since this Government came to office. One has only to look at what this Government has done in regard to regional arts strategies, supporting programs to assist with the cultural and artistic development of people outside of the metropolitan area to know it has been very significant.

Even in Coffs Harbour, the home town of the Hon. Melinda Pavey, a considerable amount of money has been spent on an extension to the local art gallery, which has made it a focal point for the Coffs Harbour local arts community. Not only has this Government provided money for the expansion of the Regional Galleries Program but it has also provided funding for the employment of regional arts co-ordinators who network across areas to co-ordinate local artists and community organisations that provide people in country areas with access to artistic pursuits and the opportunity to develop their talents. In the past, people had to come to the Art Gallery of New South Wales to look at artworks. There was no provision for the arts in Western Sydney and regional art galleries.

This Government is proud of its commitment to provide funding for programs such as the Travelling Opera Program, which visits primary schools. The program is conducted through Opera Australia, and travels widely throughout metropolitan and country areas in New South Wales to provide young children with access to cultural activities that they would not otherwise be able to access. For the past two years I have had the privilege of launching that program. Often there is not a large enough paying audience to warrant larger organisations touring small country towns. These programs are provided free for primary school children, so there is not a problem with parents not being able to afford to pay for their children to access them.

The Government has also provided additional funding for regional conservatoriums. These programs provide cultural enrichment and opportunities for arts practitioners and for people living in non-metropolitan areas. I am at a loss to understand why people who purport to represent the interests of people living in regional and rural New South Wales are opposed to them because they provide people in those areas with vastly improved accessibility to the arts. If there are regional conservatoriums, regional arts co-ordinators or local regional art galleries in my duty electorates I visit them and tell them that if they need assistance they can see me. I try to take an active interest in those organisations because I know the vital role they play.

One has only to look at the way regional arts programs have been funded, developed and supported over the years to see that if local governments took a broader view instead of just looking at roads, potholes and footpaths, they would realise that often the infrastructure is there, having been fostered by the local council. The catch-up funding that this Government is providing ensures that that level of access is equitable across New South Wales.

It is important to focus on some of the more concrete provisions in the budget, such as the \$173 million to rebuild rural and regional hospitals and to buy health care equipment, more than \$74 million set aside for specific rural and regional programs including distance education centre support for 2,800 students, living away from home allowances for nearly 750 students and isolated school grants to more than 16,000 students in 185 schools. It is also important to ensure that funding is provided for people in country areas in budgets handed down year after year by the Carr Government. It is also important for people living in regional areas to have access to other things to help enrich their lives, expand their horizons and develop their talents so that they can stay and work in their local communities. They should have the opportunity to indulge in their artistic pursuits, musical pursuits, local drama, local theatre and a whole range of things that help make life a lot more entertaining and enriching for people in regional New South Wales. I commend the budget to the House.

The Hon. JOHN RYAN [5.37 p.m.]: In the little time remaining in this debate this afternoon I will refer to a couple of matters in the Community Services portfolio which should concern not only members of the Opposition but also members of the Government. Taking pride of place in my concerns is the Government's changes to the Adult Training, Learning and Support [ATLAS] Program. Reading the budget papers one gets the impression that the Government is actually providing an additional \$54 million for that program. In fact, the money that previously came from Treasury to top up the Department of Ageing, Disability and Home Care budget has simply been added to forward estimates. No additional money has been added to this program. In fact, the program is now expected to cope with additional clients with exactly the same budget it has always had.

There will be some marginal increases during the next few years but the obvious conclusion is that the actual funding for these vital training programs for young people with disabilities after they leave school will be massively and cruelly cut. If honourable members had any doubts about the impact of the cuts to ATLAS and the Post Schools Option Programs on people with disabilities, their families and their carers, they should have witnessed the demonstration outside Parliament House a few weeks ago which was attended by almost 10 per cent of people who receive funding under those programs. I have always said, and passionately believe, that the first dollar any government, regardless of its colour, spends in funding should be to provide for people with disabilities. They are utterly vulnerable. They are usually beset by conditions over which they have absolutely no control. They should be among the first people for whom we set up a government, for whom we have compassion, and whose rights we defend.

The ATLAS and Post School Options Program was a fabulous opportunity for these people to receive individualised training that would allow them to start to enjoy the rights that we legislated for in the 1993 Disability Services Act. The most important thing about the program was that funding was attached to individual clients who, with their families, were able to make direct decisions about which service provider they used and how they would move from one service provider to another.

Sadly, notwithstanding any compromise about the level of funding to these clients, that specific feature of the program will be discontinued. Anyone who wishes to enter or move service providers in the ATLAS and Post School Options Program will be reallocated from one service provider to another through a vacancy management system. I find it difficult to comprehend that disability services are allocated to people who have a need only after they have been assessed extensively by a bureaucrat. They are then told by some government official, or sometimes someone from a non-government agency, what service they can have, when they can access it and so on.

One of the magnificent features of the ATLAS and Post School Options Program was that for once they had a service to which they were absolutely entitled and they were able to move that service from one service provider to another of their choice. I would like to see more, rather than fewer, services in this form provided to people with disabilities. I note that the Minister has built for herself what I might refer to as an escape hatch. She has said that if, after further consultation, it is demonstrated that the Community Participation Program cannot be provided with the level of funding currently offered, then the Government is prepared, to quote her, to "look again".

It will become apparent that the same service cannot be provided to a greater number of people with less money. The very same Community Participation Program offered by the Government was offered by the former Coalition Government under what is now known as the Post School Options Program, but the level of funding has grown to \$20,000. Somehow the Carr Government believes that 10 years later it can provide the same level of service with funding levels of \$9,000 and \$13,500, which, in actual dollar terms, is less than the funding provided by the former Coalition Government for exactly the same program.

If members opposite believe, as I think they do, that they stand up for those who are disadvantaged and needy, I would have thought this would be something they would take up with great passion and concern in their party room. I applaud the Government for making the Post School Options Program a right for people with disabilities. It is a distinct improvement on the previous position. Nevertheless, for eight years the program has been funded consistently by increases to the budget. I sincerely hope that when the dust settles the Government can find a way to be more compassionate towards people with disabilities. I am also concerned about the consistent finding brought to my attention by people who receive services from the disability portfolio that there is a hopeless lack of capacity to meet growing needs, let alone existing needs. Only last week the Parliament received a report from the Auditor-General, which indicated that one year ago one out of every two applicants for the Home Care Service was refused a service even after they qualified. Last year the number refused a service grew from one out of two to three out of four.

Obviously, in our community large numbers of people with disabilities and the frail aged who legitimately seek home care services do not get them. It is the biggest issue in the Auditor-General's report that the Government must deal with. It simply will not work by setting up a greater level of consultation through a committee to supervise the Home Care Service, reorganising the lines of communication within the department and so on, as the Government has proposed. The Home Care Service definitely needs the capacity to expand the number of services it provides. I will responsibly assist the Government as it reviews the fees policy. If the Government is able to demonstrate that there might be a reason to increase fees for the Home Care Service then I am prepared to stand up and be—

Pursuant to sessional orders debate interrupted.

THREATENED SPECIES LEGISLATION AMENDMENT BILL

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

Motion by the Hon. John Hatzistergos 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.

SPECIAL COMMISSION OF INQUIRY (JAMES HARDIE RECORDS) BILL

Second Reading

Debate resumed from an earlier hour.

Ms SYLVIA HALE [5.47 p.m.]: As I said earlier, I congratulate Ashfield Municipal Council on its initiative to develop a policy that will require the submission of an asbestos clearance certificate. The current preoccupation with renovating and extending houses leaves many residents exposed to the dangers of asbestos. Fortunately, many more people are aware today of the hazards of handling asbestos, but large numbers still do not equate fibro sheeting with asbestos, and they are either oblivious to or ignorant of safe procedures for handling or removing it. Particularly vulnerable are builders labourers and other unskilled workers whose knowledge of English is poor, many of whom will be employed on building sites as handymen or casual labourers. They are especially likely not to know the dangers posed by asbestos or the measures to take to protect themselves.

Equally at risk are home renovators, do-it-yourself homeowners who may not recognise asbestos when they encounter it or who, because of an insufficient appreciation of the risks, believe they can interfere with or dispose of the material in ways that will damage them or their families. Therefore, the move by Ashfield Municipal Council is all the more welcome. Ashfield has taken the lead in this State in adopting a policy that will require submission of an asbestos clearance certificate as a condition for approval of alterations to an existing building. Although I have some reservations as to whether the policy goes far enough, the motion instituting the policy is sufficiently important for it to be outlined in detail. The motion reads:

1. That Council institute a policy that a condition of consent of any development application for alterations to an existing building will be that the applicant submit to the certifying authority an Asbestos Clearance Certification ("ACC").
2. An ACC is defined as a certificate provided by an accredited specialist in the field of asbestos identification and removal and shall take one of three forms: It shall state that:
 - (a) the property in question has no asbestos that is discoverable by thorough visual inspections;
 - (b) that there is asbestos capable of identification by thorough visual inspection but that the asbestos is not in a form which is currently dangerous. In the event that such a certificate is issued, the certificate shall include a diagram indicating where the asbestos is and give some opinion as to the circumstances or the time period over which asbestos may cease to be safe;
 - (c) that the asbestos located in the property is presently dangerous and is in need of immediate removal.
3. That Council establish a publicly accessible register of all properties within the area by reference to ACCs which have been submitted to the Council pursuant to the above policy. That access to the register be given to members of the public on the basis of a fee to be decided by the General Manager;

4. Ashfield Municipal Council seeks an urgent meeting with the Special Minister of State to argue for changes to the Local Government Act which would facilitate Councils who wish to deal with the safe removal of asbestos products from properties within their municipalities.
5. That the officers prepare a report to be submitted to the Council with the exact wording of the policy as defined above including information on costing, certification requirements, and any other information which the officers feel is necessary to make the above policy workable.

It is my hope, and that of Greens councillors on the Ashfield council and elsewhere, that other councils will follow Ashfield council's lead and institute similar policies. After all, at least 13 councils throughout the State have already determined that they will not use James Hardie products until adequate compensation is guaranteed to the victims of the company's insupportable, profit-driven activities. As I indicated earlier, I have some misgivings as to whether Ashfield council's policy goes far enough, although I concede that its effectiveness depends upon the specific details that still need to be worked out.

One misgiving is the failure to require an asbestos statement to accompany the lodging of a development application. Such a statement would indicate the presence and condition of asbestos prior to any work being undertaken. It would provide a basis for a subsequent certificate that the asbestos has been dealt with in an appropriate and safe manner and has not simply been disguised or covered over prior to the issuing of the final asbestos clearance certificate. Another measure that should be instituted—one that asbestos victims groups have been lobbying for—is a requirement that sellers of houses or apartments reveal to potential purchasers the presence of asbestos. Such a requirement, while beyond the powers of a council to impose, is not beyond the powers of this Government.

Indeed, in this respect, the Australian Capital Territory has shown the way. By February 2005 homeowners in the Australian Capital Territory will have to inform potential tenants or buyers of the presence of asbestos. By January 2006, anyone seeking to sell, whether they are commercial property developers or homeowners, will have to provide asbestos certificates to prospective purchasers. The current bill is just one part of making sure that victims of James Hardie's unconscionable activities receive appropriate compensation. It may also assist in making those who were responsible for such activities personally accountable. But more needs to be done. Of particular concern is the known presence of asbestos in Department of Housing properties.

During budget estimates committee hearings in September I drew the attention of the Minister for Housing to the presence of asbestos in departmental units in south Coogee. I provided him with documents from a tenant who has been battling for more than 12 months to get the department to remove the asbestos. The tenant had graphic photographs showing the dangerous state of her unit and common areas of the building, including electrical power boards. Exposed asbestos fibro boards had no warning labels, even though it is well known that the dust from damaged boards creates a deadly hazard. Asbestos sheets in the building had been drilled by tradespeople to install new wiring, lights, or bathroom fittings, as recently as last August.

Department of Housing building contractors who were working in May, June and July this year to install new wiring and renovate electrical power boards used no protective clothing or procedures, thereby exposing both workers and residents to asbestos dust. The so-called expert who was sent by the Department of Housing on 2 April 2004 to gather asbestos samples from the jagged hole in the bathroom ceiling of the unit hacked at the asbestos sheet with a pair of pliers, without taking any precautions to stop dust spreading around the unit. Discarded asbestos materials were left piled in a heap in the grounds and were exposed to the weather. There was no protection or warning that would have stopped children playing on or around the pile of asbestos. EnergyAustralia contractors have refused to carry out electrical works on the building until the asbestos is removed, yet to date the Department of Housing has refused to do this work. The department has completely disregarded the health of residents.

At the estimates committee hearing on 15 September I was assured by the director-general, Mr Terry Barnes, that the department would give complaints about asbestos an R1 or R2 response rating. An R1 response would, in the director-general's words:

... require a response within four hours if it is disturbed asbestos

He added:

If the asbestos is not disturbed, I think it would fall within a 24hour time period.

I regret to inform the House that since that time there has been absolutely no response. No warning signs have been put in place, and no efforts have been made to remove the asbestos, or to render the unit or the building safe. The department has simply turned its back and hoped the matter would go away. The south Coogee building was erected in the 1960s. It is inconceivable that it is the only Department of Housing building in which asbestos is present. It is also inconceivable that asbestos is not in an equally bad state elsewhere in public housing.

For the department to ignore the situation, to ignore its responsibility to public housing residents and to the community is, in effect, to do what James Hardie attempted to do—shirk its obligations, disregard the law, and hope that it will never be brought to book. It is tragic that so many people have had to give their lives before James Hardie was called to account. It is commendable that, in introducing this bill, the Government is attempting to ensure that James Hardie will not be allowed to escape its liabilities. However, it is essential for the Government now to recognise and act to prevent the asbestos calamity from engulfing the community in general. To do this, the Government must make the provision of asbestos clearance certificates mandatory when properties are sold, let or altered. It must undertake an immediate survey of the presence of asbestos in public housing and institute rectification measures where required. To do any less will be to betray all those who have suffered and died, or will do so, as a result of contact with asbestos.

Mr IAN COHEN [5.59 p.m.]: My remarks will be brief, bearing in mind that Ms Lee Rhiannon and Ms Sylvia Hale have dealt with the issues in detail, but I note at the outset that this legislation deals with an important issue of human rights in the Australian environment. The issues affect many people in the community. I was certainly moved by visits to the Parliament by various asbestosis sufferers, most notably Mr Bernie Banton, who is the acting president of the Asbestos Diseases Foundation of Australia. I saw him as recently as last night and noticed that he has to take breathing apparatus with him and that he was walking around in a fairly disabled condition. He has undertaken a really brave fight on behalf of all asbestosis sufferers in the community. The issues run broadly and deeply throughout the community in terms of the number of people who are potentially affected because they live in fibro houses or for other reasons.

There have been glaring deficiencies in reaction to the problems on the part of Meredith Hellicar, the chairman of the James Hardie board, and senior officials in the James Hardie group of companies. The attempt by James Hardie to avoid corporate responsibility by moving assets offshore is deserving of adverse comment by members of this House and represents one of Australia's worst corporate scandals. While I concede that the amount involved is perhaps less than some of the high-profile corporate collapses that have occurred in recent years, the cynicism with which James Hardie's management evidently manoeuvred to limit the company's liability for compensation of victims of its deadly asbestos products is breathtaking—although not surprising for a corporation that has often put its drive for profits ahead of the lives of its employees.

Recently the *7.30 Report* on ABC television discussed James Hardie's executives and their knowledge of long-term discussions with their employees about asbestosis. On 13 August the special inquiry set up by the New South Wales Government to investigate the Medical Research and Compensation Foundation [MRCF], created by James Hardie to meet the corporation's compensation liabilities for its victims, held its final day of hearings. The inquiry's head, David Jackson, QC, issued his report on 21 September. The inquiry was established after it was revealed that the MRCF did not have sufficient assets to meet projected compensation claims. On 11 August the *Sydney Morning Herald* reported that the shortfall was expected to exceed \$1.5 billion.

The MRCF was established in 2001 and on 16 February that year James Hardie announced that it had resolved its future asbestos liability for the mutual benefit of claimants and shareholders. The MRCF was supposed to fund all future compensation claims and support medical research through \$293 million worth of assets transferred to it by James Hardie. A press release in 2001 stated:

... the consolidated profit and loss statement of the James Hardie group will not include costs associated with asbestos. From today, these costs will be borne by the new foundation.

In September 2001 James Hardie announced that 98 per cent of shareholders had voted to support a proposed corporate restructure, which transformed James Hardie Industries Ltd into James Hardie Industries NV, with its headquarters in the Netherlands. That step was evidently an attempt to remove the corporation's assets from Australia to eliminate the risk of its victims taking legal action to obtain compensation and because of the huge gap between the assets of the MRCF and likely future compensation claims. No treaty exists between Australia and the Netherlands that would allow the corporation's Australian victims to sue for compensation in Dutch courts. After the projected MRCF shortfall was revealed, James Hardie initially tried to deny responsibility for

the foundation's crisis and played down its role in Australia's deadly asbestos industry. Perhaps the most hypocritical statement since the scandal broke has been the comment by chief executive officer Peter McDonald in a 30 June report on ABC Radio National's *PM* program. He said:

I'm not happy with the allegations that have been made against the company, and they certainly impact the company's corporate reputation. And I'm not happy with that either.

In an effort to limit the damage to its reputation, James Hardie circulated a misleading letter to its customers that downplayed its role in the manufacture of asbestos-based products. The letter stated:

Former James Hardie group subsidiaries, Amaba and Amaca, are two of around 150 defendants who are brought into legal process by claimants. It has been estimated that they will be liable for around 15% of future claims in the Australian environment.

It is quite clear that an obvious knowledge of the history of asbestos by James Hardie has been covered up. By 1930 it was known that asbestosis resulted from exposure to asbestos. In 1935, according to briefing material produced by Worksafe Western Australia's SafetyLine Institute, a Western Australia factory inspector reported on the effect that asbestos dust had on workers' lungs at a factory in Perth—the James Hardie factory.

In the face of a mounting public campaign, including union-sponsored protests and bans on the use of building materials manufactured by James Hardie, the corporation has ostensibly backed down and agreed to take responsibility for ensuring its victims are compensated. James Hardie's announcement, on the last day of the New South Wales inquiry, was greeted with scepticism by those campaigning against the corporate giant. Bernie Banton, Acting President of the Asbestos Diseases Foundation of Australia, commented:

I was so overjoyed at first that I nearly swallowed my oxygen hose. But I'm all too aware the real definition is in the fine print.

On 14 August Australian Associated Press reported Banton, referring to James Hardie, as stating:

... to have argued for 53 of the 54 days of a government inquiry that they had no liability to victims, and then to come up in the last five minutes of the inquiry with a turn-around decision, was a mind-blowing change in position.

On the ABC Radio National program *PM* on 30 July, David Hardaker reported that Hawker Britton, a public relations firm linked to the Australian Labor Party, was retained by James Hardie to:

... sell the concept it called "separation from legacy"—in other words, cutting financial ties with asbestos compensation claims still in the pipeline.

Hawker Britton lobbied the Carr Government to allow the relocation of James Hardie to the Netherlands and set up the MRCF to cover future compensation payouts. The statutory scheme proposed by James Hardie has already been rejected by the Labor Governments in Victoria, Queensland and Tasmania. It is quite clear that we have seen an industrial cover-up of the highest order. I commend the Government for moving at this late stage to resolve the issues that affect so many workers in this industry and their families. It is something that one would hope is resolved in the long term. When the fanfare dies down and the media ceases paying attention to this matter, I hope that victims of James Hardie's asbestos legacy receive adequate and just compensation. I hope the Government stays on track with this. I acknowledge that the material I have used is from a publication entitled "Green Left Weekly" that was written by Rohan Pearce.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [6.06 p.m.], in reply: The Special Commission of Inquiry (James Hardie Records) Bill was introduced because the Australian Securities and Investments Commission [ASIC] is waiting to receive the records of the Special Commission of Inquiry. Part 2 of the bill will allow the Government to give those records to ASIC. The sooner the bill becomes law and the sooner we can give the records to ASIC, the sooner ASIC can pursue James Hardie and its senior executives. ASIC, as the corporate regulator, has the power to investigate and prosecute James Hardie for offences under the Corporations Act. By passing the bill as a matter of urgency we will assist ASIC to do that. The Special Commission of Inquiry has revealed the extent and depth of James Hardie's manoeuvrings to escape its obligations to victims.

We cannot afford to wait until the money for victims in the Medical Research and Compensation Foundation runs out. That will only give James Hardie more time to hide its assets even further away from its victims. The New South Wales Government faces asbestos liabilities of its own, particularly through exposure of workers in power stations and on the railways. The Government does not seek to hide from those liabilities. Whatever they are, the Government is meeting those liabilities now and will continue to do so in the future.

There is no comparison between the conduct of James Hardie and the conduct of other asbestos defendants, including the New South Wales Government and other governments. Only James Hardie has fled the jurisdiction; only James Hardie has sought to hide its assets from the claims of victims through a series of restructures.

Only James Hardie has misled the market, unions, victims and governments over the gross inadequacies of its provisions for its victims. The New South Wales Government will meet all of its asbestos liabilities. If only James Hardie would do the same, this bill would not be needed. This morning Ms Lee Rhiannon raised the issue of a boycott on the use of all James Hardie products until James Hardie meets all of its current and future asbestos liabilities. The Government's focus is on ensuring that asbestos victims receive fair and timely compensation. The Government has consistently said that if a boycott by it were necessary to bring James Hardie to the negotiating table, it would consider that measure.

Obviously the Government wants to ensure that present and future asbestos victims receive compensation. Therefore, the Government will not undertake a boycott, which may jeopardise the ability of James Hardie to provide further funding to the foundation, without careful consideration. The Government will continue to monitor the progress of negotiations with the Australian Council of Trade Unions and victims groups, and will consider further action if necessary. The issue of home renovations has been raised by Ms Sylvia Hale. I recognise that many councils have sought to impose new requirements on development applications. I advise the House that the Government has recently updated information on dealing with asbestos in the home. That information is available on the Government web site *www.nsw.gov.au*. Consideration is also being given to other public education initiatives which might be appropriate to ensure home renovators know how to identify and deal with asbestos when renovating. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

ADJOURNMENT

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [6.12 p.m.]: I move:

That this House do now adjourn.

BRIGALOW BELT SOUTH BIOREGION

The Hon. RICK COLLESS [6.12 p.m.]: This evening I once again air the issue of the Brigalow belt south bioregion and the Carr Government's refusal to lift the moratorium it placed on logging in 500 important forest compartments of the bioregion as well as its failure to address the final outcomes of the assessment of that Brigalow belt south bioregion. The Pilliga Forest, the major forested area within the Brigalow belt south bioregion, is a vast woodland area and contains the largest cypress pine forest in the Southern Hemisphere. It is not a naturally occurring forest, but developed into a forest from open grassy woodland at the time of European settlement as a result of the cessation of Aboriginal burning in the late nineteenth century. This development gave birth to an active timber industry based on the white cypress pine and narrow leafed ironbark species.

White cypress pine is an extremely durable white ant resistant softwood timber ideally suited to timber house framing and any other use where the timber is not exposed to the elements. If it is exposed to the elements it needs regular painting and maintenance to protect it. Honourable members who attended the funeral of the Hon. Doug Moppett, MLC, in Coonamble would recall the character of St Steven's Church in Coonamble, constructed entirely of white cypress pine from the local region. Narrow leafed ironbark is also extremely durable and white ant resistant but is a hardwood timber ideally suited to exposed uses such as fencing timber, shed construction, stockyard posts and rails, electric fencing posts and battens and any use where external durability and strength is required.

My Nationals colleagues and I have made many trips up to the area and have spoken on several occasions to two of the sawmillers in the region, Tom Underwood of Gwabegar Sawmills and Roy Matthews of Gallagher Insultimber. Tom Underwood's mill processes only white cypress pine for the housing industry, making framing timber and flooring as their major industry. This slab of flooring timber came from Tom

Underwood's mill. Roy Matthews mills only narrow leafed ironbark for the electric fencing industry and supplies posts and battens marketed as Gallagher Insultimber. This timber is so dense and heavy that it will not conduct electricity, making it ideally suited for use as electric fencing posts as it can be used without using plastic or ceramic insulators.

The town of Gwabegar, which is located between Baradine and Pilliga in the heart of the Pilliga Forest, has both the lowest per capita household income and the highest unemployment rate in New South Wales. Tom Underwood's cypress mill in Gwabegar is the major employer for the village and is currently employing 20 people, with all the other businesses in the town reliant on the timber industry. This employment provides the lifeblood of the village. Tom says that due to the moratorium there is a decline in the size of the cypress stems he is able to access from forestry and he is having to source supplies from private property. Smaller stems place greater pressure on the remaining forest resources while the moratorium the Greens have placed on the 500 compartments is causing environmental damage and the loss of biodiversity.

Unbelievably, although the demand is there, the Gwabegar mill is unable to undertake the investment needed to expand employment opportunities any further as there is no certainty of continued supply if the proposed national park option for the Pilliga goes ahead. Gallagher Insultimber, which operates the Baradine ironbark sawmill, has been unable to work in the public forests of the Pilliga for more than 20 months and Roy Matthews has been forced to source logs on private properties at a distance of up to 130 kilometres from the sawmill. The additional harvesting and haulage costs are making Insultimber, a highly respected local and export business, less viable than it has been for many years. The mill has had to retrench staff and go to a nine-day fortnight despite the Carr Government's promise that there would be no job losses during the community consultations, the assessment and the decision-making process within the Brigalow belt south bioregion.

For nearly three years now the Carr Government has refused to announce its plans for the forests in this bioregion. All the necessary reports were completed in 2002. Because of the moratorium, loggers are revisiting compartments sooner than normal. They are sourcing smaller scattered logs, which is harming the environment, and the Pilliga is being logged at unsustainable levels. If the moratorium is not lifted and a favourable decision made, as determined by the Brigalow Region United Stakeholders group, these two mills will probably close by Christmas. The Ministers involved, the Premier and the Government stand condemned for their inaction on something so vital for the prosperity and wellbeing of our rural areas and the small communities involved.

INSTITUTIONAL CARE ABUSE ALLEGATIONS

The Hon. Dr PETER WONG [6.16 p.m.]: I wish to speak today of a most alarming concern. As reported in *The Australian* on 14 October, children as young as 12 are introduced to sex work while under State care and are increasingly turning to prostitution. Shocking as it may appear, we were alerted to this problem long ago but are yet to deal with it in a way that will break this never ending cycle of child prostitution. In fact, the Rogan inquiry in 1986 found that "a high proportion of young recruits to prostitution in the inner-city appear to be ex- or absconding State wards and many of these are graduates from institutional care". The report noted that institutional care has been a crucial staging post on the road to recruitment.

Like the Rogan inquiry, the Wood royal commission made a finding of a similar nature in 1996. Institutional abuse has been widespread yet the abusing institutions have an incredible power in society to conceal their role, and further profit through that deceit by providing moral leadership and increased services to those they created in the first place. Today it would be difficult to find a more dispossessed, disadvantaged and unloved group of people than those who as children were brought up as State wards or in institutional care. The unbroken cycle of child abuse and neglect in State care will continue because we, as a society, are yet to accept the true extent of institutional abuse.

I am surprised that we are prepared to investigate and prosecute hundreds of people involved in looking at images of child pornography on the Internet, but are not prepared to investigate or launch an inquiry into the horrible abuse of children in the care of the State. The system that turned a blind eye and abandoned them long ago continues to abandon them today and will do so as long as we deprive them of the support we should give. Welfare agencies and other State institutions have repeatedly shown themselves to be ill-prepared, vague and unsure of how to assist young people who have been repeatedly abused, are emotionally damaged and have a lot of baggage to carry.

State wards and other children in institutional care experience the most extreme physical and sexual violence and degradation that occur to children in this State. While the emotional and psychological

ramifications of this abuse are evident, the Department of Community Services is obviously unwilling to meet its responsibilities.

Given the perpetual state of chaos in child protection in this State and in other States, I believe that the people of New South Wales would be better served if the Government relinquished its child welfare power and responsibility to the Federal Government, as it is seeking to do with the obviously chaotic and dysfunctional health services in New South Wales.

TRIBUTE TO MR KEVIN O'GORMAN

The Hon. ERIC ROOZENDAAL [6.19 p.m.]: In my first visit to Coffs Harbour as the duty member of the Legislative Council for the area, I met a longstanding member of the Australian Labor Party [ALP], Kevin O'Gorman. Kevin had been suffering from skin cancer since April 2002 and he had recently decided to end his chemotherapy. He wanted to enjoy what little time he had left. Kevin O'Gorman passed away on 18 September this year. He was 44 years old. Kevin died with great dignity. He was defiant to the very end, a proud man with a strong sense of humour. This sense of humour was evident in his decision to hold a farewell for himself two months before his death. Kevin could not bear the idea of missing out on his own wake.

Such was the respect for Kevin by the local community that over 300 people attended, some having travelled a great distance to be present. Over \$12,000 was raised at the farewell and other fundraisers, and was donated to the radiotherapy patient and carers lodge at the Coffs Harbour health campus for the purpose of aiding others in their struggle with cancer. When speaking at his fundraising events and to the local media Kevin used his illness to draw attention to the high risk of melanoma in Australia and the devastating consequences of the illness for sufferers. Most importantly, Kevin wanted to educate people about the fact that skin cancer is a largely preventable illness.

It is a tribute to Kevin that when facing his own death he thought only of others, yet that came as no surprise to those who knew him best. Kevin's compassion made him many friends throughout his life. In a local newspaper the manager of the Coffs Harbour Centrelink call centre described the effect of Kevin's honesty and inspirational attitude on his 150 call centre colleagues as profound. Kevin will also be missed by those he knew from his years of employment in the banking industry and his friends in the St Augustine's parish community.

But for many in Coffs Harbour their enduring memories of Kevin will be his passion for, and many years of commitment to, the Australian Labor Party. Kevin served as president of the Coffs Harbour branch and also as its treasurer. He was a delegate to State and Federal election councils and the treasurer of the Coffs Harbour State election council. He attended numerous New South Wales and Country Labor conferences. At every election Kevin could be seen handing out how-to-vote cards at the St Augustine's polling booth. He would regularly get there before 6.00 a.m. to beat The Nationals. Kevin disliked the Nats with a passion. His catchcry—a very good catchcry—was always to "Put the Nats last." I imagine that Kevin would have been proud of Justine Elliot's magnificent victory for Labor in Richmond this week.

Kevin put in years of work for the ALP on the North Coast and he would have been delighted to witness the beginning of the end of The Nationals in the region. What a triumph for Country Labor! Kevin O'Gorman was a true Labor believer throughout his entire life. Nothing ever managed to affect his faith in the party. There were times when the party disappointed him but his rock-solid belief in the ALP cause was never shaken. In his eulogy his brother Jim O'Gorman described him as a straight speaker who could not bear injustice. He never left anyone in doubt as to his political affiliation. Jim spoke of Kevin's bravery and lack of self-pity and his stubborn determination to enjoy the little time that he had left.

Kevin is survived by his wife, Lyndal, whom he met in 1998 and married in Dubbo only last year. He is also survived by his parents, Des and Gwen O'Gorman. Kevin's mother said to him one day that she had been there when he was born and that she would be there when he died. His response was: "Yes, hatched and dispatched." I am deeply grateful to have met Kevin O'Gorman and I thank him for his efforts for the Labor Party and for the people of Coffs Harbour over many years. The Labor Party has many stalwarts and true believers. Kevin was certainly a true believer for the Australian Labor Party.

CHILD PROTECTION

The Hon. JOHN RYAN [6.23 p.m.]: Notwithstanding the Carr Government's boast that it has improved Department of Community Services frontline services, I remain concerned about some of the serious

child protection matters that are brought to my notice but do not appear to be receiving proper attention. In question time today I expressed concern about a particularly tragic matter that occurred on the South Coast this week. Tonight I raise concern about the fate of a three-week-old baby currently living in Sydney's outer western suburbs, which has already been the subject of a number of notifications to the Department of Community Services helpline.

Those notifications have come from two members of the public, including a member of the baby's extended family, the St Vincent de Paul Society and probably also NSW Police. The baby's mother, a drug addict, is living in a home with three other young adults who also have drug and alcohol addictions. The Department of Community Services has been told that the baby is living in a household in which all its members are regularly affected by illegal drugs. The home is grossly unsanitary and has no proper bedding, and except for the intervention of a local neighbour who supplied formula and nappies the baby would not have proper food or clothing.

My constituent told me that she is particularly concerned that the baby has a significant eye infection for which the mother has not yet sought proper treatment. The mother has another natural child who is about two years old and has been previously removed from her custody. The Department of Community Services has only allowed her supervised access. I have also been told that the mother has frequently left that child unattended in the household. My constituent told me that she has brought this matter to the attention of the Department of Community Services, through its helpline, only to be told that it cannot intervene to help the child unless the mother causes harm to the child.

It is apparently irrelevant that she cannot have access to her older child unless she is supervised by another adult. It is strange, to say the least, that she cannot be trusted to care for an older child, yet she can be left to care alone for this younger and more vulnerable infant. I will write to the Minister with more detailed information about this matter. I hope and trust that it will receive the proper attention it deserves.

CAPE BYRON MARINE PARK

Mr IAN COHEN [6.26 p.m.]: I refer tonight to the Cape Byron marine park that is proposed by this Government. Cape Byron marine park, which is 22,100 hectares in size, encompasses New South Wales marine and estuarine waters to three nautical miles offshore from Lennox Head north to the mouth of Brunswick River, including the marine reaches of the Brunswick River, Belongil Creek and Tallow Creek. It is located inside the Tweed-Morton bioregion, which is about 940,000 hectares. Cape Byron marine park comprises 2.4 per cent of the entire bioregion and less than 1 per cent of that area is considered to be fully protected. A vociferous self-interest campaign by recreational interest groups has muddied the waters in relation to this issue. What has happened has brought environmental issues in this area to crisis point.

When the Government's proposal is carefully considered it is evident that the percentage reserved and proposed for reservation is merely 1.5 per cent of the 20 to 50 per cent target. Clearly, that is neither adequate nor sufficient. I thank Dailan Pugh from the Byron Environment and Conservation Organisation for his valuable assessment of the Government's proposed plan, which has a commercial focus. A major philosophical shift has to occur if the targets are to be met, a philosophical shift that changes the focus from exploitation of resources to the custodians of those resources. The Government must review all its practices from the perspective of the impact that they have already had on the marine environment. Even from a commercial perspective commonsense would inform it that protection is necessary for ongoing commercial exploitation.

It has been proved that where there are no-take zones in overseas marine parks it improves the ability of both recreational and professional fishers to exploit the area. The Greens approach is to look at decisions and ask ourselves, "Will people thank us for this in 100 years time?" At present there is no such relief for the marine environment. The Government's proposal will fail to create a comprehensive, adequate or representative system of marine reserves in the bioregion. Australia is a signatory to various international covenants, which makes it incumbent upon it to take seriously the protection of those ecosystems and habitats. The evidence that is available to us and the conclusions that have been reached by many scientific experts is that a goal of 20 to 50 per cent for each marine bioregion and each of the ecosystems in fully protected reserves is required before we even begin to reasonably sample the range of biodiversity, establish a hedge against species loss and provide a reasonable basis for fisheries management.

The Government's draft zoning plan for the Cape Byron marine park does not present a viable option for this precious bioregion. It is a complex mix of fancy figures and it is unrepresentative of the real picture,

which is that three-quarters of the marine park is to be available for recreational and commercial fishing. It is devious in that it presents the view that much of what is at risk will be protected. Recreational and other fishers are of the view that their areas are being unfairly restricted, which is not the case. Recreational fishers are not aware that if we do not stop fishing now and allow fish stocks to invigorate, those fish stocks will be in trouble. Calling the Byron Bay park a marine park is a complete misnomer; it simply creates the perception of protection. The park is at risk and it is very vulnerable.

The claims made in the media that generations of fisher folk in Byron Bay will no longer be able to cast a line is an emotional one in an environment where a scientific approach must be taken if we are to save our marine environment from overfishing. Having said that, I have suggested that other areas, in addition to those that have been agreed to by the Government, should be reserved for recreational fishers. We are trying to reach a compromise. Claims have been made about jobs being lost due to a drop in tourism as a result of the Government's changes. There is simply an inability to look at the problems in a sustainable framework.

Other arguments are short sighted, individualistic and self serving. In fact, the measures that they consider to be excessive and even unfair are by no means enough to save these species of marine life. For example, the grey nurse shark is still exposed to an unacceptable level of threat through fishing-related mortality and the loss of prey. Yet the recreational fishing lobby is squealing about even the very limited protection offered to the Julian Rocks reefs under the Government's plan. Other threatened species of importance include the black cod and protected species such as Bleekers devilfish, estuary cod and the giant Queensland groper, and subtropical endemic species such as the broad-banded anemone fish and splendid hawk fish. Seven threatened whale and dolphin species are known to use the park and dugongs are also occasional visitors. It is clear from the recent Federal election result in Richmond that those in the region who are interested in conserving the Cape Byron Marine Park are demanding its proper and adequate protection.

GRIFFITH ITALIAN MUSEUM

The Hon. TONY CATANZARITI [6.30 p.m.]: It is my pleasure to speak to the House tonight about the opening of the Italian Museum in Griffith on Sunday 9 October. In a previous address to this Chamber I spoke about the Pioneer Park Museum in Griffith. During that speech I referred to the fact that a group of local residents had formed the Italian Museum Committee, which was dedicated to building a museum to preserve and celebrate the heritage of the many people in Griffith with an Italian background. The Pioneer Park Museum recognised the importance of the committee's work and encouraged it. Land was made available to combine the museum and Pioneer Park, and the museum was built using the money provided almost entirely by the fundraising efforts of the committee.

It was an honour to have the Premier of New South Wales, the Hon. Bob Carr, visit Griffith on Sunday 9 October to speak and officially open this significant site. The community appreciated the effort shown by the Premier, and recognised that he understood the significance of the museum—which represents an important episode in local history—to the people of this area. I extend my thanks and that of the Griffith community to the Premier for taking the time to give a very complimentary speech to us that day. It is easy to see why the Italian Museum is such a big deal in Griffith. Following the Second World War multiculturalism in Griffith flourished. Although people from many different countries came to the area, overwhelmingly the largest group to settle there was the Italian community. It has reached the stage that almost 60 per cent of the population of the City of Griffith is of Italian origin.

From a personal standpoint, my parents migrated to Australia from Italy when I was one year old. We settled there and stayed in the place that I now proudly call home. The Italians brought many things with them. They brought new skills, a new and different culture, hopes and dreams, and enthusiasm for their new lives in their new country. These early pioneers not only settled in Griffith; they showed that they could adapt and influence the places around them with their culture and skills. Now, years later, these early pioneers have a museum to conserve the history and heritage they brought with them. The Griffith Italian Museum is a testament to the people who came here to build a future and to the generations that will follow them as Australians.

The museum is also a testament to the people on the various committees, led by the Italian Museum Committee, that were established to ensure that the museum was completed. They have all worked very hard to ensure that this project succeeded. To these people I offer my sincere congratulations on a job well done, and on behalf of the community of Griffith I thank them for what they have built. In particular, Julian Racchanello, the present chairman of the committee, has worked tirelessly to see this museum completed. I commend Julian and his team for what they have achieved. I also thank them for what I am sure they will continue to achieve in

Griffith, as generations of young people from Griffith and the surrounding areas visit the museum and learn about what happened before their time. This learning experience will be of value to children and adults from all backgrounds in the Griffith community. I invite everyone to visit the Italian Museum in Griffith when next they are in the Riverina area. It will be an informative and rewarding experience.

WILD DOG CONTROL

KOSCIUSZKO NATIONAL PARK LAND MANAGEMENT

The Hon. MELINDA PAVEY [6.35 p.m.]: Land management, or the lack thereof, in Kosciuszko National Park and the wilderness areas of Jindabyne is affecting the area's traditional landowners. I shall start by mentioning two issues that highlight the problems caused when those on the extreme Left drive public policy in New South Wales and Australia as a whole. I am sure that honourable members are aware of the claimed decision by Abercrombie and Fitch to boycott Australian wool. This decision was driven by the People for the Ethical Treatment of Animals organisation, which convinced the retailer to ban the use of Australian wool in its products. There is overwhelming evidence—supported by the Australian Veterinary Association, the National Farmers Federation, WoolProducers, the Sheepmeat Council of Australia and the RSPCA—that the practice of mulesing is a necessary sheep husbandry procedure that prevents flystrike. The practice is humane.

Another group, the Humane Society International, is also considering taking court action to stop the aerial baiting of wild dogs in the Snowy Mountains. That is disgraceful. The society claims that aerial baiting is indiscriminate and also kills tiger quolls and purebred dingoes. Do these people have any idea what wild dogs do to quolls and purebred dingoes? Seventy-kilo wild dogs make mincemeat not only of sheep but also of quolls—they have the latter for entrée and the former as the main course. The idea that aerial baiting is cruel to native animals is ridiculous in the extreme. Wild dogs in the Adaminaby-Yaouk areas are a destructive force and have killed many native wildlife and livestock. After much lobbying by farmers desperate for a solution—I congratulate the many locals who have worked hard to provoke action by the Government, which has agreed to institute aerial baiting—there will be relief not only for sheep but for wallabies, kangaroos, wombats and tiger quolls. Wild dogs will not be able to ravage mobs of wallabies if aerial baiting proceeds in a sensible and productive manner. We hope that that occurs. Aerial baiting is conducted once a year in Armidale and the number of dog attacks has declined by between 50 per cent and 75 per cent as a result.

The Hon. Rick Colless: And the number of quolls has increased.

The Hon. MELINDA PAVEY: Unfortunately, this solution is not permanent as dog numbers return to their original level before 12 months have passed. As the Hon. Rick Colless pointed out, native wildlife numbers increase when the number of wild dogs is reduced through baiting. Humane Society International should keep its nose out of our business. This group supports various causes around the world but it does not understand what is happening in this case.

Restricted access for many bush users in the Snowy Mountains is another example of what happens when people with extreme views drive public policy. Last week the shadow Minister for the Environment in the other place, Michael Richardson, and I had the pleasure and honour of meeting members of the Snowy Mountains Horse Riders Association. We had a most productive discussion with about 20 members and their friends and families who were present. They are being threatened with exclusion from the parts of Kosciuszko National Park that surround their homes. These are not alpine areas. They do not want access to those precious areas; they simply want to traverse nearby bushland rather than have to put their horses in floats and transport them to other areas that are a two-hour drive away.

These are good, sensible people, and I acknowledge that the Minister for the Environment, Bob Debus, has agreed to meet them. I thank him for that commitment. I am sure that when he meets them he will acknowledge that they have a sound argument. Much of their argument is based on proper land management, having access to land, and being able to work co-operatively with the National Parks and Wildlife Service to report infestations of tussock weed and blackberries and areas where brumby problems occur. [*Time expired.*]

CHRISTIAN DEMOCRATIC PARTY LEGISLATIVE COUNCIL VACANCY

Ms SYLVIA HALE [6.40 p.m.]: It is interesting to observe the willingness with which the Christian Democratic Party has smoothed the path for its failed Senate candidate to return to this Chamber, the oldest Parliament in the land. It is not without irony that, having reviled the morals of so many members of this House,

Mr Nile is eager to return to the fold. Clearly he does not believe that association alone will corrupt him into unchristian deeds. Or perhaps unchristian deeds can be overlooked. Jesus Christ is reputed to have said, in John 18:37:

For this I came into the world, to testify to the truth. Everyone who belongs to the truth listens to my voice.

So members might need to be reminded of statements made during the recent Federal election campaign. Mr Nile's election material and mainstream advertising described the Government's equal age of consent bill as "good news for paedophiles" and one that "must bring a smile to child-abusers in every suburb". This bill was supported in this House by eleven members of the Australian Labor Party, six members of the Liberal Party, all three Greens, the Australian Democrats member, the Unity member and the Reform the Legal System member. In a conscience vote, those members all showed the courage of their convictions and supported the equalising of fundamental human rights between heterosexuals and homosexuals—and I commend them for their courage and honesty.

Mr Nile's obsession with abortion and sodomy is a tiring, unfortunate diversion known all too well to members of this House. The Greens believe that far too many serious violations of social justice and human rights occur on a daily basis to be bothered by decisions made by consenting adults in the privacy of their own homes. It is unfortunate that the Government has been willing to allow the rules of this House to be manipulated to facilitate the reverend's return. We can only hope that the Premier's grand plan to secure Sydney's water for the next 25 years does not include the recycled waters of the Nile. [*Time expired.*]

The Hon. MICHAEL EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [6.42 p.m.]: I will respond to some of the comments of Ms Sylvia Hale, who asserts that the Government has allowed the rules of the House to be manipulated. That is simply nonsense. If the member took just a moment to acquaint herself with the New South Wales Constitution, she would realise that the position that Reverend Fred Nile vacated could only be filled when the Christian Democratic Party nominated a candidate: it is as simple as that. That party has indicated that it will nominate Reverend Fred Nile to fill the position that he earlier vacated to stand for the Senate.

I do not agree with Reverend Fred Nile or Reverend the Hon. Dr Gordon Moyes on a great number of issues, and very often we find ourselves on opposite sides of the Chamber, but the fact of the matter is that the Christian Democratic Party, whether the Greens like it or not, have won a position at every upper House election since 1981. Let us not have any of this cant from the Greens. Recently Ms Lee Rhiannon has made all sorts of comments in the media, and one has only to read the Australian Associated Press report for it to be made quite clear why she is so hostile about Reverend Fred Nile coming back into this House. And the reason is that Reverend Fred Nile's preferences at the Senate election helped elect Michael Forshaw as the third Australian Labor Party senator, rather than a Greens candidate. Heaven only knows why Ms Sylvia Hale or Ms Lee Rhiannon would expect Fred Nile to give his preferences to the Greens; nobody else would have thought that a likely scenario.

Ms Lee Rhiannon referred to an unholy alliance between the Government and Reverend Fred Nile. What sort of alliance would it have been had there been an alliance between the Christian Democratic Party and the Greens? Would that have been acceptable? Ms Lee Rhiannon is complaining about the fact that in the Senate election Reverend Fred Nile gave his preferences to an Australian Labor Party candidate ahead of the Greens candidate; that is all she is complaining about. It is as simple as that!

Motion agreed to.

The House adjourned at 6.45 p.m. until Thursday 21 October 2004 at 11.00 a.m.
