LEGISLATIVE COUNCIL

Thursday 11 November 2004

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The President (The Hon. Dr Meredith Burgmann) took the chair at 10.57 a.m.

The Clerk of the Parliaments offered the Prayers.

REMEMBRANCE DAY

The PRESIDENT: Today is Remembrance Day. I ask all honourable members and officers of the House to stand in their places to remember those who made the supreme sacrifice for their country.

Members and officers of the House stood in their places.

The PRESIDENT: Lest we forget.

PETITIONS

Adult Training, Learning and Support Program

Petition requesting the restoration of previous levels of funding for the Adult Training, Learning and Support program to provide security to participants and service providers, received from the **Hon. John Ryan**.

Mount Druitt Hospital Mental Health Facilities

Petition calling on the Government to take action to relieve the plight of the mentally ill and their families by providing crisis beds at Mount Druitt Hospital, received from **Ms Sylvia Hale**.

Temporary Protection Visa Holders

Petition praying that temporary protection visa holders be provided with the same rights and services as permanent protection visa holders, received from **Ms Sylvia Hale**.

CRIMES (ADMINISTRATION OF SENTENCES) ACT 1999: DISALLOWANCE OF CRIMES (ADMINISTRATION OF SENTENCES) AMENDMENT (CATEGORY AA INMATES) REGULATION 2004

The PRESIDENT: Pursuant to standing orders the question is: That the motion proceed as business of the House.

Question agreed to.

Motion by Ms Lee Rhiannon agreed to:

That the matter proceed forthwith.

Ms LEE RHIANNON [11.07 a.m.]: I move:

That under section 41 of the Interpretation Act 1987, this House disallow the Crimes (Administration of Sentences) Amendment (Category AA Inmates) Regulation 2004 published in *Government Gazette* No. 170, dated 29 October 2004 page 8210, and tabled in this House on 9 November 2004.

Before I explain why the Greens are moving to disallow the Crimes (Administration of Sentences) Amendment (Category AA Inmates) Regulation 2004 I appeal to Government and Opposition members to conduct a rational, law-based debate on this motion. The issue is too important for the usual tabloid slogans. This debate is not about being hard or soft on terrorism: it is about the choice between legislation and regulations and how the AA category will work. The Greens are on record as speaking time and time again against terrorism so I hope Government and Opposition members will debate the issues at hand rather than chase headlines.

The category AA inmates regulation 2004 creates a new category of inmates who pose a special risk of inciting someone to be a terrorist, based on an assessment of the risk of those inmates forming a terrorist cell with other prisoners. The Greens are strongly committed to fighting terrorism. Our concern is that this regulation is misusing the legal process in a manner that could undermine the fight against terrorism. The Greens are moving to disallow the regulation because we are seriously concerned that the Government's improper use of it will give the Commissioner for Corrective Services the power to make decisions about the management of a terrorist threat to our national security. The role of the Commissioner for Corrective Services is to make decisions that affect the management of a correctional centre, not the management of national security.

The Government is denying this House the opportunity to debate how New South Wales will manage a potential terrorist threat to our nation. The regulation does not clearly outline the requirements for the Commissioner for Corrective Services to liaise with other bodies about the classification of a prisoner as a category AA inmate. The Commissioner for Corrective Services is in charge of deciding who poses a threat of terrorism to the nation.

As members know, the Minister for Police now has the power to intervene in operational policing to give senior police the power to act, without warrant, against suspected terrorists. These precedent powers are very broad, and as such were debated at length in this House. Many members who spoke to this issue expressed their concerns about how broad the definition of "terrorism" can become, how the behaviour of police when exercising these new powers must be carefully monitored, and how the police acting in suspected terrorism cases must be subject to the oversight of the Police Integrity Commission and the Ombudsman.

Members wanted accountability to apply, even when police were responding to a terrorist incident. These same issues should be debated again in relation to the categorisation and management of category AA inmates. Minister Debus introduced the Crimes (Administration of Sentencing) Bill in 1999, to which this regulation relates, together with two other bills that dealt with sentencing. At that time the Minister said:

> … these bills are not about the creation or abolition of criminal offences. Nor are they about an increase or decrease in the maximum penalties available for such offences.

When Minister Debus introduced the bills he said that their purpose was to facilitate the administration of sentences imposed by the courts. The key Crimes (Administration of Sentencing) Act makes this quite clear. The concerns raised by the Minister in 1999 in his second reading speech to the bill related to procedural matters of law and practice of sentencing, based on reform recommendations by the New South Wales Law Reform Commission. It is in that context that we should consider the disallowance of the category AA inmates regulation. This regulation is a regressive step to the dark days before the Nagle report. It is a gravely serious measure, one the Government should not be trying to slip through in the guise of a regulation. These draconian measures would severely erode the rights of affected inmates; they warrant a full parliamentary debate.

The Hon. John Hatzistergos: But it is happening.

Ms LEE RHIANNON: I acknowledge the Minister's interjection. I will be interested in his contribution. He said it is happening but it is only happening because the Greens have brought on the debate. The Government tried to slip this through like it has with so many things.

The Hon. Duncan Gay: Everyone has the right that you are exercising at the moment.

Ms LEE RHIANNON: Yes, but the Government has a responsibility. I hope the Deputy Leader of the Opposition has been listening to my contribution because the important aspect is that the Parliament has a key role to play, and I am disappointed the Opposition appears to be saying it is not required. The Greens believe it is not appropriate for the Government to introduce these powers in a regulation. Minister Debus commented on the proper way to introduce powers that affect individual rights in his second reading speech. He said:

> Clauses 75 and 76 relate to powers which are currently located in the regulations. As these powers to confiscate property … affect individual rights, they have been relocated to the Act rather than left in the regulations.

There it is! In 1999 the Government prided itself on reforms and moved powers that affect individual rights out of regulations and into the Act. Now the Government is moving powers that drastically affect individual rights out of the Act and into regulations.

The Hon. John Hatzistergos: Does that make a difference to your position?

Ms LEE RHIANNON: Yes. The Greens say there are two issues: process and the substantive issues the Minister should be able to debate.

[*Interruption*]

You should be willing to acknowledge the two issues. If these drastic measures need to feature anywhere in our law, they belong in the Act. The new category AA inmates regulation should not be allowed to strip away the individual rights of category AA prisoners. The deprivation of individual rights that this regulation proposes is far more serious than the power to confiscate property referred to by Minister Debus in his second reading speech in 1999. I urge the current Minister for Justice to explore this issue and explain the inconsistency in the Government's position compared with what Minister Debus had the courage to do in 1999.

The most drastic deprivation is the severe form of segregated custody to which category AA prisoners can be subjected, which goes to the heart of this disallowance. Such a substantial removal of a prisoner's basic rights and privileges should be implemented through the Act, not through regulations. Prisoners who could be wrongly suspected of being a terrorist would languish in isolation for indefinite periods without being able to have any contact visits with their lawyers to receive documents and advice. They are even denied their right to contact visits with the Official Visitor. There do not appear to be any provisions for the inmate to be made aware of their rights, or any opportunity for them to exercise their rights.

This severe segregation regime would subject prisoners to a covert abuse of power over potentially long periods of time, without any chance of establishing that they do not intend to incite fellow inmates to participate in terrorist activities. The rehabilitation needs of these prisoners will be severely compromised, given that the legislation seeks to remove many privileges. One would have to say that rehabilitation would be over because, as we know, it barely exists at the moment for the majority of prisoners. The corrections authorities can withdraw and restore these rights, but we question the power of this regulation to remove them altogether for an indefinite period.

I wonder what is the point of this regulation when the Act allows for inmates to be segregated if they engage in any of the feared activities while in prison. It seems that the regulation is an attempt to remove the segregation rights of prisoners that are in the Act. The criteria in the Act under which the commissioner can issue a segregated custody order are limited. They relate to a specific corrections centre, not to national security. When a prisoner moves to a new correctional centre their segregation classification must be reviewed in 72 hours. That is why the Greens argue that this regulation seeks to remove the rights of prisoners. Such measures should be part of the Act. They should be debated in this House. This regulation is clearly outside the spirit of the Act, as expressed by Minister Debus in 1999. I urge the current Minister for Justice to have the courage to explore and, hopefully, acknowledge that.

That brings me to another point, which is that the regulation also establishes that category AA inmates should be deemed serious offenders. The classification of an inmate as a serious offender under section 3 of the Act should only become relevant at the parole stage. The Greens question why the Government is seeking to allow the Commissioner for Corrective Services to impose a category AA on inmates and deem them serious offenders—prisoners who potentially have not even been sentenced. Allowing the Commissioner for Corrective Services to deem a person who has not even been sentenced as a potential terrorist threat is yet another example of this Government's blurring of the separation of powers by handing powers to the Executive that should be given to the judiciary. Assume that tomorrow the Premier accuses me of being a terrorist. He could have me thrown in prison, and the commissioner could deem me to be a category AA prisoner.

The Hon. Duncan Gay: Don't give him ideas!

Ms LEE RHIANNON: I acknowledge the interjection, and you bit on that one pretty fast! So I have not been sentenced, I am classified a serious offender, I am segregated, I have not been informed of my rights, I have no opportunity to exercise my rights, I can have no contact visits with my lawyers to receive documents, and my mail is closely monitored. What a sorry state of affairs this State is in. For years now the miscarriage of justice at Guantanamo Bay has captured the attention of the world. Australian Muslims who have never been convicted of any crime have been held in indefinite custody with virtually no ability to defend themselves against their accusers. They have been tortured under the same severe form of segregated custody that the category AA inmates regulation has ushered in in New South Wales. This regulation was ushered in on the sly with no opportunity afforded to the Parliament to debate it.

Will Long Bay become as infamous as Guantanamo Bay? The Government has tried to sneak in a regulation that profoundly alters the future of the New South Wales criminal justice system. The first time this

regulation is enforced and we see an Australian join the ranks of Guantanamo prisoners, the Greens will hold the Government responsible for denying the members of this House their right to debate this pivotal issue of national security. Were these regulations introduced as amendments to the legislation, as they should have been, the Greens would argue that the sentencing courts should decide who will be classified as AA category inmates. The courts, not the commissioner, should decide who poses a terrorist threat to our nation. It traditionally has been, and should remain, the responsibility of the judiciary to decide whether a person is a threat to society. I hope other honourable members will agree that we should be debating this amendment in this House.

Last month, at the invitation of his colleague Mr Primrose, the Minister told this House that a precarious balance must be achieved by the management regime for these high-risk inmates who pose a potential or actual threat to our national security. Precarious indeed! These prisoners would be placed in an extremely precarious situation, and be subject to extremely harsh penalties, even though there may be insufficient foundation to support their classification as a terrorist risk. They would be totally dependent on circumstances beyond their control. Very precarious!

The Greens believe that the commissioner's role does not include the management of special risks to national security. The commissioner's role is to properly manage correctional institutions, to uphold the law. Further, category AA and category 5 inmate classifications should be determined by the sentencing court, rather than by the commissioner. The Greens argue that this regulation should be disallowed because it is the role of this House to debate the powers this State should have to manage special risks to national security, and because it is outside the power of the Commissioner for Corrective Services to decide these matters. I urge honourable members to support this disallowance motion.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [11.21 a.m.]: Ms Lee Rhiannon has moved a motion to disallow a regulation that creates a new classification category for inmates who pose a risk to national security. Before I explain the detail of the regulations and the case for them, I want to paint a picture of the security environment in which we now live and how that impacts on our system. If we are to learn anything from the terrible incidents that have occurred in New York, Madrid, Kuta, and Jakarta, it is that we must never be complacent. We must not ever think that those kinds of things happen somewhere else, and that they could not happen here.

What we have to do is plan ahead and make necessary preparations for the future, when the number of persons who may represent a threat to national security increases sharply. It is worth remembering that some of the most serious criminals in our prisons have expressed pleasure at the carnage of overseas attacks that have occurred in recent times.

The number of terrorist inmates in custody is likely to continue to rise, and the threat posed by these inmates and others who share their sympathies is very real. There are two main dangers. The first is that if adequate security is not maintained they will continue to plan and co-ordinate terrorist activities from inside prison. The second is that they will recruit fellow inmates to their insidious cause. The overseas experience is quite chilling. The FBI has identified prisoners as one of the top three highest risk groups for terrorist recruitment activities. An Al-Qaeda training manual, found by Manchester Metropolitan Police in a raid, instructed operatives, if incarcerated, to establish programs and try to recruit candidates who are disenchanted with their country's policies.

I reiterate the Spanish example that I gave to this House on 27 October. I think it is a telling warning about what can happen if proper safeguards are not instituted to prevent terrorists and suspected terrorists from continuing their activities from inside prison. In mid-October a Spanish judge charged 18 people with planning to bomb Spain's national court with 1,000 kilograms of explosives. They had been foiled before they could complete their attack on the court, which also houses Spain's leading anti-terrorist investigative judges.

The terrorist cell that was organising the attack—a cell that has been linked to the 11 March Madrid train bombing cell—was established while those individuals were in prison. Because they were able to make telephone calls and send uncensored mail, the ringleader was able to organise the plot from his prison cell. The judge warned that Spain's prisons were a "breeding ground for... militants". Incidents like those demonstrate that it is not only countries such as Israel that have problems with terrorists in their prisons. It also demonstrates why here in New South Wales we must have the ability to securely hold inmates who threaten national security.

The Department of Corrective Services has been discussing and planning our response to the threat posed by terrorists in custody. In May last year the Corrective Services Administrators Conference met, and this

issue was raised. In July last year and June this year the matter was discussed at the Corrections Ministers Conference. It was discussed at the National Corrections Forum on Terrorism, which we hosted at the Brush Farm academy in September last year. It was discussed also at the conference hosted by the Commonwealth Attorney-General's Department in December last year. In March this year the issue was analysed in quite considerable depth at a Futures Forum, again hosted by the Department of Corrective Services in New South Wales.

Together with our Victorian counterparts, the New South Wales Department of Corrective Services has carefully examined numerous overseas correctional authorities—including those in Canada, France, Israel, New Zealand, the United Kingdom, and the United States of America—and their practices in dealing with these difficult inmates. This management regime is based on the best practice from those experienced international jurisdictions. The management regime underpinned by this regulation is in accordance with nationally consistent standards for holding terrorist inmates in custody, matters which were discussed at the Corrective Services Ministers Conference in June this year. The other States and Territories are adopting consistent practices for their prisons.

The new inmate classifications—category AA for men and category 5 for women—are higher in security than the current top classifications of category A1 and category 4. For the benefit of Ms Lee Rhiannon, I might add that all classifications are prescribed in regulations. The AA classification is not merely directed at persons convicted of, or on remand for, a terrorist offence. It is also designed to capture inmates in custody for non-terrorist offences who subsequently pose a risk to national security.

Advice from State and Federal law enforcement, intelligence and anti-terrorism agencies must be considered when classifying inmates as category AA. This would involve advice from groups including New South Wales Police, the Australian Federal Police, the Australian Security Intelligence Organisation, and other bodies as appropriate. The management regime for these inmates is rigorous. It would mean that they would only be housed in the highest security facilities. They would not have contact visits, unless that is deemed safe. And there would be a screening of their mail—except mail sent to or received from defined "exempt bodies" or approved "exempt persons".

Both the classification and the placement of inmates classified AA will be regularly reviewed by the Serious Offenders Review Council. The very purpose of the regulation designating that category AA and category 5 inmates are serious offenders is to give an extra safeguard to those individuals by allowing that classification to be reviewed by the Serious Offenders Review Council. Classifying them as serious offenders means they then come under the purview of the Serious Offenders Review Council, which is headed by a judge, who can review those classifications—as the council does with all other classifications—from time to time to ensure that the classification remains in force only as long as there is a need for it. It is not correct to argue—as Ms Le Rhiannon did in her speech—that somehow there is something punitive about giving these individuals an AA classification because they will remain in that category indefinitely. That is not the aim of the regulation. The classification will remain as long as it is necessary, and on that issue it will be overseen by the Serious Offenders Review Council, which reviews all persons classed as serious offenders.

I want to make it quite clear also that it is expected that this classification will be applied to a very small number of inmates. Further, it will not necessarily be confined to inmates who are being held for terrorism-related offences. For many of them, the high-risk maximum security A classification will be used, and that will be sufficient. But there may be circumstances in which individuals may be charged with other offences and, because of their circumstances and in particular their express sympathies and other issues, it is appropriate that they have AA classification.

It is interesting to note that some of the inmates I referred to in Spain who were plotting the attack on the National Court were in gaol for credit card fraud. One cannot simply restrict the classification to individuals who are charged with terrorism-related offences. One has to take a broader view, as we always do on national security. The treatment of these inmates will be monitored by the New South Wales Ombudsman, the Anti-Discrimination Board, the Independent Commission Against Corruption, the Privacy Commissioner, potentially the Commonwealth Ombudsman and the Human Rights and Equal Opportunity Commission as they see fit in accordance with their jurisdiction. Official visitors will not have access to these individuals.

One of the things uncovered in study tours undertaken by the New South Wales Department of Corrective Services and Corrections Victoria was the need at all times for these inmates to be approached by two persons, not one individual. For safety and security reasons it is not appropriate that an official visitor acting

alone take up their issues because of the potential of that person being subjected to threats or other pressure by the inmate. It is more appropriate that any complaints by this specific group of inmates that would ordinarily go to the official visitor be taken up by the New South Wales Ombudsman. They will have access to telephone calls to the New South Wales Ombudsman in the normal way to register any complaints. This classification has been developed carefully to strike the right balance between maintaining high security levels and to protect the needs of inmates.

Ms Lee Rhiannon may not be ready to admit it, but we live in a changed world where we have to prepare for the reality of terrorism. This requires changes across all areas of security, law and order, and justice. Prisons are not immune. Without the AA classification, which the regulation creates, the security of our correctional centres and the Australian community will be put at risk. Terrorist inmates could try to continue their activities from inside prison. They could use prisons as a breeding ground for terrorism, the source of home-grown recruits for groups such as Al Qaeda. We must never allow this to happen. It is for those reasons I urge the House to reject the disallowance motion.

Reverend the Hon. FRED NILE [11.32 a.m.]: The Christian Democratic Party opposes the Greens motion to disallow the Crimes (Administration of Sentences) Amendment (Category AA Inmates) Regulation. We accept the explanation of the Minister for Justice that this simple regulation is necessary. As the Minister said in his final remarks, in the past few weeks media reports have made strong references to the establishment of Islamic terrorist cells in certain prisons, and attempts to recruit some violent prisoners into the Al Qaeda network. Only our security services would know whether that information is correct. I understand that provision has been made to move dangerous prisoners from prison to prevent their operating within a network and to break up the networks. Recent media reports have highlighted the need to establish new categories for serious offenders under the Crimes (Administration of Sentences) Act 1999—category AA for male inmates and category 5 for female inmates.

The regulation prohibits contact visits between visitors and inmates belonging to these new categories. Sadly, that is necessary because of the serious threat they present. The regulation will ensure that correspondence to and from inmates belonging to these new categories must be opened, inspected, read and copied, and subject to strict registration procedures. It will exclude inmates in these new categories from access to the official visitors for the correctional centres in which they are detained. From the Greens point of view, I know it sounds Draconian, but in the current climate of terrorism these provisions are necessary if we wish to preserve and protect the democratic society in which we live. We support the regulation and oppose the disallowance motion.

The Hon. DAVID CLARKE [11.35 a.m.]: The Opposition will not support the disallowance motion.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [11.35 a.m.]: The classification of prisoners traditionally has not been the business of Parliament. It might be said that Parliament does not have expertise in this area. However, Parliament does not have expertise in many areas in which it regulates and it has to get up to speed. It has worried me that the general paranoia created by terrorism and emotive crime has led to policy influenced by shock jocks, radio fanaticism and the Opposition always trying to top the Government. We spend our life trying to send messages to people. I remind members of one famous quote: Send a message to these people who are depersonalised. If one is trying to send a message to somebody, one speaks to them, looks at their face, judges the facial expression and then, depending on the response, adjusts one's message to get it through and achieve the desired behaviour change.

The assumption in a lot of the law and order legislation we pass in this House is that the longer a person is in gaol the greater the deterrent effect. However, research suggests that that is not the case. If we want less crime rather than less punishment we should not increase the punishment as we become more concerned about crime. In other words, our response is plain dumb. It is true that we now live in a world of terror, and it is true that terrorists contact and organise their cells to create that atmosphere. Let us make no bones about this: terror is privatised and personalised war. It is war that does not involve armies and national strategies, but small cells acting within a philosophical and political framework, not within a conventional army.

The Hon. Duncan Gay: Why are you glorifying it?

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I am trying to understand the problem, which you are too stupid to do, frankly.

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! Interjections are disorderly at all times. The member with the call should ignore interjections and confine his or her remarks to the question before the Chair.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: It is true that the conversion to relatively militant Muslim in Australian gaols has increased, which may well be a response to the disadvantage in gaol and the increase in sentences in response. But that is not an intelligent response to the problem. I will not oppose the regulation and I will not support the disallowance motion because the solution to the problem is not for Parliament to be in the business of classifying prisoners. We should not micromanage the situation. Parliament should manage the situation in the broader context. If we want to lessen terrorism, one of the first things we should do is think about a change in foreign policy so that we are not belligerents killing innocent people half a world away as a side effect of our foreign policy. We should have a humane policy within prisons. We should display tolerance to minority groups and provide affirmative action programs for disadvantaged groups so they can see that within the framework Australia and New South Wales offer there is an opportunity for them. Such an approach would lessen fanatical behaviour within our society as a whole and somewhat mute fanatical beliefs about the evils of our society.

Of course, we should display competence when dealing with terrorists. Allegations had been made against Willie Brigitte and the French tried to tell us that he was dangerous. The fact that the information was not processed is a clear indication of suboptimal management of a potential threat. I am reminded of the case of a medical student, Izhar ul-Haque, who was placed into solitary confinement. When the judiciary reviewed his case, it was found that he was badly treated and posed low risk. That case illustrated the importance of the separation of powers in obtaining justice for an individual and placing a check on fanaticism. The Serious Offenders Review Council also plays an important role in ensuring that classifications are no higher than they need to be.

The time people awaiting trial spend in gaol is a scandal. Approximately 20 per cent of prisoners are awaiting trial. Approximately 50 per cent of prisoners are either found innocent or do more time on remand than their sentence prescribes. Those statistics suggest that far too many people are being put into prison. Parliament should pay a great deal of attention to that fact if it is truly concerned about the civil rights of individuals. Our society takes a systematic approach to justice. The motion for disallowance of the regulation deals with one aspect of possible injustice suffered by some individuals, but instead of going into a detailed classification of prisoners we should take a broader view of the problems. I urge the Parliament not only to support the Government's position in relation to this motion but also to make the Government far more responsive to the bigger issues that I believe the Parliament legitimately should take control of.

Ms LEE RHIANNON [11.41 a.m.], in reply: I thank the members who participated in the debate, and I thank members for allowing the debate to proceed. I appreciate the Minister for Justice explaining the classification of serious offenders. However, I am concerned that overall the Minister stuck to his written speech. He did not address some of the key points that I raised in my speech.

The Hon. Duncan Gay: Point of order: It is not normally my role to defend a Minister, but I suspect that the Minister for Justice has been verballed about his written speech. I noticed some handwritten words on a piece of paper that the Minister used during his contribution. That could hardly be construed as a written speech.

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! I thank the Deputy Leader of the Opposition for that contribution, but it was not a point of order. Mr Lee Rhiannon may continue.

The Hon. John Hatzistergos: You used a written speech, too.

Ms LEE RHIANNON: I know, but I was the member who moved the motion, whereas the Minister is supposed to respond to the points that are made during the debate. The Minister is now saying that he responded to the points that I made, but the key point that he failed to respond to was the major inconsistency in the Government's position. The Minister did not address the comments made by the Attorney General, Mr Debus, when he introduced the original bill from which this regulation is derived.

The Hon. John Hatzistergos: Yes, I did. I said that all classifications are in the regulations.

Ms LEE RHIANNON: He did not address this point. The Attorney General made this point very clearly:

> Clauses 75 and 76 relate to powers which are currently located in the regulations. As these powers to confiscate property … affect individual rights, they have been relocated to the Act rather than left in the regulations.

The Minister for Justice failed to address that point: the inconsistency. The Minister buttressed the Greens' concerns in relation to this regulation by referring to the Spanish terrorist threat. The Minister should think more clearly about that example. The Minister told the House about a major terrorist operation. He explained that prisoners played a key role in planning a possible bombing. The Minister told the House that the plot had been foiled. The Minister's Spanish tale illustrates one of the key points made by the Greens: the authorities already had powers to dispel terrorism threats or terrorist-style operations. The authorities were able to control the situation in Spain, and there are similar powers available to the authorities in Australia.

There are so many powers at the disposal of police and corrective services officials in this State that they do not need any more. For decades gaol officials have been dealing with prisoners getting together and plotting some type of operation. The regulation did not just come about because the Government discovered that the word "terrorism" is a handy term for dealing with other problems. For decades gaol officials have been dealing with problems associated with prisoners getting together and plotting. Gaol officials have been able to do that satisfactorily, without the need for regulations of the type for which disallowance is being sought.

The Minister advanced a lame argument based on official visitors. Prisoners who are given a classification will not be allowed to receive official visitors—their small link to having some of their problems addressed. The Minister's example of the Spanish terrorists shows that some of the people involved were imprisoned for credit card fraud. They were not rapists, murderers or people who might do terrible things to official visitors. There are all sorts of people in the world.

The Hon. John Hatzistergos: Visitors who were there to help them blow up the court.

Ms LEE RHIANNON: But there is no reason to remove Official Visitors, who provide prisoners with such a small link. What does the Minister have to say about the commissioner acting on the advice of numerous agencies that the Minister rattled off, including the NSW Police, the Australian Federal Police and the Australian Security Intelligence Organisation [ASIO]?

The Hon. John Hatzistergos: That is right.

Ms LEE RHIANNON: Can the Minister identify where in the regulation that is referred to? I have been unable to find a provision that lists the groups of government agencies.

The Hon. John Hatzistergos: You should get a briefing before you move such motions.

Ms LEE RHIANNON: If I have made a mistake, I am happy to admit it. However, the Minister has been silent on many of the issues that have been raised by the Greens.

The Hon. John Hatzistergos: Clause 28A of the regulation states:

> For the purpose of making any decision with respect to a person's classification under this Division, consideration must be given to any advice received from NSW Police or from any other public authority (whether of this or any other State or Territory or of the Commonwealth) established for law enforcement, security or anti-terrorist purposes.

Ms LEE RHIANNON: I am sorry that I was wrong on that point. However, the agencies were not all named—such as the Australian Federal Police and ASIO. The other big point that the Minister and Reverend the Hon. Fred Nile picked up on is that we live in a changed world.

The Hon. John Hatzistergos: We do.

Ms LEE RHIANNON: Of course we live in a changed world. The world changes all the time. We acknowledge that we live in a changed world, but that does not mean that we should erode our civil liberties. Many members of this Parliament feel passionately about fighting the war on terrorism.

The Hon. John Hatzistergos: What about protecting the civil liberties of the innocent?

Ms LEE RHIANNON: Yes, but the problem is that governments are eroding civil liberties. Every time a new regulation or a new Act is passed, the very rights that governments say they are trying to protect in the fight against terrorism are being eroded. I ask the Minister to think quietly about this for a moment: When

the fight against terrorism is won, will any of the rights that are so important to the fabric of society be left? While governments claim to be fighting to protect our lifestyle, in the name of that fight they give up many individual rights.

The Hon. John Hatzistergos: But these people are in prison.

Ms LEE RHIANNON: Yes, and they have rights too. Even the Minister would acknowledge that he is not in favour of capital punishment, people being locked up and the key thrown away, and prisoners having no rights at all. I urge the Minister and other members to consider these matters in the overall context of this debate. I urge members to support the motion to disallow the regulation. I ask them to also consider the issue in the wider context of the war on terrorism and how many rights may be eroded. I commend the motion to the House.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 4

Mr Cohen
Dr Wong
Tellers,
Ms Hale
Ms Rhiannon

Noes, 32

Ms Burnswoods	Mr Gallacher	Mrs Pavey
Mr Catanzariti	Miss Gardiner	Mr Pearce
Dr Chesterfield-Evans	Mr Gay	Mr Roozendaal
Mr Clarke	Ms Griffin	Mr Ryan
Mr Colless	Mr Hatzistergos	Ms Tebbutt
Mr Costa	Mr Jenkins	Mr Tingle
Ms Cusack	Mr Kelly	Mr Tsang
Mr Della Bosca	Mr Macdonald	Mr West
Mr Egan	Reverend Nile	*Tellers,*
Ms Fazio	Mr Obeid	Mr Harwin
Mrs Forsythe	Ms Parker	Mr Primrose

Question resolved in the negative.

Motion negatived.

CRIMES AND FIREARMS LEGISLATION AMENDMENT (APPREHENDED VIOLENCE ORDERS) BILL

Second Reading

Debate called on, and adjourned on motion by the Hon. Peter Primrose.

FEDERAL GOVERNMENT AGED CARE SERVICES FUNDING

Debate called on, and adjourned on motion by the Hon. Jan Burnswoods.

GOVERNMENT SCHOOL ASSETS REGISTER BILL

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

Second Reading

The Hon. CATHERINE CUSACK [11.56]: I move:

That this bill be now read a second time.

I introduce this bill on behalf of the Liberal-Nationals Coalition and congratulate the shadow Minister for education on her initiative in preparing and following through with this legislation. This bill requires the Director-General of the Department of Educating and Training to keep a register of government school assets. The bill defines assets as all buildings, including demountables. The register is to comprise reports on the status of the capital assets of government schools, to be known as school status reports, and three-yearly plans on building and maintenance work in those schools, to be known as school building plans. School status reports and school building plans are to be prepared by the director-general, included in each of the annual reports of the Department of Education and Training, and made available for inspection, free of charge, on the web site of the department. In due course I will outline details of these two components of the register, but first I will explain why the Coalition is introducing this legislation. This legislation is necessary because Professor Tony Vinson, who conducted the inquiry into the provision of public education in New South Wales, states at the beginning of his report when explaining the reason for his examination of buildings and amenities:

> The ways in which buildings impact upon human life range from the purely functional to the aesthetic. These qualities are as important, if not more so, to a satisfying and productive life within schools as they are in other institutions.

The Vinson report suggests:

> The maintenance and refurbishment of the education estate has been neglected and fitfully managed.

The report also refers to "substandard conditions in which teaching and learning are being attempted". During the course of the inquiry Professor Vinson and members of the inquiry team visited 140 schools. Of those visits the report states:

> So far as the majority of teachers, students and parents are concerned, the maintenance and refurbishment of the education estate has been neglected and fitfully managed for such an extended period that the tag povo aptly describes its standing relative to the private sector.

That tag, of course, relates to the impoverishment of the government school system. The direct observation of conditions in more than 140 schools and numerous—

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

———

RAIL INDUSTRIAL DISPUTE

The Hon. MICHAEL GALLACHER: My question without notice is directed to the Minister for Transport Services. Is he aware that this weekend many train passengers will commence making arrangements in the event of a rail strike next week? Given that they will possibly get only 24 hours notice of a strike in the event that one goes ahead, can the Minister detail to the House what contingency plans he will employ to ensure that the almost one million passengers a day who use trains will still be able to reach their destinations?

The Hon. MICHAEL COSTA: Approximately 500,000 people use the CityRail network each day and they make two journeys. I correct the statement made by the Leader of the Opposition and state that those are the figures that we have been using. The Government is working to avoid a rail dispute.

AGRICULTURAL EDUCATION FACILITIES

The Hon. DUNCAN GAY: My question without notice is directed to the Minister for Primary Industries. Is he aware that 25 per cent of the 150 resident students at Dalby Agricultural College enrolled from New South Wales? Is he also aware that after he closed the residential courses last year, 7 of the 39 displaced students at Murrumbidgee College of Agriculture last year re-enrolled at Dalby? Is he further aware that Dalby Agricultural College has now been placed in the hands of an administrator? Will the Minister commit to reopening residential courses at Murrumbidgee Agricultural College to ensure that agricultural education will continue to be provided for students seeking full-time residential courses in agriculture in New South Wales?

The Hon. IAN MACDONALD: The Government has no plans to reopen Murrumbidgee Agricultural College [MCA]—something that I have made very clear on several occasions. I have also made it clear that the Government has expanded adult education courses and short-term courses for full-time residential students and

it will be pursuing other ideas with Charles Sturt and other partners in relation to the future of the site. I make it clear to the Deputy Leader of the Opposition and to anyone else who wants to listen that Tocal Agricultural College, our primary residential agricultural college, has the capacity to take up more students. I suggest to students that they should look at that option. If there is any shortfall in certain types of courses the Government will rectify that.

INDIGENOUS FISHERIES STRATEGY

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: My question without notice is directed to the Minister for Primary Industries. Does the Minister recall discussions almost two years ago with the Attorney General's Department and indigenous fishers regarding the paying off of fines for people convicted of fishing-related offences by working on commercial fishing vessels? Has there been any progress with this scheme since those discussions?

The Hon. IAN MACDONALD: I am not sure whether discussions were held with the Attorney General's Department. If they were, I assume that that occurred some time before I assumed office as fisheries Minister. The Government has a proactive indigenous fisheries strategy that involves a number of programs. As I advised the House on 26 October, the New South Wales Government is committed to clarifying the traditional and cultural fishing rights of indigenous people and to promoting the involvement of indigenous people in the commercial seafood sector. In December 2002 the Government allocated $1.6 million for an indigenous fisheries strategy. That strategy recognised the traditional cultural fishing practices of indigenous people in New South Wales.

Implementation of the initial phase of the indigenous fisheries strategy was completed in June 2004. Honourable members would recall that last year I announced a series of grants to various successful Aboriginal commercial businesses along the coast. When I visited that area recently and met with a number of indigenous fishers at Narooma I established that some of them had taken up grants that had been provided to them. At that stage we released large numbers of the new era oyster spat that has been developed by the New South Wales Department of Primary Industries in conjunction with the Queensland department.

The Hon. Duncan Gay: You have a report that you paid for but you have not done anything about it.

The Hon. IAN MACDONALD: The Government has been doing things about it.

AUSTRALIAN TECHNOLOGY SHOWCASE

The Hon. JAN BURNSWOODS: My question without notice, which is directed to the Treasurer, and Minister for State Development, will come as a great surprise. I want to know the latest successes of the Australian Technology Showcase.

The Hon. MICHAEL EGAN: I am always delighted to inform the House of the latest successes of the Australian Technology Showcase. Today I acknowledge some New South Wales government-assisted companies that are achieving successes in their chosen field. I am pleased to say that these companies, which are all members of the Australian Technology Showcase, are a tribute to New South Wales innovation. Dural-based company Laservision Australia has taken out three major awards recently for its $15.5 million *Symphony of Light* show in Hong Kong, which involved the permanent illumination of 18 of Hong Kong's most prominent buildings. The 14-minute show includes high-powered lasers, architectural lighting and an original soundtrack, which is simulcast by radio and can be dialled into via mobile phones.

In recent weeks Laservision was named winner of Australia's Best Small Business by Palamedia; Entrepreneur of the Year by the Australian Institute of Engineers; and Winner Creative Small to Medium sized Enterprise by the Hong Kong Australian Business Association. Another Australian Technology Showcase member, a software company called Citect, has secured a $2.6 million contract with the China Gas Company Ltd to control and monitor gas distribution to 5.5 million households in seven Chinese cities. Think about it—5.5 million households!

The Hon. Catherine Cusack: In China.

The Hon. MICHAEL EGAN: Yes, that is right. Is that to be disparaged?

The Hon. Catherine Cusack: No, I am just worried about a million rail commuters in New South Wales.

The Hon. MICHAEL EGAN: The win came just days after the company received the AustCham ANZ Qantas Business Innovation Award for Greater China. Citect, a world leader in industrial automation and information management solutions, controls an estimated 35 per cent share of the Asian automation market, which typically includes the manufacturing and utilities industries. Citect's growth in China is an example of Australian innovation winning over competition from the United States of America and Europe.

A third Australian Technology Showcase company, Functional Software, has been chosen by Malaysia's central bank to provide data management tools for the latest phase of its automated backup and recovery management system. Functional Software, along with its Malaysian subsidiary, Systems Management Services, won the right to supply data management software and services to incorporate 60 new and existing servers. Systems Management Services managing partner James Leong attributed the Bank Negara contract to Functional Software's competitively priced and flexible products. I am sure that all honourable members will join me in congratulating these Australian Technology Showcase members on their recent successes and I look forward to hearing more about their work in the future. I thank the Hon. Jan Burnswoods for her very good question.

SHOALHAVEN RURAL FIRE SERVICE FUNDING

The Hon. DON HARWIN: My question is directed to the Minister for Local Government, and Minister for Emergency Services. Why has the Minister punished the residents of the Shoalhaven community by increasing their contribution to the NSW Rural Fire Service by 25 per cent—which is $92,000 more than he advised them earlier this year—and then allocating nothing to provide basic amenities at volunteer stations such as Bendalong and West Nowra?

The Hon. TONY KELLY: I sometimes find it hard to believe that councils complain about not having facilities and then complain when their facilities are increased and they have to pay only one-eighth—I think that is the figure—of the total cost.

The Hon. John Ryan: They've never had it so good, have they!

The Hon. TONY KELLY: I am glad that the Hon. John Ryan said that because it is true. This year the Treasurer has given $134.2 million to Rural Fire Service brigades across New South Wales. When The Nationals were last in government—

The Hon. Duncan Gay: Ten years ago. You weren't even here when we were in government; that's how long ago it was.

The Hon. TONY KELLY: You are not in government very often. The Nationals in government gave $197 million to the NSW Rural Fire Service over seven years. So this year it is receiving from the Government two-thirds of the total funding that The Nationals provided over seven years. If I were an Opposition member, I would not be asking those sorts of questions. There seems to be some confusion about Shoalhaven City Council expressing concern about compulsory contributions to the Rural Fire Service. The information is incorrect. This year Shoalhaven City Council received a total of $3.45 million in funding from the statewide Rural Fire Fighting Fund for the operation of its local rural fire brigades. That is an increase of more than $570,000 over last year. This level of funding is based on the council's bid for its share of the Rural Fire Fighting Fund, which was lodged late last year. Funding for the Shoalhaven has more than doubled from $1.58 million in 1995-96. In fact, over 10 years Shoalhaven City Council has received $20.3 million from this Government for the Rural Fire Service.

The Hon. Don Harwin: We have more fires than anywhere else in New South Wales.

The Hon. TONY KELLY: That is not true. This level of funding has ensured that brigades in the Shoalhaven city area are among the best resourced in the State, and there is no basis for suggesting that the fire protection provided to the local community is any less than first class. However, while the council has received a total of $3.45 million for the brigades' operations this year, under the fire services funding level it is required to contribute only 13.3 per cent of this amount, which equates to $459,776. So it gets $3.5 million worth of equipment and services for only $459,000. Each year councils are entitled to claim to have their previous year's charges under the statewide rural service program—which are included in this figure—reimbursed. The revenue

from these program charges is used to provide crucial services and support, such as insurance and workers compensation for the volunteers, aerial firefighting, training and community education. The insurance part of the contribution is not refundable. The protection of the community and almost 70,000 Rural Fire Service volunteers is paramount to the Government. That is why we have injected $930 million into the New South Wales Rural Fire Fighting Fund since 1995.

The Hon. Melinda Pavey: What about the Shoalhaven?

The Hon. TONY KELLY: The Shoalhaven has received $20 million in the past 10 years. This expenditure ensures that our volunteer firefighters are better equipped and better trained than ever before.

SENIORS CARD DISCOUNT DIRECTORY

The Hon. KAYEE GRIFFIN: My question is directed to the Minister for Ageing. What are the latest developments with the New South Wales Seniors Card?

The Hon. John Ryan: I bet it won't be for self-funded retirees.

The Hon. CARMEL TEBBUTT: For the benefit of the shadow Minister for Ageing, I make it absolutely clear that the Seniors Card is available to everyone. It is not means tested, so self-funded retirees have access to the Seniors Card, just like everyone else. The Seniors Card is a great success story; its use has become an everyday habit for thousands of seniors. I recently had the opportunity of launching the 2005 Seniors Card Discount Directory. The new directory is bigger and better than ever and reflects very much the phenomenal success of the Seniors Card in recent years. This year's directory includes more than four times as many discounts as last year's directory. The year 2004-05 will be significant for the Seniors Card, as it develops and implements a new strategic plan.

The Hon. Melinda Pavey: What about self-funded retirees?

The Hon. CARMEL TEBBUTT: I have made that very clear—but perhaps Opposition members do not understand. Self-funded retirees can access the Seniors Card. It is not means tested and is available to anyone over the age of 60 who is in the work force for less than 20 hours a week. The Seniors Card is developing a strategic plan to take account of the democratic changes and growth that are predicted in the next 10 years in the seniors market. I am pleased to advise the House that the Seniors Card directory has been regionalised. There are now free discount directories for five different regions: Sydney and surrounds, Central Coast and Hunter, northern New South Wales, southern New South Wales and western New South Wales. Copies of the 2005 Seniors Card Discount Directory are being mailed this week and all Seniors Card holders should have their directories by the end of the month.

There are nearly 900,000 card holders and thousands of business partners. The scheme is free to join and, as I said, is not assets or means tested. To qualify, applicants must be New South Wales permanent residents aged 60 or over and work no more than 20 hours a week in paid employment. The scheme is administered by the Department of Ageing, Disability and Home Care. The Seniors Card is one way for the Government to recognise the contribution that seniors have made, and continue to make, to their local communities and to the development of New South Wales. Seniors have worked hard, raised families, provided services to their communities and are important role models for children and young people. The Seniors Card—and the thousands of discounts and benefits that go with it—is the Government's way of saying thank you. The Seniors Card also helps seniors to remain active and involved in their community. The discounts available are often extremely beneficial to seniors in their activities, particularly volunteering. The discount directory provides up-to-date information on the discounts available on a wide range of products and services.

The PRESIDENT: Order! I call the Hon. Don Harwin to order.

The Hon. CARMEL TEBBUTT: These include discounted transport, holidays and travel, movies and entertainment, insurance and motor vehicles as well as personal and professional services. The Department of Ageing, Disability and Home Care has prepared the annual discount directory to help seniors get the most out of their Seniors Cards and their retirement. There is also an excellent web site and a monthly email newsletter, which provides up-to-date information on competitions, computer tips, events, special discounts and lots more.

The web site is an initiative of the Seniors Online strategy, which assisted older people to make use of information technology to pursue their interests and manage electronic transactions. The number of visitors to the Seniors Card web site has increased to an average of 10,000 visitors per month. There are now 25,000 people receiving the e-newsletter and about 1,000 new subscribers every month. That is not surprising given that

seniors are now the fastest-growing group of Internet users in Australia. The 2005 directory will be of great benefits to seniors. It will enable them to know where they can go to get discounts. I always encourage seniors to ask businesses if they provide a discount for seniors.

LOCUST CONTROL FENITROTHION SPRAYING

Mr IAN COHEN: My question is directed to the Minister for Primary Industries. What monitoring is being conducted of the impacts of the use of tens of thousands of tonnes of fenitrothion the organophosphate insecticide being used in the current locust plagues on waterways and other environmentally sensitive areas? Is it true that fenitrothion can have significant effects on fish and aquatic ecosystems? Is it also true that this insecticide leaves a residue in livestock which means they cannot be sold and must be withheld from sale for 14 days after the insecticide is sprayed?

The Hon. IAN MACDONALD: I understand this question perfectly; it has been raised with me on numerous occasions. The Government is aware of certain restrictions in relation to the use of fenitrothion, particularly ultra-low-volume [ULV] for aerial spraying, and its other form, which is suitable for ground-based spraying.

The Hon. Duncan Gay: You have run out of it, haven't you?

The Hon. IAN MACDONALD: We haven't run out of it. This chemical has a withholding period of 14 days. There are restrictions on its use around waterways. For instance, ULV, an aerial used chemical, cannot be applied within 1.5 kilometres of a watercourse, so it is severely restricted. Its application can be controlled much more effectively when it is used close to the ground.

The Hon. Duncan Gay: You wouldn't find it at 20,000 feet, would you, Biggles?

The Hon. IAN MACDONALD: You're a nonsense, Duncan! Why don't you for once get serious about life, get serious about these issues instead of dragging out a little comedy? How serious is he? He made comments in the media, put out a press release and a week later has not even presented the evidence in relation to it to anyone. Mr Ian Cohen knows that the use of this chemical is guided by the Pesticides Act. The Australian Pesticides and Veterinary Medicines Authority approved its use within strict circumstances. It is being applied that way because it is very effective in killing locusts. Last week, at a meeting in Mudgee, questions were raised with me by some Greens-type groups. Journalists at the meeting suggested that we should stop using some of these chemicals as they could be damaging to the environment. For instance, they said "Could you vacuum them up?" I pointed out that I thought I would need a rather big vacuum cleaner to vacuum a swarm of 10 billion locusts. I was also asked if we could use flooding rather than the nasty chemicals to kill them.

I said that if we allowed the locusts to get to such levels without using chemical treatment and had vacuum cleaners and water ready, by the time we used them there would be no grass left on the ground and after the first shower almighty erosion problems would occur. So some of these greenie nimby-type ideas that have been put—which I thought the Deputy Leader of the Opposition would put—are completely silly in the extreme. However, I assure honourable members that we will continue to use the appropriate chemical in these circumstances because we believe that the locusts will be far worse for the environment than the use of chemicals.

Mr IAN COHEN: I ask a supplementary question. If fenitrothion is so effective for killing locusts, what organisation oversees the use of chemicals in emergency circumstances? How effective is the monitoring? If it is effective in killing locusts, what else does it kill?

The Hon. IAN MACDONALD: These issues are covered by APVMA

The Hon. Michael Gallacher: Which is?

The Hon. IAN MACDONALD: Australian Pesticides and Veterinary—

The Hon. Patricia Forsythe: Point of order—

The PRESIDENT: Order! I uphold the point of order. The Minister will not use acronyms.

The Hon. IAN MACDONALD: I will not talk about that organisation. But it is true that the use of the chemical is regulated at a national level by the appropriate organisation. In relation to its potential detrimental impacts—and some impacts have to be taken into account and that is why there are strict regulations—farmers have been using these chemicals effectively and properly within the guidelines.

The Hon. Duncan Gay: When they can get them.

The Hon. IAN MACDONALD: They are using them all the time.

The Hon. Duncan Gay: No, they are not, because you are running short on this one. Tell the truth.

The Hon. IAN MACDONALD: We have enough chemical—

The Hon. Duncan Gay: Not this chemical, which is the best chemical.

The Hon. IAN MACDONALD: We have enough of it to treat nearly one million hectares.

The Hon. Duncan Gay: You are running short of it.

The Hon. IAN MACDONALD: No, you have got it quite wrong.

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

The Hon. IAN MACDONALD: You have got the issues wrong. We have enough chemical to apply in the various circumstances as required. The companies that are contracted to do aerial spraying know the guidelines on conducting aerial spraying.

RANKIN SPRINGS BRANCH RAIL LINE MAINTENANCE

The Hon. RICK COLLESS: My question is directed to the Minister for Transport Services. Is the Minister aware that with the harvest just around the corner, the Rankin Springs branch line has been infested with white ants, preventing grain being transported to local silos? Will the Minister immediately fork out $5 million needed to replace the wooden sleepers on the rail lines or is the white ant problem merely an excuse to avoid starting urgent large-scale rail maintenance? When will the Minister stop his stalling tactics on improving rail infrastructure in rural and regional New South Wales?

The Hon. MICHAEL COSTA: I appreciate this question from the honourable member because it gives me an opportunity to address not only that restricted grain branch line but others, and the process to deal with the problems in this area.

The Hon. Duncan Gay: He won't answer the question.

The Hon. MICHAEL COSTA: I will answer the question, Duncan, so just relax. The restricted grain branch lines have been subject to a number of discussions—from memory the last one was last week—with an industry consultative group. At that productive meeting the group asked for some additional information that we are in the process of providing. The group agreed to meet again in February once the information was provided at my level, but there will be ongoing discussions at a working group level to ensure that when we reconvene we are in a position to make some announcements about all of our restricted grain lines. Of course, the Rankin Springs line is subject to those discussions and its future will be dealt with within the context of those discussions.

The Hon. Duncan Gay: The harvest is on at the moment.

The Hon. MICHAEL COSTA: There will be no announcements in relation to any restricted grain lines until that consultative group has deliberated. That is the only sensible way to go forward. It is the first time that we have been able to get GrainCorp Ltd, the Australian Wheat Board, representatives of Pacific National and grain growers organisations and the New South Wales Farmers Association together to discuss these matters.

I do not intend to pre-empt those discussions. It is important that we allow that to go forward. There will be changes to restrictive branch lines. There is no doubt about that. Already we have a report that indicates

some of our lines are not feasible under the current operating circumstances. They require either additional investment or alternative strategies to make them operable. We are going to do this sensibly. We will not be cajoled by a media campaign and by publicity stunts of The Nationals into doing it quickly. We have got all industry players together.

The Hon. Rick Colless: You should talk to the grain growers. They are the ones concerned about it.

The Hon. MICHAEL COSTA: The grain growers are involved in the discussions.

The Hon. Duncan Gay: Do you know when the harvest takes place?

The Hon. MICHAEL COSTA: Yes, I do. That is why we are not making a decision about these lines.

The Hon. Rick Colless: Leave the wheat in the paddocks!

The Hon. Duncan Gay: That is why he is not making a decision!

The Hon. MICHAEL COSTA: That is right. We were asked to by grain growers—real grain growers, not pretend Pitt Street farmers like the Deputy Deader of the Opposition. I am talking about real growers, the people out there doing that work. As the honourable member knows, I was actually a member of the Grain Handling Authority Board, so I know a little bit about this industry. And I only need to know a little bit to know more than the Deputy Leader of the Opposition.

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

INTERNATIONAL FISHERIES OBSERVER CONFERENCE

The Hon. TONY CATANZARITI: My question is addressed to the Minister for Primary Industries. Will the Minister inform the House about a major international scientific conference held in Sydney this week?

The Hon. IAN MACDONALD: It was my pleasure on Monday night to jointly open the Fourth International Fisheries Observer Conference, along with my Federal ministerial counterpart Senator the Hon. Ian Macdonald. It was the first time Senator Macdonald and I had shared the honour of opening such a conference, and we were honoured to welcome more than 190 delegates to Sydney. More than 20 countries are involved in the event, held at the wonderful new seal enclosure at Sydney Aquarium. This included representatives from the world's newest democracy—East Timor—who were able to attend with assistance from AusAid and the New South Wales Department of Primary Industries. The focus of the conference was the vital role that fisheries observers play in collecting data on commercial fishing catches. This data allows world-class scientists and managers to pursue valuable research projects and develop improved fishing practices. Afterward the conference Senator Macdonald and I had a very productive dinner, at which we agreed to do a lot of different work on research together.

[*Interruption*]

The Hon. John Ryan has seen the flier on Lake George, has he?

The Hon. John Ryan: Yes. It is a flier promoting a loo stop!

The Hon. IAN MACDONALD: It is in fact a viewing point; it looks out over that wonderful dry land. Fisheries observer programs are designed to be strong, independent and honest. They have the support of industry because fishers can see the data being collected and are directly involved in the process. Also, the interaction between scientists, fisheries staff and the fishers themselves helps to build a more constructive, united approach to this research. In New South Wales, we recognise the great value of these observer programs and have a long and proud history in this area. In fact, one of the first observer programs in the world was carried out right here in Port Jackson in 1903, by Norwegian scientist Dr Harald Christian Dannevig. Dannevig observed prawn nets being hauled in and recorded the catch data. His original document is still preserved at the New South Wales Department of Primary Industries Fisheries Centre at Cronulla. Incidentally, that fisheries centre is one of the oldest in the Southern Hemisphere and will celebrate its centenary early next year. Senator Ian Macdonald has agreed to join me in that celebration.

A century after Dannevig's early work, I have observed fishing methods for myself onboard a number of New South Wales commercial vessels. I am always impressed with the willingness of fishers to adopt world-class technology that reduces the amount of by-catch in their nets. Industry recognises that technology is the key to a profitable and sustainable commercial fishing industry continuing for future generations. As it stands, the industry supports more than 4,000 jobs, including more than 1,300 commercial fishers along the coast and inland. We are talking about an industry that stimulates more than half a billion dollars of economic activity each year. Its future will depend on innovation and research. I can inform honourable members that New South Wales prawn trawlers were actually among the first in the world to voluntarily implement by-catch reduction devices in the mid-1990s. More recently, honourable members may recall North Coast fishers have been involved in one of the first fleet-wide trials of new by-catch reducing gears in the world. All 65 estuary prawn trawlers on the Clarence River have joined in the trial of square mesh cod-ends, which reduced by-catch by up to 90 per cent in earlier trials.

The success of our scientists in developing these devices has captured the attention of fisheries managers around the world. These particular gears are now being adopted around Australia, the United States of America, Canada and the west coast of South America. New South Wales is leading the way in developing much of this technology, thanks to the talents and passion of our top scientists and support staff. This includes the New South Wales Department of Primary Industries Chief Scientist, Dr Steve Kennelly, who chaired this week's conference. The event concludes today, and I congratulate everyone involved, particularly Dr Kennelly, for a truly successful conference. I can assure honourable members that the State Government will continue working with New South Wales commercial fishers to secure a long-term future for their industry.

EASTERN CAPITAL CITY REGIONAL COUNCIL NAME CHANGE

Ms SYLVIA HALE: My question is directed to the Minister for Local Government, and Minister for Emergency Services. Given that the public consultation and submission process was completed in early August for the renaming of the newly created Eastern Capital City Regional Council [ECCRC], and that the majority of submissions from the public and the majority vote of the council supported a name change to Palarang, what is the delay in the Minister's approving the new name? Is it true that the Minister received only one objection? Why are the people of the ECCRC being denied the new name, when Greater Argyle Council changed its name to Goulburn-Mulwaree and has already received the Minister's approval, despite lodging its application after that of the ECCRC?

The Hon. TONY KELLY: I will not comment on whether I think the name is appropriate. I am still awaiting a report before we pass it on and make a decision. I will advise the honourable member when I have done that.

Ms SYLVIA HALE: I ask a supplementary question. Is the Minister or members of his staff meeting with the mayor of the ECCRC today? If so, will this matter be discussed? Does the Government support the community and majority of councillors wanting the name Palarang? If so, when will the Minister sign off on the name change?

The Hon. TONY KELLY: Unless my office diary is different from the one I have in front of me, no, I am not.

RURAL FIRE SERVICE VOLUNTEERS EQUIPMENT

The Hon. PATRICIA FORSYTHE: My question without notice is directed to the Minister for Local Government, and Minister for Emergency Services. How does the Minister explain to Rural Fire Service volunteers who cannot get new boots, lack toilet or change facilities in their brigade stations, and drive dangerous petrol-fuelled fire trucks that he has just opened a state-of-the-art $45 million headquarters for a growing and centralised bureaucracy?

The Hon. TONY KELLY: That is an absolutely ridiculous question, and I know why it has been asked in this House. The shadow Minister was actually given a tour of the facilities last week, and he thought they were quite good.

The Hon. Patricia Forsythe: They cost $45 million, so they should be.

The Hon. TONY KELLY: It is not $45 million; it is $6.7 million. Unlike the implication in some previous questions, it did not go over budget. The building is rented. An amount of $6.7 million came out of the budget.

The Hon. Duncan Gay: What is the rental?

The Hon. TONY KELLY: It is not much more than we were paying for the five factories at Rosehill, which the service had been using for 14 years. These were factories and demountable buildings that the Rural Fire Service had been trying to use as a State co-ordination centre.

The Hon. Michael Egan: The Opposition does not support the service.

The Hon. TONY KELLY: No, it does not.

The Hon. Duncan Gay: What about Phil's en suite?

The Hon. TONY KELLY: I am glad you asked me that, because one of the questions we were asked during the estimates hearings was: Does Commissioner Phil Koperberg's en suite vanity cabinet have a granite top? The first thing I did when I went out there was to try to find this supposed great granite benchtop. But there was no benchtop of any sort. There was instead a pedestal hand basin. One would think that when the shadow Minister had his tour he would have checked out whether the commissioner's en suite had a granite bench top. He had a bit of look around and was about to leave when the commissioner invited him to have a look. He went in and said, "That looks pretty bland, doesn't it?" That was the thrust of the questions the Opposition was prepared to ask during the estimates hearings.

The Hon. Melinda Pavey: Only because we brought it up on budget estimates and you scaled it back.

The Hon. TONY KELLY: That was the only question Opposition members could ask. For the first time the Rural Fire Service has a purpose-built State co-ordination centre. The service spent 14 years at Rosehill, housed in leaking warehouse buildings.

The Hon. Duncan Gay: How long is the lease? If you got this for $6.5 million it must be a long lease.

The Hon. TONY KELLY: No, I will say it again: the $6.5 million was to set up the building. It was for the fit-out and to provide a co-ordination centre for all the services—New South Wales Forests, police and all the different agencies—involved in these crises when we have bushfires.

[*Interruption*]

Those opposite have forgotten so quickly what happened in this State during the 2001 Christmas bushfires. It was only three years ago! I will remind them should we have a recurrence of that disaster.

[*Questions without notice interrupted.*]

DISTINGUISHED VISITORS

The PRESIDENT: Order! I welcome into the President's Gallery a delegation from the Californian State Legislature led by Senator Dick Ackerman, Senator Sheila Kuehl, Senator Bob Margett and Senator Elect Dave Cox.

QUESTIONS WITHOUT NOTICE

[*Questions without notice resumed.*]

SNOWY MOUNTAINS ENGINEERING CORPORATION INDIA HYDROPOWER PROJECT

The Hon. HENRY TSANG: My question without notice is addressed to the Treasurer, and Minister for State Development. Will he inform the House about the work of the Snowy Mountains Engineering Corporation in India?

The Hon. MICHAEL EGAN: This is an important question because the Snowy Mountains Engineering Corporation is one of the—

The Hon. Duncan Gay: How does that fit into your portfolio?

The Hon. MICHAEL EGAN: I am the Minister for State Development. There is not much in this State that does not come within my portfolio.

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

The Hon. MICHAEL EGAN: It is absolutely disgraceful that the Opposition is behaving in such a dreadful manner when we have visitors in the Chamber from the Californian Legislature. Last night I told our guests that, like California, we have a bicameral system of Parliament. They have the Californian Assembly and the Senate, and we have the animals and the vegetables. Opposition members are normally the vegetables, but they are also behaving like animals. The reason they are upset is that the Snowy Mountains Authority, one of the great nation-building initiatives, was taken by Labor governments—a New South Wales Labor Government and a Federal Labor Government—back in the 1940s. It is one of the greatest engineering projects in the whole world. It took about 15 years to complete at a cost of many hundreds of millions of dollars, and when the construction work came to an end and it had on its payroll many skilled professionals, engineers and others, who were able to provide their services not only to other Australians but also to people around the world. The Snowy Mountains Engineering Corporation is a spin-off from the Snowy Mountains Authority. Initially it was a publicly owned corporation.

The Hon. Duncan Gay: Tell us something we don't know.

The Hon. MICHAEL EGAN: One of the features of the Westminster system is that Her Majesty's Government, Her Majesty's hardworking Ministers have to come into this place every day for an hour and answer silly questions.

The Hon. Michael Gallacher: It's one of yours!

The Hon. MICHAEL EGAN: That was not a silly question. I am talking about the questions asked of those opposite. For the benefit of our visitors I advise that the Hon. Duncan Gay is the Leader of The Nationals in this Chamber. The National Party was the once-great party of agrarian socialists. Now its members are just big-city capitalists, city slickers through and through. They are called Pitt Street farmers. Let me tell our visitors, and indeed let me educate the House, about the great work of the Snowy Mountains Engineering Corporation, which is no longer Government owned. It was corporatised in 1989 and privatised by a staff buy-out in 1993.

The Hon. John Ryan: Point of order: I take great exception to the description of The Nationals. The members on the Government side of the House are members of the Labor Party, which used to stand up for the workers.

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

The Hon. MICHAEL EGAN: I think this is the first time that the members of the Californian delegation have seen Ned Flanders in the flesh! The Snowy Mountains Engineering Corporation has a large and diverse work force of 1,000 across Australia, Asia, Africa and the South Pacific. Recently the Premier of New South Wales officially opened the corporation's New Dehli office and witnessed the signing of an agreement for the Snowy Mountains Engineering Corporation to manage a $100 million hydropower project in India. The corporation will help manage the construction of the 70-megawatt Budhil Hydropower project in Himachal Pradesh, which is in Himachal Pradesh north of New Delhi. [*Time expired.*]

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

The Hon. MICHAEL EGAN: The Snowy Mountains Engineering Corporation will provide a team of 10 engineers and will also have an option to invest in the project. The corporation's offices throughout India employ more than 350 people. According to the International Energy Agency, India is ranked eighth in the world for its intake of energy. It consumes 440 billion kilowatts annually. The Snowy Mountains Engineering Corporation has become part of the Indian economy through its subsidiary, SMEC India Limited, which is providing investment and employment to Indian nationals. India is becoming a major trading partner for Australia and New South Wales, and New South Wales businesses are well placed to take advantage of this emerging economy.

Based on 2003-04 estimates, Australia-India bilateral trade grew by more than 50 per cent in that 12-month period. It now amounts to almost $6 billion annually. The corporation is now transferring world-class

design, project management and financing techniques to the booming Indian highways industry. Its operations across the subcontinent are diverse, ranging from the West Seti hydropower project in Nepal to the Andhra Pradesh State Highways Project, which has saved more than 30 per cent of the construction cost, amounting to over $150 million. I congratulate the operation on its achievement to date, and I wish it well on its new endeavours.

RURAL FIRE SERVICE VOLUNTEERS REPRESENTATION

The Hon. JON JENKINS: My question without notice is addressed to the Minister for Emergency Services. Is the Minister aware of a breakaway group to represent the volunteers of the Rural Fire Service? Is the Minister aware of the reasons why this group has formed? Will the Minister explain the issues relating to fire management of Goobang National Park that sparked this breakaway group? Has this or any other Rural Fire Service unit or group threatened not to attend or refused to attend fires unless these issues are addressed? What was the outcome of the meetings between local fire services, volunteers and the National Parks and Wildlife Service? What implications does this have for fire management of national parks in New South Wales?

The Hon. TONY KELLY: I am aware that members of the State and Federal Liberal Party are part of an email group that is trying to set up a breakaway association.

The Hon. Duncan Gay: You know this?

The Hon. TONY KELLY: I have copies of the emails. There are only five names on the mailing list and two of them are State and Federal members of the Liberal Party. One can always rely on the Liberal Party to play cheap politics with our firefighters. In one breath the front man, Peter Cannon, has been involved with a locally developed plan for the management of Goobang National Park, but in the next breath he suggests that the voices of the volunteers are not heard, specifically in relation to the fire that occurred about three years ago in Goobang National Park, which, coincidentally, is about 20 miles from my home. I toured the area after the fire, long before I became the Minister for Emergency Services. The Peter Cannon group has met with the Rural Fire Service on a number of occasions since that fire. In consultation they have developed, and totally agree with, a management plan that has been worked out for the national park. I understand that they are now working with the various departments to determine whether it can be extended to other parks in the State and perhaps become a template for the rest of the State.

The Rural Fire Service Association [RFSA] is a peak body that represents 67,000 Rural Fire Service volunteers and salaried staff. The Government recognises that the association is a channel for discussion, negotiation and consultation with rural firefighters. The Rural Fire Service Association works constructively with both the Rural Fire Service and the Government to address and resolve issues of concern to volunteers and staff alike. I believe it is a more productive approach to assist in achieving advances for firefighters than to take an adversarial approach or adopt a stance of opposition.

The RFSA regularly demands resolution of concerns that are raised by the volunteer membership. In addition, every volunteer knows that he or she is welcome to pick up the phone and speak to the commissioner or, indeed, contact my offices whenever they like. The advances that the RFSA has helped to achieve in the past 10 years include—as I have said three times already, including at least twice today—record funding at unprecedented levels for the Rural Fire Service.

The Hon. Michael Egan: Who provided that?

The Hon. TONY KELLY: That was provided through the good offices of our great Treasurer.

The Hon. Duncan Gay: That is not what the backbench says.

The Hon. TONY KELLY: I have no complaints. The emergency services have no complaints about the Treasurer's funding for the Rural Fire Service, which has received record funding each and every year for the past 10 years. In addition, 2,500 new and high-quality reconditioned tankers have been provided, as have other items that the Rural Fire Service Association has pushed particularly hard for—better training, personal protective clothing of a standard that had never been seen before, and vastly improved communications technology. The suggestion that volunteers do not have a voice within the Rural Fire Service ignores the extensive input that rural firefighters have at every level of the Rural Fire Service. They are represented on every single group within the Rural Fire Service, such as the corporate executive group, the advisory council,

the bushfire co-ordinating committee, the district fire management committees, the technical committee, and the State operations committee.

The Hon. JON JENKINS: I ask a supplementary question. Will the Minister elucidate his answer? Will he also provide to this House details of the new plan of management that has been arranged between the Rural Fire Service and the National Parks and Wildlife Service?

The Hon. TONY KELLY: I will obtain details of the management plan and provide them to the Hon. Jon Jenkins. I should mention that when I had discussions with neighbours who live in the area where the group emerged, approximately 30 kilometres from my own home, some said to me, "Is it coincidental that this group popped up some years ago, just prior to the State election? Why has its popped up again now when they have a management plan that they are all happy with? Why has it popped up now? Could it be because of the Dubbo by-election?"

[*Interruption*]

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

DISABILITY PROGRAMS FUNDING

The Hon. ROBYN PARKER: My question is directed to the Minister for Disability Services. Did Department of Ageing, Disability and Home Care representatives tell a parent and carers meeting on the 27 October that it was inevitable that program hours will be reduced as result of a reduction in Adult Training Learning and Support funding? How will it be possible for service providers to avoid reducing hours when they will receive only $9,000 for most of their clients, compared to current funding levels?

The Hon. CARMEL TEBBUTT: With regard to the Adult Training Learning and Support [ATLAS] program and reforms, on a number of occasions I have indicated very clearly that I understand that parents are particularly concerned not to lose access hours because they structure their own lives, and what they do in their lives, around the support that their sons and/or daughters receive. If there is to be a reduction in hours, I understand that that will have a significant impact on a family's capacity to cope, bearing in mind all the other things that have to be done, such as supporting other children, et cetera. I understand that issue. I have stated very clearly on a number of occasions that it is not my intention that the reforms should result in a reduction in the number of hours for existing service users.

But I come back to what I have said on many occasions: The new Community Participation Program is not the old ATLAS program by another name. It is a new program that seeks to do different things. It has become very clear through the process that the department has undertaken to reform the ATLAS program that there is a wide variety of what has been provided to existing service users under the current ATLAS program.

The Hon. John Ryan: That is good.

The Hon. CARMEL TEBBUTT: The Hon. John Ryan says that is good, but I do not think it is good that, for the same level of funding, a client of one service provider receives four hours of services whereas a client of a different organisation receives 24 hours of services. I do not think that is good; I think that is a problem. Those types of inequities are suitable subjects for reform.

With the reforms that I have initiated I have sought to ensure that one of the fundamental difficulties with the current ATLAS program, which has a two-year time limit, is addressed through the provision of the new Community Participation Program, which does not have a time limit. The new program will provide long-term support for young people who are not able to move into employment. We have to be realistic and recognise the differences between a program that has a two-year time limit and a program that provides long-term support. The two-year time-limited program focused on getting people into employment. I have been absolutely up front about conceding that the program did not do a very good job, but that was the ATLAS program's goal. I have replaced that with a transition to work program that is much more clearly focused.

Service providers understand that the goal of the transition to work program is to move young people into employment. But another program is needed to support young people who are not going through a transition to employment, or at least are not doing so within a time limit, and that is what the Community Participation Program will do. Last Tuesday I indicated very clearly that the department is working closely with

the Australian Council for Rehabilitation of the Disabled and service providers to make sure that we address some of the concerns that have been expressed during the process of establishing the Community Participation Program.

I have discovered from speaking to parents and service users that a wide variety of services is needed. Some of the services that current participants are receiving through ATLAS are probably not appropriate, and what we should be providing is a long-term program to meet changing needs. Intensive support will be provided initially to ensure that people are able to undertake travel training, and obtain assistance in dealing with money and making purchases, for example. That type of training does not necessarily need to occur over a long period, so we are setting up a program that will change in recognition of the fact that people's needs change over time. I understand the concern about hours, but as I have said many times, it is not my intention that the reforms will result in a reduction in hours.

ROADSIDE FIRES AND CIGARETTE BUTTS

The Hon. ERIC ROOZENDAAL: My question without notice is directed to the Minister for Emergency Services. In view of the impending bushfire season, what is the Government doing to warn smokers of the dangers of throwing lit cigarette butts out of car windows during the bushfire season?

The Hon. TONY KELLY: It is hard to believe that every summer, smokers in this State have to be reminded not to become firebugs, but I must. Despite recent rain, New South Wales is facing a difficult fire season and discarded cigarette butts thrown out of car windows can easily set roadside grass alight, leading to serious bushfires. Each summer, our firefighters—many of them volunteers—need to spend countless hours, often putting their safety at risk, to extinguish these entirely preventable fires.

This week our two fire services, the Rural Fire Service and the New South Wales Fire Brigades, have joined forces to launch the "Don't be a Firebug" campaign to again remind the community about this danger. Supported by the Department of Environment and Conservation and the Roads and Traffic Authority [RTA], the campaign encourages smokers to do the right thing and extinguish and dispose of their cigarette butts carefully.

Distinctive red bumper stickers featuring a hand dropping a cigarette butt will be displayed on firefighting vehicles and are available to the public from fire stations. Also, the RTA will back up the message on its electronic variable message signs on major roads. A study by researchers at the University of Technology, Sydney, and supported by New South Wales Fire Brigades, proved the link between discarded cigarette butts and roadside fires. The researchers found that with the right wind, fuel, and humidity conditions, three out of four butts ignited grassy fuels in outdoor conditions. New South Wales Fire Brigades reported that they had attended 488 roadside fires attributed to cigarette butts or other smoking materials in 2003-04.

I remind smokers that while they may be liable for an on-the-spot littering fine, discarding butts is more than littering: it is irresponsible and just plain stupid—and they could be hit with tough penalties. For example, under the Rural Fires Regulation, irresponsibly discarding cigarette butts during the bushfire season could render the offender to a maximum fine of $5,500. While it is important for all of us, especially smokers, to be vigilant in preventing and reporting fires, more can be done. The Australasian Fire Authorities Council data shows that each year at least 4,574 fires, more than 12 fires a day, are caused by cigarettes and smoking materials throughout the country. In New South Wales alone, cigarettes are the leading source of fires resulting in a fatality, resulting in 20 of 141 fire deaths over the past eight years.

Lives could potentially be saved and some of this costly damage avoided if tobacco companies were to change their manufacturing processes to produce so-called fire-safe cigarettes. I understand that, unlike regular cigarettes, fire-safe cigarettes have significantly less propensity to ignite when dropped, forgotten, or carelessly discarded—in effect, they self-extinguish if they are not actively smoked. Tobacco companies have the technology to produce those cigarettes but continue to resist their widespread introduction into the marketplace. New York State and Canada have now passed legislation on fire-safe cigarettes, requiring all cigarettes sold within their jurisdictions to comply with a reduced ignition standard. [*Time expired.*]

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

The Hon. TONY KELLY: A report to the Australian Department of Health and Ageing by Simon Chapman, from the University of Sydney's School of Public Health, and Antony Balmain has recommended that

the Federal Government introduce similar legislation. I will be taking a recommendation to a national meeting of Emergency Services Ministers early next year urging the introduction of Commonwealth legislation requiring the manufacture and sale of self-extinguishing cigarettes.

The Hon. Duncan Gay: That is after the fire season.

The Hon. TONY KELLY: The meeting was called by the Commonwealth Minister; we had to wait for him to call it.

The Hon. Duncan Gay: You should get in early.

The Hon. TONY KELLY: I have already communicated with him. This is a sensible, responsible move that could help improve cigarette fire safety, prevent numerous house fires and bushfires, potentially save lives, and reduce the risk to all our firefighters. I will strongly urge all my Ministerial colleagues to support the recommendation. But until we can achieve this aim I appeal to every smoker to be responsible this summer and, in the words of the campaign, "Don't be a firebug."

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

GROUP HOME RESIDENTS ANTISOCIAL BEHAVIOUR

The Hon. CARMEL TEBBUTT: Yesterday the Hon. John Ryan asked me a question about a Revesby group home client. I am advised that the Department of Ageing, Disability and Home Care is working closely with this man. Complex case review meetings have been held and are ongoing, the most recent having been held on 5 November. A plan was developed to investigate that man's complex needs and secure appropriate services.

The Hon. Melinda Pavey: Just do it.

The Hon. CARMEL TEBBUTT: The Hon. Melinda Pavey has no idea how difficult this is. Numerous people have been involved, including those from the Behaviour Intervention Service, a neurologist, a clinical nurse consultant, and a mental health liaison officer, as well as the man's public guardian, who has expressed his support for the Behaviour Intervention Support Plan. It is expected that a psychiatrist will carry out an assessment. The department will work closely with all those concerned to assist this man.

Questions without notice concluded.

HEALTH SERVICES AMENDMENT BILL

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

Motion by the Hon. Michael Egan 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.

[*The President left the chair at 1.05 p.m. The House resumed at 2.45 p.m.*]

UNPROCLAIMED LEGISLATION

The Hon. Tony Kelly tabled a list detailing all legislation unproclaimed 90 calendar days after assent as at 9 November 2004.

GOVERNMENT SCHOOL ASSETS REGISTER BILL

Second Reading

Debate resumed from an earlier hour.

The Hon. CATHERINE CUSACK [2.48 p.m.]: Prior to the interruption of this debate I was referring to Professor Vinson and members of his inquiry team who visited 140 schools. Of those visits, the report states:

> So far as the majority of teachers, students and parents are concerned, the maintenance and refurbishment of the education estate has been neglected and fitfully managed for such an extended period that the tag "povo" aptly describes its standing relative to the private sector. The direct observation of conditions in more than 140 schools and the numerous submissions received on this aspect of school life have left the inquiry in no doubt about the frequently sub-standard conditions in which teaching and learning are being attempted.

The report accepts that the Department of Education and Training uses building standards for new and extensively refurbished schools that are consistent with international standards. It notes that the presumption of the authorities:

> … appears to be that a combination of two things, a sustained application of the new standards and the continuance for a decade of current levels of budgetary support, will bring the system to an acceptable standard.

The report continues:

> The Inquiry has no reason to doubt that if the aforementioned two conditions are fulfilled, there will be a major improvement to school buildings and amenities. However, that judgment rests on informed surmise rather than any quantification of the backlog of capital works in terms of explicit criteria.

The report notes that the measure of unmet needs would be possible using existing data. It states:

> Essentially, what would be involved would be the aggregation of information about individual projects that have been found to have a degree of merit short of gaining the priority needed to access available funds. The use of such information for budgetary planning purposes would enhance the rational consideration of the portfolio's claims for asset acquisition and improvement funds at both the State and national levels.

In other words, unmet need data could be used for policy purposes and monitoring progress towards the currently stated goal of bringing buildings and facilities up to an acceptable standard. In support of the bill I also summarise several points made in earlier chapters of the Vinson report. They include the observations that: teaching and learning can be enhanced or retarded by the presence or absence of appropriate physical conditions; the school community's spirits can be uplifted or depressed by the presence or absence of well-designed and well-maintained buildings; good building quality and maintenance are associated with improved academic results; the quality of physical space affects self-esteem, peer and student teacher interactions, parental involvement, discipline, attention, motivation and interpersonal relations; and the quality of school buildings and their surrounds can also be a potent symbol of the regard, or otherwise, in which public education is believed to be held by governments and the community.

There are numerous examples of neglect and unfairness that are the result of this Government's politicised and irrational policies for allocating capital and maintenance funding. It is timely to note that I have been contacted by the outstanding Coalition candidate for Dubbo, Jen Cowley, who is furious about the conditions in which students in the Dubbo electorate are expected to learn. Jen has been meeting with the families of these students and has particularly requested that a number of issues be raised in Parliament in the context of this bill that show how badly our schools need the bill before the House today. The first issue is airconditioning and the inequitable and unfair way in which schools have been omitted from the list of priorities to have airconditioning installed.

Parkes High School ought to be at the top of the priority list, but because of politics it is not even on the Government's radar for assistance. Parents at the school are participating in the hot watch program launched by the shadow Minister in order to obtain the temperature data the Carr Government does not want to know about. I have been advised the data shows that on 11 February this year temperatures at Parkes High School were recorded as follows: sewing room, 41.5 degrees Celsius; playground, 52 degrees Celsius; tennis courts, 50 degrees Celsius; science laboratory, 36 degrees Celsius; staffroom, 40 degrees Celsius; mathematics staffroom, 39 degrees Celsius; canteen shelter, 40 degrees Celsius; room C4, 39 degrees Celsius; room C9, 38 degrees Celsius; and room D4, 39 degrees Celsius.

I acknowledge, and thank, the president of the Parkes High School parents and citizens association for providing us with this important data, which ensures that the truth about what is happening at the school can come out. But the truth is dreadful! Those temperatures are not indicative of a school; they are indicative of a sweatshop. A school is a place where children learn. How could anyone expect people to teach and children to learn in such conditions? When the mercury is soaring beyond 37 degrees there is no way that place can function properly as a school. What a disgrace it is that Ministers and their head office staff sit in airconditioned splendour in Sydney, yet expect children to tolerate such conditions! What more evidence is required to prove the need for urgent action, especially as another summer approaches and students and their families in Parkes again brace themselves?

Jen Cowley tells us that many schools in Dubbo are frustrated and hamstrung by the maintenance backlog that so characterises the Carr Government's infrastructure policies. She has raised the issue of the infants school toilets at Narromine Primary School. How symbolic is that of a problem that is as endemic as it is disgraceful? The Carr Government is well aware of the problems in infants school toilet blocks. It propels me back in time to the bad old days of the Unsworth Government when children as young as five were so horrified by and afraid of the smell and disgusting conditions of their school lavatories that they were trying to get through the day without going to the toilet.

Put the two problems of high temperatures and disgusting toilets together and the conditions become very cruel. A decrepit and malfunctioning toilet block is surely at its worst on a hot day. Teachers trying to protect overheated young students must ensure those students consume as much water as possible to prevent dehydration, which is a serious threat to young children in summer, particularly those in un-airconditioned classrooms. The image is a dreadful one, and it ought bear heavily on the conscience of every Government member. Why do you not fix this problem, which is so upsetting to these school communities? Every year this Government is deluged with complaints of this kind. And every year the Department of Education and Training does a huge mail-merge standard reply to all those complaints. The standard letter reads:

> I am advised that all funds have been allocated for the 2002-03 financial year—

just substitute the relevant financial year—

> The issue you have raised will be considered along with other priorities across the State when finalising the next year's capital works program.

That is the letter that everyone gets! The computer contains a macro for the phrase to go at the end of letters to do with requests for maintenance or capital works. Imagine the frustration of principals, teachers and parents! I turn to several examples of problems in my Northern Rivers region. These issues were raised in another place by the member for Lismore, who I should think is respected on all sides of politics as a fearless and relentless advocate for his local area—a person who genuinely tries behind the scenes to solve problems. If Thomas George is speaking out, you know something has gone dreadfully wrong. And when it comes to schools in our area, Thomas has been forced to attack the Government repeatedly for major shortcomings.

He has raised the following matters: Richmond River High School having a large range of continuing physical problems and deficits that simply are being ignored by this Government; the Wyrallah Public School being in need of a multipurpose unit; and the Casino Public School, with one of the most disadvantaged student populations in the State, having had a list of priorities for some years. It has been working towards dealing with those priorities, but it needs a great deal of support to secure funding to do the necessary work. Very few schools in our region have a school hall. This means that students are out in the hot weather that we experience in the Northern Rivers, especially inland parts of the region, where the infrastructure is oldest, as opposed to coastal areas, where temperatures are lower, there is population growth and the schools tend to be newer. Thomas has spoken about Manifold Primary School, which recently celebrated 75 proud years of education. A letter from the school states:

> Our school, Manifold Public, has experienced an ongoing problem of termite infestation in our toilet building over a number of years. The termites have caused extensive damage to the structure of the toilet block as well as other buildings. The termites have been treated a number of times by professional pest control companies at a cost of several hundred dollars so far, but obviously the treatments have not been overly successful with the consistent return of the termites.
>
> It has also been stated by a number of parents that they feel it is a health hazard and do not agree to the positioning of the toilet block onto the only covered area that our school has. This is the only area covered for the students … when the weather is hot or raining.

That is the only covered area in which students can eat during recess and lunch. The letter continues:

> One suggestion to resolve these problems would be for the demolition of the current toilet block and a less termite affected building to be built as a replacement. We have recently heard of a school that has a demountable building as their toilet block.

Another very instructive case is that of Bonalbo and Old Bonalbo schools which, like Parkes High School, are in dire need of airconditioning. However, the department requires that the average temperature be 30 degrees before it will be installed. The average temperature recorded at the schools is 0.05 degrees below that. Because the schools do not have an official temperature recording station, the readings taken at Casino and Tenterfield are averaged. Staff at the schools and parents in the towns have been recording the temperature daily and have produced a graph of their readings. I understand that is about to be presented to the Minister by Mr George. The graph proves that the area is often hot and humid and that the temperature is well above the required average for airconditioning to be installed. In fact, on one day the temperature exceeded 45 degrees.

Greg Aplin, the member for Albury, has pointed out that just outside his electorate and across the border in Victoria, and particularly in north-east Victoria, 17 schools are to be upgraded with airconditioning prior to summer. That is painful, he says, to the students and staff of Billabong High School, who have been waiting for airconditioning on the upper floor of the school for many years. The president of the Culcairn Public School parents and citizens association, Mr Webster, has written to Mr Aplin detailing the association's concerns. The letter makes these two points:

> Toilet bowls now permanently rusted with the many years of Culcairn hard bore water.
>
> Cisterns, the same vintage, now chipped and rusted …

The honourable member for Bega, Andrew Constance, has referred to a public meeting held in his electorate organised by the parents and school community of Merimbula Public School. The honourable member quoted from the *Merimbula News Weekly* of 31 March this year regarding that public meeting:

> The parents in attendance at the meeting spoke about the school grounds being a dust bowl when it does not rain and a mud heap when it does rain. They said the toilets are so dark and dingy that some students refuse to use them. One parent said that when contractors were brought in to clean up a disused toilet for disabled students they discovered a rat's nest.

I do not need to remind honourable members what it can mean when little boys use toilets for 40 years that are on a concrete slab. The odour would turn most people away from the toilets. Mr Webster continues:

> Due to age, the floor has a permanent odour in the cement surface especially in the urinal area. In addition to this sorry state of affairs, only one toilet is provided for male and female staff and visitors. Clearly the existing toilets and cisterns must be replaced with new dual-flush toilets. The urinal should be replaced with privacy stalls and the area must also be washed, and hot water should be provided for that purpose.

When the former Coalition Government was elected in 1988 it inherited a disastrous backlog of capital works and maintenance defects from the then Unsworth Government. We introduced a $100 million cyclic maintenance program, which meant every school was attended to over a seven-year period. It was a fantastic injection of funding, in addition to major and minor capital works. It coincided with a slump in building activity and as a result the building price index fell. In other words, the value obtained from the cyclic maintenance program climbed massively in real terms. It really was a golden era for rebuilding and securing our government school infrastructure. Because we were in office for seven years every single school throughout the State was attended to.

The priorities list for minor and major capital works was apolitical in those days, and thus credible in the eyes of the department, schools and the community. This Government, having axed the cyclic maintenance program, now experiences daily political pain in administering the meagre funding it has made available for school capital works. To address its political problems it began to fiddle with priorities in the program. That dabbling has degenerated to full-on rewriting of capital works planning and it is now all about meeting the political needs of the Government. It has nothing to do with student needs and for this reason confidence in the process in the whole capital works program has collapsed. Community anger about the state of our schools is palpable and cannot be repaired under the current regime.

Under the Greiner and Fahey governments, when "transparency" was our watchword, a publication was brought out each year at budget time explaining our capital works program. I have here an example from 1991-92, which outlines in precise detail how $315 million, a huge sum 12 years ago, is to be spent. It explained the method of determining priorities, the breakdown of the budget and the differences between the programs. Even funding for site acquisitions and gas heaters was explained. The document lists hundreds and hundreds of capital works programs. Every school in the State was able to see who was being funded, for what reason and where they were being funded. For example, in the Dubbo electorate we listed separately the minor works programs and the maintenance works programs. For minor works, Peak Hill Central School received $37,000 to upgrade its facilities. Under the maintenance program, Coonabarabran Public School received $250,006 for internal and external cyclic maintenance, and Dubbo South Public School received $479,509 for cyclic maintenance.

The Hon. Jan Burnswoods: Is this 15 years ago, all these wonderful improvements?

The Hon. CATHERINE CUSACK: That is right, and it was a lot of money then. I thank the Hon. Jan Burnswoods for drawing attention to the fact that these large sums of money that I am outlining were allocated 12 years ago. In real terms they were phenomenally large outlays at the time. Orana Heights Public School received $248,760 for cyclic maintenance. During our time the electorate of Dubbo received $1 million for one year, which in today's terms would be phenomenally large. I must thank the Hon. Jan Burnswoods for her

interjection, which draws attention to how significant, in real terms, these sums were. In today's dollar terms we would find that even fewer dollars were allocated to these schools.

Every single electorate in the State is listed in the document, which explains in transparent terms who is getting funding for what. Over a period of years, as result of the publication of this document, everyone knew what was going on. One of the first acts of the Carr Government when it was elected in 1995 was to axe the cyclic maintenance program and the document that spelled out clearly who was getting how much for what projects and how it was to be funded—transparency, fairness and accountability. The first three casualties of any Labor government are transparency, fairness and accountability. We are now looking at the results of nine years of no transparency, no fairness and no accountability.

The bill is important because it will establish a requirement for the Director-General of the Department of Education and Training to keep a register of government school assets. It will comprise reports on the status of the capital assets of government schools, and three-yearly plans on building and maintenance work in those schools. The school status reports on school building plans will be prepared by the director-general and included in each of the annual reports of the Department of Education and Training. The bill was not needed in 1995 when the Carr Government took office, but nine years later it is needed desperately. Neglect has eaten into the very physical foundations of our government school infrastructure. But even worse, the politics of cover-up and the politicisation of priorities for capital works funding have destroyed utterly public confidence in the capital works and maintenance program.

It is a great tragedy, because the program had been held in high regard. It required a good deal of confidence and trust for people to have the patience to wait, and they did wait patiently and they were rewarded for their patience. The program has been replaced by the squeaky-wheel approach, which has resulted in irrational funding across the system and created havoc in the entire government school community across the State. Education once had a great and global method of allocating resources. As I said, equity, fairness and transparency is now a distant memory. The credibility of the program is a smoking ruin thanks to the stupidity and mismanagement of the Government. It is typical of the Labor Party. As is typical of our system, it will be left to the Coalition to clean up this mess when we are elected to office. It will be costly, but it must be done. The bill is the framework for doing it. Again, I thank and congratulate the shadow Minister, Mrs Jillian Skinner, on the bill and the wonderful start she has already made to tackling the problems. I commend the bill to the House.

Debate adjourned on motion by the Hon. Don Harwin.

WILDERNESS AMENDMENT BILL

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

Second Reading

The Hon. JON JENKINS [3.08 p.m.]: I move:

That this bill be now read a second time.

The problems caused by feral animals and the lack of any real effort to deal with those problems are very well known within environmental circles. I will briefly describe the background to the bill and outline to honourable members the results of my research so that they may consider it between now and when debate on the bill resumes at a later date. Technically, it is somewhat difficult to define the term "feral animal". The dingo was introduced to Australia between 3,500 and 5,000 years ago, depending on which research paper is believed. The National Parks and Wildlife Service defines a feral animal as an animal that was not present when Europeans first arrived in this country in the 1800s. Throughout Australia's settlement, European settlers brought with them both animals and plants that are now having a devastating effect on our environment. They are very difficult to deal with, and I will be making some suggestions in that regard during this debate.

At the outset I will outline some of the history of the introduction of feral animals to Australia. One feral animal with which all honourable members would be familiar is the fox, which was introduced in approximately 1845 because English gentlemen wanted to continue their fox-hunting habits. Foxes are very adaptable, and within 50 years of their introduction to this country, had spread throughout almost the entire Australian continent. The only places where foxes are not found are the far northern, tropical regions of

Australia—and there may be some biological reasons for that. Otherwise foxes have spread throughout the whole of Australia. An animal that was probably introduced with the arrival of the First Fleet is the cat. Cats were kept on ships to keep rats and mice under control, and they almost certainly escaped from ships onto land when European settlers came here.

Reverend the Hon. Dr Gordon Moyes: Matthew Flinders' Trim!

The Hon. JON JENKINS: It may well have been. Research that I conducted with the Queensland Parks and Wildlife Service shows that some cats may well have come to this country via the Indonesian region. Apparently at an earlier time northern indigenous people traded with Indonesian people and cats may have arrived in Australia via that means. Genetic studies suggest that the appearance of some cats may have predated European settlement. Dogs arrived in this country on the First Fleet, as well as goats and pigs, which were kept for food. Unfortunately, many plants that we refer to as weeds were also brought into the country at that time. Lantana originated from South America and was introduced to Australia in approximately 1850. It has also spread throughout most of Australia. It grows to a height of 15 metres. Blackberry, another terrible pest, is of uncertain origin but probably originated in Africa. It grows to a height of approximately five metres in clumps of approximately eight metres long. It was probably introduced in the mid-1800s and also has spread throughout almost all mainland Australia. I will deal in more detail with weeds at a later stage.

Some of the problems caused by feral animals were dealt with by this very Parliament approximately two years ago. Two members who took part in that inquiry are present in the Chamber today. A report of General Purpose Standing Committee No. 5 on feral animals was tabled in this House. It is a very substantive report, and I am sure , the two members of the committee to whom I have referred will confirm that the inquiry was most extensive. The committee travelled throughout New South Wales and consulted extensively with scientists, representatives of rural lands protection boards and experts on feral animals. It saddens me that two years later I can find no evidence of even one recommendation of the report having been implemented. Despite the considerable cost of preparing this report and conducting the inquiry—bearing in mind the cost of travel and so on—not one recommendation has been implemented.

Last year's National Parks and Wildlife Service report, which was also tabled in this House, devoted just half a page to information about feral animals—an indication that government instrumentalities are not treating the issue with the seriousness it deserves. This bill is designed to remedy that situation. The bill makes it a legislative requirement for the National Parks and Wildlife Service to deal with the problem of feral animals. I do not wish to unnecessarily take up the time of the House, but I will cite some statistics that I would like honourable members who are present in the Chamber to listen to so that they will be able to tell other members of their parties what I am about to say. I will also provide them with information and research data.

By way of background, I inform the House that earlier this year I accompanied officers of the Queensland National Parks and Wildlife Service and Army personnel on a shooting trip to western Queensland. I do not use guns and did not engage in any shooting activity, but those who did shot 600 cats in two nights in a six square kilometre area. I ask honourable members to think about the number of feral cats that exist in Australia based on that statistical framework.

Autopsies of the cats that were shot on that trip revealed that each cat had, on average, three native animals in its gut. Some of the cats had consumed bilbies—the most endangered species on the Australian mainland. I ask honourable members to also keep those numbers in mind. In New South Wales alone there are approximately 8 million hectares of national parks and wilderness areas. Current research indicates that there are between one and three feral cats per hectare, which means that there are approximately 16 million feral cats in New South Wales. Each night, feral cats eat approximately 74 million native animals and birds. These statistics relate only to cats; I have not yet cited statistics for native birds and animals consumed by wild dogs or foxes. In one year, feral cats consume 2.7 billion native animals.

I now draw attention to the proliferation of pest weeds in Australia. In the once beautiful Bendethera wilderness in southern New South Wales there is now nothing but vast stretches of five-metre-high blackberry bushes as far as the eye can see. I hate to think what the great environmental mentors, Myles and Milo Dunphy, who spent a great deal of time in the Bendethera wilderness, would think of the area now. The wilderness where the grandfathers of the environment movement spent most of their time has become an area people cannot access or would not want to access.

Before I conclude, I will add one more set of statistics for honourable members to consider. Almost 50 per cent of the New South Wales coastline has been declared national park or wilderness area. In other words,

the National Parks and Wildlife Service controls almost half of the coastline of New South Wales. Why is it the case that in national park and wilderness areas, which are protected from development among other things, the list of threatened species continues to increase at a rate greater than anywhere else in the Western World? Research shows that the two factors of unmanaged wilderness and high rates of threatened species are intrinsically linked. That is a problem for New South Wales because the issue of feral animals has not been addressed. I will continue to address this issue in more detail at some time in the new year.

Debate adjourned on motion by Reverend the Hon. Fred Nile.

HEALTHY SCHOOL CANTEEN STRATEGY

Debate resumed from 28 October.

The Hon. PETER PRIMROSE [3.18 p.m.]: I support the motion moved by the Hon. Jan Burnswoods that this House notes with concern that the rising incidence of obesity in children and young people and congratulates the Carr Government on its recently announced Healthy School Canteen Strategy as one part of its response to the 2002 Childhood Obesity Summit. The Childhood Obesity Summit revealed that more than 20 per cent of children in New South Wales are overweight or obese, and the rate of obesity in children increases each year. Obese children have a 25 per cent to 50 per cent chance of progressing to adult obesity and of suffering from health problems associated with obesity, such as heart disease, diabetes and some types of cancer. Obesity may also result in a greater predisposition to conditions such as gall bladder disease, osteoarthritis, impaired fertility, raised blood pressure, sleep apnoea, asthma, poor body image, and low self-esteem. The Premier said:

> On top of these factors obesity can shatter self-esteem, lead to social discrimination and contribute towards mental illness. The link with poor self-esteem and depression is obvious.

The Premier stated also that obesity created a significant cost to taxpayers. For example, estimates from 1995-96 suggest that the cost of obesity could be anywhere between $700 million and $1,200 million a year, and on today's figures the cost would be much higher. On 23 October 2003 the Premier announced a wide-ranging response to the State Government's 2002 Childhood Obesity Summit that involved a comprehensive action plan to tackle this increasingly dangerous problem, which, as I indicated earlier, affects 20 per cent of children in New South Wales. As a direct result of the Summit the State Government committed more than $3.5 million to strategies designed to reduce childhood obesity. The Premier outlined the plan when addressing the second annual Australian and New Zealand Adolescent Health Conference, at Westmead hospital.

The percentage of children who are overweight or obese is increasing every year. Dr Simon Clarke, the Medical Director of the Adolescent Medical Unit at Westmead hospital, has warned that the situation is serious. He said, "This current generation may die well before their parents." The Summit was about setting up mechanisms to develop ideas on how to reverse this worrying trend. The Summit brought together experts, health professionals, parents, food manufacturers, fitness specialists and young people to develop such a plan. The plan is aimed at tackling obesity head on, it targets what the Summit concluded as the two long-term solutions to obesity: healthy eating and more physical activity.

The plan includes a Healthy Schools Canteen Strategy, costing $750,000, which will improve the quality of food sold in school canteens by making it mandatory for all State schools to provide healthy and nutritious food, consistent with national dietary guidelines. The New South Wales Centre for Overweight and Obesity is the cornerstone of the obesity action plan. That world-class centre of excellence will receive $1.5 million over three years to bring together child health experts to monitor overweight and obesity trends and to evaluate the effectiveness of services and programs. In the first term of this year, 45 high schools and 45 primary schools, chosen at random, took part in the Schools Physical Activity and Nutrition Survey, which provided health experts with the latest information on obesity, children's fitness, physical activity levels, eating habits and related information.

The Department of Sport and Recreation is to implement three active out-of-school-hours pilot programs including training, out-of-school-hours care staff, and trialling ways of providing new physical activities to entice more children to participate. Finally, an active community grants scheme will enable the Department of Sport and Recreation to focus on the prevention of childhood obesity. The Obesity Summit identified a number of matters of grave concern in relation to some of the socioeconomic and cultural factors that affect childhood obesity as well as family and peer group pressure. However, the dominant obstacles remain a lack of exercise and poor diet.

The Summit found, firstly, that children are sitting around at home more often and getting out and playing less. Bike riding and backyard cricket are being displaced by television and computer games. The 2001 New South Wales Child Health Survey revealed that on average 40 per cent of 5-year-olds to 12-year-olds watch two hours or more of television or videos daily and 15 per cent reportedly played computer games for an hour or more a day. Secondly, children are eating too much junk food at home and school. By law, children attend school for about 200 days a year and they eat up to three times a day at school. However, according to the School Canteens Association of New South Wales 90 per cent of schools sell food inconsistent with national dietary guidelines. Thirdly, child safety issues are also making it harder for them to be physically active. There is a great desire for child protection and a greater focus on child safety and this keeps children at home and away from parks and playgrounds. Parents and carers are less inclined to let children play in a park unaccompanied.

Under the Healthy Schools Canteen Strategy the New South Wales School Canteens Association is developing nutrient criteria to support schools in establishing healthy canteens. The criteria will determine the broad range of healthy foods that can be sold under the strategy. The criteria are based on a traffic light approach. Green equals go, and foods under that category form the basis of a healthy diet and are low in saturated fat, sugar and/or salt and rich in nutrients. They should make up the majority of food on the menu and be on sale every day. Food that fits that criteria include fruit; vegetables; whole grain or high-fibre bread and cereals; reduced-fat milk, cheese and yoghurt; lean meat, fish and poultry; and eggs and nuts.

Amber equals caution, and foods under that category are moderate in saturated fat, sugar and/or salt and moderately high in energy. They are not in the red category because they do not contain a range of nutrients. They should be sold less often than green category foods, and serving sizes should be moderate, not large. A broad range of commercial food products have been modified to meet specific nutrient criteria and most of them fit into the amber category. They include reduced-fat pies, lasagne, pasta dishes, chicken products, noodles, pizza and snack foods. Red equals stop, and foods under this category are high in saturated fat, refined carbohydrate, energy and/or salt. They have far fewer nutrients than foods in the green and amber categories and contribute little to children's nutritional needs. They must not be sold on a daily or regular basis, but may be sold a maximum of twice per term. Red category foods include confectionery, soft drinks, deep-fried foods, pies, pastries, cakes and chips.

Currently, 208 commercial food products registered with the New South Wales School Canteens Association meet the healthy nutrient standards. The State Government is engaged in talks with the Apple and Pear Growers Association about distributing apples to school canteens. Another strategy involves the New South Wales Centre for Overweight and Obesity. As I indicated earlier, $1.5 million has been allocated over three years to establish a world-class centre of excellence, drawing together child health experts to monitor overweight and obesity trends and to evaluate the effectiveness of services and programs. Based at the University of Sydney, the centre will be led by Professor Don Nutbeam, an internationally recognised leader in public health and health promotion. The centre will have five directors with expertise in paediatrics, obesity, physical activity, nutrition and health promotion.

The next point I raise relating to the strategy is the schools physical activity and nutrition survey. As I outlined earlier, 45 high schools and 45 primary schools chosen at random were surveyed in term one this year to provide health experts with the latest information on obesity, children's fitness, physical activity levels, eating habits and related information. This will be one of the first major projects of the Centre for Overweight and Obesity.

I refer, next, to the out-of-school-hours care pilot sport program. The Department of Sport and Recreation will implement three active out-of-school-hours care pilot programs, including training staff and trialling ways of providing new physical activities. These programs will also develop a start-up activity package for centres. At present, children in out-of-school-hours care are often engaged in activities such as arts and craft, reading and board games because staff may not have the skills or qualifications to lead children in physical activity. This pilot program will seek to overcome those barriers, allowing staff to develop skills to enable them to provide a diverse range of physical opportunities for primary schoolchildren in out-of-school-hours care centres.

The final matter that forms part of the strategy is active community grants. This existing Department of Sport and Recreation scheme will make the prevention of childhood obesity its major focus. I refer to the *P&C Journal* produced in term four last year. The lead item, the New South Wales healthy schools canteen strategy, is referred to on pages 30 and 31 of that journal. It is an interesting overview of an issue that was highlighted as being an important part of the childhood obesity strategy. I will give a bit of background to the New South

Wales healthy schools canteen strategy. It commenced as a result of the Summit, which produced 145 resolutions to address the problem. Resolution 3.14, which relates specifically to school canteens, states:

> That it be ensured that no canteen sell high fat or high sugar foods or drinks through over-the-counter sales, vending machines, special events or contractors. This may be achieved by:
>
> (a) legislation
>
> (b) policy directives
>
> (c) support or incentives for school canteens and/or
>
> (d) other means

The article in the *P&C Journal* states:

> Currently it is not mandatory for schools to provide food choices consistent with dietary guidelines for children and adolescents although the Department of Education and Training does provide school canteen guidelines that encourage schools to do so. School canteens that provide healthy food support the nutrition and health information taught in the classroom with personal development, health and physical education.

The *P&C Journal* states further:

> What we know about school canteens in New South Wales is that school canteens are one of the major takeaway food markets in the State. A child who regularly purchases breakfast, snacks and lunch from the school canteen can consume a substantial portion of their daily intake from this source.
>
> The majority of school canteens open every day. Some small schools are only able to provide the service once or twice per week. The majority of school canteens are operated by the parents and citizens association with the remainder being run by the school or a contractor. Most have a school canteen committee. The principal in each school has overall responsibility for the school canteen.
>
> The vast majority of canteens are run by volunteers. A minority, mainly in secondary schools, have a paid canteen manager or supervisor. Many school canteens contribute significant amounts of funding to the school's budget. There are reports of schools that have changed to a healthy canteen continuing to make the same or even greater profit. For example, a survey of 34 gold award schools—

that is, 90 per cent or more of food sold meets the healthy nutrition criteria set by the New South Wales School Canteen Association—

> found that 16 reported an increase in profit, 16 remained the same and two did not respond. None reported a fall in profit as a result of changing to a healthier menu.

I urge honourable members, if they are interested—and I know that they are—to make themselves aware of the report in the *P&C Journal*, Term 4 2003, Volume 54, No. 4. Pages 30 and 31 of that report outline these issues in detail. It is a worthwhile and easy to read summary of the program.

Reverend the Hon. Dr GORDON MOYES [3.35 p.m.]: I too commend the Hon. Jan Burnswoods for moving this motion, which concerns the rising incidence of obesity in children and young people and congratulates the Carr Government on the recently announced healthy school canteen strategy as one part of its response to the 2002 Childhood Obesity Summit. This is an important issue.

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! I interrupt Reverend the Hon. Dr Gordon Moyes to acknowledge the presence in the public gallery of the Sydney Korean United Senior Citizens Association, accompanied by Virginia Judge, the honourable member for Strathfield.

Reverend the Hon. Dr GORDON MOYES: That was a well-deserved interruption.

The Hon. Henry Tsang: Please note that many Koreans are Christians and they are very good Christians.

Reverend the Hon. Dr GORDON MOYES: I know that many Koreans are Christians. On several occasions I have been to Korea and to Seoul and I have been a lecturer at the Korean women's university. When I was in Korea I received a great welcome from the Korean people. I thank the Hon. Henry Tsang for making that point. I state in passing, however, that while in Korea I found sleeping on the floor very difficult.

The Hon. Charlie Lynn: And the Australian Army is very proud of its role in supporting Koreans against the Chinese Communists in the Korean War.

The Hon. Henry Tsang: In fact the Koreans appreciate the support of the Australians.

Reverend the Hon. Dr GORDON MOYES: Indeed. The analysis of available data by the Australian Institute of Health and Welfare shows that the number of overweight and obese Australian adults has almost doubled in the last two decades, with Australia now being ranked as one of the fattest developed nations in the world, closely following the United States of America. In the year 1999-2000 an Australian diabetes, obesity and lifestyle study estimated 67 per cent of adult men and 52 per cent of women were overweight. I am in the male category. Males are more likely than females to be overweight with almost half—48 per cent of adult males—estimated to be overweight compared with 30 per cent of females.

Levels of obesity are higher in females, with 22 per cent of females estimated to be obese. The real issue is that children eat what their parents eat. An analysis of the 2001 national health survey found that about half of all Australians aged 18 years and over were either overweight or obese. In contrast, the corresponding prevalence of overweight and obesity estimated from the 1989 national health survey was under 40 per cent. Therefore, in a period of just 10 years the proportion of Australian adults overweight or obese increased by 25 per cent. If this trend continues, it is estimated that 60 per cent of Australians over the age of 18 will be overweight or obese by the year 2010. Those figures will increase to 65 per cent by the year 2020.

Because children eat what their parents eat, in particular fast food, there is obviously a correlation that disturbs us. To date, data for children and adolescents has not been readily available because of the lack of standard definitions for measuring overweight and obesity in children. However, using the international definition that has been developed, the situation appears to be similar for children and adolescents.

It is estimated that 20 per cent to 25 per cent of Australian children are either overweight or obese. Something can be done about this. For some years as a non-scholar in this field I have observed some interesting developments in an area I visit each year. Honourable members may know that I have a position as an adjunct professor to a university in north-east Tennessee, where I lecture each year during the parliamentary recess.

According to numerical calculations, Tennessee has the most obese people of any State in mainland America, yet people at the university I visit in north-east Tennessee have one of the lowest obesity levels in the country. So some of the most obese and some of least obese people in America live in the same State. Why is this so? In the flat western part of Tennessee there is a high incidence of sedentary activity and a large number of fast food outlets. Interestingly, in north-east Tennessee there are many universities, colleges, research facilities and other academic institutions.

Residents of north-east Tennessee have a higher education level per capita than people in any other part of America. But the education levels in the southern and western parts of the State are among the lowest in America and unemployment rates are among the highest. It is interesting to note that high incomes, high education levels, and increased participation in sport impact directly on the average weight and obesity of Tennessee residents.

Overweight and obesity in adults is measured using a body mass index that is calculated by dividing weight in kilograms by height in metres squared. I always back away when people start talking about my height and weight—I happen to be the perfect weight for a person who is seven feet four inches tall! But when we start talking in terms of square metres it is a real concern—particularly in the summer, when the swimming togs come out of the cupboard again. Fat distribution is also an important consideration when assessing overweight or obesity and the associated risk of disease. For example, increased abdominal obesity—which is a particular problem for men—has been consistently shown to carry a higher risk of cardiovascular disease, type 2 diabetes and cancer. Central abdominal obesity is measured using the waist circumference.

The Australian standard definitions for measuring overweight and obesity in children and adolescents at a population level have been endorsed only since December 2002. Weight gain in children changes substantially with age. For example, it rises steeply in infancy, falls during preschool years and rises again during adolescence and early adulthood. Obesity in children is a very important issue. Aside from genetic factors, overweight and obesity is caused by an energy imbalance, when energy intake exceeds energy expenditure over a considerable period. Hence, good nutrition and adequate levels of physical activity play an important role in preventing further weight gain throughout the life cycle. It is generally agreed that this energy

imbalance is caused by large-scale changes in the modern environment, about which other honourable members have spoken eloquently.

Several studies have attempted to estimate the cost to the nation of obesity. In the United States of America the direct cost of obesity has been estimated to be about 9 per cent of total health care costs, and in Europe the figure is between 1 per cent and 5 per cent. An updated estimate for Australia provided by S. Crowley in 1995-96 suggests that the true cost of obesity may be between $680 million and $1,239 million. However, the incidence of knee, hip and other joint replacements, cardiovascular disease, and cancer would sharply increase this cost to the Australian health system. The indirect cost of obesity, such as production lost due to premature death, absenteeism and so on, is estimated to total another $272 million. However, it should be noted that, because of their close relationship to morbidity and disability, obesity rates will increase significantly in the next 20 years— particularly if individuals suffer ill health, which adds greatly to its indirect cost.

Finally, I shall concentrate on children who are overweight and obese. This is generally caused by a lack of physical activity, unhealthy eating patterns, or a combination of both. I congratulate the Childhood Obesity Summit on its conclusions—I think it made about 140 recommendations. It has made an important contribution to improving the health of Australia's future generations. Being overweight and obese is also related to technological, social, economic, and environmental changes, particularly when linked with increased food access and passive energy consumption. Increased sedentary activities—such as watching television and playing video games—travelling by motor vehicles, decreased physical activity, and increased consumption of high-fat and high-energy foods are likely to be foremost among the causes of the current obesity epidemic.

Overweight and obese children need a lot of support, acceptance, and encouragement. For many years at Wesley Mission we have cared for children with severe mental, emotional, and psychological illnesses. These problems frequently go hand in hand with a poor self-image: obese or overweight children are often treated badly by their peers. In the mental health division of Wesley Mission we employ some 72 psychiatrists, many of whom work with sufferers of anorexia and bulimia. They care for several hundred anorexic and bulimic teenagers, mainly girls, whose problems are impacted greatly by poor self-image and who are literally starving themselves to death. Overweight and obese children should not be made to feel different or awkward. Parents and carers should focus on gradually changing the family's physical activity and eating habits.

I congratulate the Government on its initiative in holding the 2002 Childhood Obesity Summit. I commend the Healthy School Canteen project, which restricts non-recommended foods. I congratulate parents who take their children to sport and encourage outdoor activities. I also congratulate parents who think about their children's diet, and include salads and vegetables and reduce their consumption of salt, sugar, soft drinks, fast food, saturated fats and so on. I commend the motion to the House and hope that it will be supported unanimously.

The Hon. PATRICIA FORSYTHE [3.48 p.m.]: Although I concur with absolutely everything Reverend the Hon. Dr Gordon Moyes said, I think this motion takes a fairly simplistic approach to a complex problem facing our society. For example, the Healthy School Canteen strategy, which is highlighted in the motion, addresses just one part of a much wider, complex problem. The motion congratulates the Carr Government on introducing that strategy. When focusing on community health, the Coalition announced a similar policy early in the last parliamentary term. We recognised that as an important element, but only one element, in dealing with obesity. We should focus not only on childhood obesity but on adult obesity. It is sad, but true, that obese children often have obese parents, so we need to focus on a whole-of-life and a whole-of-government approach to obesity.

It struck me that photographs of children in classes in many schools across Australia and in other parts of the Western world show a significant number, often up to a quarter of the total, who are not merely overweight but obese. Yet in my generation—the generation of many in this Chamber—only one child in a class would have been overweight, and virtually no-one was obese. That was true in my public, primary and high schools in a working class suburb in Newcastle. Today if one is looking for a suburb where one might find a higher incidence of obesity, the area I grew up in would be typical.

The Hon. Henry Tsang: You should have joined the Labor Party.

The Hon. PATRICIA FORSYTHE: No way. I will not go any further on that. In the area in which I grew up one might find an overrepresentation of obese people today. As children were not obese in those days, what has changed in our society in a generation? Many things have changed and that is why there are no simple

solutions, such as a health canteen policy, and we have to look more deeply. We have to look at parents and lifestyles. Fundamental to the change is exercise. We took for granted walking to school as part of our daily life, but today many children have a bus pass or are driven to school by their parents.

Televisions are now ubiquitous in Australian homes: they were not when most of us were growing up. I was 10 years old before we had a television, but very few homes would not have a television today. That translates to the after-school lifestyle of children: they sit in front of a television, or, more and more, in front of a computer, so we need to go beyond issues of obesity and look at that. For instance, today there is a higher incidence of children with eye problems or short sightedness as a consequence of not getting hand-eye co-ordination exercises with ball games and other activities associated with very small children. That is lost because today they do not engage in those sorts of activities.

There is also a shift in the type of food we eat and the acceptance of so-called fast foods. What is missing in the debate is an acceptance that we are giving mixed messages, that there is a lack of consistency of messages. I highlighted that inconsistency in the Alcohol Summit last year when we decided that we needed to get a message to teenagers not to consume alcohol but to look for alternative drinks. One would draw the conclusion that that meant, for example, soft drinks. When teenagers go to dances and engage in high-energy exercise they need a fluid intake, particularly in our hot climate. Do we assume they will just drink water? The answer is "No."

We start off by saying "no" to certain drinks and we do not have a consistent message. If under a healthy canteen policy some foods are not just not recommended but are banned, that will potentially give the wrong message. The better approach is to develop a policy around a balanced intake of food and drink in moderation when children are very small. We need a better education approach to the concept of moderation. On my first trip to the United States of America with my children when my son was eight years old, the size of meals that were regularly given to him in restaurants were way beyond the capacity of an adult male to consume, let alone an eight-year-old child. It is no wonder that in the United States so many people are obese. Obesity is related to the size of meals as well as the content of the meals, but no strong messages are given about that. I hope that healthy school canteens will promote and advocate what is positive rather than negative.

We need to educate and give clear and strong messages to young people about balance and moderation. We then have to help their parents understand about a proper balance in the foods they eat. At certain times of the day some foods are better than at other times. Intake should be balanced with energy in and energy out. Part of the balance is that the more energy one consumes in the morning the more chance one has of using that energy during the day.

Obesity falls within a much broader framework. Approximately 50 per cent of the working population now do not take holidays. I am probably the last person to talk about our developing culture in which it is seen to be a badge of honour to work 18-hour days. It is interesting that in the history of the Western world there are certain benchmarks. In the nineteenth century in Great Britain there was, apart from the development of democracy, the development of unions and their role in gaining greater rights for employees, which included shortening the number of hours worked a day and introducing the concept of leave, et cetera. Yet today, despite those so-called advances, many people want to work and are happy to work 15 hours or 18 hours a days in some cases, and then not take holidays.

It is inevitable therefore that our bodies will be thrown out of whack, and that may translate to a lack of exercise or a lack of a stress-free environment to take time out to do things. Obesity must be addressed in a whole-of-life approach. We have to look at people's exercise levels and help them understand that if they do not have a healthy approach to exercise and lifestyle, inevitably their health will suffer. That is played out with obesity but also in many other ways. Reverend the Hon. Dr Gordon Moyes referred to eating disorders, and depression could be put in the same category. We have to look at issues relating to anorexia. All those matters are tied up with body image and the notion of perfection that is part of life today.

Childhood obesity is just one symptom of the number of significant social issues impacting our community that we are not dealing with very well. From time to time we need to step back—this House is as good a place as any in which to do that—reflect on the sort of society in which we live and work, and compare it with what is often described as the simpler life of a generation or more ago. Back then there seemed to be fewer pressures and less consistency in what we did. Back then the sorts of issues that now confront us were not usual or normal. Sadly, it seems that obesity is being accepted by the community. Because there are now so many more overweight children, they are now being accepted as a class of children. Rather, obesity should be regarded as an aberration that needs to be dealt with.

Childhood obesity is a difficult issue to deal with because it goes to people's self-esteem. That is why it must be looked at in the context of a number of other issues, such as the incidence of depression in our community. The prevalence and enormity of all of those problems suggest that for some reason our society is not adequately dealing with these issues. The motion suggests a Healthy School Canteen strategy as part of the solution, but that is only a tiny part of the solution. A better solution would be the one the Government seemed to get right but did very little to progress: bringing Tourism and Sport and Recreation under one Minister and creating one larger portfolio. That seemed to be the beginning of a real focus by government on the sorts of things we should do.

Tourism is not about a couple of advertisements on television: it is about encouraging people to take holidays each year and focus on facilities within their communities. Overlay that with sport and recreation and encourage people to regard that as part of their everyday life, rather than as things to be put off to another time. That should be part of our daily focus. The Government seemed to be getting it right when it brought together those two portfolios and put them under one director-general. It could have followed that move with a strategy to advise the community of the importance of achieving a balance between daily lifestyle and tourism.

I see the motion as only one part of a much broader framework. The House should revisit this issue as part of a broader debate about the nature of our society and how it is that our community has grown to tolerate and accept childhood obesity as normal. Many young children are so overweight that their life expectancy will be so much shorter than mine or someone who has a regular fitness regime. To be fit, one does not need to spend hours in the gymnasium. It is about our attitude to daily life including the sort and amount of food we eat and the exercise we do. The way forward is to look at the larger picture: what people do each year, whether they take holidays, and whether they take time out from stressful work.

To the extent that the Hon. Jan Burnswoods has put the issue before us for discussion, we should congratulate her. However, I would hope that, as the Government has already had an obesity summit, it will expand its focus to regard this as more than an issue involving health and exercise. It is time we started to adopt a whole-of-life approach. That means a whole-of-government approach. We need to look at some of our education and advertising programs and give this matter much higher priority than it has hitherto been given, not only by this Government but by governments over time. So I commend the motion but suggest that it deals simplistically with just one element of a much greater problem, one that deserves to be revisited by this House at another time.

The Hon. DON HARWIN [4.05 p.m.]: Personal candour did not get a particularly good run during the Federal election campaign, as one of our former Federal colleagues found out. So it is with some trepidation that I speak on a motion that deals with obesity. I acknowledge the Hon. Jan Burnswoods for bringing this important issue on for debate today. It concerns an extremely important problem not only in Australia but throughout the world. The honourable member noted that one part of the response to the 2002 Childhood Obesity Summit was the Healthy School Canteen strategy.

The Hon. Patricia Forsythe made a number of valid comments about the text of the motion, and I support them and commend them to the House. Here in New South Wales a summit does not have a good name, because the Carr Government's solution to almost every problem seems to be to hold a summit. Even though the great fanfare and spin at the time suggested we will get action, evaluation a couple of years later of what comes out of those summits often reveals that that is not terribly much. But, in terms of the Childhood Obesity Summit, at the very least the Healthy School Canteen strategy is a very good outcome. In that respect, of course the Opposition concurs with the motion and supports the Healthy School Canteen strategy. When I attended infants school and primary school some 35 years ago, I recall that we had a very healthy school canteen.

The Hon. Duncan Gay: They were full of rubbish.

The Hon. DON HARWIN: Perhaps that is because the Deputy Leader of the Opposition went to a flash private school!

The Hon. Duncan Gay: I don't think so. It was a State school.

The Hon. DON HARWIN: Peakhurst South Public School—where I went, and where my mother was one of the canteen volunteers—had a very good canteen. Of course, I was allowed to go to the canteen only on days that my mother was working there. She would not give me any money on other days. So I would have to say that my problem was not childhood obesity. About the most wicked thing we could get from the Peakhurst South canteen was a piece of fresh bread crust spread with peanut butter.

The Hon. Charlie Lynn: Peanut butter is good!

The Hon. DON HARWIN: Some take a different view about peanut butter. In those days we had a very healthy school canteen. However, that was not so when I got to Peakhurst High School. There certainly was not a healthy canteen approach at that school, as I was to find out to my cost.

The Hon. Duncan Gay: The food at the boarding school that I went to was rubbish. If it were not for the canteen, we would have starved.

The Hon. DON HARWIN: I am very sorry to hear that was the case at Newington! Nevertheless, the Healthy School Canteen strategy is an important step forward. Statistics on the worsening of childhood obesity in New South Wales since 1985 are of concern. In the 10-year period from 1985 to 1995 the level of the combined overweight and obese categories in Australia more than doubled, while the level of obesity tripled in all age groups and for both sexes. The proportion of obesity in girls aged between 7 and 15 years increased from 1.2 per cent in 1985 to 5.5 per cent in 1995. One does not have to be very good at maths to realise that is a 450 per cent increase, which is very serious. The proportion of obesity in boys aged between 7 and 15 years increased from 1.4 per cent to 4.7 per cent. It is interesting to note that the figures for that 10-year period represent a smaller increase for boys than for girls. Clearly, the problem is worse among young girls than it is among young boys. The figures are from NSW Health. I am sure that, as part of a proper approach to the obesity problem, the department will update us with some figures at the end of 2005 so that in a longitudinal sense we can continue to see how this problem is developing. It is almost certain that it has been worsening in the past 10 years, which is of great concern.

I noted the trend between boys and girls in the age group 7 to 15 and I emphasised that the problem was worse among girls. However, it is interesting to note that as people get older the problem among males becomes far worse than it is among females. I have no idea why that is because I have not read the literature. However, I am sure there are very good reasons, such as the life experience of women versus the life experience of men. According to NSW Health, 67 per cent of Australian men and 52 per cent of Australian women aged over 25 years are overweight or obese. The problem changes with the life experience of children and the life experience of adults. Childhood obesity is generally caused by lack of physical activity, unhealthy eating patterns or a combination of the two, with both genetics and lifestyle playing important roles. Often we underplay the role of genetics. Most of us would know from our own circle of friends people who only have to look at food to put on weight as opposed to people who eat an unbelievable amount and never seem to put on weight, even though they both have similar activity levels.

The genetic predisposition of one's metabolism is also a factor, but individuals can do something about their metabolism through activity. It is an entirely different situation. Often psychological factors are underplayed. Perhaps psychological factors in obesity are not as high up the chain of causation as they are with other eating disorders, such as bulimia and anorexia nervosa. Both bulimia and anorexia nervosa have affected young women in plague proportions. The late Princess of Wales was a bulimia sufferer and it is no secret that psychological factors were a big part of her eating disorder. Anorexia nervosa is a serious disease. Although I accept that anorexia nervosa and obesity are two very different problems, the psychological factors involved in anorexia nervosa are not underplayed, while they sometimes are underplayed in obesity. Apart from my obvious struggle with weight, eating disorders have been part of my consciousness in the past couple of months because my former research officer, Carl St Leon, who worked for me for four years—1999 to 2003—lost his only sister, Sonja St Leon, earlier this year to a serious eating disorder.

I spent time in the office with Carl and I saw his struggle. Eventually he had to take on a role for Sonja under the Guardianship Act. Sonja was a sad and serious case. What Sonja went through was a great torment for Carl and his family, Professor Reg St Leon and Isabel St Leon, both of whom are friends of mine. Anorexia nervosa is the most common and serious disease of adolescent girls and young women across the world. It is extraordinary. The prevalence of anorexia nervosa in the age group 15 to 19 is as high as 1 in 200, which is an incredible statistic. Although that halves between young women aged between 20 and 24, the figure is frightening. After asthma it is the most common disease in both population groups, and a much more deadly condition than asthma. The mortality rates for anorexia nervosa, which are as high as 20 per cent at 20 years, are frightening and disturbing.

Other honourable members who have spoken in the debate have referred to anorexia nervosa. Its psychological aspect is paramount. Clearly, the disease is not necessarily based on not eating enough; it completely takes over the person. It is distressing when someone close to you is suffering, and I feel for the St

Leon family and everything they have been through. At Sonja's funeral, held at the German Lutheran Church in Goulburn Street, Reg St Leon spoke movingly about what she went through and the incredible life she had, although body image totally took over her psyche, and this terrible disease claimed her in the same way it claims so many other young women. The St Leon family is trying to move forward by remembering all the good things about Sonja. They are doing everything they possibly can to make sense of their experience.

During Reg's eulogy at the funeral I was shocked to hear about the terrible trouble that families of sufferers go through. The legal position of sufferers in New South Wales is not widely understood. While it is a good thing for this House to discuss the Healthy Schools Canteen strategy, there are many issues that the Government should begin to grapple with. For example, anorexia nervosa is excluded from the operation of the Mental Health Act and compulsory treatment is dealt with under the Guardianship Act. The Guardianship Act is an imperfect instrument to apply to the disease of anorexia nervosa. Anorexia nervosa sufferers who present at a hospital's casualty department are not admitted to hospital because they are regarded as not having a disease but, rather, a psychological condition.

The Hon. Duncan Gay: It cannot be regarded as mental illness either.

The Hon. DON HARWIN: Sufferers find themselves in a very difficult situation. I take the opportunity of debating the Healthy Schools Canteen strategy to urge the Government to take a much closer look at what the sufferers of eating disorders have to endure as a result of their interface with the health system and the legal regime. Tomorrow night the first function of the Sonja St Leon Eating Disorders Research Fund will be held. It will be an opportunity for many people to come together to remember Sonja in a positive way. The fund is being set up under the auspices of the faculty of Medicine of the University of Sydney, which is appropriate as the St Leon family has had a long association with the university: Carl was a student of the University of Sydney, Sonja studied physical education at the University of Sydney, and their father, Reg St Leon, was a professor of German at the University of Sydney. We are grateful that the fund will attract parallel support from the Federal Government. For each dollar that is raised, the Federal Government will contribute 60¢, and those of us who knew Sonja are delighted about that. We hope that the Sonja St Leon fund will make a positive contribution to shedding light on eating disorders and ways in which people who suffer from them may be more effectively treated.

Childhood obesity is not nearly as serious a problem as are adult eating disorders because there are numerous strategies available to address the problem of child obesity, including the Healthy Schools Canteen strategy that is referred to in the motion, sporting activity and programs that are being considered by the Federal Government. It is great that all the members of this House have been able to come together and talk about some of the problems associated with eating disorders. I commend the motion to the House.

The Hon. JAN BURNSWOODS [4.23 p.m.], in reply: It is my pleasure to thank honourable members who have participated in the debate and to respond to the points they have raised. It is worth repeating the motion that has attracted such a wide variety of comment from honourable members:

> That this House notes with concern the rising incidence of obesity and children and young people and congratulates the Carr Government on its recently announced Healthy School Canteen strategy as one part of its response to the 2002 Childhood Obesity Summit.

Given the mix of speeches that were made during the debate, some of which had a slightly confessional tone, perhaps I should state at this stage that I, too, used to be thin, and that many of the honourable members of this House now are not.

The Hon. Melinda Pavey: The Hon. Henry Tsang is.

The Hon. JAN BURNSWOODS: Yes. As the Hon. Henry Tsang said earlier, he is one of those who can eat as much as he likes and never change. Perhaps he had better not say that too often lest people become resentful! This debate has evoked many thoughtful contributions, which included some personal histories or stories. I shall examine some of the themes that were developed. Not surprisingly, Mr Ian Cohen emphasised that the Greens believe in green vegetables and in eating them. He contributed his spin on that point of view. The Hon. Ian West referred to the details of the canteen policy and mentioned the good green items, the slightly dangerous amber items and the much worse red items. He also made a point I had not thought of before: School canteens are the major takeaway food markets in this State. People do not normally consider schools canteens in that light but, given 2,700 schools in New South Wales provide a canteen service, it is worth bearing in mind.

Predictably, the Hon. Dr Arthur Chesterfield-Evans spoke at great length about tobacco—he is well known as an anti-tobacco campaigner. However, he contributed many sensible points about self-regulation versus regulation, and the role of advertising and marketing in promoting desirable products that are not terribly good for us. Obviously, the role of marketing is a major factor related to childhood obesity. The Hon. Dr Arthur Chesterfield-Evans was one of the many participants in the debate who could not resist mentioning McDonald's. I think—although I may not have been listening carefully enough—he was also the only participant in the debate to mention Krispy Kreme doughnuts.

I am pleased that the Hon. Peter Primrose mentioned the range of initiatives comprising the Government's response to the 2002 Childhood Obesity Summit. I reiterate that in moving this motion I focused on the Healthy Schools Canteen strategy partly because of my long-term interest in education. As the Hon. Peter Primrose pointed out, the Government's response to the Summit has included other strategies, such as focusing on activities of New South Wales Health, the Department of Sport and Recreation, Tourism New South Wales and schools.

The speech by the Hon. Don Harwin was moving. He referred to a particular case involving eating disorders. One of the issues that has emerged from the epidemic of childhood obesity is that there is a cause and effect relationship that manifests itself in low self-esteem and concerns about body image. People who are overweight or obese in early childhood years, particularly girls, may develop the types of eating disorders to which the Hon. Don Harwin referred. As we know, eating disorders can have tragic results. They can result in destructive lifelong practices or, as in the case to which the Hon. Don Harwin referred, they can result in life being cut short.

As all honourable members who contributed to the debate made clear, childhood obesity is a serious issue. I again express my thanks to honourable members for contributing to the debate. I emphasise some of the important statistics related to this issue. Sometimes discussion of this subject matter causes people to snigger slightly and to not take the issue seriously, which is part of the problem. However, I reiterate the figures I cited in my introductory remarks. At the moment in New South Wales one-quarter of all children are medically classified as being either overweight or obese. In the group aged 25 years or older, approximately 67 per cent of men and 52 per cent of women are either overweight or obese. Those figures are increasing exponentially.

In conclusion, I look forward to the motion being carried. As members of this House we can do a lot in our communities. The emphasis of the motion is that we continue to ensure that people are aware of the problems and that we continue to work towards solving the problems through education in school canteens and increased sport and fitness, especially involving children. Perhaps the most frightening comment made during the debate was that many children will pre-decease their parents because of the long-term effects of childhood obesity.

Motion agreed to.

LOCAL GOVERNMENT AMALGAMATIONS

The Hon. JENNIFER GARDINER [4.31 p.m.]: I move:

That this House takes note of the 12 February 2004 editorial in the *Land*, which stated:

(a) the forced merger of Sydney and South Sydney councils "smells of crass politics as Labor moves to hand the Sydney Lord Mayoral robes back to a party hack",

(b) the "normally silent" Hon. Tony Kelly should be replaced as local government Minister,

(c) it "would pleasantly shock us if he [the Hon. Tony Kelly] had any contribution to make to this [the forced amalgamations issue] or any other debate about key issues confronting the bush",

(d) "the push for mergers should be stopped in its tracks",

(e) "The mergers will achieve few savings (if any) and will just weaken a bunch more small country centres",

(f) "Local government is the major driver of growth and change in districts across the country",

(g) "Frankly, Mr Carr and his largely dysfunctional ministry have been under-achievers, particularly in non-metropolitan NSW",

(h) "Sydney's public transport, health and education systems are under stress from years of neglect while lawlessness is a major problem in some suburbs",

(i) "Sydney suburban rail services have been in a shambles … The downturn in rail generally in NSW provides a typical example of how the Carr Government can't tackle a problem and see it through to a proper conclusion",

(j) "You would have thought the Carr Government would have had more urgent priorities than picking on country councils and dressing up its victimisation of them as a brave and vital reform", and

(k) "The Carr Government needs to go back to the drawing board to develop some real priorities and policies or, alternatively, to go back to the polls".

Normally the *Land* is reasonably moderate in its use of language, but in February it expressed the view that its readers had had a gutful of the performance of the Carr Labor Government. The newspaper focused on the forced amalgamations of councils as an example of a dysfunctional government, a government that does not take into account the views of the constituency and rides roughshod over them at every turn. The first item mentioned in the editorial was the forced merger of Sydney and South Sydney councils. The article said that "smells of crass politics as Labor moves to hand the Sydney Lord Mayoral robes back to a party hack". Of course, that was a reference to the too-smart-by-half plan of the Carr Labor Government to amalgamate the councils and have a former Labor member of the House of Representatives, Mr Michael Lee, elected as mayor.

The Hon. Duncan Gay: But it didn't work, did it?

The Hon. JENNIFER GARDINER: It was probably one of the most spectacular misfirings of any Sussex Street-based strategy, or perhaps it was dreamt up in the office of the Minister for Local Government.

The Hon. Rick Colless: Would that have been Eric Roozendaal?

The Hon. Duncan Gay: Eric Road Kill.

The Hon. JENNIFER GARDINER: At that stage, the Hon. Eric Roozendaal was not a member of this House. He was, of course, the General Secretary of the Australian Labor Party New South Wales Branch. There has been quite a bit of speculation as to who was the architect of that extraordinary plan.

The Hon. Duncan Gay: It was Road Kill.

The Hon. JENNIFER GARDINER: The Deputy Leader of the Opposition thinks it was the Hon. Eric Roozendaal who dreamt up the idea for Michael Lee to march into Sydney Town Hall and become the Lord Mayor of Sydney. Perhaps there has never been a more spectacular failure to achieve a political objective than that. The Labor Government has been eating crow ever since, because its plan fire misfired so dramatically. One of its core enemies, the honourable member for Bligh, Clover Moore, was overwhelmingly elected to that position. She is now the Lord Mayor of Sydney and remains a member of the Legislative Assembly.

The Hon. Melinda Pavey: Clover did over Eric.

The Hon. JENNIFER GARDINER: She certainly did. The honourable member for Bligh outsmarted the Labor Party, but that was not much of a surprise. Most of us could see it coming a long way away. All the tactics were there and were played out in the media. She ran a good campaign—she gathered up support at the grass roots level via radio waves and kept everyone guessing for a while.

The Hon. Duncan Gay: Eric had done a lot to help her.

The Hon. JENNIFER GARDINER: Obviously. It all backfired. The Labor Government now has to decide what it will do next about the Sydney City Council. Is it gearing up to sack that council yet again?

The Hon. Duncan Gay: Nothing surer.

The Hon. JENNIFER GARDINER: Yes, that seems to be the way.

The Hon. Duncan Gay: Frank's taken over part of the planning.

The Hon. JENNIFER GARDINER: Yes, that is right. Is Mr Sartor taking over from the Hon. Eric Roozendaal on the new strategy to get to grips with the political problem that is presented by Labor's failure at

the polls in local government elections, particularly in the City of Sydney? In February the *Land* referred to the forced amalgamations and stated:

> (and it would pleasantly shock us if he—

that is, the Minister for Local Government—

> had any contribution to make to this or any other debate about key issues confronting the bush), the push for mergers should be stopped in its tracks.

I regret to inform the editor of the *Land* that there is no sign that the Minister is not bent upon further amalgamations in the new year.

The Hon. Duncan Gay: We are hearing strong rumours that there is a new batch coming up.

The Hon. JENNIFER GARDINER: Another batch.

The Hon. Don Harwin: Yes, in 2005.

The Hon. JENNIFER GARDINER: It seems that 2005 will be another ripper year for community consultation across New South Wales.

The Hon. Duncan Gay: There won't be much consultation.

The Hon. JENNIFER GARDINER: No. As was the case in 2003-04, the Government will barnstorm its way through, notwithstanding the views of various country or city communities. The example that was referred to today in this House was the rush to amalgamate councils in the south-eastern part of the State near the border of the Australian Capital Territory. The Government and Minister Kelly were so keen to rush ahead with that amalgamation they could not even wait to figure out a proper name for the local government area.

The Hon. Amanda Pavey: They came up with a radio station name.

The Hon. JENNIFER GARDINER: They used instead the name of a radio station, which has gone down like a lead balloon with the local people. They still do not have a proper name for the local government area. That is just one example of this Government rushing to achieve some sort of ideological political outcome without taking into account the views of people in the area. The *Land* newspaper quite rightly pointed out that local government is the major driver of local growth and change in districts across country areas. That undoubtedly is true, but the Government does not seem to respect that view.

Mr Andrew Fraser, the shadow Minister for Local Government and my colleague in the other place, said that far from money being saved, in some areas—for example, in the south-east of the State—rates have already gone up. Of course, taxpayers incurred a great cost when the Government conducted reviews that led to a whole batch of amalgamations. Mr Fraser ascertained that the facilitators were paid about a quarter of a million dollars just to establish the regional reviews that led to those amalgamations—and these occurred prior to the 2003 State election when the Government promised there would be no forced council amalgamations in New South Wales.

Already we are seeing rate rises and not necessarily any corresponding increase in services or cost savings. In the lead-up to the amalgamations an editorial in June this year in the *Northern Daily Leader* stated that Minister Kelly is possibly the most vilified man in New South Wales. The editorial was referring to Minister Kelly's contribution to this year's New South Wales Shires Association annual conference when he had the hide to tell the association that he had consulted widely about the amalgamations. Mr Fraser, Ms Sylvia Hale and I attended a huge rally in the Walcha district at which the community was on the rampage; not one person in that area had been consulted about Minister Kelly's proposed amalgamation.

Accordingly, the editorial in the *Northern Daily Leader* stated that some people had described the Hon. Tony Kelly as the smiling assassin—and that is pretty tough language for a country newspaper. Shirley Close, the former mayor of the now abolished Barraba Shire Council—but I am happy to inform members that she has now been elected to the new Tamworth Regional City Council—said:

> The overall opinion is the State Government is driving the agenda of taking human involvement out of all things, which is important to the community. The lesson to be learnt is that communication is a two-way thing … But the fight has just been taken out of country people. They've been totally gutted and disempowered.

Another writer to the *Northern Daily Leader* said at that time:

> Everything always goes to the bigger centres and it's knocking us around. We're being trodden on like ants.

Another writer said:

> I feel like we are being treated as second class citizens.

Honourable members would be aware that one of our general purpose standing committees conducted an inquiry into local government amalgamations. I will not go through the report of that inquiry in detail, but that committee found a lack of guidelines and direction as to the criteria for amalgamation and a lack of time for community consultation. A representative of one of the councils in the south-east of the State said:

> The time frame and lack of direction have made consultation with local communities difficult...

Those were the views that were expressed right across the State. For example, the Mayor of Singleton council said:

> I think the time frame was a bit short... we had to arrange meetings at halls in rural centres, and stretch our councillors to cover those meetings. That cannot be done overnight.

People who made submissions to that inquiry expressed concern and said:

> the reform agenda was too narrowly focused on amalgamation, at the expense of the 'real issues' facing local government".
>
> The issue had been clouded by talk of amalgamations. The discussion on structural reform came about at the same time as the statement being made, "There would be no forced amalgamations."
>
> The two, in my mind, have gone hand in hand; structural reform has come to mean amalgamation.

The Shires Association said that it had indicated for a long time that there was a need for some reform of local government, but it rejected the notion that simply reducing the number of councils in the State was the answer and said that the issue was much more complex than that. It took some time for councils to appreciate what their constituents were saying. Perhaps they were too close to the Labor Government. They then realised that that was causing them political grief and they started to listen to their constituents. The general manager of Parry Shire Council, another council that has now been abolished, said:

> In my experience, rural people take local government far more seriously than urban people.

The Mayor of Evans Shire Council in the Central West pointed out:

> Our villages … are our local centres, centres from which we gain our sense of community and where we look after each other as self-reliant communities... there is a rural outlook that does not necessarily pertain in the cities... Unless we can retain that within our community we will have a problem.

The Mayor of Singleton said:

> At the end of the day, the issue is delivery of services to the people. It is my being able to walk down the main street of Singleton and stop and talk to people, who will talk to me about an issue, or going out and visiting one of the wineries with family or friends and talking to the people at the wineries about local issues. That is what they expect of their elected representatives. They will not get that in a larger organisation.

A representative from Murray Shire Council in the Riverina area said:

> Local Government is really the last line of defence to protect the social and economic infrastructure within small local communities. Many of our Council employees are integrally involved in the community in many capacities. The removal of local government from some communities will potentially take those people out of a local community to its detriment.

At this point in the political cycle in New South Wales it is worth talking about the former role of the Minister for Local Government as parliamentary convener of Country Labor. Much to the bemusement of some of his Labor Party parliamentary colleagues, the Hon. Tony Kelly set up an office in Dubbo. To all intents and purposes, that was the head office of Country Labor.

> **The Hon. Duncan Gay:** It is still there, isn't it?

The Hon. JENNIFER GARDINER: It is still there, in Charlie Oliver House.

The Hon. Duncan Gay: One wonders why, given that Labor has not got a candidate in the upcoming by-election.

The Hon. JENNIFER GARDINER: It would be interesting to learn how such an office is funded and staffed. Given that Minister Kelly in effect made Dubbo the head office of Country Labor, it is of great interest to us in The Nationals and in the Opposition that Country Labor could not find a candidate to nominate for the upcoming Dubbo by-election.

The Hon. Duncan Gay: He went even further; he said, "They're very expensive and we haven't got that sort of money."

The Hon. JENNIFER GARDINER: Country Labor cannot resource a candidate for a by-election—it must be in a much worse state than we thought. It is extraordinary for Labor Ministers to make appearances during the campaign for a by-election in which Labor is not fielding a candidate. The Ministers had no-one to stand with when they posed for media photographs, as they went about their business of drumming up support for the so-called "Independent" candidate in the Dubbo by-election. It is no wonder Labor members in this place look somewhat sheepish when one mentions the Dubbo by-election and the role of Country Labor. I have heard many Labor members in this place claim that Country Labor is a great organisation. I do not think there has been any by-election in the Dubbo electorate that the Australian Labor Party has not contested—2004 is the turning point.

The Hon. Don Harwin: It used to be a Labor seat.

The Hon. JENNIFER GARDINER: Yes, there was a Labor member for Dubbo.

The Hon. Don Harwin: It was Bill McKell's seat back in 1941.

The Hon. JENNIFER GARDINER: Yes. That part of the map was once coloured Labor Party red but it will turn National party green come Saturday week. In Jen Cowley we have an excellent candidate, and we look forward to welcoming her to our first parliamentary party meeting in a couple of weeks. The *Land* editorial that prompted me to draw attention to these issues referred also to the Carr Labor Government's largely dysfunctional ministry, which it said had underachieved—particularly in non-metropolitan New South Wales.

The Hon. Don Harwin: Which electorate does Tony Kelly live in?

The Hon. JENNIFER GARDINER: The Hon. Don Harwin asks a good question.

The Hon. Don Harwin: Doesn't he live in Dubbo?

The Hon. JENNIFER GARDINER: Yes, the Hon. Tony Kelly lives in the Dubbo electorate.

The Hon. Don Harwin: What's he doing?

The Hon. JENNIFER GARDINER: That is another very good question.

The Hon. Don Harwin: Isn't he the leader of Country Labor—or maybe he has given it to Richard Torbay.

The Hon. JENNIFER GARDINER: Perhaps he has given the leadership to that so-called Independent and former paid-up member of the Australian Labor Party, Mr Torbay, the member for Northern Tablelands. It is rather extraordinary. Mr Kelly must feel a bit silly going to his Dubbo office when he has no candidate to take down the main streets of Dubbo, Wellington, Parkes, Narromine, Trundle—or anywhere else for that matter.

As for the general problems confronting the Labor Government, the *Land* mentioned in February the mess that Sydney's public transport system is in, the fact that our health and education systems are under stress as a result of years of neglect and the major problem of lawlessness in some suburbs. There are some law and

order problems in Dubbo. When I was there the other day I noticed quite a few police in Dubbo's main street, Macquarie Street. Operation Viking was under way. I do not know whether it is purely coincidental that all those police were there during a by-election campaign; but one has one's suspicions. The Government must address law and order issues in the Dubbo electorate, particularly in the city of Dubbo.

In February the *Land* described Sydney's suburban rail services as "a shambles". That month I attended a large gathering at Sydney Town Hall to hear a speech by former Prime Minister Keating. He was introduced on that hot February night by Adam Spencer, the comedian. In welcoming the phenomenal number of people who had turned up at Sydney Town Hall, Mr Spencer said, "I haven't seen this many people in one place since this morning at 8 o'clock on Artarmon railway station." It brought the house down because in February everyone understood that the suburban railway system was in a complete and utter shambles, as the *Land* newspaper reported. It is now November and the situation is no better—in fact, it is probably worse. It has been another extraordinarily bad week for rail services. On-time running is a complete joke. We are now facing a political crisis whereby the RailCorp chief executive officer has to attend caucus meetings to explain himself in terms of when the Government—which employs the poor man—can fix the system.

Rail services in non-metropolitan New South Wales are also under pressure, as evidenced by the precipitous closure of the Casino to Murwillumbah rail services on the State's Far North Coast. Questions are being asked in the Dubbo electorate about the security of the XPT service to the city and that of other train services that seem to have been targeted unfairly by the Carr Labor Government. The *Land* said that the downturn in rail generally in New South Wales provided a typical example of how the Carr Government cannot tackle the problem and see it through to a proper conclusion. Earlier this week the Queensland Premier, Mr Beattie, made some substantial announcements about further infrastructure and rolling stock improvements in the Queensland rail system in the south-east of the State.

The Hon. Melinda Pavey: He's the best National Party Premier Queensland has ever had!

The Hon. JENNIFER GARDINER: He is, yes. Previous National and Coalition governments in Queensland established the rail infrastructure and ensured a stable economy so that Mr Beattie could enjoy a prolonged period in the sunshine. He is investing in a third track for part of the Gold Coast rail service and this week he commissioned brand-new carriages. The Queensland Government is also planning to extend the rail service to the border at Coolangatta. Of course, the Government on this side of the border has closed the rail service—a completely useless, stupid and devastating decision. The *Land* said that one would expect the Carr Government to have more urgent priorities than picking on country councils and dressing up its victimisation of them as brave and vital reform. That sums up the Government's ideology of focusing on local government, particularly in country areas, and wreaking havoc on country communities rather than attending to core State issues, such as health.

The health system is a complete shambles. We are unlikely to find another health Minister who has had to make as many apologies as Morris Iemma, the current Minister for Health, has had to make. The Minister has been forced to make many apologies to patients and their families for calamitous events that have occurred in New South Wales hospitals. Tragically, these crises in our hospitals and in our ambulance service are practically daily occurrences. I must admit that some of the problems are a hangover from the era of Dr Refshauge, the first of three health Ministers in this Government. He was followed by Mr Knowles—responsible for the Camden and Campbelltown hospitals fiasco and other problems—and now we have Mr Morris Iemma. And so it goes on. This is Mr Knowles's second term as planning Minister but there is still no coherent planning of transport infrastructure and systems in New South Wales.

Sydney's transport logistic plan, for example, was meant to have appeared years ago when Mr Scully was still the Minister, but Mr Knowles has now been the Minister for quite a while and the emergence of such a plan does not seem to be any closer. Very similar to the forced amalgamations of local government areas was the amalgamation of area health services, which was sprung on communities without consultation. Local input into one of the most important pieces of infrastructure—the local hospital—was taken away.

Pursuant to sessional orders business interrupted. The House continued to sit.

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Notices of Motions Nos 1 and 2 postponed on motion by the Hon. Henry Tsang.

Government Business Order of the Day No. 1 postponed on motion by the Hon. Henry Tsang.

CHILD PROTECTION (OFFENDERS REGISTRATION) AMENDMENT BILL

Second Reading

The Hon. HENRY TSANG [Parliamentary Secretary] [5.00 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

The Carr Government established Australia's first child protection offender registration regime under the *Child Protection (Offenders Registration) Act 2000*.

The Act requires child sex offenders and other specified serious offenders against children to keep police informed of certain personal details for a period of time after their release into the community. This information is placed on the NSW Police Child Protection Register.

As at the end of May 2004, a total of 1,500 offenders had been placed on the Register. 971 of these offenders have been released into the community and those that remain in NSW are required to report to police.

The Child Protection Register has assisted in detecting breaches of parole, bail, bond and visa conditions, resulting in successful extraditions and deportations.

The offender registration scheme has now been operating for almost three years and practical experience has shown that it can be improved on in a number of respects.

One of the greatest limitations of the current scheme is that other jurisdictions do not have similar arrangements in place, which means NSW offenders can disappear from police attention when they travel outside NSW. Without them being monitored in another State, it is difficult to detect their re-entry into NSW. It is also difficult for NSW Police to be aware of offenders who enter NSW after being sentenced or released from custody in other jurisdictions.

That is why I have pursued the development of complementary State and Territory legislation through the Australasian Police Ministers Council (APMC). The model legislation developed through APMC draws heavily on the current NSW scheme, but improves on it by incorporating a number of reforms identified by operational police and elements from legislation introduced in the UK, USA, Canada and New Zealand.

Madam President, I will now outline some key features of the Bill.

Child Protection Registration Orders

The Bill allows for a court to order a person convicted of a non-registrable offence to register. There may be evidence admitted in the successful prosecution of some non-registrable offences that clearly demonstrates an offender poses a risk to the sexual safety or life of a child, or children generally. The Bill enables the sentencing court to make a child protection registration order, on the application of the prosecution, where it is satisfied that there is a risk the offender will engage in conduct that may constitute a registrable offence. The court cannot make such an order where it dismisses or conditionally dismisses the charge.

Offenders subject to child protection registration orders are registrable persons and are treated as Class 2 offenders for the purposes of the Act. Child protection registration orders can be appealed in the same manner as any other sentence.

Reporting obligations from offenders from interstate

The Bill ensures that registrable persons entering NSW from other states is aware of their obligations under NSW law. The Commissioner of Police will arrange for offenders who enter NSW from other jurisdictions, or who become corresponding registrable persons, to be advised of their reporting obligations.

Additional information and frequency Offenders will be required to report

Offenders will be required to report additional information in NSW. They include:

previous names they have used and when they used those names;

names and ages of any children who generally reside in the same household as them or with whom they have unsupervised contact;

details of affiliation with any club or organisation that has child membership or child participation in its activities; and

details of any tattoos or distinguishing marks that they have.

The Bill sets out when registrable persons must report to police and is consistent with arrangements under the current Act, however, offenders from other jurisdictions must report within 14 days of entering and remaining in NSW, rather than the current 28 days. This treats a change of jurisdiction in the same manner as a change of address.

NSW Police are detecting and prosecuting an increasing number of registrable persons who initially report to police but then fail to report changes to their personal information.

The Bill requires offenders to report to police each year, in the same month as their first report, irrespective of whether their personal information has changed or not. All Australian Police Forces have agreed that the introduction of annual registration requirements is an essential safeguard to the integrity of the scheme. Annual reporting exists in a number of US and Canadian jurisdictions and has recently been introduced in the UK.

Interstate and overseas travel

The Bill also tightens controls on offenders who attempt to move interstate inside the time they are first required to report. Offenders who live in border areas can also theoretically escape reporting in NSW by crossing the border at least every 13 days. This means NSW Police has minimal information about such offenders and it is easier for these persons to disappear from police scrutiny. The Bill now requires offenders to make a full report before leaving NSW.

The Bill also extends current travel reporting requirements. Offenders will be required to report all interstate travel of 14 or more days, rather than the current 28 days. They must also report the additional information of known addresses or locations they will be in whilst outside NSW and advise police if they are intending to leave NSW permanently. They must report inter-state travel a week before leaving NSW, or if that is impractical, 24 hours before doing so, consistent with recent amendments to the UK scheme. If they don't leave NSW, as reported, or if they change their itinerary whilst outside NSW, they must report these changes to NSW Police.

Offenders will also be required to report travel interstate for short periods at least once a month to advise police, in general terms, of these travel arrangements. These provisions are likely to apply to persons who live in border areas or persons whose work involves regular interstate travel, like long haul truck drivers. Police will share information on these offenders with the jurisdictions they regularly travel to.

NSW Police will also be required to alert the Australian Federal Police of the international travel plans of registrable persons so that they may alert international authorities of high threat offenders and better investigate overseas child sex offences.

Identifying Offenders

The Bill allows police to photograph the offender and parts of the offender's body. This power is consistent with certain US, Canadian and UK offender registration legislation. The advantages of this are the onus to provide photos is removed from the offender, the photos will be of higher quality, digital photos will be able to be directly scanned onto the Register, and photos will be able to be taken of tattoos and other distinguishing marks by which an offender might be identified.

New reporting periods

The Bill remakes provisions of the current Act and provides new reporting periods for registrable persons, which Australian Police Forces believe are simpler to apply and more appropriately address the recidivist risk of offenders.

A person found guilty of a single Class 2 offence will continue to report for 8 years. A person found guilty of a single Class 1 offence must report for 15 years (previously 10 years). A person who has been found guilty of two Class 2 offences, or multiple class 2 offences all committed before the person was first required to report under the Act, must report for 15 years (previously 12 years). A person who has been required to report under the Act for a single Class 1 offence and who subsequently commits another registrable offence must report for the remainder of his or her life (previously 15 years or life, depending on the class of the subsequent offence). A person who has been required to report under the Act for a Class 2 offence and who subsequently commits a Class 1 offence or another Class 2 offence (having been found guilty of three or more Class 2 offences) must report for the remainder of his or her life (previously 12 years or 15 years, depending on the class of the subsequent offence).

Mutual recognition

The Bill provides for the recognition of, and reporting obligations of, offenders subject to reporting requirements in other jurisdictions who come to New South Wales.

Concluding remarks

Madam President, this Bill has been developed in consultation with all other jurisdictions so that NSW can participate in the national child protection offender registration scheme that it has championed.

Madam President, I am very pleased to say that New South Wales has led the way in the establishment of the National Child Sex Offender Register and I look forward to Parliaments across the nation establishing the model scheme.

I commend the Bill to the House.

The Hon. DAVID CLARKE [5.01 p.m.]: The Opposition does not oppose the Child Protection (Offenders Registration) Amendment Bill. Under existing State legislation certain personal details of sex offenders against children and other specified serious offenders against children are registered on the New South Wales Child Protection Register. These details are maintained for a period of time after the release of such offenders. However, currently there is no uniform registration arrangement between the States, as a consequence of which offenders cannot be monitored as they move from State to State. This bill seeks to redress and rectify this position. The purpose of the bill is to provide a national reporting scheme and also to allow police to

photograph these offenders and any distinguishing features they may have. Specifically, the major objective of the bill is to amend the Child Protection (Offenders Registration) Act 2000 in connection with a national reporting scheme as follows:

(a) to make provision for the recognition of, and reporting obligations of, offenders subject to reporting requirements in other jurisdictions who come to New South Wales,

(b) to specify certain offences in the lists of offences relating to children for which a person who is found guilty of such an offence (a **registrable person**) is required to report relevant personal information to police in accordance with the Principal Act and to make other changes to those lists,

(c) to extend the operation of reporting requirements to other offenders by child protection registration orders, where there is a risk to the lives or sexual safety of one or more children, or children generally,

(d) to extend the kind of information that must be reported by registrable persons subject to reporting requirements and to enable certain changes in information to be reported other than in person.

Additionally, there is a requirement that the New South Wales Commissioner of Police inform the Commissioner of the Australia Federal Police of a registrable person's intentions in relation to travel out of Australia. The arrangements contained in this bill will certainly be in the best interests of our community. There can be nothing more debased and evil than those who sexually prey on children. This is evil in its most destructive, darkest and most virulent form. There is no greater duty of any government than to protect and safeguard the most innocent and vulnerable in society: our children. We need to stamp out sexual predators offending against children.

We need to keep a careful and ever-vigilant eye on those who have already sexually offended against children. Those who have sexually offended against children must be monitored for as long as it is considered reasonably necessary so as to ensure that they do not reoffend—a situation that, unfortunately, very often arises with such offenders. This bill will reinforce, strengthen and improve the current position. It is a modest step in the right direction in the campaign against sexual predators of our children.

Reverend the Hon. Dr GORDON MOYES [5.04 p.m.]: The object of the Child Protection (Offenders Registration) Amendment Bill is to introduce amendments to the Child Protection (Offenders Registration) Act 2000 in order to strengthen and consolidate the current child protection offender registration regime. New South Wales was the first State in Australia to introduce such a scheme, taking some inspiration from similar arrangements put in place in the United States of America, Canada and the United Kingdom. The Christian Democratic Party supports in general the thrust of this bill.

The Child Protection (Offenders Registration) Act 2000 established a register of offenders that records the details of persons who have been in government custody for having committed registrable offences. Registrable offences are class 1 or class 2 offences and are defined by the Act. Examples of a class 1 offence are murder of a child and sexual intercourse with a child. An example of a class 2 offence is one that involves an act of indecency with, or against, a child, which carries a penalty of 12 months imprisonment. One of the biggest downfalls to the success of the New South Wales regime has been the absence of interstate arrangements on the registration of offenders against children. For example, New South Wales offenders can disappear from police attention when they travel outside New South Wales. With the large number of cases being brought to the attention of the public in recent days we know how mobile some of these offenders have been.

Without these offenders being monitored in other States, it will be difficult to detect their re-entry into New South Wales. Consequently, the Minister for Police has pursued the development of complementary State and Territory legislation through the Australasian Police Ministers Council, and for that we commend the Minister. The bill proposes to strengthen the regime to dispose of such loopholes and, amongst other things, introduce other measures to increase the accountability of offenders to New South Wales police. As the Hon. David Clarke said, we need to be vigilant against offenders and we need to be carers for all children in the community.

I commend the objectives of this bill. The Christian Democratic Party believes that measures to tighten and strengthen the current arrangements for dealing with offenders against children should be adopted wholeheartedly. However, I have concerns about some of the provisions in this bill and I will mention them in due course. I will first address some of the most salient aspects of the bill, and I indicate that we will propose some amendments in Committee. The bill introduces additional Commonwealth offences relating to sexual intercourse with children overseas, and also in relation to children generally. The offences were covered previously in a general sense, but they are now specified. The spelling out provisions of such importance is

necessary for the sake of transparency and clarity. The inclusion of these offences expands the type of activity that can be captured in the net of this legislation.

The bill allows also for regulations to be made to include offences of a foreign jurisdiction that do not have a New South Wales equivalent. For example, we are very conscious of paedophiles who holiday frequently in countries such as Thailand and Cambodia and who have been involved in the child sex trade. A very important objective of the bill is to make provision for persons who have committed registrable offences outside the jurisdiction of New South Wales. The measures in the bill that will extend the reach of the legislation are most commendable. For example, the definition of "foreign jurisdiction" has been expanded to include jurisdictions outside Australia—not just New South Wales—so that countries such as Thailand and Cambodia are covered.

The definition of the term "government custody" is expanded also to include custody under a law of a foreign jurisdiction. A new category of registrable person is provided for, that of a "corresponding registrable person", that is a person from another jurisdiction who is not subject to obligations in New South Wales. In some instances certain people will not be considered as registrable—that is in the case of a person who has been sentenced in respect of a single class 2 offence.

When it comes to paedophilia or child abuse, I strongly oppose what can be seen as "exemptions" to what constitutes a registrable person as prescribed by proposed section 3A, particularly section 3A (2) (b) and (c). One of those provisions says, in effect, that where a person has committed a single class 2 offence that does not attract a sentence of imprisonment, the person should not be considered a "registrable person". A class 2 offence includes, but is definitely not limited to, such things as making a film for sexual gratification purposes of a child against the child's will. I believe that an offence of which a person is found guilty only once, is likely to have long-term traumatic affects. That can be devastating for a child. A child can be scarred for life by "just one offence".

The ramifications of "just one offence" should not be minimised. In her work "Mind and Brain", Dr A. S. Gilinsky discusses how children are at a stage of development where they are extremely sensitive to stimuli. During the time a child is growing up, cellular memory groups are being formed and linked together with other cell groups with great rapidity. We all accept as fact that severe accidents, death and so on, can have traumatic impacts upon children later in their lives. So too can traumatic child sexual abuse. These cellular memories act as a window through which a child will eventually perceive themselves and their world for the rest of their lives.

For many years I have been responsible for caring for children who suffer from intense childhood trauma. Currently I am responsible, as guardian ad litem, for 3,614 children, most of whom have suffered great trauma in their life. My staff inform me that only one severe traumatic incident can have long-term consequences. Consequently, future growth and development, especially in the emotional realm, may be greatly retarded through exposure to traumatic events, indecent acts, or an event such as children being filmed against their will for sexual gratification.

Some will find the events too traumatic and, if adequate help is not found, may try to end their lives. They may suffer from a whole range of mental and psychological illnesses. Some children will suffer long-term distortion of social norms. Dolf Zillman and Jennings Bryant showed that children exposed to indecent acts suffer serious adverse effects on their beliefs about sexuality, on attitudes towards members of the opposite sex, and on their own self-efficacy. Many of the women have come to me as a counsellor have problems within their marriages that date back to traumatic experiences in their early childhood. Stephen Kavanagh, in his publication titled "Protecting children in Cyberspace", has stated:

> Children often imitate what they've experienced, seen, read and heard. Studies suggest that exposure to indecent acts/material can prompt children to act out against younger, smaller and more vulnerable children. Experts in the field of childhood sexual abuse report that premature sexual activity in children always suggests two possible stimulants: experience and exposure. This means that the sexually deviant child may have been molested or simply exposed to indecent material.

We as legislators have a responsibility to protect the children in our State to the best of our ability. This is one area where I feel we should slightly stiffen the provisions of the bill. The bill provides that persons subject to "child protection registration orders"—those not involving a class 1 or class 2 offences—may need to comply with the reporting obligations of the Act. The court may only make the order if satisfied that the person poses a risk to the lives or sexual safety of one or more children, or of children generally. The importance of the inclusion of persons under such orders is of crucial significance to say the least.

There is in the bill a provision that says that section 3D, dealing with "child protection registration orders", ought to be reviewed. I do not believe that this should be the case, given the tenor of this significant provision. Reporting obligations for registrable persons are also delineated in a clear manner, taking into account the obligations for those who have committed "registrable offences" in other jurisdictions. The bill also requires that registrable persons report their relevant information to the Commissioner of Police each year. Ongoing reporting obligations are a necessary initiative in order that registrable persons be accountable to the police. It is also important to let the Commissioner of Police know when these people move back into New South Wales.

Also, and importantly, the list of relevant information in the Act has been expanded by the bill to include more information that may incidentally deal with children or put children at risk. Accountability is also ensured by a number of other requirements, including the proposed mandatory requirements that a registrable person report changes to relevant personal information and that any intended absence from New South Wales be reported to the Commissioner of Police.

Privacy concerns potentially held by registrable offenders are addressed. Apart from these, the registrable person may request the Commissioner of Police to provide a copy of all the reportable information that is held in the register in relation to the person. That should satisfy privacy issues. The bill provides that a police officer receiving a report from a registrable person may cause to be taken, by a person authorized by the police officer, the fingerprints of the registrable person. This can occur if the police officer is not reasonably satisfied as to the identity of the registrable person after the officer has examined all of the material relating to identity given to the officer by the registrable person or on behalf of the registrable person.

As New South Wales Police keep a database on fingerprints, there does not seem to be any strong argument against allowing fingerprints to be taken in this context, especially when only "reasonable force" may be used to compel someone to give their fingerprints. Better information relating to the identification of offenders is always needed in order to more effectively facilitate the identification of offenders. At a later date I will make comments about the provisions concerning photographing identifiable marks. The bill, quite modestly, suggest that no photographs may be taken of the genital areas, the anus or the breasts of a person for any identifiable marks. I inform the Minister that these days there is a special concern by those desiring to be tattooed to be tattooed in places that are not normally photographed because of modesty. The fact is that people now are more likely to have tattoos in places excluded by this legislation than on any other parts of the body.

The bill provides that special arrangements be made for reports where a registrable person resides more than 100 kilometres from a police station at which a report may be made. This is a practical and important provision. Registrable persons may apply to the Administrative Decisions Tribunal for an order suspending the person's reporting obligations. This can be done only when a person does not pose a risk to the safety of children and the community. This is a commendable initiative, as the Administrative Decisions Tribunal, though heavily burdened, is in a sound position to make an assessment on this issue. The Commission for Children and Young People is also to be a party to any proceedings brought to discharge reporting obligations. Importantly, any order made in favour of a registrable offender ceases to have effect if, for example, a person is found guilty of a registrable offence.

Lastly, it is of importance to note that the term "Register of Offenders" is done away with and is replaced with the term "Child Protection Register". Renaming this register is a symbolic representation and stark declaration of the intention behind the bill. In Committee I will move four amendments that I believe will further enhance the bill. We congratulate the Government and the Minister on introducing the bill and I commend it to the House.

Ms LEE RHIANNON [5.19 p.m.]: The Greens support the bill. We recognise the need for a national register to stop child sex offenders moving between jurisdictions to avoid detection. In the current climate this initiative has obvious resonance. We are appalled, like everyone else in the community, with what Operation Auxin is uncovering. The Greens support the development of sensible, effective measures to determine, prosecute, and rehabilitate offenders. We must make every effort to keep our children safe from sexual abuse. However, on examining the bill in detail we are left wondering whether we are broadening an existing scheme without first evaluating whether the child protection register has achieved results.

We believe that the horror of these crimes against children creates an enormous obligation on us to make sure we get our responses and preventative measures right. We are also concerned about provisions in the bill that set a worrying precedent for our criminal justice system. Any reform to a system as complex and

sensitive as the police and the justice systems should be built on solid empirical evidence as to its usefulness. When the Child Protection (Offenders Registration) Bill was first introduced in 2000 the Greens asked the Government what evidence there was about the effectiveness of the scheme. The Government failed to respond. In 2004, after the child protection register has been operating for three years, we are provided with only a slim evaluation from the Minister for Police. In his second reading speech he said:

> The child protection register has assisted in detecting breaches of parole, bail, bond and visa conditions, resulting in successful extraditions and deportations.

We still really do not know whether the register, which obviously is resource intensive, is meeting the key aims of the principal Act, which are to increase and improve the accuracy of child sex offender intelligence, and assist in the investigation and prosecution of child sex offences committed by recidivist offenders. The principal Act required the Ombudsman to review its implementation for the two-year period after the scheme commenced, a period that ended in mid October last year. Although the Ombudsman has released a discussion paper, for which submissions closed more than one year ago, we are still awaiting his report. The Minister is required by legislation to review the principal Act. The legislation asks that he first consider the Ombudsman's report, which, as I said, has not yet been delivered. It may well be some time coming.

The Greens are concerned that we are moving to expand the operation of the child protection register before we have good empirical evidence about its effectiveness. In some situations, the obligation upon offenders is being toughened substantially. The bill proposes, for example, to increase some reporting period from 15 years to life, a significant leap that will put extra demands on police and others. The gesture is reassuring to the public—all of us want to see these offenders brought to justice—but we must be sure it is the best use of our resources. If funding and resources are limited we must ensure that we adopt initiatives that have been proven to be most effective in preventing sexual crimes against children.

It is understandable that child sexual abuse provokes strong emotional responses. The Greens are concerned that fear and emotion may drive people to settle for measures that have an uncertain effectiveness and may not be the best way to prevent child sexual assault. The Greens are concerned also that people, understandably shocked by what police have uncovered recently, will be lulled into a false sense of security by news of this expanded register. It is easy for people to mistakenly believe that the register includes all sexual or violent offenders against children, when the reality is that it lists only those who have managed the very difficult task in New South Wales of being caught and convicted.

The sad truth is that the majority of offenders will never end up on the register. The Greens will support this important bill, but in doing so we call for a careful and rational examination of just what is the most effective package of measures to reduce child sexual assault. We must know how effective the child protection register has been so that we can judge whether it should be expanded or whether we should focus our attention more on funding other strategies, such as community education and information, personal safety and protective behaviour programs for children, training professionals to identify abuse, services for victims, treatment services for sex offenders, and intensive supervision of the most serious sex offenders.

It is necessary to weigh up where resources should best be directed. For example, studies show that treatment programs for some child sex offenders, particularly cognitive behavioural approaches, can be effective in changing behaviour. But in New South Wales we know there is a shortage of treatment programs, and unacceptably long waiting lists to access them.

Our second major concern with the bill is the provision allowing a court to order that a person who has been found guilty of a non-registrable offence be placed on the register. This proposal creates a serious precedent. It enables the court to order the registration of someone convicted of an offence that is not the type of offence that normally requires a person to be on a register. The court can do so if satisfied that the person poses a risk to the lives or sexual safety of a child or children. The Legislation Review Committee noted:

> As drafted the proposal does not require there be any connection between the offence committed and the assessment of the risk a person poses to children.

This means that even without committing a relevant offence, people can be forced to comply with the onerous reporting requirements under this scheme for eight years. The Greens believe that if this proposal is to proceed, the legislation should, at the very least, create a clearer and more logical nexus between the offence committed and the risk that a person may commit a registrable offence. The Legislation Review Committee observed:

> Subjecting a person to the reporting requirements of a registrable person deprives that person of rights and liberties enjoyed by the general population. It is not usual to deprive a person of rights and liberties in a liberal democracy on the basis of an assessment of risk, of harm that an individual may perpetrate rather than as punishment for a crime.

Although the court may, presumably, require appropriate evidence before it makes its decision to impose an order, the frightening precedent is created here that people who may commit a crime can be required to take part in a scheme that places major restrictions on their liberty. We understand the desire to protect children from potential offenders, and we agree that a national register is an important strategy, but we caution against taking that desire too far. The Government-dominated Legislation Review Committee concluded:

> Considering the aims of the bill and the need for the court to be satisfied that there is a risk that a person will engage in conduct that may constitute a class 1 or class 2 offence against children, the Committee does not consider this proposed provision constitutes an undue trespass on individual rights and liberties.

The Greens are troubled by this conclusion because of the precedent it creates for our criminal justice system. The legislation provides no guidance on what constitutes a risk. It will be left up to the prosecution and evidence from psychiatrists and psychologists to guide the court in making its determination. Dr Stephen Smallbone, a senior lecturer at Griffith University in Brisbane and Director of the Griffith Adolescent Forensic Assessment and Treatment Centre, who has worked for many years with child sex offenders, recently agreed on Radio National's *Law Report* that the psychology around sex offenders is still an imperfect science. He said:

> It is a very difficult phenomenon to study.

Wen talking about Queensland's Dangerous Prisoners (Sexual Offenders) Act, which provides for the indefinite detention of sexual offenders after the completion of a sentence, he expressed concern about the legislation in these terms:

> It does not rely very heavily on the capacity of psychiatrists in particular and also psychologists to make predictions about the risk of future sexual offending behaviour.

Dr Smallbone said:

> Unfortunately, we are not very good at doing that.

He talked about a false positive problem whereby we are inclined to over predict recidivism, particularly with sexual offending. The result of this new provision will be that the door is left open for people to be subject to a demanding and stigmatising reporting scheme for eight years on a mistaken prediction that they might commit an offence against children. We have no solid empirical evidence that the child protection registration order scheme will be effective in protecting our children. It will lead to people being deprived of their civil liberties and rights on the basis of crimes they have not committed but might commit in the future. Courts must make a decision about possible future offences against children on the basis of the imperfect and imprecise science of risk assessment, with all the associated dangers of false positives as explained by Dr Smallbone.

The Greens therefore believe that society should approach this proposal with caution. When the predictions are correct, children will be protected—which is most desirable—but when the predictions are wrong, a serious injustice may be perpetrated upon individuals. That will not help to provide greater protection for children, and it will not help society. As I said, the Greens will support the bill, but there are matters that must be given very careful consideration.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [5.30 p.m.]: The present publicity surrounding Operation Auxin and international police efforts to catch people who download child pornography brings discussion of the bill, the Child Protection (Offenders Registration) Bill, into sharp focus. The Carr Government set up Australia's first child protection offender registration scheme in 2000 by way of a bill it introduced in response to recommendation 111 of the Wood royal commission. A registration scheme was introduced in the United Kingdom in 1997, and all American States and Canadian provinces have similar schemes. There is also a similar register in New Zealand, which is important, given the ease of travel between Australia and New Zealand. At the end of May 2004, 1,500 offenders names were on the New South Wales register.

For such a scheme to be effective in Australia, obviously it is important that a national approach is adopted, because offenders tend to move interstate and overseas. They often change their names and appearance, which adds to the difficulties associated with the register. The Australian Police Ministers Council has been discussing the formulation of complementary State and Territory legislation and has developed a model bill which incorporates reforms that police, who have been working with the legislation enacted in 2000,

have suggested will improve the operation of the scheme. The categories of offences that constitute a registrable offence under the Act are divided into two classes. Class 1 includes child murder and offences involving sexual intercourse with a child. Class 2 applies to indecency offences against children that carry a maximum penalty of imprisonment for 12 months or more.

The major changes effected by this bill are to enable a court to order that a person who has been convicted of a non-registrable offence be registered if the court is satisfied that the person poses a risk in that he or she may commit a registrable offence; require more information to be supplied by offenders, including names and ages of children who live with them, clubs they belong to with child membership, and details of any distinguishing marks, such as tattoos or scars; enable police to replace the passport photograph requirement with one allowing them to photograph any part of the offender's body, except genitals, buttocks or breasts; increase reporting periods for first offences for class 1 from 10 years to 15 years; require offenders to register annually with the police in the same calendar month, whether their circumstances have changed or not; require offenders to register at least once in New South Wales before leaving New South Wales; and impose more stringent reporting of interstate and international travel arrangements.

It should be noted also that a person who is found guilty of two or more class 2 offences will be required to report for 15 years, whereas currently people in that category report for 12 years, and that a person who reoffends after having been convicted of a class 1 offence will be required to report throughout their lifetime. I contacted Cameron Murphy of the Council for Civil Liberties to elicit his comments on this important bill. He was of the opinion that increasing reporting requirements is the wrong approach to reducing the incidence of abuse. He pointed out that most people who pose a risk have not been convicted. He said that many people who offend hundreds of times never come to the attention of police. He suggested that more money should be spent on programs to prevent abuse and identify offenders, and that assistance must be given so victims feel they are able to come forward. The fact that some people offend hundreds of times indicates the reluctance of victims to come forward, which accounts for the relatively low reporting rate.

Mr Murphy also pointed out that a number of names of people appearing on the register should not be there. He cited the example of a woman who was convicted of nude sunbathing, which was classified as indecent exposure and therefore considered to be a serious offence. Mr Murphy pointed out by reference to that example that people whose names are put on the register for offences that are not offences against children clearly have been wronged. Other people who are convicted and whose names are entered on the register may not offend again, and that also creates a difficulty. Mr Murphy cited the instance of a mother who defended her son who had been convicted of assaulting another son and whose name was placed on the register with the result that he is required to report for 15 years. On the face of it, that appears to be an unreasonable reporting requirement. Those cases clearly illustrate the need for a very sound basis to be established for placing the names of people on the register.

I am reminded of what occurred in the United Kingdom when a paediatrician was absolutely convinced that scratching close to the anus of a child caused the anus to contract, and that that was diagnostic evidence of abuse. A large number of parents had their children taken away from them when the reflex was elicited as evidence in abuse cases through expert testimony. Later it was shown that the basis for the expert testimony, which resulted in many people having their children taken from them, was not good science and that the people whose children had been taken away from them had not in any way abused their children.

Before the medical test was discredited the parents were in a no-win situation, because an expert had decided they had abused their child. As a result they suffered the most appalling stigmatisation. Their children were taken from them and considerable sequelae were suffered by the parents and the children as a result of a well-intentioned and enthusiastic medical practitioner who had erred. That caused a national scandal and was the subject of television exposés.

Those examples illustrate the need for great respect for the limits of prediction in child abuse matters. The Government should take steps to ensure that the function of the register will be proper, justified and useful. Obviously the objective of the register is indisputable because, while maximising the prevention of abuse of children, one does not want to in any way shield people who are a danger to children. However, the examples beg the questions: Is the approach adopted by the Government a sound approach? Will the names on the register have to remain on the register? Will the names of the right people be placed on the register? One wonders whether the arbitrary lengthening of a reporting procedure by a couple of years is the best way to deal with the problem of child abuse. It is of paramount importance to ensure that children are protected by implementing the best protection methodologies.

The abuse of children is a very emotive issue, and rightly so. Abuse definitely must be addressed, so it is important that people who are convicted of offences against children are monitored by the authorities to reduce the chance of their reoffending. The procedures provided in the bill do not, however, address the causes of the problem; nor do they assist in the early identification of people who have not been convicted but continue to offend. While there have been improvements in mandatory reporting provisions related to child abuse, there still needs to be more encouragement and support given to victims of abuse to enable them to come forward. That is probably the most important preventive measure.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [5.38 p.m.], in reply: I thank honourable members for their contributions to the debate, and I commend the bill to the House.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 4 agreed to.

Reverend the Hon. Dr GORDON MOYES [5.41 p.m.], by leave: I move Christian Democratic Party amendments Nos 1 to 6 in globo:

No. 1 Page 8, schedule 1 [14], proposed section 3, lines 17-19. Omit all words on those lines.

No. 2 Page 9, schedule 1 [15], proposed section 3A, lines 8-36. Omit all words on those lines.

No. 3 Page 10, schedule 1 [15], proposed section 3A, lines 11-13. Omit all words on those lines.

No. 4 Page 29, schedule 1 [22], proposed section 12F, line 24. Insert ", unless it is necessary to do so to photograph the only distinguishing mark on the person's body" after "breasts".

No. 5 Page 34, schedule 1 [30], proposed section 14B, line 15. Omit "do not".

No. 6 Page 34, schedule 1 [30], proposed section 14B, lines 18-21. Omit all words on those lines. Insert instead:

(2) A person referred to in subsection (1) may apply to the Administrative Decisions Tribunal for an order reducing the reporting period that would otherwise apply to the person.

(3) On an application by a person under this section, the Administrative Decisions Tribunal may make an order applying a reduced reporting period to the person. An order under this section may not reduce a reporting period by more than half of the original period.

(4) sections 16 (4)-(10), 16A and 16B apply to applications and orders made under this section in the same way as those provisions apply to applications to, and orders made by, the Administrative Decisions Tribunal under section 16.

The bill makes it clear than an offence involving indecent exposure only is to be taken to be an act of indecency for the purposes of what is a registrable offence. My amendment will ensure that any reference to an act of indecency also involves indecent exposure, because just one act of indecent exposure may have dire effects upon a child. "Indecent exposure" has a definition. It is not a matter of, for example, accidentally discovering someone in a dressing shed or someone urinating behind a tree on the side of a road. "Indecent exposure" relates to wilful exposure of the genitals towards others for the purpose of sexual gratification. We need not try to skirt around the issue by saying that there may be accidental exposure. That it is a deliberate act is made quite clear in the Act.

The bill effectively excludes offenders who have committed a single offence. As I mentioned during the second reading debate, my amendments will bring offenders who have committed a single offence into the definition of "registrable person". That will send a clear message to potential offenders that they risk being put on the register even if they commit only one offence. From a victim's perspective, one offence may have untold adverse impacts. I accept that in a whole range of issues one incident—such as the death of a child's mother, a bad scalding accident or a traumatic experience—can have profound adverse impacts upon a child's life. One offence of a serious sexual nature against a child can have a profound effect.

The bill prohibits police photographing certain body areas—namely, the genitals, the buttocks and the breasts. Today people have distinguishing marks, such as tattoos, on those specific areas. Therefore, my

amendment provides that those areas can be photographed if necessary. Finally, the bill requires that a reduced period apply for young registrable persons in relation to their reporting obligations. My amendment requires that the same reporting period is to be applied to child registrable persons and adult registrable offenders, with the proposal that child registrable persons be entitled to appeal to the Administrative Decisions Tribunal to reduce the reporting period. I commend the amendments to the Committee.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [5.44 p.m.]: The Government does not support the amendments. In general, they are all departures from the national child protection registration model being implemented by all State and Territory jurisdictions. Uniformity is highly desirable in this area. Christian Democratic Party amendment No. 1 refers to indecent exposure. The Government does not support that amendment, as that is a low-level offence and almost by definition it can involve repeat public behaviour. Offenders are unlikely to slip under the radar of police. It is desirable that registrable offences be nationally consistent to avoid State shopping—in other words, offenders moving from one State to another to avoid registration.

The Government does not support amendments Nos 2 and 3. It is correct that the bill will not register someone who is found guilty of a single category 2 offence if the person is not sent to prison. It is proposed that any conviction of a category 2 offence ought to result in registration. The specific example given by Reverend the Hon. Dr Gordon Moyes in his contribution to the second reading debate was a person who makes a child pornographic video that traumatises the child. It is highly unlikely that a person involved in such conduct could not be sent to prison. If a person goes to prison he or she would be listed on the register. Only the most minor category 2 offence would not result in a prison sentence. A single instance of such offence should not lead to registration. Again, I reiterate the points I made in relation to the need for a nationally consistent model.

The Government does not support amendment No. 4 because photography of the genital area becomes a forensic procedure under the Crimes (Forensic Procedures) Act. The Government does not support amendments Nos 5 and 6 because they treat juveniles in the same way as adults. Again, that is a departure from the national model and may lead to offenders moving to another State to lessen their registration requirements. It also complicates the national scheme. As I have indicated in relation to all the amendments, it is highly desirable that there be national uniformity in this area.

The Hon. PETER BREEN [5.47 p.m.]: I agree with the Minister for Justice that it is important to maintain uniformity in the New South Wales provisions so that they are consistent with the national scheme. The amendments moved by Reverend the Hon. Dr Gordon Moyes seek to impose even tighter restrictions on the type of person who could be added to the register. The Legislation Review Committee has already said that certain people will go on the register that have not been found guilty of a category 1 or category 2 offence. That is a dangerous precedent, and it is not the first case of this kind. I note that the High Court recently supported New South Wales and Queensland legislation where people have been incarcerated on the basis of an unacceptable risk that they represent to the community—not for any crime that they have committed, but a crime that they are likely to commit in the future.

The Hon. John Hatzistergos: That is in Queensland, not in New South Wales.

The Hon. PETER BREEN: The Minister said that that applies only in Queensland. He is referring to the Dangerous Prisoners (Sexual Offenders) Act, which I mentioned last night and which was the subject of a decision by the High Court in *Fardon v The Attorney General for Queensland*. However, the principles in that case are the same, as I understand it, as the principles in *Baker v The Queen*, in which the New South Wales Crimes Legislation Amendment (Existing Life Sentences) Act was upheld. The provisions of that legislation required people to be incarcerated on the basis that a different sentence was imposed on them by the legislation than the sentence imposed by the trial judge. There is a tendency for the States to introduce this type of legislation, which puts people in a particular category not on the basis of anything they have done but something the legislation or Parliament has decided they have a propensity to do. Therefore, they represent an unacceptable risk to the community. It is a dangerous path; it is the step short of thought crime. On that basis, I urge honourable members not to support the amendments because they extend the provisions of the legislation in an unacceptable way.

Ms LEE RHIANNON [5.49 p.m.]: The critical issue is that the amendments moved by Reverend the Hon. Dr Gordon Moyes will not give greater protection to children. His amendments introduce a "get tough and lock them up" mentality that does neither him nor his party any credit. His amendments introduce that mentality in relation to offences against children. Even when it comes to offending against children there is a graduation

of offences that must be recognised. I really think that greater humanity could be shown on the part of the mover of these amendments, as this is a complex issue. If these amendments were passed it would result in a real setback.

People change and minor offenders do not need to be pulled into a net that has already been thrown wide. We must establish a clearer and more logical connection between the offence committed and the risk that a person may commit a registrable offence. The Greens believe that, because of the way in which the bill is structured, it goes a small way, but not far enough, towards doing that. If these amendments were agreed to it would be a retrograde step. Reverend the Hon. Dr Gordon Moyes is trying to outdo the Government and the Opposition on law and order issues. As I said earlier, it does him no credit. The Government is grappling with a bill in order to give it some national consistency. There are problems in the bill but it should be left as it is and not amended in this way.

Reverend the Hon. Dr GORDON MOYES [5.51 p.m.]: I thank honourable members for their contribution to debate on these amendments. Ms Lee Rhiannon said that I should have greater compassion for those who have been convicted of such crimes. I place on the record the fact that for many years I have been a parole and probation officer working with people who have suffered from such convictions. Not only have I have worked with them at the time of their convictions, many years later I helped them in the area of rehabilitation. I do not believe it is ever a retrograde step to ensure greater protection, in particular, for the most vulnerable people in society. I accept the Minister's concerns that we need to consult and that we need to collaborate in relation to a national policy. One or more States have improved a number of national policies. Queensland was referred to earlier as a State that can make additions to legislation that is introduced in other States. For that reason, I encourage members to support my amendments.

Amendments negatived.

Schedule 1 agreed to.

Schedule 2 agreed to.

Title agreed to.

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

DESIGNER OUTLETS CENTRE, LIVERPOOL

Return to Order

The Clerk Assistant tabled, according to the resolution of the House of 21 October 2004, documents relating to Orange Grove designer outlets centre, Liverpool, received this day from the Director-General of the Premier's Department, together with an indexed list of documents.

Return to Order: Claim of Privilege

The Clerk Assistant also tabled a return identifying documents for which privilege was claimed and which were available only to members.

BUSINESS OF THE HOUSE

Postponement of Business

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

PROTECTED ESTATES AMENDMENT (MISSING PERSONS) BILL

Second Reading

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [5.56 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

This bill represents a further major step in the Government's initiatives to assist families and friends of missing people.

The Victims Rights Act 1996 was amended in 2000 to include the families of missing people as victims of crime. At the same time, the Family and Friends of Missing People Unit in Victims Services was set up, and funding was provided for a telephone support and counselling service.

Through interagency work and stakeholder participation, the Unit has identified the need for clearer and simpler laws to help relatives and friends deal with the estates of missing people.

Currently, family or friends can only manage the affairs and estates of missing people after obtaining a grant of probate from the Supreme Court. This means the missing person is presumed to be dead. Unless there is strong evidence that the person has died, probate may not be granted until they have been missing for seven years.

The presumption of death process is particularly distressing for families and friends of missing people because they usually do not want to accept, let alone prove, that the person is dead. It is also unsuitable for the majority of missing people who are found alive. The process takes too long to provide any practical, timely assistance to people wishing to look after an estate in the short or medium term.

Over 8,000 people go missing in New South Wales each year. 70 per cent are found within three days. 86 per cent are found within two weeks and 99.7 per cent are located overall. "Long term" missing people, are those who have been missing for more than a year. In New South Wales, there are more than 500 long-term missing people.

The Government, in consultation with families and friends of missing people, has developed a clear and simple legal procedure for applications to be made to allow others to manage property belonging to missing people.

The bill creates a statutory scheme, unique in Australia, for administering estates of missing people when it is not known if they are still alive.

The bill includes a new section 21C in the Protected Estates Act 1983 ('the Act') to allow applications to the Supreme Court for a declaration that a person is missing and order that the person's estate is subject to management under the Act.

An application to the court can be made by: the spouse of the person, a relative of the person, a business partner or employee of the person, the Attorney General, the Protective Commissioner; or any other person who has an interest in the estate of the person.

Section 21C also provides that the Court may be satisfied a person is missing if: it is not known whether the person is alive; all reasonable efforts have been made to locate the person; and people with whom the person would be likely to communicate have not heard from, or of, the person for at least 90 days.

The court may make a declaration and estate management order if: the person is missing; the person's usual place of residence is in New South Wales; and it is in the best interests of the person to do so. The court may then appoint any suitable person, or the Protective Commissioner, to manage and administer the estate of the missing person.

A new definition is inserted in section 4 of the Act and a "protected missing person" is a person in respect of whom such an estate management order is made.

The Protected Estates Act will then apply to the estates of protected missing people as it does to the estates of protected people who have been found to be incapable of managing their affairs.

Amendments to section 24 of the Act ensure that where the Protective Commissioner is appointed to manage the estate of a protected missing person, the Protective Commissioner has all powers necessary to manage the estate, including the power to: receive money or rent from real or personal property, to grant leases of property, to sell or mortgage real and personal property, to settle a demand against the estate, to carry on a business the protected missing person had carried on; and to bring and defend proceedings on behalf of the protected missing person.

Division 4 of the Act applies to the management of estates by people other than the Protective Commissioner. Amendments to section 30 of the Act ensure that orders can be made when another person is appointed to manage the estate of a missing person giving them all powers necessary to manage the estate.

Under Division 4 of the Act the Protective Commissioner will provide direction, supervision and support when another person is appointed to manage the estate of a protected missing person.

Section 32 of the Act is amended to enable the Court to make such orders as appear necessary for making the property and income of a protected missing person available for: the payment of the debts, or otherwise for the benefit of the protected missing person; the maintenance and benefit of the family of the protected missing person; and other purposes for the care and management of the estate.

The Act is also amended to provide that fees can also be prescribed for functions exercised by the Protective Commissioner in relation to the estates of protected missing people (Section 8).

It is proposed to amend the Protected Estates Regulation 2003 to allow the Protective Commissioner to charge the same fees for the administration of the estates of missing people as is currently charged for other protected persons.

The bill also provides for estate management orders for protected missing people to be terminated.

A new section 35A will allow an application to be made to the Supreme Court for the revocation of a declaration and order where there is evidence the protected missing person is alive. Section 38A provides for the Protective Commissioner to be able to terminate the management of the estate of a missing person when he or she is satisfied the person is alive.

The bill also provides for consultation of the relatives of a protected missing person by the Protective Commissioner. Amendments to section 50 require that before the Protective Commissioner takes any action in respect of the estate of a protected missing person he or she must determine whether the relatives of the person should be consulted.

Section 76 is amended to provide that a power of attorney is suspended while the estate of a protected missing person is subject to management under the Act.

This bill fills a significant gap in the current law. The proposed amendments to the Protected Estates Act 1983 create a clear effective mechanism for dealing with the estates of protected missing people. The scheme uses the extensive expertise that already exists in the Supreme Court and the Office of the Protective Commissioner.

The proposed role for the Protective Commissioner is compatible with the current role, duties and responsibilities of that Office. That is, looking after the estates of people who are not able to do it for themselves. Considering that a proportion of people become missing because of a disability (for example, dementia), managing the estates of missing people will complement the Protective Commissioner's existing role.

The family and friends of a person who is missing are confronted with harrowing social and personal issues. These issues are presently made more difficult by the complex legal processes involved in attempting to manage and preserve the missing person's estate.

This legislation will be the first of its kind in Australia. Similar schemes exist in only a few other countries in the world, such as Guam and Canada.

The scheme proposed in the bill provides families and friends with a simple, timely and effective method for ensuring the estate of a missing person can be managed when it is not known whether that person is alive. It is hoped that this legislation will help ease the grief and uncertainty of relatives and friends whilst preserving the property and assets of missing people.

I wish to express my sincere thanks and sympathy to the families and friends of missing people who have shared their personal stories and experiences with me during the development of this legislation. I am indebted to them for having the courage to speak out, in the face of terrible tragedy and heartache. They have experienced, first hand, the quagmire of legal problems involved in trying to deal with the estate of a missing loved one. Through their courage and insight, they have assisted in developing this legislation. They have eased the burden for all those other children, parents, spouses, friends, who may, in the future, have to deal with the unexplained disappearance of someone dear to them.

I commend this Bill to the House.

The Hon. GREG PEARCE [5.56 p.m.]: I lead for the Opposition in debate on the Protected Estates Amendment (Missing Persons) Bill and state that it does not oppose the bill. The purpose of the bill is to amend the Protected Estates Act 1983 to provide for the management of the estates of missing persons. Currently, family or friends of missing persons can manage the affairs and estates of a missing person only after obtaining a grant of probate from the Supreme Court. Unless there is strong evidence that the person has died, probate may not be granted until that person has been missing for seven years. That then makes it difficult for families and friends to manage and preserve the assets belonging to people who are missing.

The bill creates a statutory scheme for administering estates of missing people when it is not known whether or not they are still alive. The proposed amendments provide a procedure for applying to the Supreme Court for a declaration that a person is missing, which is similar to the existing procedure where a person can be declared a protected person. Next of kin, domestic partners, business partners and employees, the Attorney General, or the Protective Commissioner are among those who may apply for the declaration and seek the appointment of someone to manage the person's estate. The court will be allowed to make a declaration if it is satisfied that it is in the interests of the missing person to do so, the person has been missing for 90 days, it is not known whether the person is alive, and reasonable efforts have been made to locate that person.

The Protective Commissioner or a private manager, such as a family member, may be appointed a missing person's estate manager. The court and the Protective Commissioner will have the power to terminate an estate management order if he or she is satisfied that a missing person is alive. An estate management order will also suspend a power of attorney, although the court will have the power to restore it as it sees fit. The Attorney General, when introducing this bill, did not address the issue of increasing resources for the Office of the Protective Commissioner, which is a matter of some concern to the Opposition as the Office of the Protective Commissioner is already under significant strain because of its current responsibilities. This will place upon it an extra workload.

I note that provisions in the Act enable the recovery of the Crown's expenses for the care and management of an estate, and the Protective Commissioner's fees are extended to cover protected missing persons. According to the Attorney General's second reading speech, the legislation will be the first of its kind in Australia, with similar schemes existing in only two other countries in the world—Guam and Canada. So this is quite new legislation. The Attorney General indicated that the bill is a result of consultation with interested parties and support groups, who overwhelmingly supported the establishment of a clear and simple scheme for estate administration. As the current process is lengthy and often a hindrance to managing a missing person's estate in the short or medium term, these amendments seem to be sensible. The Opposition does not oppose them.

Reverend the Hon. Dr GORDON MOYES [5.59 p.m.]: The Christian Democratic Party supports the Protected Estates Amendment (Missing Persons) Bill. Presently, when a person becomes a missing person, family or friends can manage the affairs and estates of such persons only after obtaining a grant of probate from the Supreme Court. Unless there is strong evidence that a person has died, probate may not be granted until the person has been missing for seven years. Family and friends may find themselves in a situation where they cannot access the missing person's funds to clear the person's debts or manage the person's estate for at least seven years. In my previous work with the Wesley Mission that task became obvious when we were dealing with homeless street people. A high percentage of such people die on the street and become classified as missing persons. They all have families and frequently we trace the family, only to find a serious situation.

Because persons live on the street does not mean they are impecunious. Over the years I have met many persons with assets in excess of hundreds of thousands of dollars. But they suffer from a mental condition, which encourages them to live outside a normal room and board situation. They have a disease that is commonly known as the starlight hotel syndrome. They are frightened to live in rooms, particularly rooms with doors. I have removed them because these homeless people will not stay in a room with doors. Previously they have been confined in prison cells or psychiatric wards and they suffer from a severe mental attitude to closed spaces and doors.

I know of persons who have considerable assets but still sleep in the parks, in the Domain and in other public places, including in front of the public library near this place. They have assets and are able to afford a place to sleep, but they will not accept that because, as I said, they suffer from the mental disorder known colloquially as the starlight hotel syndrome. The process of gaining a person's assets in these situations is far too lengthy to provide any practical and timely assistance to people wishing to look after an estate in the short or medium term. According to some figures noted by the Attorney General, more than 8,000 people go missing in New South Wales each year. Of those 8,000, 70 per cent are found within three days, 86 per cent are found within two weeks and, overall, 99.7 per cent are located. On those figures alone, about 24 people every year would be the subject of this bill.

The object of the Protected Estates Amendment (Missing Persons) Bill 2004 is to amend the Protected Estates Act 1983 to enable the estates of missing persons to be subject to management under that Act. The current target of the Protected Estates Act 1983 is the management of the property and affairs of persons who are incapable of managing their own affairs by reason of mental or other condition. Thus, this bill extends the reach of the Protected Estates Act 1983 to also include missing persons. I commend the nature and purpose of the bill. A new definition is inserted in section 4 of the Protected Estates Act 1983. A protected missing person is defined as a person in respect of whom a Supreme Court order is in force so that the estate of the person is subject to management under the Protected Estates Act 1983. The most important initiative of this bill is in proposed section 21C. The first part of that section provides that the Supreme Court may declare that a person is a missing person and order that the estate of the person be subject to the management under this Act if the court is satisfied of three conditions: first, that the person is a missing person; second, that the person's usual place of residence is in this State; and, third, that it is in the best interests of the person to do so.

The second part of the section provides that the court may be satisfied that a person is a missing person only if it is satisfied that, first, it is not known whether the person is alive and that all reasonable efforts have been made to locate the person at his or her last known place of residence or, second, relatives or friends with whom the person would be likely to communicate have not heard from or seen the person for at least 90 days. The 90 days' time frame at first blush seems unreasonable. It was raised in the crossbench meeting by one of the members as unreasonable. If a person disappeared on a holiday for over 90 days, what would stop relatives or friends from saying that the person is missing to use the missing person's assets to support them? I will make a couple of points as to the safeguards preventing a person from being declared a missing person in contentious situations.

First, the bill will not allow any person to approach the Supreme Court after 90 days requesting an order be made as to the supposed missing person's estate. The court has to be satisfied that all reasonable efforts have been made to locate the person. It must also not be known whether the person is alive. The court must also be satisfied that it is in the best interests of the person to make an order, and if any reasonable evidence suggests that the person is alive, the court cannot declare the person to be missing or order that the estate be managed. As to the reasonableness of the length of the 90-day period, the Attorney General's Department has indicated that the New South Wales Bar Association and Privacy New South Wales supported this time frame and that many public submissions strongly suggested that a longer period than this time frame would be too long. It is worth noting that the 90-day time period is consistent with the practice in Canada and Guam.

The effect of an order under the proposed new Act will allow the administration of a missing person's estate in relation to such requirements as accommodation and support for dependants. Honourable members would be amazed to know that there are homeless people on the streets of Sydney who have children, including young children. I know of families with children who live on mattresses in doorways and in the lanes of our city, particularly around the Darlinghurst area. It is not unknown for missing persons to have young children. Therefore, the management of their estates for the support of their children is an important issue. Homeless people may have rental payments. Honourable members may ask how homeless people and missing persons can have rental payments? Some homeless people rent a room in which to keep their belongings, even though they never sleep in it. I know of a person who loves watching video movies. He rents a room in a boarding house. He never eats or sleeps there, but he uses it as a secure place to keep his belongings, his valuables and, in particular, his television and video recorder. Making the rental payments would require the management of his estate.

Payments may be required on insurance policies that would expire if payments were not made. Payments may be required for mail and utilities and the management of business interests. The bill prescribes certain situations in which the management of the estate of a protected missing person is terminated. Proposed section 34 (2) prescribes that that can occur if the order is revoked, if the Protective Commissioner certifies under section 33A that the management is terminated, or on the death of the protected missing person. Proposed section 38A also certifies that the management of the estate of the protected missing person is terminated if the Protective Commissioner is satisfied that a protected missing person is alive. Most important, the bill empowers the Supreme Court to make orders if a person is no longer missing, that is, if the court is satisfied that a protected missing person is alive. The court may revoke any declaration that the person is a missing person. The court may also revoke the order that the estate of the person is subject to management under this Act and make any other orders that will give effect to the revocation of an order. The Christian Democratic Party supports the bill.

Reverend the Hon. FRED NILE [6.08 p.m.]: Following the excellent speech by Reverend the Hon. Dr Gordon Moyes, I ask a question of the Government. I highlight a recent case in which a wife was supposed to have run away and was notified as missing. It was later found that she had been murdered by her husband and buried in the backyard. If someone is claimed to be missing and before a decision is made, is there a process whereby contact is made with the police to see whether the person disappeared in suspicious circumstances?

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [6.09 p.m.]: There is a lot of literature on this subject because problems arise when people are in a state of limbo—it is not known whether they are alive or dead—and their estates have to be managed over time. The 2002 case *White v Zurich Insurance* held that a person was presumed dead when he or she had been missing for seven years. In that case there was a suicide note but the body was never found and the wife wanted to sort out the matter with the insurance company. About 30,000 people are reported missing in Australia every year, which is one person every 18 minutes, and most of them are found. In fact, the police are quite active in this area and give counselling to relatives. The first week in August has been designated National Missing Persons Week to draw attention to their plight. The Protected Estates Amendment (Missing Persons) Bill is sensible legislation that allows for management of a missing person's estate while his or her fate remains undetermined.

I have a question for the Minister for Justice to which he might respond when he replies to the second reading debate. Given that a spouse, business partner, employee or relative can apply to the Supreme Court to have the estate of a missing person managed by a suitable person or the Protective Commissioner, what happens to a spouse and any jointly owned assets if, for example, the business partner of the missing person applies to the court for the sole purpose of getting money that may be owed to him? Could a jointly owned family home be sold against the wishes of the spouse of a missing person to pay the debts of a business partner? The bill does not make that clear.

The Hon. JON JENKINS [6.11 p.m.]: Many of my constituents travel extensively. Many of them spend six months on the road, travelling from place to place and living in caravans. A few years ago I took my long service leave and spent a considerable time away with my family. We were simply not contactable for as much as six or eight weeks at a time; we were in the desert somewhere with no means of communication. We were certainly not contactable for periods approaching 90 days. Will the Minister for Justice clarify the procedures that might be followed if a person is thought to be missing? What steps would be taken to try to contact a missing person? Elderly people often travel in the north of the State during the winter months and then spend six months in the south during summer. At any one time about 400,000 Australians have no fixed address as they are travelling around the country in caravans. That issue must be resolved. I stressed my concerns during the crossbench briefing, and I ask the Minister to address them tonight.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [6.13 p.m.], in reply: I thank all members who spoke in support of the Protected Estates Amendment (Missing Persons) Bill. A number of issues were raised during the second reading debate. The Hon. Greg Pearce named some jurisdictions that have similar legislation to that which we are considering. It is correct that no other Australian jurisdiction has legislation relating to administering the estates of missing persons. Nevertheless, a number of jurisdictions beyond those that were mentioned by the Hon. Greg Pearce have such legislation. They include Wyoming in the United States of America, three Canadian jurisdictions—British Columbia, Ontario and Saskatchewan—and Guam. So there is an established level of expertise in dealing with these issues.

The Hon. Greg Pearce referred also to the contribution by Mr Andrew Tink in the other place and his concern about what resources might be given to the Protective Commissioner. The Hon. Bob Debus, the Attorney General, covered the resources issue in his speech in reply to the second reading debate, and I refer the honourable member to those comments. It is always important to read the entire debate.

The Hon. Greg Pearce: That doesn't mean we don't continue to have concerns.

The Hon. JOHN HATZISTERGOS: I think those concerns were addressed appropriately. When planning his contribution it is important that the honourable member does not simply plunder his colleague's speech but reads the entire debate in the other place to find out what resources will be available.

The Hon. Greg Pearce: No.

The Hon. JOHN HATZISTERGOS: It is addressed in the Attorney General's response.

The Hon. Greg Pearce: No, it's not.

The Hon. JOHN HATZISTERGOS: I will read it. The Hon. Greg Pearce obviously has not read the speech or he would not have made those comments. The Attorney General said:

> Several honourable members spoke of the extra resources that might be needed by the Protective Commissioner. In that respect, I am able to point out that it is proposed to amend the Protected Estates Regulation to allow the Protective Commissioner to charge the same fees for the administration of estates of missing people as it presently charges in relation to protected persons. Two fees are payable for the estates of protected persons: a management fee, which is calculated as a percentage of the total value of the estate, with the present fee being 2.1 per cent of the estate for the first year of management, with 1 per cent of that capped at $2,200, and with the management fee reducing to 1.1 per cent of the value of the estate for every year that follows; and there may be an investment fee, which is, at present, 0.5 per cent of the total amount invested in the Office of the Protective Commissioner's investment funds. Those fees are calculated daily and are deducted at the end of each month. The practical effect of the structure of the fees is that the amount of fees payable varies according to the size of the estate, and that of course is appropriate.
>
> The new fee structure, which commenced on 1 October 2003, significantly reduced the fees that were payable in any particular instance. That was, in turn, possible because of the injection of public funds. In 2003 and again in 2004 about $9 million was provided to the Office of the Protective Commissioner. That, coupled with the capacity of the fee structure to be adjusted to the size of an estate, ensures that financial resources for the Office of the Protective Commissioner are always sufficient to enable the commissioner to take care of the responsibilities of the office and that that will be so into the future. It is to be borne in mind that it is not expected that a large number of cases will be assigned to the Office of the Protective Commissioner at any particular time. Many of the cases that will be subject to this legislation will end up under the administration of a family member, a business partner or whoever the court has determined to be an appropriate person.

That addresses the resources issue. Public resources are being provided and the Protective Commissioner will be able to levy charges. Of course the Protective Commissioner will not be the only person in charge of missing persons' estates. Reverend the Hon. Fred Nile asked about the role of the police. The majority of missing persons are reported to the police, which is how they are included in the missing persons statistics. The court

would use reports to the police to satisfy itself that all reasonable attempts have been made to locate a missing person. The court must be satisfied that a person is missing.

Reverend the Hon. Fred Nile: Not in suspicious circumstances.

The Hon. JOHN HATZISTERGOS: It is for the police to decide whether the circumstances are suspicious. To make one of the orders contemplated under this legislation the court must be satisfied that a person is missing. When a person goes missing it is almost a prerequisite that there be some contact with the police to advise them of that fact. In answer to the Hon. Dr Arthur Chesterfield-Evans's question, the Supreme Court must be satisfied that the person appointed to manage the estate would be appropriate, that is, it is in the best interests of the missing person. This does not have to be the person who applied to the court; it could be someone else. The Hon. Jon Jenkins asked what might happen to missing persons. More than 8,000 people go missing in New South Wales each year. Some 70 per cent are found within three days, 86 per cent are found within two weeks and 95 per cent are found within a month. Some 99.7 per cent of all missing persons will be located. This means that the estate management scheme should be designed primarily to protect the estates of people who will be located sometime in the future.

Given these figures, and based on the submissions received during the Attorney General's public consultation process, the proposed 90 days is a sufficient period in which to make reasonable inquiries about a person's location. It provides a reasonable amount of time for a person to return, to contact family members or friends or to obtain information from others as to the person's stated intentions regarding his or her absence.

If information comes to light that the person has told someone that he or she intends to be uncontactable for a period—for example on a camping holiday—the order would not be made unless there were evidence that the person had failed to return. It is a departure from the current process, whereby the family of a missing person must provide strong evidence that a missing person is dead rather than missing. In some instances, seven years may pass before the grant of probate can be obtained from the Supreme Court. During such time, the unadministered estate of a missing person can fall into disarray and disrepair, and its value can be dissipated. That causes further frustration to the family and friends, who may already be suffering grief and uncertainty. Most significantly, this is not in the interests of the missing person.

Administration of a missing person's estate may be needed in relation to accommodation and support for dependents, to make mortgage or rental payments, rental or maintenance of real estate, insurance policies, mail and utilities, business interests, depreciating assets—for example, motor vehicles—or filing of tax returns. The 90-day limit is consistent with international precedent. It is used in British Columbia, Canada, Wyoming and Guam. During consultation, the New South Wales Bar Association and Privacy New South Wales supported the 90-day time frame. Many other public submissions strongly suggested that a longer period—even one or two years—would be too long.

Mention was made of safeguards for a person who simply disappears on a holiday for more than 90 days being declared a missing person. The bill is squarely directed at those cases in which it is simply impossible to establish what has happened to a missing person—he or she has vanished and is making no attempt to contact family or friends or to use assets. It is not against the law for a person simply to take off while still looking after part of his or her estate, that is, to operate a bank account, make arrangements to pay utilities, have mail redirected or kept at a post office but not to remain in contact with family or friends. Obviously these factors would go against making an order.

To protect against frivolous or misleading applications, a number of safeguards have been built into the application process. A declaration that a person is missing and an estate management order can be made only by the Supreme Court. Before making a missing person declaration, the court must be satisfied that it is not known whether the person is alive, all reasonable efforts have been made to locate that person and people with whom the person would be likely to communicate have not heard from him or her for 90 days. Before making an order for estate management the court must be satisfied that it is in the best interests of the person to do so. If there is reasonable evidence to suggest that a person is alive, the court cannot declare the person to be missing or order that the estate be managed.

In relation to evidence that the court may use, the vast majority of submissions received as part of the consultation process focus on situations in which it is not known whether a person is missing, alive or dead. It is possible that a person who is looking after part of the estate may be regarded as missing because he or she does not keep in contact. However, as I have indicated, it is not against the law. If there is reasonable evidence to

suggest that a person is alive, the scheme proposed by this bill will not apply. The bill is directed at those cases I have identified in which persons have vanished and have made no attempt to contact family or friends or to use their assets. I thank honourable members for their contributions and I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

SPECIAL ADJOURNMENT

Motion by the Hon. John Hatzistergos agreed to:

That this House at its rising today do adjourn until Tuesday 16 November 2004 at 2.30 p.m.

ADJOURNMENT

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [6.28 p.m.]: I move:

That this House do now adjourn.

ABORTION

Reverend the Hon. FRED NILE [6.28 p.m.]: I wish to speak on some of the dilemmas facing lawmakers with regard to the controversial issue of abortion, and particularly late abortions or partial-birth abortions. Since the Federal election, debate about abortion has increased. I acknowledge that the Federal election was fought on moral issues and that this had an impact on the voters. Although abortion was not a prominent topic during the campaign, it has become a major issue since. The Federal Minister for Health, Tony Abbott, has raised the issue before and since the election. Governor-General Michael Jeffery has also raised concerns about abortion, but his emphasis was on the need for education and related matters.

It is also clear that a number of newly elected Federal members of Parliament have strong views on abortion. Federal Treasurer Peter Costello has pointed out the dilemma that the laws dealing with abortion are State laws and that it is difficult for a Federal Parliament to take action. There appear to be two avenues that the Federal Parliament could pursue. First, it could amend the Medicare legislation dealing with funding of abortion procedures. That is certainly a Federal issue. Secondly, the Federal Parliament could pass legislation affecting the Australian Capital Territory or the Northern Territory. The precedent for that is the legislative steps it took in response to the Northern Territory legislation legalising euthanasia. As honourable members know, the Federal Government does not have power over State Parliaments.

Abortion has become an issue and I do not believe it can be avoided. Some feminists have said that they fought the battle in the 1970s, that they won and that no-one has the right to raise the issue again or to ask questions. That is wrong. The door is never shut on any issue. Obviously the feminists do not want abortion debated, but the community has the right to review the situation, especially given that 100,000 abortions are carried out each year. We should be concerned about that figure, the reasons for it and what policies can be implemented to reduce it. I asked earlier whether it is a matter of governments examining the need to provide further assistance for women considering abortion, whether that be counselling or financial support. We should find out why women feel the need to have abortions and whether their reasons can be addressed by providing positive solutions. The *Medical Journal of Australia*, which is supported by the Australian Medical Association, published an article in August 2004 entitled "Abortion: time to clarify Australia's confusing laws", which called for a national law on abortion. At first glance I thought the authors wanted a law to prohibit abortion. But they want no law at all; they want all laws repealed. The article states:

> … all jurisdiction should follow the Australian Capital Territory's lead in allowing women to access abortion without fear of criminal prosecution.

The Australian Capital Territory is the only place in Australia where abortion has been entirely removed entirely from the statutes. Medical authorities claim that should be the model for the whole of Australia. I reject that claim, as I am sure do other members. We are facing some confusion. Even though the printed law is quite clear, judge-made law in court decisions has created confusion and it must be clarified. [*Time expired.*]

CANTERBURY HOSPITAL SEVENTY-FIFTH ANNIVERSARY

The Hon. KAYEE GRIFFIN [6.33 p.m.]: I acknowledge the seventy-fifth anniversary of Canterbury Hospital. I take this opportunity to reflect on the history of Canterbury Hospital and the ways in which it has evolved over the past 75 years. Canterbury Hospital boasts a colourful history and, after 75 years, still remains a central part of the Canterbury community. The local community has been central to the establishment and growth of the hospital, with members of the public beginning their campaign for a local hospital in 1895. In 1926 local residents formed a committee to raise funds for the hospital along with representatives from the Red Cross and medical practitioners.

The site for the new hospital in Canterbury Road Campsie was selected in 1927. When it came time to lay the foundation stone, more than 1,000 local residents attended the ceremony. On 26 October 1929, Canterbury Hospital was officially opened, operating as a small district hospital with only 28 beds to serve a population of 70,000. In its first year of operation, the hospital treated 587 patients and received community gifts of vegetables, chickens, manure, and even a goat. Today, Canterbury Hospital is a 188-bed metropolitan general hospital with more than 570 staff. The services it provides include general surgery and medicine, obstetrics and gynaecology, paediatrics, aged care, rehabilitation and palliative care.

In the past year alone the hospital has admitted 15,350 patients, treated 24,873 people through its emergency department and assisted in the birth of more than 1,400 babies. The Canterbury area is one of the most ethnically diverse local government areas in the State. The hospital serves a population of more than 135,000 people—48 per cent of whom were born overseas—in the Canterbury local government area. With such a diverse mix of nationalities in the community Canterbury Hospital staff regularly face language barriers and cultural differences. Therefore, it is the priority of the hospital to develop programs that meet the needs of its culturally and linguistically diverse population.

One such project has been the translation of the patient information guide into a number of languages including Arabic, Korean, Vietnamese and Cantonese. The guide contains information on patient's rights and responsibilities as well as information on smoking and nicotine replacement therapy. Another project has been the implementation of a number of strategies to support Muslim women and women born in Arabic-speaking countries during pregnancy and childbirth. Muslim women comprise one-third of clients attending the antenatal clinic at the hospital, and more than 15 per cent giving birth at the hospital were born in Arabic-speaking countries. Initiatives implemented to support these women include increased use of interpreter services, improved cultural awareness amongst staff through education sessions and discussion groups, and increased accessibility to female practitioners.

Canterbury Hospital has 57 volunteers working at the hospital on a regular basis and continues to receive strong community support from local individuals, businesses and associations. The hospital has undergone a redevelopment process in recent years, as part of a $408 million redevelopment of services across the Central Sydney Area Health Service in 1998. In November 1998, the new $80 million Canterbury Hospital complex was opened by the Premier of New South Wales, the Hon. Bob Carr. Thanks to this redevelopment, the Canterbury community now has access to the latest medical technology and health care services including five state-of-the-art surgical theatres; a 24-hours emergency unit; a radiology department with the latest in diagnostic services, including a computerised tomography scanner, the second of its kind in a New South Wales public hospital; a new hydrotherapy pool; and private rooms for mothers in the maternity ward.

A new community health centre was also opened as part of the redevelopment, offering local residents a number of diverse community health services. They include paediatrics, aged care, ethnic health, palliative care, adult mental health, dental, drug and alcohol, sexual health as well as community and domiciliary nursing, which provides post acute care and support for the chronically ill at home. I had the pleasure of attending the Canterbury Hospital seventy-fifth anniversary ball late last month. It was a wonderful night for guests and a proud occasion for past and present hospital staff and directors alike as we reflected on what had been achieved in 75 years.

At the official anniversary celebrations on Tuesday 26 October it was fitting that Canterbury Hospital's oldest living graduate nurse, Mrs Eileen Holden-Smith, who is aged 94, was able to attend. She was determined to attend and be part of the celebrations despite failing health. I am told that Mrs Holden-Smith had a wonderful time at the celebration and had told her daughter that if she died later that day she would die happy. I have been informed by Gary Miller, General Manager of Canterbury Hospital, that on the 3 November, one week and one day after the anniversary celebrations, Mrs Holden-Smith died peacefully in her sleep. The Canterbury

community has benefited greatly over the past 75 years from Canterbury Hospital's first-class health care. I commend the commitment of past and present staff of the hospital, and I congratulate them on a their service to the Canterbury community for the past 75 years.

VIET TAN

The Hon. CHARLIE LYNN [6.38 p.m.]: It is appropriate that I, as the son of a New Guinea veteran of the Second World War and as a proud Vietnam veteran, speak on the eighty-sixth anniversary of Armistice Day. All three campaigns involved the fight for freedom and democracy. Last Sunday I attended a function in south-west Sydney that announced the public formation of the Vietnam Reform Party known as Viet Tan. It followed the international announcement of the formation of Viet Tan in Berlin on 19 September 2004. The movement was founded by a Vietnamese patriot, Hoang Co Minh, in a border area of Vietnam on 10 September 1982. The objective of Viet Tan is to focus the energy and resources of the Vietnamese people worldwide on the mobilisation of a national alliance to abolish the communist dictatorship and bring about democratic reform in Vietnam.

More than 50 years ago some Vietnamese leaders chose to follow Communism and the promise of peace, happiness and prosperity after 120 years of French colonial rule and war. This led ultimately to a communist takeover in 1975. It is now obvious after 30 years of dictatorial rule that the Vietnamese Communist Party has not only failed in its aim to create a socialist society; it has also destroyed the very independence, freedom and happiness it promised. Its attempt to implement a Doi Moi or reform policy 10 years ago was a tragic failure. The only beneficiaries of that policy have been the dictators, who are referred to as red capitalists. The rest of the country's population has continued to suffer a poor and repressed lifestyle and they now want to break the yoke of communist power.

What is the result of the communist campaign? The Vietnam they supported is now one of the most oppressive communist regimes in the world today. A regime that rules by fear; a discredited regime that has institutionalised poverty as a way of life; a regime that has robbed its own people of the great potential they possess; a regime that must be overthrown by the same methods used by communist sympathisers in the 1960s and 1970s. It would be too much to expect the organisers of the moratorium movement to ever say sorry to the Vietnam veterans they betrayed, to say sorry to the South Vietnamese people who lost grandparents, mothers, fathers, sisters, brothers, relatives and friends in their desperate attempts to escape the communists, or to say sorry to those who spent years in re-education camps and solitary confinement.

Vietnamese people who have escaped to other democratic countries have worked extremely hard to develop new communities in their adopted countries. They now number about three million worldwide. They are intelligent, industrious, patriotic and proud. They are wonderful ambassadors, but they want their homeland back. They want the brothers, sisters and friends they left behind to enjoy freedom and to realise their potential. They want to break the yoke of communist oppression forever.

Next year, on 7 November 2005, will be the first anniversary of the establishment of the Viet Tan in Australia, as well as the thirtieth anniversary of the Vietnamese establishing themselves in this great democratic, multicultural country. I therefore invite the leaders of Viet Tan to commemorate this anniversary with a peaceful moratorium march in each capital city in Australia, to protest against the oppressive Communist regime in their homeland. I invite the Vietnam veteran community to come out and support our former allies in their quest to obtain the freedom we helped them to defend. I invite the millions of Australians who did not join the Communist-inspired moratorium marches of the 1960s and 1970s to come and join them in peaceful protest. Finally, I call on those cowardly Communist quislings to admit they were wrong and finally say sorry to the Australian Vietnam veterans they betrayed.

According to one of the speakers at the announcement, Communism has replaced their enslavement to the French columnists by enslavement to an ideology. We are referring here to a brutal, corrupt and discredited ideology that exists only in Vietnam, North Korea, Cuba and pockets of the New South Wales Parliament. A number of speakers at the meeting acknowledged that the Communists did not win the Vietnam War on the battlefield; they won it on the streets of Sydney, Melbourne, New York, Washington, Paris, London and other democratic cities in the free world. The war was lost because Communist sympathisers and student radicals were able to mobilise legions of gullible do-gooders in the greatest act of betrayal against Australian soldiers, sailors and airmen in the history of our nation.

The scars of this betrayal run deep among the Vietnam veteran community. The ode of the RSL may well be "Lest we forget", which refers to the sacrifices of our service men and women in law, but Vietnam

veterans would add the words "the great betrayal". The memory of red paint and rotten eggs being thrown at one of our most eminent soldier-statesmen, Sir Roden Cutler, the memory of the hairy armpit brigade jumping in a pool of remembrance on Anzac Day in 1981 to mock our older Diggers, the memory of soldiers marching through city streets and being called baby killers, is seared in my memory. I, for one, will never forget or forgive the treachery of these cowardly quislings. As I said, I call on those cowardly Communist quislings to admit they were wrong and finally say sorry to the Australian Vietnam veterans they betrayed. And I invite the President of this place to be the first to do it.

SERIOUS INJURY AND DEATH IN THE WORKPLACE

Reverend the Hon. Dr GORDON MOYES [6.43 p.m.]: On Tuesday 9 November I attended the Electricity Supply Industry Safety Practitioners Conference at the Penrith Panthers Club and spoke about the recent inquiry and report of General Purpose Standing Committee No. 1 into serious injury and death in the workplace. The issue of workplace injury and death is something I have lived with for 25 years in my working life at the Wesley Mission, where there are more than 3,000 full-time staff and 3,500 part-time staff. I am profoundly aware of the daily occupational health and safety risks faced by workers in all walks of life.

The conference attendees were vitally interested in the committee's recommendations. I express my thanks to Reverend the Hon. Fred Nile, who was the chairman of General Purpose Standing Committee No. 1 during the inquiry into serious injury and death in the workplace. I reported to the conference that while the committee's inquiry focused largely on the building and construction industry, the committee also examined the road transport industry, the agriculture industry, and industries covered by the National Union of Workers, including retail and manufacturing industries. The inquiry is a good example of an inquiry in which, despite strongly held views and some differences of opinion, committee members and also stakeholders, including both unions and employer groups, adopted a collaborative approach to examining the issues and making constructive recommendations.

The conference was most interested to hear about the case studies that enabled the committee to really come to terms with the true impact of serious injury and death in the workplace. One case study concerned Mr Joel Exner, a 16-year-old apprentice roofer who was killed in 2003 when he fell several metres through a roof at the Australand Holdings Ltd site at Eastern Creek. It was only his third day on the job. The conference took interest in a number of important recommendations aimed at improving WorkCover's liaison with victims and their families. I am pleased to note that WorkCover is now taking steps to improve its liaison with those affected by workplace accidents. WorkCover has completed and publicly released the guidelines for liaising with families of deceased accident victims. I received a very good hearing on this point, with members of the conference wholeheartedly supporting the committee's recommendations.

As part of its inquiry the committee examined the scope of current criminal law in New South Wales that applies to fatalities resulting from serious breaches of occupational health and safety laws. Members may recall that the committee recommended the establishment of a new crime of industrial manslaughter. The committee heard that there had not been a successful prosecution for manslaughter where the death occurred in a workplace situation, and it discussed a number of detailed legal reasons for this lack of success.

At about the time the committee's inquiry commenced, the Minister for Commerce, the Hon. John Della Bosca, appointed a panel of eminent legal practitioners to advise him on the occupational health and safety legal framework, particularly in relation to workplace facilities. The panel unanimously ruled out an industrial manslaughter offence under the Crimes Act, but instead recommended that an additional offence be inserted in the Occupational Health and Safety Act relating specifically to workplace fatalities. Last month the Minister released a draft consultation bill implementing the panel's recommendations. In doing so, the Minister in his statement ruled out any proposals in relation to industrial manslaughter in New South Wales. The decision was met with profound disappointment on the part of safety practitioners.

The recovery of fines is the responsibility of the State Debt Recovery Office. WorkCover has no express statutory role in relation to the enforcement of court-imposed sanctions or the recovery of unpaid penalties. However, safety practitioners are strongly of the view that government agencies must work collaboratively to collect unpaid fines. Recently, following a WorkCover prosecution, the Industrial Relations Commission held, for the first time, that a truck driver's truck is a place of work. In that case the driver's employer faces fines of up to $55,000 for failing to provide safe working conditions. Safety practitioners strongly support this. The Electricity Supply Industry Safety Practitioners Conference congratulated this House and its members on the committee's report and recommendations, and asked me to pass on its support and approval for a very good report.

CLOTHING OUTWORKERS PROTECTION

The Hon. JAN BURNSWOODS [6.48 p.m.]: On several occasions over the years I have spoken in this House about outworker exploitation, particularly in the clothing industry. On this occasion I draw to the attention of the House the announcement by the Minister for Fair Trading, Reba Meagher, that the State Government, in consultation with and with the assistance of the Textiles, Clothing and Footwear Union of Australia and the Australian Retailers Association, has drawn up a proposed mandatory code to protect New South Wales outworkers.

I welcome the fact that it is to be a mandatory code, because it has become clear that, despite all the attempts by the Government, the Minister, and her predecessor with responsibility for this area, the Hon. John Della Bosca, and the efforts of the unions and some ethical retailers, the voluntary code under which we have been trying to operate for some years has failed to bring non-ethical retailers and manufacturers to heel. Once again I pay tribute to the women, particularly the union members and others, as well as the outworkers themselves, who began the Fair Wear Campaign, a campaign against outworker exploitation. The campaign started at the grassroots level, and involved input from the unions, women activists, and outworkers themselves.

It is estimated that currently there are more than 50,000 outworkers in New South Wales, the majority of whom are women from non-English speaking backgrounds, who in some cases work in almost slave labour conditions in their homes, or in sweatshop factory conditions, mainly in the south-western and western areas of Sydney.

In the past I have mentioned that there is some evidence, although often very hard to pin down, that another problem with outworkers in the clothing industry is the use of child labour. That is a fairly well hidden problem, because all too often the children are not directly employees of those responsible for sending out the outwork, and the chain in the clothing industry is so long that the link is very hard to establish. In fact, the evidence in relation to children comes more from schools and teachers finding that children are truanting or are extremely tired at school, and when the matter is investigated that turns out to be the answer.

The wages in question sometimes are as little as $2 an hour, when the minimum wage under the award is $12. As I have said, over the past several years the Carr Government has worked closely with the Textiles, Clothing and Footwear Union of Australia and the Australian Retailers Association to minimise exploitation of these women, and others, and to ensure that they receive their correct entitlements. The voluntary code has more than 40 signatories from the retail industry. They include some of the largest companies who are committed to not buying products unless they are sure that the products have been ethically produced.

For some time now those signatories have included some of the major retailers, like Target, Woolworths, Coles Myer, Best and Less, and others. Those retailers have been genuinely committed for some time. They have participated in the Behind the Label program. While this program has been operating, the Government has inspected more than 1,300 workplaces and recovered for the outworkers nearly $200,000 in lost wages. In addition, the Government has set up education and retraining programs that have seen more than 1,000 outworkers graduate from both vocational and English language programs.

So a lot has been done, but I believe the time has come to draw up a mandatory code. In a sense, those who organise the exploited outworkers have one last chance: this is a proposed mandatory code. I have no hesitation in saying to the Government that enough time has been given to these people, and that, really, the time has come to introduce mandatory rules to protect outworkers.

CARRIE'S PLACE CO-OP LTD

The Hon. CATHERINE CUSACK [6.53 p.m.]: Two weeks ago I visited a remarkable facility for women in the Maitland region called Carrie's Place. I was met and briefed on Carrie's Place facilities by the manager, Sabine Wagner. Carrie's Place was established in 1978 as a refuge for women and children fleeing domestic violence. Its first client found shelter there in 1979 and thus this year is celebrated as Carrie's Place's twenty-fifth anniversary of operation. Today it is funded primarily as a women's refuge, and indeed it does provide desperately needed accommodation services. But it also provides innovative counselling and outreach services that are a model for the rest of New South Wales. In addition to Supported Accommodation Assistance Program funding, some money comes from client contributions, donations and fundraising. Invaluable non-cash support comes from the dedication of staff and volunteers, plus access to the Work for the Dole Program.

There are many worthy causes to support in our communities. The very high support attracted by Carrie's Place tells us how badly needed and highly valued its services are in the eyes of the local community. I was fortunate to meet several staff at Carrie's Place and thank them for taking the time to inform me of their work and the issues that affect their clients. Several of those staff members were very experienced. This is the human capital that makes Carrie's Place special. I would like to acknowledge Jenny Harland of Maitland Women's Domestic Violence Court Assistance Scheme. We discussed many issues, including the problem of women and children being forced from the family home as a result of domestic violence, leaving the perpetrator behind, often in a three- or four-bedroom house, including in a public housing estate. The courts have the power to order that the perpetrator vacate the house, but there is such a lack of awareness or confidence in making such an order that it is rarely used.

While visiting the refuge I had the opportunity to speak privately and at length with two residents who shared details of their circumstances with me—and I thank them most sincerely for their candour. Both women had preschool-age daughters. Both these little girls were outgoing, smiling, and in good health; it was obvious that they are being beautifully cared for. The dignity and determination of these impressive young women to make a home for their daughters was very moving. They asked me to bring to the attention of members and the Government the lack of accessible and affordable housing in the region.

One of Carrie's clients, a 21-year-old girl with a three-year-old daughter, has been searching for accommodation for most of the year. In desperation she obtained lodgings in serviced apartments and met the cost of $400 per week for several months. Her social security payment was little more than $800 per fortnight—so do the maths and you will realise there was insufficient money available for food and other essentials. I saw a file half an inch thick of receipts showing that even though the bills consumed 95 per cent of her income they had all been paid. I can only conclude that any landlord would be fortunate to have such a person as tenant. And yet this girl, little more than a child herself, cannot get access to priority public housing. On the other hand, the real estate agents in the area would regard such a young mother as part of a class of individuals who would be unreliable, and for this reason, in spite of her best efforts, she has still been unable to obtain lodgings.

It is distressing to see a person who takes complete responsibility for her circumstances, is a great mother, and has a good plan to improve her lot, trapped in this way simply because our society will not give her a go. She wants to participate and function independently; she wants the best for her child. In one so young I could not help but admire her discipline, planning, and determination to overcome her obstacles. Surely we can do better for such women. During 2003-04 Carrie's Place accommodated 118 women and children—a significant decrease in admissions, due to a lack of clients exiting the service. The reason they could not exit was their inability to find housing. Indeed, for the year Carrie's was only able to find one family home and five bed-sits, which they leased for single women. Of all their clients, only two women—one single and one with children—were able to obtain independent housing.

It is instructive to look at the referring agencies. The largest number were from other refuges and the second largest were from the police. They reflect the clients who were actually placed at the refuge. I am sorry to say that during the year Carrie's had to turn away 416 women, of whom 127 were single, and 288 had 524 dependent children. It is a tragic and humbling figure. The inescapable conclusion is that low-cost accommodation in Maitland is impossible to obtain for single mothers who are homeless. It has nothing to do with their capacity or willingness to pay—it is about stereotyping.

It is a great shame for them and it is a great shame for their children. I left the area very depressed by the lack of compassion and responsibility in the real estate market, where, clearly, the spiralling cost of rents has meant it is a buyer's market for real estate agents on behalf of landlords. Some of these landlords would be unaware of their agents' policies and many may be willing to give these women a go. Unfortunately, that is not happening. I acknowledge the bravery and dignity of these women, and I am greatly indebted to Carrie's Place for this important and moving experience.

Motion agreed to.

The House adjourned at 6.58 p.m. until Tuesday 16 November 2004 at 2.30 p.m.