

LEGISLATIVE COUNCIL

Thursday 18 November 2004

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

The Clerk of the Parliaments offered the Prayers.

HOME BUILDING AMENDMENT BILL

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

Motion by the Hon. Tony Kelly agreed to:

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

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

STANDING COMMITTEE ON SOCIAL ISSUES

Reporting Date

Motion by the Hon. Jan Burnswoods agreed to:

That the reporting date for the reference to the Standing Committee on Social Issues relating to Redfern/Waterloo be extended to Friday 17 December 2004.

TABLING OF PAPERS

The Hon. Henry Tsang tabled the following paper:

Legal Profession Act 1987—Report of the Committees of the Law Society of New South Wales for the year ended 30 June 2004.

Ordered to be printed.

DISTINGUISHED VISITORS

The PRESIDENT: I welcome into the President's gallery Mr Jim Begg, Director-General of Dairy UK and president-elect of the International Dairy Federation.

GENERAL PURPOSE STANDING COMMITTEE NO. 1

Report: Budget Estimates 2004-05

Reverend the Hon. Dr Gordon Moyes, as Chair, tabled report No. 26 entitled "Budget Estimates 2004-05", dated November 2004, together with transcripts of evidence, tabled documents, correspondence and answers to questions taken on notice.

Report ordered to be printed.

Reverend the Hon. Dr GORDON MOYES [11.08 a.m.]: I move:

That the House take note of the report.

Debate adjourned on motion by Reverend the Hon. Dr Gordon Moyes.

PETITIONS

Disability Programs Funding

Petition requesting a guarantee that the quality of services offered by the Post School Options and Adult Training, Learning and Support programs will not be reduced through funding cuts or restructuring, received from **Ms Sylvia Hale**.

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Notices of Motion Nos 1 and 2 postponed on motion by the Hon. Tony Kelly.

Government Business Order of the Day No. 1 postponed on motion by the Hon. Tony Kelly.

DEPARTMENT OF COMMUNITY SERVICES DATA

Ministerial Statement

The Hon. CARMEL TEBBUTT (Minister for Community Services, Minister for Ageing, Minister for Disability Services, and Minister for Youth) [11.09 a.m.]: I wish to make a ministerial statement to outline to the House issues impacting on the capacity of the Department of Community Services [DOCS] to provide accurate, publicly available data on key areas of the department's operations and how the Government is responding to this and other issues as we roll out our reform plan to improve child and family services in New South Wales.

The Government is committed to providing clear and accurate data about the operations of DOCS. The department has encountered a number of obstacles in making its quarterly data available on its web site since September 2003. This has had a direct impact on the production of the department's annual report for 2003-04, which will not be available until January 2005. The sort of information provided in the 2003-04 annual report will be similar to that provided in last year's annual report. The delay is regretted, but necessary in the circumstances.

Many organisations like DOCS find there are delays in re-establishing continuity of data and reporting frameworks after the introduction of new computer systems. This is related to a number of factors such as the initial skills of users, system adjustments in the early days to promote effectiveness, and changed data input and extraction requirements. The implementation of the new client information system has been a major organisational change for DOCS. To give the House an idea of the scale, it has involved the transfer of some 24 million records and more than 6,000 staff training days.

DOCS has taken steps to remedy the situation. This involves regional data specialists ensuring that all relevant casework data is entered into the system and then extracted in a way that accurately reflects the department's work. An information quality framework has been developed to systematically address data quality and accessibility issues and to ensure that relevant, high-quality data is available from the DOCS computer systems. Within the framework a program of data remediation is presently under way to ensure that key pieces of information are available for future reporting. The expanded information collected in the client information system will benefit the staff of DOCS and the children, young people, and families who receive services from DOCS.

However, today I can bring the House up to date with data relating to the total number of risk-of-harm reports received by the Department of Community Services. It is important to provide this information to the House as soon as possible, rather than wait for the publication of the annual report. In 2003-04 there were 185,198 reports about 94,552 children. Of these reports, 121,368 were referred to local community services centres for further assessment. In 2003-04, there were 15,945 reports received that required a response within 24 hours, 54,200 reports required a response within 72 hours, 48,788 reports required a response within 10 days, and 1,472 reports were received as further information. This information has been downloaded today onto the DOCS web site, as has associated data.

The 2003-04 figures translate to more than 3,500 reports each week. Over 50 per cent of these reports concern newly reported children and young people. This data reveals an increase in child protection reports from

the 2002-03 reporting year of 5 per cent, or about 9,000 reports. There has been a 461 per cent increase in reports since 1995-96. Over the next six months the department expects to verify data in a range of related areas, including the outcome of secondary risk of harm assessments and certain out-of-home-care placement information. The department advises that this information will be available in the 2004-05 annual report.

Quality assurance of these key pieces of information is a high priority for DOCS. It is of concern that the department has not been able to report the number of secondary risk-of-harm assessments across the system as a whole. This information is important for the department to understand what is happening for particular groups of children, as well as for work force planning. However, although this updated information is not available, the data from the 2002 Kibble report is still relevant. The Kibble committee completed an extensive review of the demand for services from DOCS and the resources required. Members will remember that in February 2003 I released the findings of the Kibble report. For level 1 reports it noted:

... the allocation rate for Level 1s is 55% and over 90% have an initial investigation or action.

Allocation in this context means allocation to a caseworker for a full secondary risk-of-harm assessment and ongoing case management. For level 2 reports the figure was 26 per cent allocated, with 71 per cent receiving an initial investigation; and for level 3 reports the figure was 12 per cent allocated, with 56 per cent having an initial investigation. Given that there has been a steady increase in demand, I would not expect any significant change in the capacity of most community services centres to action a higher proportion of cases. The exception is those that have already benefited from additional staff under the roll-out of the reform plan.

I will turn now to the growth in reports and what this means for DOCS. Any increase in child protection reports is a matter of concern. Care needs to be taken about interpreting report figures; not all reports of concern are, in fact, substantiated child abuse and neglect. However, by any reasonable standard, the increase in child protection reports in New South Wales in the past 10 years has been extraordinary, an increase of more than 150,000. There are numerous reasons for the rising number of reports. We must recognise that child abuse and neglect occurs within a broader context with a strong intergenerational effect.

There is no doubt that a rise in inequality and the disintegration of capacity in some communities have contributed to the increased number of children who are vulnerable or at risk. Our capacity to keep children and young people safe depends on the cohesiveness of our society, and the opportunities we provide for people irrespective of income, education and location. Here in Australia, like in other countries, we are seeing a growth in a section of society that is marginalised from the mainstream, with little hope of sharing in the benefits of our booming economy. The common hallmarks are second or third generation unemployment, family violence, drug and alcohol abuse, poverty and a sense of hopelessness.

In Australia poverty is more widespread than thought. More than two million Australians currently live in poverty, 15 per cent of children in Australia live in jobless households, and half of all Australian households live on less than \$30,000 per year. The dual risk of poverty experienced simultaneously in the family and in the surrounding community increases young children's vulnerability to adverse consequences. This means that many more children are vulnerable from birth. Family support and child protection services can do so much, but action is required on a range of fronts: it needs a commitment from all spheres of government to address poverty and inequality.

Community attitudes about child abuse and neglect have also changed. Society is more vigilant in identifying suspected child abuse and taking the next important step of reporting it to the authorities. The expansion of the mandatory reporting scheme in New South Wales is recognition of those community expectations and attitudes. The increased demand on child protection systems is a trend the world over, including in countries where mandatory reporting has not been implemented: for example, the United Kingdom. Reports of risk of harm have been on the increase nationwide. The Government has responded comprehensively to the increasing number of reports to DOCS. The Kibble report detailed the need for additional resources to improve the department's response to child protection reports.

Those additional resources are provided for in the \$1.2 billion plan the Government announced in December 2002. The first full year of the package's roll-out commenced in July last year, and we are now in the second year of the five-year DOCS reform plan. Approximately one-quarter of the funds announced in December 2002 will have come on line by the end of this financial year. This plan is informed by lessons learned in other jurisdictions, both here and overseas. The Government recognised that we need long-term solutions to support parents, carers and families to prevent problems reaching crisis point. The plan provides

substantial additional funding for early intervention and family support services. At the same time 875 additional caseworkers will be employed over the five years of the plan: 375 caseworkers for child protection, 350 caseworkers will be quarantined for early intervention, and 150 caseworkers for out-of-home care.

We are on track with our recruitment strategy. There were 173 more caseworkers employed at the end of June 2004 than at the end of June 2003. By July next year that figure should be 300 more. The recruitment strategy is part of delivering the enhanced service delivery project. This is an overarching project within the department that integrates caseworker resources with the staged development of local community services centres. This strategy will see individual community services centres being enhanced to provide early intervention, child protection responses and out-of-home care, along with improvements to occupational health and safety, improved operational consistency, and an emphasis on building relationships with DOCS community partners and the non-government sector. The fact remains that we are still in the early days of the caseworker roll-out and DOCS is still unable to respond to all reports in the time frame required. But we are taking important—and lasting—steps in the right direction.

The Department of Community Services is responding to families with increasingly complex issues in a high-volume environment. This requires adequate capacity in the service system, along with an effective assessment process. The risk assessment process is critical to determining how the department responds to cases. Assessing the risks of often unpredictable and chaotic human behaviour is an imperfect science. Even the best tools can predict child abuse only 70 per cent to 80 per cent of the time. DOCS introduced a comprehensive risk assessment process in 2001. Risk assessment and family strengths and needs tools have been developed to support the assessment process. The secondary risk-of-harm assessment was reviewed in 2002, resulting in further improvements. But the department continues to seek improvements to the risk assessment process.

A fundamental part of the reform process is to get the balance right between early intervention and statutory protective responses. It is not an easy balancing exercise. The early intervention program aims to address vulnerabilities in families at an early stage and respond to concerns about the safety, welfare, and wellbeing of children and young people, either before or immediately following a first report to the department. The program is informed by evidence-based practice of what works, when, and for which types of problems in families. The move to strengthen early intervention services within the service system reflects the goal of DOCS and its community partners to build the overall resilience of families and prevent harm to children. There is an opportunity here to provide support early in the life of problems, and possibly to resolve difficulties, before problems become intractable. This has not been possible previously and it requires innovation and resources.

The Early Intervention Program is being implemented across New South Wales over five years. Over that time DOCS will spend \$150 million to fund a range of existing and new community-based government and non-government services. In addition, 350 early intervention caseworkers will be appointed to support the implementation of the program. In 2004-05, expenditure on the program will be around \$15 million. This is new money for a new program with a new approach. To make sure that the relevant support services are available to those families in the program, DOCS will fund non-government organisations to provide services, including centre-based child care, supported play groups, home visiting, parenting programs, centre-based and home-based family support services, and school preparation services.

Over time the goal is to provide support services to children and families as much as possible via one-stop shops or integrated child and family services so that a family will be able to go to the one place to access relevant services to meet its needs. The one-stop-shops model has delivered impressive results in improving outcomes for children and families in the United Kingdom and Canada. One of the great benefits of the model is the ability to locate both universal and targeted services in the one place. Building a service system in which support services are set up in this way conveys to parents and the community that families may need help at different stages of their life. It also minimises the problematic issue of stigmatisation, which is well understood to be an obstacle for families seeking help when protective concerns may arise. Child and family centres can provide a range of supports to children and parents with differing levels of need, and the flexibility necessary to deliver services to families whose children span a range of ages.

Child and family centres will be an integral part of the support system we are building. This may not be achievable in all areas of the State but it is the overall goal of the program. Even under a model of integrated child and family centres, access to child care must be improved more broadly, particularly for parents trying to re-enter the work force. A growing body of research in Australia and overseas demonstrates that quality child care has many positive benefits for families, including healthier children and parents, better functioning families, reduced child abuse and neglect, and reduced juvenile and adult crime. I will pursue the

Commonwealth's co-operation to improve access to child care services, particularly for parents who are seeking to re-enter the work force. The Commonwealth bears responsibility for child care.

For its part, however, the New South Wales Government is committed to using both universal and targeted provision to improve prevention and early intervention activities that address risk in all areas of children's lives. Building up the early intervention and prevention system will entail hard work. Early intervention work cannot be thought of as light—it is often intensive and rigorous. It is a critical component of the service system, yet it is not a solution on its own. We will always need services that address acute issues, and services that work with families to restore their children. Any genuine reform agenda must tackle the overrepresentation of indigenous Australians in out-of-home care and in child protection reports. A range of initiatives in the Government's five-year plan seek to do this.

The Aboriginal Child Youth and Family Strategy seeks to improve support for Aboriginal families and specifically targets Aboriginal children and young people aged between 0 and 18 years. The emphasis is on better co-ordination, testing new ways of working with Aboriginal families, and ensuring that mainstream services are meeting the needs of Aboriginal families. Two intensive family-based services are being established, in Wollongong and Bourke, to help reduce the number of indigenous children being placed in out-of-home care and to reunite with their families indigenous children who have been in out-of-home care. These services will provide an intensive, time-limited, home-based program for Aboriginal families whose children are at risk of out-of-home placement. We are also making improvements to the out-of-home care system for indigenous children, with \$3.5 million over three years announced in late 2003—the biggest ever injection of funding to indigenous out-of-home care services in New South Wales. This funding boost should provide more indigenous care support and create in the order of 100 to 150 additional Aboriginal foster care places across the State.

Domestic violence is a prominent factor in many of the reports received by the department. Last year more than one in four reports involved domestic violence. It is clear that any effective strategy to support vulnerable families must address domestic violence. It is a complex issue that impacts on the capacity of parents to care for their children effectively, as well as having a serious impact on the emotional and developmental outcomes for children and young people. Research and experience tells us that there are strong connections between domestic violence, drug and alcohol use, sexual assault, and child abuse.

Reports of domestic violence have increased about fourfold in the last five years and have been a significant driver of the increasing number of reports of harm to children. The impact on the women and children in these families is immense. No single strategy or response will resolve these complex problems. What is required is a whole-of-government response that includes family-based and criminal justice interventions. The Government is bringing together the efforts of a range of community-based and government organisations by transferring the Violence Against Women Strategy to the new Communities Division of the Department of Community Services from 1 February 2005. This transfer will provide an unprecedented opportunity to examine the full spectrum of issues associated with community and family-based violence.

The whole-of-government approach and joint funding remains. However, existing programs, such as funding for 95 women's refuges, will be able to be better integrated. Innovative programs funded through community solutions, such as the domestic violence court intervention model in Wyong, will also be able to be integrated with the range of early intervention and prevention programs and the Violence Against Women Strategy.

In conclusion, across the spectrum of Department of Community Service obligations we are looking for innovative and flexible practices that will make a positive difference to an individual child's or family's life. Time does not permit me to address in detail the improvements we are making in out-of-home care, but I look forward to reporting further to the House on this at another time. Unfortunately, governments cannot eliminate child neglect or abuse. Governments must reduce its incidence and seek to change the conditions in which it is cultivated: family stress, poverty, unemployment, and parents facing violence from partners or family members.

The Department of Community Services can seek to deal with the consequences of disadvantage and family dysfunction, but not all of its causes. This task goes well beyond the brief of any single agency. It requires the co-operation of all governments, with all relevant government and non-government agencies working together. It also requires an active and sympathetic community. The statistics I referred to earlier revealed the enormity of this task.

This Government remains strongly committed to tackling the big increase in child protection reports and, of course, to making key child protection data available. The delays in releasing this data are a by-product

of the major reform program that commenced in July 2003. Outstanding data issues will be fixed as soon as possible and the department's normal reporting practices will be restored. The Government and the department have made significant strides in the first full year of the reform program. We are committed to maintaining the momentum and making effective and lasting change that will benefit the children, families and communities we serve.

The Hon. JOHN RYAN [11.31 a.m.]: Whilst I thank the Minister for informing my office that a major statement would be made about Department of Community Services data this morning, I qualify my thanks by stating that I expected that the statement would be made at 11.30. I was in my office when the Minister started speaking, and missed the opening paragraphs of her speech. The Minister is aware that for the last two days the House has extended her a courtesy, for perfectly good reasons. I would have expected her to check whether I was present before she made her statement.

The Minister has basically told the House that the Government will not be able to deliver on a clear promise it made some years ago to release child protection data on a quarterly basis. The Department of Community Services has released no statistics since July 2003, more than 12 months ago. On numerous occasions I have requested from the Minister information on the progress of the release of new child protection data. The last advice I received, during the parliamentary estimates hearings, was that the data would be released during December. The situation has obviously changed again since then.

Whilst I understand that the Government might have some difficulties in backdating data with regard to the entry of new information following the introduction of the new client information system, I have to say something that must be said: Every 18 months or so for the last three years the department has released data which has been heavily qualified in one of its most important respects. The most important reason for releasing information on a timely and continuous basis is to allow it to be compared with data released previously. The simple facts are that for the last three or four years it has been impossible to compare data from one statistical period with the data from another. That appears to be the case today.

Information that the Minister has given the House appears to terminate in June 2004. She said that the data has been uploaded on the department's web site, but I have checked and the information has not yet been uploaded. Perhaps that will be done during the day. But it is apparent from the format in which the data has been released to the House that the new statistical data will be released in yet another format. The data will be current only up to June 2004. The comparative information that the Minister gave the House relates to information which has already been released; that is, data up to June 2004.

The Minister has touched on the trend data in regard to the level of response. When the department's annual report is published in the New Year it will be interesting to see whether the most recently released information is available. For the last two years virtually every set of statistics has been endlessly qualified, making meaningful comparison from one statistical period to another virtually impossible. For example, the department advised that the data before 6 July 2002 was collected and recorded using a version of the DOCS client information system called 4.1. On 6 July 2004 that system was replaced by version 4.2. It was changed in order to support parts of the Children and Young Persons (Care and Protection) Act 1998, which was proclaimed on 18 December 2000.

It incorporated new material relating to the secondary risk of harm assessments. The continuity of data was not ensured from the change of one system to another. As a result the department advised that it was impossible to provide continuous data sets on some matters. One of the most important matters on which it was apparently impossible to provide a continuous data set was the level of response. That is one of the most important areas for comparison in regard to the statistics relating to child protection released by the department. The level of response refers to the seriousness of the abuse being reported and, by inference, to the level of response the department makes to address the concerns.

The department has four levels of response. A level one response is the most serious. A report receives a rating of this nature when there is an immediate danger to the child that requires the child to be physically seen by officers of the department within 24 hours. A level two report requires the child to be physically seen within 72 hours. A level four response usually only involves information which is received for the information and intelligence of the department should there be further reports relating to the same child. The public and all members of Parliament want to know whether reports of abuse are becoming more or less serious over time, and whether the department's response is appropriate.

People want to know whether a child involved in a level one report, which requires the child to be seen within 24 hours, is seen within 24 hours. With a level two report they want to know whether the department saw the child within 72 hours. Even the Minister will concede that not every level one report of abuse receives a response within 24 hours and not every level two report receives a response within 72 hours. In fact, I am informed when I visit offices of the department that most level three reports do not receive an urgent response; most are retained for information. People want to know whether the department is responding appropriately. They also want to know whether the response is improving or worsening, particularly as the department rolls out new resources. The department is making a considerable investment in new resources over time, and one relevant question everyone will want answered is whether those resources are available according to the Government's schedule and, secondly, whether the responses are making a difference.

The sad fact is that even with the new client information system it appears to be impossible to answer that question. Indeed, even when the new statistics are released that vital question will be left unanswered. I believe that the system has been deliberately designed to ensure that it is not answered. When reports of child abuse are received by the Kids Help Line they are eventually passed on to the individual community service centres, where they may be reassessed for their level of seriousness. Then, importantly, the case is allocated or not allocated. I am informed that the Key Information and Directory System [KiDS] database does not record whether the case is allocated if no allegation is made. The file is simply left open, and if it remains open and inactive for a period the system automatically closes it.

Some information will be available for the most urgent cases because there will be activity on the database, but for the least urgent cases or for cases that do not receive an appropriate level of response the file is simply left open and then it is closed. There will be no way of distinguishing between files that received an appropriate response and those that did not. I have no doubt that when I ask the Minister in six months time, during next year's estimates committee hearings—as I have done on two previous occasions—whether level one reports are receiving an appropriate level of response, I will receive the answer I have received to date: that it is too difficult to determine; the research required is too expensive and too difficult for the department to carry out and, therefore, she does not know.

One would have thought that when KiDS database was designed it would have included a mechanism to report back to the department on whether level one reports received a level one response, level two reports received a level two response, and so on. The system has been deliberately designed to ensure that that vital information is left out when child protection statistics are collected and eventually reported. The Government promised some time ago that we would receive regular quarterly statistics on child protection, but that will probably not happen until the middle of next year, as it has not happened for almost 18 months. Indeed, the Minister has made no commitment as to when quarterly statistics will be resumed, except to say that some facts will be updated in the department's annual report in January.

We have heard in considerable detail how the data has to be loaded into the computer systems so it can be analysed, and that significant procedures must be carried out for checking that data. It appears that there will not be an early resumption of quarterly child protection statistics in the near future. A couple of vital areas are not reported on with respect to the department's child protection data. The Productivity Commission has undertaken a survey involving departments such as the Department of Community Services. One area in which data is compared across the States—and importantly so—is whether child protection reports against particular children are substantiated. That data is collected by the department. But one interesting statistic which is an important key indicator is whether the same child is the subject of an additional report further down the track and whether it is substantiated. The usual benchmarks are whether matters are substantiated and the children are the subject of substantiated reports within 3 months and also within 12 months.

Because the Productivity Commission has reported on this data I asked the Minister, in a question on notice, whether the department keeps the data. I was informed that the data is not collected, particularly with respect to substantiations within 12 months. The Minister says it is important for the department's response to be evidence based, but one critical piece of evidence that is not available to the department is whether the intervention following a serious report of child abuse was effective. The Government has made hundreds of millions of dollars of public resources available to the Department of Community Services, so we want to know whether the interventions are effective.

The resubstantiation rate is an important benchmark that allows us to assess the level of effectiveness. Indeed, by having statistics collected in a manner that is comparable across the Commonwealth it is possible to benchmark the performance of the Department of Community Services against similar agencies in other

jurisdictions across the nation. Unfortunately the department appears to be reluctant to inform us whether that will be part of the new client information system. The Government acknowledges that difficulties existed within this significantly controversial department in the past, and that is one reason it has provided it with more resources. Notwithstanding the department's sad history, it is astonishing that it is not willing to collect information that merely tells us the level of response and whether the response is effective. We need to know whether the Department of Community Services interventions are effective.

It will be interesting to learn whether the system of mandatory notification is effective. Some have argued that mandatory reporting provides more data but does not allow us to pinpoint more quickly serious incidents of child abuse. Because the department is unable to determine which are the most serious and which are the least serious reports, which families are in the most trouble and which families might be at a marginal level of difficulty that will quickly pass, and because of the large number of reports, it is argued that sometimes the wrong families receive the most intensive attention and families in greater need of that level of attention miss out.

This is a live debate not only within New South Wales but also across the world. One need only search the Internet, as I did recently, to discover that mandatory reporting, even though it applies to almost every jurisdiction in Australia and America, is a live debate across the world. As we have introduced mandatory reporting we should also assess whether it acts in the best interests of children. I believe that the child protection statistics should address that important area. I note that about 18 months ago the department appointed a number of economists, and I assumed that signalled its intention to carry out a more sophisticated level of research into these important questions. It may well be that some of these answers can be obtained by examining the individual files held by the department and carrying out more manual research, rather than reporting every moment on the computer system. I accept that might be the case.

However, to date the Government has not given a commitment that it will be reported in a timely fashion or that the reports can be compared over time. The community wants us to make the best efforts to protect children who are at risk of harm. The Government must make these important responses, but it has not yet addressed them. I note that the most recent report of the Children's Commissioner relating to the Child Death Review Team indicated that the Government has not yet updated its response to recommendations made about youth suicide. That important research also needs to be addressed. One can hardly say that the department is operating at its best. Clearly, it has a way to go.

One important measure to ensure that the process is swift and effective is to have comparative data released on a regular basis. The Minister has allocated resources for an additional 200 caseworkers, but the department is in no position to tell her whether the additional resources have been allocated to the right places or whether they are making a difference. Apparently she will be told in six months time. The additional resources provided to the department are considerable and the stakes for the individual children involved are very high. I have had some experience of what it is like to be the subject of a report of mistreatment. I know that the stakes are enormously high and it is a sad fact that very few young people ever escape the full effects of an incident of abuse.

That is why it is so important to not only report on and respond to them but to avoid them, if at all possible. Sometimes data that may be considered of least significance to the department—that is, data relating to reports of problems that do not constitute an immediate risk of harm to children—is most important because it allows the department to take an early interventionist approach and avoid incidents. I agree with the Minister that no government can prevent child abuse entirely. It is a sad part of the human condition that some people will abuse children. But we can ensure that we respond appropriately and help those children who are unable to cry out for themselves. In almost every case of a report to the department, it is not children reporting abuse against themselves, it is adults making an observation of a situation.

Whatever our differences, I am sure the Minister and I agree that the most important thing for people in the community to do—and child abuse is a community problem—is, firstly, to condemn child abuse and make it clear that we regard it in most cases as criminal behaviour, particularly where it involves the physical or sexual assault of a child. Secondly, the community should be encouraged not to ignore it. It is too important an issue to be ignored. When people see a case of child abuse they must report it so that it can be appropriately responded to.

In the short time I have left to speak I wish to emphasise the need for more feedback to the agencies that provide child abuse reports to the department. Regularly in the media we hear complaints by schools and

police that they have brought families and children to the attention of the Department of Community Services but have been dissatisfied with the response from the department or the level of information they have received from the department as to the action taken. That point of view was widely ventilated during the recent parliamentary inquiry into Redfern. It is important for the department to address that issue. When teachers or police officers make reports of child abuse they should receive an appropriate response informing them of the action taken and the effect of such action. I look forward to a time when the Government releases the statistics in a timely fashion and I hope the Government will give consideration to ensuring that the database it collects and reports on is most appropriate.

The Hon. Dr Arthur Chesterfield-Evans: I wish to speak in response to the ministerial statement.

The Hon. Amanda Fazio: Point of order: There is no provision in the standing orders for any member other than the Leader of the Opposition or a member appointed on his behalf to speak in response to a ministerial statement. I ask that the Hon. Dr Arthur Chesterfield-Evans be directed to desist.

The Hon. Dr Arthur Chesterfield-Evans: To the point of order: The supremacy of Parliament should be that we are all equal in our right to respond. If that is not so, then it is a flaw in the standing orders. I could seek leave to respond to the ministerial statement, but my request may not be granted. I do not believe that I should have to seek leave, but if pursuant to the standing orders I am not allowed to respond then I will do so.

The DEPUTY-PRESIDENT (The Hon. Kayee Griffin): I uphold the point of order. The Hon. Dr Arthur Chesterfield-Evans cannot speak to the ministerial statement unless he has the leave of the House.

The Hon. Dr Arthur Chesterfield-Evans: I seek leave to speak in response to the ministerial statement.

Leave not granted.

The Hon. Dr Arthur Chesterfield-Evans: I give notice that I will seek to amend the standing orders. The crossbench should be permitted to speak in response to ministerial statements.

HEALTH SERVICES AMENDMENT BILL

In Committee

Clauses 1 to 4 agreed to.

Ms SYLVIA HALE [11.55 a.m.]: I move Greens amendment No. 1:

Page 6, schedule 1 [2]. Insert after line 5:

29A Annual report

- (1) As soon as practicable after 30 June (but on or before 31 December) of each year, the chairperson of an area health advisory council is to provide the Minister with a report on the performance by the area health advisory council of its role and functions under this Act during the period of 12 months ending on 30 June in that year.
- (2) The report is to include performance indicators to measure the area health advisory council's success in the performance of its role and functions under this Act.
- (3) The Minister is to cause the report to be laid before both Houses of Parliament as soon as practicable after receiving the report.

This amendment is self-explanatory. It seeks to introduce greater transparency into the operations of the advisory councils. I sincerely hope when the annual reports are prepared and laid before both Houses of Parliament they will encompass the matters of substance that the advisory councils have dealt with during the preceding 12 months. Obviously, for greater transparency advisory councils should provide information as to how resources have been allocated and services have been provided. Further, they should provide an assessment as to the way in which they have advanced community needs, how those needs have been identified and how the department has responded to them. I commend the amendment. As I said, it is self-explanatory and in some small measure makes advisory councils more accountable to the communities they are supposed to represent.

The Hon. JOHN DELLA BOSCA (Special Minister of State, Minister for Commerce, Minister for Industrial Relations, Assistant Treasurer, and Minister for the Central Coast) [11.55 a.m.]: The Government accepts Greens amendment No. 1.

Amendment agreed to.

Schedule 1 as amended agreed to.

Schedules 2 and 3 agreed to.

Title agreed to.

Bill reported from Committee with an amendment and passed through remaining stages.

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

CITYRAIL SERVICES

The Hon. MICHAEL GALLACHER: My question without notice is directed to the Minister for Transport Services. Why has the Minister failed to protect rail workers from potential disciplinary action by not declaring Monday a fare-free day? With one working day left before Monday's day of anger by rail passengers, what is the Minister's final message to rail users who are considering breaking the law as the only means of venting their anger at his rail service?

The Hon. MICHAEL COSTA: I answered this question yesterday. I do not mind answering it again, given the memory problems that the Leader of the Opposition seems to be experiencing as he ages. He is obviously having short-term memory problems and I advise him to seek some medical support for it. As I said yesterday, the Hon. Kerry Chikarovski, when she was Leader of the Opposition, indicated that a fare-free day was nothing but a publicity stunt. I think that is a fair summation of the question that has been asked of me today. As I pointed out yesterday, in July 2000 the honourable member for Ku-ring-gai said that fare-free days instituted to compensate Sydney commuters for poor performance also penalise taxpayers who fund State Rail losses.

The Hon. Michael Egan: Point of order: The Hon. Patricia Forsythe is interjecting, and I cannot hear the Minister's reply.

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

The Hon. MICHAEL COSTA: It is clear that the Opposition is struggling to get a consistent position on the question of fare-free days. Our position is very clear and I will make that position public again in case the Leader of the Opposition has failed to read his newspapers today. The Government is not supporting a fare-free day on Monday. Unions have indicated to us there will be no industrial action on Monday. They have indicated to us that they expect workers to attend work as normal.

The Hon. Michael Egan: Point of order: Again I cannot hear the Minister's response because the Leader of the Opposition is now interjecting and setting a very bad example for his backbenchers.

The PRESIDENT: Order! I remind members that interjections are disorderly. Members with loud voices should turn off their microphones.

The Hon. MICHAEL COSTA: As I was saying, clearly the position of the Government is on the public record. I am surprised that the Leader of the Opposition did not spend some time this morning looking through the newspapers as he usually does, but he got up very early to try to defend the appalling record of the previous Coalition Government in relation to the airport link. I would have been embarrassed to do what he did this morning, but I suppose Brogden rang him early and said, "Mate, get up there and spin it as much as you can, because we will have egg on our face all day today because of the airport link." Monday is a normal working day. Members of the public will be expected—

The Hon. Michael Egan: Point of order: Again I am having difficulty hearing the Minister for Transport Services because of the interjections, on this occasion, by three members of the Opposition.

The PRESIDENT: Order! Once again I remind members not to interject. The acoustics in this Chamber are not very good and it is difficult to hear the Minister speaking when there are interjections.

The Hon. MICHAEL COSTA: The public will be expected to have the appropriate ticket to travel on any CityRail services. They will be expected to comply with the railway regulations that cover travel and activities around rail premises. There has been no change in that. If the Opposition has changed its position on fare-free days, I would welcome clarification from the Leader of Opposition. He is clearly in conflict with his former leader, but that does not matter, he voted against her—in fact, stabbed her in the back, one could argue—to have a change of leader. The dud leader he currently has is in conflict with his own shadow health Minister, who has a different position in relation to fare-free days.

TABULAM ABORIGINAL PRISONERS SECOND CHANCE FACILITY

The Hon. AMANDA FAZIO: My question is addressed to the Minister for Justice. Will the Minister acquaint the House with the latest developments in the New South Wales—

The Hon. Michael Gallacher: Point of order: I am having difficulty hearing the question with all the chatter on the backbench of the Government. Could you ask the members to be quiet and perhaps the honourable member could ask her question.

The Hon. Michael Egan: To the point of order: I support that point of order. It is very valid and I think it should be upheld.

The PRESIDENT: Order! There is far too much chatter in the Chamber. Members must reduce the level of chatter.

The Hon. AMANDA FAZIO: My question is addressed to the Minister for Justice. Will the Minister acquaint the House with the latest developments in the New South Wales Government's commitment to a new second chance facility?

The Hon. JOHN HATZISTERGOS: I am happy to respond to the honourable member's question. Honourable members will recall that at the 2003 general election the Government gave the following undertaking:

A re-elected Carr Labor Government will set up a "second chance" program, similar to the successful Yetta Dhinnakkal "second chance" model, for young Aboriginal prisoners on the north coast of New South Wales.

That was in our policy on Aboriginal Justice: Labor's Plan for Healing. I am pleased to inform the House that today the New South Wales Government has committed \$9 million over a period of three years for the development of a property on Welsh Road, Tabulam, in northern New South Wales. Tabulam is a village on the Northern Tablelands between Tenterfield and Casino on the Clarence River. I remember well how, on 8 August 2003, I visited Grafton with the Hon. Christine Robertson, and I am pleased to say the honourable member for Clarence, Steve Cansdell, was with me and he was excited about the prospect of having a second chance facility in his electorate. He went on the electronic media to sing its praises.

I also recall the Leader of The Nationals coming to see me, hoping that he could secure the facility for his own electorate. I am pleased to be able to make one member of The Nationals content with this announcement by having the facility in his electorate. A total of \$6.6 million has been set aside for the development of a property as a Department of Corrective Services second chance facility to continue the Government's successful program of reducing re-offending.

The Hon. Duncan Gay: Point of order: I am having trouble hearing the Minister above the noise on the backbench on the Government side. That conversation is making his contribution inaudible.

The PRESIDENT: Order! Members must keep their chatter down.

The Hon. JOHN HATZISTERGOS: The Department of Corrective Services currently operates a second chance program at Brewarrina, located 60 kilometres from the main township. Yetta Dhinnakkal means

"right pathway" in the local Aboriginal dialect. The facility was opened in June 2000. The Yetta Dhinnakkal program targets primarily Aboriginal first-time inmates aged 18 to 30 years from the State's west and north-west. Inmates receive developmental and vocational opportunities. They participate in cultural awareness, land conservation, cultural site conservation and rural skills training. For example, inmates learn how to operate heavy equipment such as bulldozers, tractors, backhoes and tip trucks. Inmates carry out community service work such as ground maintenance at local churches, local parks and gardens and sports ovals.

The development of the new property at Tabulam will include the cost of buildings, water supply, the upgrading of electricity supply, sewerage and telecommunications. The local community can expect to benefit from the infrastructure upgrade of the 534 hectares that have been purchased at a cost of \$1.6 million. When fully operational, the facility should expend a recurrent budget of \$4.3 million annually. It is envisaged that at least half of the expected 30 to 40 staff for the facility will be employed locally. When the property is fully operational it will generate up to \$3 million in annual salaries and wages and inject approximately \$500,000 in purchases into the local community.

The facility will accommodate 30 males and 20 female offenders in separate locations on the property. Its primary focus will be assisting Aboriginal inmates by teaching them valuable work and life skills in an environment that acknowledges Aboriginal culture. A custodial program will be conducted in the mould of the Yetta Dhinnakkal program. It is anticipated that the facility will include a compulsory live-in program for offenders on community orders, including parole orders, as a sentencing option for the courts. Staff will comprise a mixture of custodial officers, probation and parole officers and program staff. No serious offenders or those who pose a risk to the community will be housed at Tabulam.

All offenders will be required to participate in programs aimed at reducing their risk of reoffending. A major focus of the program will be care of the land and the river and work on community projects. As part of the development application, the department will provide an environmental impact statement that will consider waste reduction, waste recycling, solar power and locally supplied green electricity. The department is keen to involve the local community at every step of development of the property. [*Time expired.*]

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

The Hon. JOHN HATZISTERGOS: On 11 August 2004 the New South Wales Commissioner for Corrective Services met with the acting general manager of Clarence Valley to discuss the project.

The Hon. Duncan Gay: You should write shorter answers.

The Hon. JOHN HATZISTERGOS: I am explaining. On 6 September the commissioner met with the project manager and the senior town planner. The commissioner and senior departmental officers will be holding a meeting for all people interested in the project, on Thursday 25 November at Tabulam Community Hall between 4.00 p.m. and 6.00 p.m. The new facility at Tabulam will be a welcome addition to our impressive arsenal against recidivism, particularly in respect of young Aboriginal offenders. The programs available in correctional facilities aim to target specific characteristics, addictions and other problems which can be changed in treatment and which are predictive of the individual's future criminal activities. Case management is used to assess, plan, implement and monitor and evaluate programs and services that are designed to meet each individual inmate's assessed criminogenic and risk needs.

The range of strategies that the department employs to reduce reoffending behaviour include: alcohol and other drugs programs; anger management courses; psychological programs for the management and treatment of sex offenders, violent impulsive offenders, intellectually disabled offenders and offenders with a chronic history of self-harm; healthy lifestyle units in some correctional centres; educational and vocational skills training to address many of the factors that contribute to an inmate's offending behaviour; and privileges such as day leave, weekend leave and work release, which are available only to inmates who have addressed the cause of their offending behaviour. The department continues to develop, under its Throughcare initiative, strategies to assist inmates throughout their imprisonment and, more specifically, at the time of their release.

NOXIOUS INSECT FUND

The Hon. DUNCAN GAY: I direct my question to the Minister for Primary Industries. Does the Minister recall his comment in this House yesterday that the Government will have to reconsider measures next

year to address the Noxious Insect Fund shortfall? Will he assure the House that he will not impose another levy on the farmers of New South Wales? Is the Minister aware that \$7.1 million of farmers' money has already been spent? That figure is expected to rise to \$8.1 million soon. Is it true that the fund has only about \$2 million left? Given that farmers and local officials are expecting the plague to linger until next Easter, how concerned is the Minister about this shortfall?

The Hon. IAN MACDONALD: I am considering the options available to the Government.

The Hon. Duncan Gay: You are a bit late.

The Hon. IAN MACDONALD: No, let us be clear about this. Not more than a few weeks ago I was at Dubbo at the centre co-ordinating the distribution of chemicals and I was shown the massive chemical stockpile. I must point out to the House that throughout August and September the Deputy Leader of the Opposition attacked the Government for not having spent enough when it had enough chemical to cover 400,000 hectares. I have his press releases here, and I am happy to show them to honourable members later.

The Hon. Duncan Gay: Point of order: My point of order relates to relevance. The Minister was asked a question about the amount of money spent, whether there will be a levy imposed on farmers and the amount of money left in the fund. There was no reference to chemicals. Madam President, I request that you draw him back to the question.

The Hon. IAN MACDONALD: To the point of order: Speaking about the accumulation of chemicals is germane to the parts of the Deputy Leader's question about expenditure.

The PRESIDENT: Order! The Minister was making general comments about insects and he was being relevant. There is no point of order.

The Hon. Duncan Gay: He is not getting within a bull's roar of answering it.

The Hon. IAN MACDONALD: The Deputy Leader of the Opposition making glib statements in this House is inappropriate. This is an important issue. When I was at Dubbo I saw the massive stockpile—

The Hon. Duncan Gay: Will there be a new levy?

The Hon. Michael Egan: Point of order: The Deputy Leader of the Opposition has asked the Minister for Primary Industries a question. Most honourable members are very interested in the response, but we cannot hear it because the Deputy Leader keeps interjecting.

The Hon. Duncan Gay: To the point of order: I clearly asked the Minister whether he was going to spend this money, how much money was left in the farmers fund and whether he was going to impose a new levy.

The PRESIDENT: Order! The Deputy Leader is not speaking to the point of order.

The Hon. IAN MACDONALD: I made it very clear that the Government will not be imposing a new levy. In one corner of the Dubbo facility I saw a large volume of fenitrothion marked 1992. The previous Government bought the chemical on behalf of the farming community—that is, the producers who pay into the fund—in 1992. I asked what was happening to it and was told that it was degraded and that it would be sent to Gosford to be destroyed—at a cost, of course. The Deputy Leader of the Opposition has said that the Government should keep spending to ensure there is enough chemical. It was always the Government's intention to spend enough to meet demand. The levy is in deficit and New South Wales Farmers, which has been the Government's partner in this exercise from day one, and the rural lands protection boards know about it. There will be no new levy. I am meeting with both groups in the near future to discuss our options.

The Hon. DUNCAN GAY: I have a supplementary question. In light of the Minister's answer today and on previous occasions that the department is spending about \$2 million, does that figure in any way relate to the direct salaries of Department of Primary Industries staff?

The Hon. IAN MACDONALD: The figures obviously relate to the departmental expenditure and the full amount that it has been expended in the course of this project.

The Hon. Duncan Gay: So you have just included the wages. You are not contributing anything!

The Hon. Michael Egan: Point of order: The Deputy Leader of the Opposition has asked a supplementary question and we are all listening very carefully to the Minister's response, but we cannot hear it because the Deputy Leader keeps interjecting.

The PRESIDENT: Order! I remind the Deputy Leader of the Opposition that interjections are disorderly.

The Hon. IAN MACDONALD: I will deal with locusts in due course.

ROYAL NATIONAL PARK GARRAWARRA FARM DEMOLITION

The Hon. JON JENKINS: I direct my question to the Minister for Justice, representing the Minister for the Environment. My question relates to Garrawarra Farm in the Royal National Park. Garrawarra Farm was an early farm building constructed in about 1940 on a Second World War soldier settler's land grant. As such it had considerable heritage significance. Is the Minister aware that a few days after the Royal National Park cabin communities wrote to the Minister and the National Parks and Wildlife Service [NPWS] offering to repair and maintain the structure, the NPWS demolished the building, forever removing a precious cultural icon?

Will the Minister tell this House whether a Heritage Office clearance was obtained for the demolition? Will the Minister table the review of environmental factors? Will the Minister assure this House that any asbestos that was removed was disposed of according to the required procedures? In the event that asbestos building products were present and the issues related to asbestos removal and disposal were not properly addressed, will the Minister undertake to prosecute those responsible? Will the Minister assure the House that any further heritage listed structures will not be destroyed or, if they are, the proper procedures will be adhered to according to Heritage Council recommendations, the Ombudsman and the Independent Commission Against Corruption?

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

AIRPORT RAIL LINK

The Hon. IAN WEST: I direct my question to the Minister for Transport Services. Will the Minister advise the House on developments with regard to the airport rail link project?

The Hon. MICHAEL COSTA: I am pleased to advise the House on recent developments in regard to the airport link rail project. In doing so, I cast my memory back to 8 August 1994, when someone very familiar to all honourable members—in fact, the father of the House—had the foresight as then Opposition finance spokesperson to put on the public record the fact that he disagreed with the level of patronage needed to make the line profitable. He also said that taxpayers would get nothing like a decent return on their investment, if any return at all.

The Hon. Rick Colless: Who was that?

The Hon. MICHAEL COSTA: It was the then Opposition finance spokesperson, Mr Michael Egan, whom I am actually now going to criticise. He had the foresight to get the patronage figures right, they are well below what they ought to be, but, once again, he, like everybody else that was associated with this project, could not have forecast the disastrous financial results that occurred out of this tawdry, incompetent deal that the Coalition put together a month before the 1995 election because they were desperate for good news at a time when the Government was in deep, deep difficulty. The reason I criticise Michael Egan is that he said they are not going to get a decent return. He was wrong. It is a massive liability on the taxpayers of New South Wales. So, I am sorry, the Treasurer got that wrong. I wish he had been right, but he was wrong and now the taxpayers of New South Wales have to pay \$700 million to a consortium—

The Hon. Duncan Gay: That is why he lost out of Pacific Power—he lost \$650 million!

The Hon. Michael Egan: Point of order: Quite apart from the lies that the Leader of The Nationals is telling, the fact of the matter is, more importantly on this occasion, he is interjecting. The Minister for Transport Services is giving a brilliant answer and we all want to hear every single word of it, notwithstanding the fact that the Opposition is very embarrassed.

The PRESIDENT: Order! I remind members that interjections are disorderly.

The Hon. MICHAEL COSTA: I know it is difficult for the Opposition to listen to the important history that relates to this project, but we have to cast our memories back to April 1991 when this project was first mooted by Bruce Baird, the then transport Minister. He said the project would be fully funded by the private sector and "will not require one cent of government money". We can clearly see that this project is a financial disaster; it was objectively seen to be such at the time. It is not the case that the Government was not warned. In fact, on 8 August, in a similar article, an independent professor of accounting made it very clear that, based on his expectations, millions of dollars would be at risk under the current deal that was being proposed to be entered into. Remember, this was August 1994. [*Time expired.*]

The Hon. IAN WEST: I ask a supplementary question. Would the Minister please elucidate his answer?

The Hon. MICHAEL COSTA: They entered the deal on 10 February 1995, months after everybody looking at this deal said to them very clearly that this was a disaster and we should not enter into it. It had rubbery figures in it from day one. What I find extraordinary today is that the Opposition at its strategy session—which members have over the telephone at about eight o'clock with their croissants, usually in Chifley Square, I have often seen them down there—had discussions about "How are we going to deal with this embarrassing problem today?" They came up with a brilliant strategy of front footing it. But it is very difficult to front foot \$700 million. So we have the absurd situation—

The Hon. Michael Egan: Point of order: Madam President, the Leader of The Nationals is again interjecting. You have called him to order on probably a dozen occasions today already. I would ask you to do so on one more occasion.

The Hon. Duncan Gay: To the point of order: I know the Treasurer is very sensitive about the fact that he is the Frank Cicutto of the New South Wales Parliament. He has personally lost more money than the National Bank of Australia.

The PRESIDENT: Order! The Leader of The Nationals is not addressing the point of order.

The Hon. MICHAEL COSTA: So they decided to front foot it. The Opposition took the Auditor-General's report yesterday, which shows that the blow-out is continuing—a blow-out because of its shoddy deal—and tried to criticise this Government for the Opposition's shoddy deal. I know Michael Gallacher has had some difficult tasks being in Opposition, and he has had egg on his face on a number of occasions. But not even he should be sent out to criticise this Government for a further blow-out in a deal that the Opposition did. [*Time expired.*]

The Hon. Michael Egan: Point of order: Madam President, the Leader of the Opposition is interjecting. I would ask you to call him to order.

The PRESIDENT: Order!

COMMUNITY PARTICIPATION PROGRAM

The Hon. JOHN RYAN: My question is addressed to the Minister for Disability Services. Has the Department of Ageing, Disability and Home Care received responses from service providers who participated in the expression of interest process for Community Participation Programs? How many service providers were deemed ineligible to provide Community Participation Programs because of the proposed budgets they submitted in September? How many have resubmitted budgets in the past two weeks? Out of those who resubmitted their budgets in the past two weeks, what is the average range of hours that services have indicated they can provide to implement the Government's Adult Training, Learning and Support [ATLAS] reforms in Community Participation Programs? Do these spread of hours confirm the Minister's statements made in Parliament that neither hours nor quality of services will be reduced?

The Hon. CARMEL TEBBUTT: I can say upfront, and I think I have said this on a number of occasions, that the introduction of the Community Participation Program no doubt has been the more challenging of the two new programs that we are introducing. I advise the House that the majority of existing providers chose to go through a checklist process rather than a formal expression of interest process. At this

stage no one has been declared ineligible, but the Department of Ageing, Disability and Home Care is continuing to meet and work closely with the Australian Council for Rehabilitation of the Disabled [ACROD] and service providers on the successful introduction of the Community Participation Program.

Honourable members will remember that last week I described how providers will be required to provide more information before their submissions can be fully evaluated. That is now happening and I am advised that the department expects to be able to announce the eligible providers for community participation by the end of the month. It has been a complex process and I think that what has come out of it certainly vindicates the need to reform the ATLAS program. There have been wide variations in the submissions for community participation; there have been quite extreme variations at either end of the cost and hours budget spectrum; other service providers have submitted only partial service descriptions or insufficient detail on how they would meet the standards.

However, progress is being made as we work through the issues with service providers and with ACROD, and I am grateful to service providers for their efforts to assist in the reform process. Once we have established a list of eligible providers, which I am advised will be completed by the end of November, we will then be in a position to ask people with a disability, their families and carers for their service provider preferences. I look forward to continuing to report to the House on progress with the implementation of the Community Participation Program.

AIRPORT RAIL LINK

The Hon. ERIC ROOZENDAAL: Could the Minister for Transport give the House some more information on the rail link?

The Hon. MICHAEL COSTA: In April 1991 the then Minister for Transport, Bruce Baird, declared that the rail link would be fully funded by the private sector and would require not one cent of government money. The previous Coalition government should have been aware that this promise was in trouble from day one, because we only go forward—

The Hon. Michael Egan: Point of order: Madam President, the Leader of The Nationals is again preventing me from hearing the Minister's response. Would you please bring him to order?

The PRESIDENT: Order! Members should not interject.

The Hon. MICHAEL COSTA: By 18 March 1992—less than one year later—the then government was claiming that it would only need \$60 million. So we started off with not one cent—

The Hon. Michael Egan: Point of order: Madam President, I draw your attention to the disorderly conduct of the Hon. Rick Colless.

The PRESIDENT: Order! I remind members that interjections are disorderly.

The Hon. MICHAEL COSTA: In April 1991, not one cent. In March 1992, only \$60 million. By January 1994—

The Hon. Michael Egan: Point of order: Madam President, again I cannot hear the Minister's answer because of the noise and the interjections coming from the Opposition. Would you please bring them to order?

The PRESIDENT: Order! If members wish to chatter, they must leave the Chamber.

The Hon. MICHAEL COSTA: By January 1994 it was \$130 million; by August 1994 it had gone up another \$110 million.

The Hon. Michael Gallacher: Point of order: We want to hear the Minister's answer but the frivolity of Government backbench members laughing at the Minister is rude. I ask you to direct them to keep their noise down.

The PRESIDENT: Order! Members should leave the Chamber if they wish to chatter.

The Hon. MICHAEL COSTA: I understand that at the strategy meeting the Leader of the Opposition was given the short straw of trying to spin this as a disaster for this Government, criticising this Government for a disaster that can be sheeted home to the Coalition Government—\$700 million!

Ms Lee Rhiannon: Doesn't Labor have responsibility?

The Hon. Michael Gallacher: Exactly! Even the Greens see the Minister for what he is—a shonk.

The Hon. Michael Egan: Point of order: Ms Lee Rhiannon and the Leader of the Opposition are making it impossible for me to hear the Minister. They are both disorderly. I ask you to call them to order.

The PRESIDENT: Order! I ask members to keep the noise down.

The Hon. MICHAEL COSTA: I am surprised that Ms Lee Rhiannon is interjecting. I thought she was in Falluja with her comrades, but obviously she has come back. The fact is that this is relevant.

The Hon. Michael Egan: Point of order: I cannot hear the Minister.

The PRESIDENT: Order! I cannot hear the Minister either. I ask members to keep the noise down.

The Hon. MICHAEL COSTA: This is relevant because the Leader of the Opposition was on the radio this morning blaming this Government for a blow-out that clearly has its genesis in the Coalition Government's incompetent management of this project. It must be remembered that this is the project that the Opposition's transport spokesperson, Barry O'Farrell, said—

The Hon. John Ryan: Don't mention the Millennium train!

The PRESIDENT: Order! I call the Hon. John Ryan to order for the first time.

The Hon. MICHAEL COSTA: This is the project about which Barry O'Farrell said only recently, "I am very proud of the airport link. It was a Coalition achievement." [*Time expired.*]

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

The Hon. MICHAEL COSTA: The Opposition pretender to the leadership said only recently that this was a proud achievement of the Coalition Government. I am glad he put that on the record because it gives us some feel for the sorts of achievements we are likely to get in the unlikely event that we have an O'Farrell government. We will have more airport link projects, more projects that start off costing the taxpayer not 1¢ but end up costing \$700 million.

The Hon. Michael Egan: Point of order: I cannot hear the Minister's response.

The PRESIDENT: Order!

The Hon. MICHAEL COSTA: I know that the Opposition is embarrassed by this, but it is appropriate because they sent their heavy hitters, Barry O'Farrell and the Leader of the Opposition, out this morning to try to spin—

The Hon. John Ryan: Point of order: Of all the people to be making fat jokes, a bloke who has a head like a chuppa chup! His comment was totally uncalled for.

The PRESIDENT: Order! There is no point of order. Members should not make imputations against other members in the Chamber.

The Hon. MICHAEL COSTA: They sent out their heavy hitters, Barry O'Farrell and the Leader of the Opposition.

The Hon. John Ryan: Fat jokes again!

The Hon. MICHAEL COSTA: They are political heavy hitters, and so far as the Liberal Party is concerned, they are the people one has to deal with—Barry O'Farrell and the Leader of the Opposition. I am sorry that I am laughing about that. Opposition members are embarrassed about this project, which is a millstone around their necks. It will always be there, and we will always remind them about it. They have the audacity to

try to spin that the problem has been created by this Government. It is nonsense. They created it, and we are paying the bill. [*Time expired.*]

ALCOHOL PRODUCTS LABELLING

Reverend the Hon. Dr GORDON MOYES: I am pleased to ask a question that should bring the House back to some semblance of normality. I ask the Minister for Primary Industries, representing the Minister for Gaming and Racing, a question without notice. Last week the *Sydney Morning Herald* indicated that evidence suggests that underage drinkers dramatically underestimate the alcohol content of some products. Will the Minister indicate what educational initiatives will be in place in order to expose the actual alcohol content of products more commonly known as chicks drinks? Will the Minister also indicate whether he will introduce consistently sized and placed labelling on all alcohol products, regardless of whether the labelling proposal is adopted by the Ministerial Council on Drug Strategy?

The Hon. IAN MACDONALD: I thank the honourable member for his question, which I will refer to the relevant Minister.

QUEANBEYAN CITY COUNCIL BOUNDARIES

The Hon. RICK COLLESS: My question is directed to the Minister for Local Government. Has the Minister or anyone in his department had any discussions with the Queanbeyan Mayor, Councillor Frank Pangallo, to increase the boundaries of Queanbeyan City Council?

The Hon. Patricia Forsythe: There are three letters in the answer.

The Hon. TONY KELLY: No, I want to clarify the question. Does the Hon. Rick Colless mean again?

The Hon. Rick Colless: No.

The Hon. TONY KELLY: Does he mean further?

The Hon. Rick Colless: Yes.

The Hon. TONY KELLY: No.

ALDOGA ALUMINIUM SMELTER

The Hon. EDDIE OBEID: My question is addressed to the Treasurer, and Minister for State Development. Has the Treasurer had any recent discussions with Aldoga Aluminium? Has the company made any progress with its proposed aluminium smelter? In the event that the project does not proceed in Queensland, is there any prospect that it may proceed either in New South Wales or elsewhere in Australia?

The Hon. MICHAEL EGAN: No, I have not had any recent discussions with Aldoga Aluminium. As to any progress that the company is making with its smelter elsewhere in Australia, the only information I have is that which has been reported in the media. On 11 November the *Australian* newspaper had an article about Aldoga in which it quoted the Queensland Minister for State Development, Tony McGrady, as saying:

Whether Aldoga continues with this project is really a matter for Aldoga, but at this stage it does not look like Aldoga will go ahead with the project," Mr McGrady said.

The article went on to say that Aldoga had also changed the source of the technology it intended using in the project from Russian to Chinese, and is now 51 per cent owned by Uzbekistani industrial tycoon Azam Aslanov and his two sons, Amon and Firkat. The remaining 49 per cent of Aldoga is held by a unit trust in which the Industrial Union of Donbass from the Ukraine has an interest. The article further stated:

After the debacle of the Australian Magnesium Corp—when the Queensland and commonwealth governments lost \$240 million in taxpayers' funds—both governments were considerably more cautious about putting in government help for the Aldoga plan.

In relation to the third part of the question, I do not know but I doubt it.

JAMES HARDIE AND ASBESTOS-RELATED DISEASES LIABILITY

Reverend the Hon. FRED NILE: I ask the Minister for Industrial Relations a question without notice. Is it a fact that there will be an estimated \$2 billion shortfall in James Hardie asbestos compensation funding

over the next 40 years? Is it a fact that the James Hardie Medical Research and Compensation Foundation has run out of cash to meet compensation payments? Will the new announcement on Tuesday 16 November by the board of James Hardie Industries to approve interim funding of \$85 million to the bankrupt foundation provide compensation for victims for only 15 months? What future action is the New South Wales Government taking to ensure that there is justice for present and future asbestos victims?

The Hon. JOHN DELLA BOSCA: I thank the honourable member for his ongoing interest in this matter. On Tuesday 16 November James Hardie agreed to provide \$85 million to the Medical Research and Compensation Foundation. For many months the foundation has been asking for that. The money is part of the original \$300 million set aside by Hardie for the foundation in 2001. It is money the foundation should have received with no strings attached. This is, however, a positive development for the foundation, which was at risk of being unable to pay victims claims after March next year.

It is a small step in the right direction. But James Hardie must conclude a heads of agreement straight away with the ACTU and victims groups. It ought to sign up, sign on and pay up. The New South Wales Government has given the ACTU a commitment to identify deficiencies in the common law compensation system that operates in New South Wales. We have agreed to cut unnecessary legal and administrative costs to ensure victims receive as much compensation as possible. Yesterday the Premier announced that the New South Wales Government would send senior departmental officials to lend their weight to negotiations between James Hardie and the ACTU. I will inform the House of any further developments.

MURWILLUMBAH MEALS ON WHEELS FUNDING

The Hon. ROBYN PARKER: My question is directed to the Minister for Disability Services. Has the Department of Ageing, Disability and Home Care agreed to a request from Murwillumbah Meals on Wheels for an increase of annual funding of \$15,000? Has the department made plans to support the large and ever-growing ageing population in the area that relies on this service for daily meals and that will no longer be able to receive them if the service is forced to close as a result of a lack of government funding?

The Hon. CARMEL TEBBUTT: I have to confess that I am not sure whether the department has provided additional funding to Murwillumbah Meals on Wheels. As I have outlined previously to the House, there have been substantial increases in the Home and Community Care Program, which generally funds Meals on Wheels services. It is a Commonwealth and State funded program so it would not surprise me if additional funding is being made available to Murwillumbah Meals on Wheels. As I have no details, I will take the question on notice and get an answer for the honourable member.

YOUTH ENTERTAINMENT

The Hon. KAYEE GRIFFIN: My question is addressed to the Minister for Youth. What is the latest action taken by the Government to help young people in New South Wales access alcohol-free and drug-free entertainment?

The Hon. CARMEL TEBBUTT: That is an important question, particularly in light of the earlier question by Reverend the Hon. Dr Gordon Moyes. One of the key ways to reduce young people's drinking to excess and to ensure that the things referred to by Reverend the Hon. Dr Gordon Moyes do not happen is to provide opportunities for young people to have entertainment that is drug free and alcohol free. It is critical. One of the big factors in young people's binge drinking is the boredom factor, and we need to address that. That is what the Government's Indent program does. It is a \$250,000 a year initiative from the 1999 Drug Summit to set up drug-free and alcohol-free youth entertainment networks in areas where there are limited opportunities for young people to organise and attend events. Recently I attended the 2004 Indent Forum and awards held at Luna Park. More than 150 young people from across New South Wales attended. The Indent awards recognise and reward outstanding achievements in organising and running successful youth entertainment across New South Wales. The events are organised by young people for young people. They demonstrate just how creative young people can be when given the opportunity to put their ideas into practice.

The Indent program is a recognition of the importance of music and entertainment to young people. In presenting the awards at the 2004 Indent Forum I was impressed with the young people I met who had been involved with Indent-funded events. Hearing them talk about their experiences in organising events demonstrated to me just how creative young people can be when given the opportunity. The eight winners of the 2004 Indent awards were: Rock Up 2004 Battle of the Bands from Orange, winner of the Best Event award;

Crescendo III from Temora, winner of the Safe Event award; Steve Sewell of RevFest in Gosford, winner of the Mover and Shaker award; Colin McKeever and Sharne Dunsmore of Fact Tree Youth Service in Redfern, winner of the Best Support Organisation award; Palais Youth Venue Team from Newcastle, winner of the Committee of the Year award; 2004 Shoreshocked Festival in North Sydney, winner of the All Ages award; *Sway 25* magazine in Macarthur, winner of the Youth Media award; and Albury Youth Cafe Working Party in Albury, winner of the Community Achievement award.

The Hon. Michael Egan: Madam President, I cannot hear the Minister for the chatter of the Leader of the Opposition.

The PRESIDENT: Order! I remind members not to interject.

The Hon. CARMEL TEBBUTT: I am sure that it would have escaped the attention of no-one that a significant number of winners of the awards are from regional and rural New South Wales. The 2004 Indent awards ceremony was followed by an all-day Indent Forum that gave more than 150 young people the skills to plan, organise and run future events. The Indent Forum provided young event organisers with the opportunity to share their experiences in organising professional, safe entertainment for young people in their local communities. The Indent Forum also provided four professional development workshops for young people who might be considering a career in the music and entertainment industries. Some of Australia's most influential music industry professionals such as Grinspoon manager Greg Donovan, Frenzal Rhomb's Lindsay McDougall and Below Par Records' Jai Alattas were on hand to provide practical advice in the four different workshops. Indent supports a wide range of events for young people between the ages of 12 and 24 throughout New South Wales.

Over the past four years more than 350 events and more than 50 workshops have been conducted for 62,000 young people. They have demonstrated that the strategy is successful for a number of reasons. It encourages youth participation and requires young people to form committees before applying for the grants to help them put on music events in their local communities. Those involved have the opportunity to learn a range of new skills and gain an increased sense of connection to their communities. MusicNSW is responsible for the implementation and management of the program. Applications for Indent partnership grants are now open. Successful committees must stage four all-ages music events over 12 months. I look forward to further advising the House on the program.

NATIONAL WATER INITIATIVE

The Hon. DAVID OLDFIELD: My question is directed to the Minister for Transport Services, representing the Minister for Natural Resources. Is the Minister aware that the Federal Minister for Agriculture, Warren Truss, announced this week that he is keen for the States to re-engage on crucial negotiations to implement the Council of Australian Governments National Water Initiative? Does the Government acknowledge the urgent need to get the National Water Initiative under way in the interests of both urban and rural water users? Has the Government in any way reopened negotiations with the Federal Coalition Government to implement the National Water Initiative as agreed at a meeting of the Council of Australian Governments on 25 June 2004?

The Hon. MICHAEL COSTA: Madam President —

[*Interruption*]

The Hon. Michael Egan: Point of order: I ask that you direct the Minister for Transport Services not to respond to disorderly interjections from the Opposition. The Minister and the Hon. Greg Pearce should be brought to order.

The PRESIDENT: Order! I remind the Minister that interjections are disorderly and he should ignore them.

The Hon. MICHAEL COSTA: I will take the honourable member's question on notice as it is a question for the Minister for Natural Resources. I comment in passing that the Government has stated its position many times on water initiatives. Had it not been for the stunt pulled during the recent election in which funding was withdrawn, we probably would not be confronting the issues that we are confronting at the moment.

RAIL AGENCIES WORKCOVER INVESTIGATIONS

The Hon. GREG PEARCE: My question is directed to the Special Minister of State, and Minister for Industrial Relations. Has WorkCover launched any investigations into workplace practices within the former State Rail and now RailCorp in the 22 months since the Waterfall train crash? Has WorkCover made any adverse findings against State Rail or RailCorp, including for breaches of the Occupational, Health and Safety Act? Were any adverse findings coupled with an order or recommendation for State Rail or RailCorp to alter work practices? If so, what were these orders or recommendations? Are any investigations ongoing?

The Hon. JOHN DELLA BOSCA: The honourable member has asked a very detailed question about a variety of possible interventions between WorkCover and the various rail authorities. I will obtain an answer to the question and provide it to the House as soon as practicable.

OPTUS HEADQUARTERS RELOCATION

The Hon. HENRY TSANG: Will the Minister for State Development advise the House about a move by Optus from North Sydney to North Ryde?

The Hon. MICHAEL EGAN: I can advise the House that Optus will amalgamate a number of its Sydney operations onto Australia's largest commercial campus in North Ryde by 2007. The new \$350 million Optus headquarters will take 2½ years to build, with the construction phase likely to create up to 1,600 building jobs. The new facility will be owned and developed by Stockland. About 6,500 Optus staff will move to the new headquarters, with an additional 500 new jobs to be created within the next three years. These are people involved in information technology, customer services and call centres, sales, research and development, and marketing personnel. The company's executive team, along with important professional groups such as engineering, human resources, legal, finance, strategy and corporate affairs, will also move to North Ryde.

The Optus consolidation is a ringing endorsement of this State's information communication technology sector, which employs 100,000 people and accounts for around 41 per cent of the industry nationwide. I note that a few years ago, the Leader of the Opposition in the other place, Mr Brogden, gave a ringing endorsement of another State when he was climbing the ladder of the Liberal hierarchy as chairman of the Opposition's information technology and telecommunications committee. On 27 April 1998 Mr Brogden told the *Australian Financial Review*:

Victoria leads Australia in information technology and NSW lags very badly behind.

He was wrong.

The Hon. Duncan Gay: We have only got your word for that.

The Hon. MICHAEL EGAN: Victoria only employs 60,000 and accounts for around 31 per cent of the national industry.

The Hon. Duncan Gay: His comments are six years old. Yours are contemporary.

The Hon. MICHAEL EGAN: I keep track of everything that the Leader of the Opposition in this place and the other place say. The Optus Chief Executive Officer, Paul O'Sullivan, informed the Australian and Singapore stock exchanges about the company's move to North Ryde on Tuesday this week. Mr O'Sullivan said:

... that Optus was pleased to be partnering with Stockland and to have had the support of the NSW Department of State and Regional Development to bring this project to fruition.

Mr Sullivan said on Tuesday that "infrastructure had been a major attraction for Optus at the site". According to the Department of Infrastructure, Planning and Natural Resources, the Macquarie Park corridor currently employs more than 29,000 and is growing by 800 jobs each year. Optus will add significantly to this growing area. The eight-hectare commercial campus will have a gym and a child care centre, as well as a shopping arcade. It will receive a 4½ star rating from the Sustainable Energy Development Authority. The six discrete buildings that make up the campus will be set in parkland, and will each have a floor area of 3,000 square metres. I congratulate both Optus and Stockland on this significant venture and significant investment, and I wish them well for the future.

STRATHFIELD MUNICIPAL COUNCIL POLITICAL DONATIONS

Ms LEE RHIANNON: I direct my question to the Minister for Local Government. In light of reports that councillors and council officials at Strathfield council may have engaged—

[Interruption]

The Hon. Michael Egan: Madam President, I draw your attention to the interjection by the Hon. Eddie Obeid and ask you to call him to order. I cannot hear the question from Ms Lee Rhiannon.

Ms LEE RHIANNON: —in corrupt conduct, will the Minister ask Labor Party candidates from the last council election to refund the tens of thousands of dollars that they received from local developers to ensure that there is no suggestion of donations influencing decisions by Labor councillors either before or after the March election? Will the Minister also be seeking to clarify the role of local Labor Party identities in this scandal by seeking further explanations from Eddie Obeid and those family members and associates who are subjects of the ICAC investigation? How long will the Minister and Labor's leadership team tolerate the dual embarrassment of accepting donations from developers and the business dealings of Eddie Obeid?

The Hon. Michael Egan: Point of order: The question is clearly out of order. It is full of innuendo and argument.

Ms LEE RHIANNON: To the point of order: It was a very clear question, Madam President. I urge you to allow the Minister to answer it because clearly it just asked for factual answers.

The PRESIDENT: Order! Questions must not contain argument or innuendo. The question is out of order.

LOCAL COUNCILS MANAGEMENT

The Hon. DAVID CLARKE: My question is directed to the Minister for Local Government. Is the Minister aware of a resolution, introduced by Baulkham Hills Shire Council, and carried overwhelmingly at the 2004 Local Government Association Conference, concerning the lack of accountability—

The Hon. Michael Egan: Point of order: Because of the noise coming from both the crossbenchers and, I think, some of my Government colleagues, I cannot hear the question. I ask you to call them to order.

The PRESIDENT: Order! Members should reduce the level of chatter.

The Hon. DAVID CLARKE: —of general managers to mayors and councillors. In light of the strength of concern expressed by councils across New South Wales at the 2004 conference, can the Minister outline what action, if any, the Government intends to take in response to these concerns?

The Hon. TONY KELLY: I am sorry, Madam President, I also did not hear the first half of the question because of the interjections that caused the Treasurer to take a point of order. At the 2004 Local Government Association Conference I spelt out some of the problems that were concerning local government, particularly as a result of councillors interfering in the day-to-day management of councils in a number of cases. In fact, I will go back further. In 1973 Harry Jago, who was famous for something else but who was actually the Minister for Local Government at that time—

The Hon. John Ryan: He was famous for being a good Minister for Health.

The Hon. TONY KELLY: Yes, but he just forgot to nominate. In 1973 Harry Jago started the Barnett report, a full report into local government right across New South Wales. He recommended a lot of things and was famous for recommending a number of boundary changes. In particular, he recommended a significant change in the way that councils operate. Those changes were incorporated by the Hon. Gerald Beresford Ponsonby Peacocke—

The Hon. Duncan Gay: Who has just had an operation for liver cancer and he is fine.

The Hon. TONY KELLY: That is good. I am pleased about that because in 1993 Gerry Peacocke introduced a very good and workable Local Government Act. That Act made quite clear the lines of delineation

between the councillors, who should look after policy and its implementation, and the general manager, who should run the management of the council. I reiterated to the local Government conference exactly that and implored them to stick to the Local Government Act 1993.

SUPERTRAWLER VERONICA

The Hon. TONY CATANZARITI: My question is directed to the Minister for Primary Industries. Will the Minister update the House on the potential for a supertrawler to seek fishing access to waters off our coast? Has the Federal Government given any clearer indication of its position on this issue?

The Hon. IAN MACDONALD: Unfortunately, we still have no clear answers from the Commonwealth Government on this issue. Until we get these clear answers we believe there is still potential for a supertrawler such as the Irish-owned vessel the *Veronica* to operate off the New South Wales south coast. As the House would recall, fishing and environmental groups have been concerned for many months that the owners of the *Veronica* could seek permission to target the small pelagics fishery. These fears are very real and are causing a great deal of concern. On 8 September this year I announced a ban on the *Veronica* fishing in New South Wales waters. This was a display of solidarity by the State Government with our commercial and recreational fishers, who could all be impacted by this fish factory.

On 15 September the Australian Fisheries Management Authority [AFMA] announced that it had introduced a temporary ban on vessels such as the *Veronica* operating in the small pelagic fishery until "the Board of the Authority has made a final decision on the long-term management arrangements and on allocation of fishing rights". Despite repeated calls from affected industries for something more solid than a temporary ban, a longer term decision has not been forthcoming. The board is due to meet on 25 and 26 November on the South Coast. I am sure honourable members will share my interest in the outcomes of the AFMA board meeting next week to see if it resolves this long-running issue.

According to our best information the AFMA board is still expected to consider at that meeting the issue of vessels such as the *Veronica* operating in waters off New South Wales. I have the utmost respect for the scientific and political integrity of the AFMA. However, it must be acknowledged that there was widespread cynicism about the postponement of a decision by the Federal Government until well after the polling booths had closed and a broad cross-section of commercial, recreational and environmental groups continue to take a united stance in calling for some clarity on this issue from the Commonwealth Government. For example, on 10 September the peak national recreational fishing body, Recfish Australia, warned of a revolt amongst anglers if AFMA permitted such a supertrawler to target our fisheries. The Tasmanian commercial fishing publication *Fishing Today* said that it had "lobbied the Federal and State Ministers and AFMA seeking personal and immediate intervention to stop this potential ecological disaster occurring". On 16 September the Whale and Dolphin Conservation Society of Australasia warned:

The advent of super trawlers in this fishery could seriously compromise both the marine environment and our commercial and recreational fisheries.

Clearly, this issue still requires the urgent attention of the Federal Government. I sincerely hope that the entire debacle is finally put to bed at the AFMA meeting next week to stop consternation in both the recreational and commercial fishing sectors.

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

Questions without notice concluded.

[The President left the chair at 1.00 p.m. The House resumed at 2.45 p.m.]

SYDNEY MORNING HERALD LAND DEALS ARTICLE

Personal Explanation

The Hon. EDDIE OBEID, by leave: In an article in today's *Sydney Morning Herald* headed "Ex-mayor in the ICAC sights on land deals", written by Anne Davies, statements were made which I consider to be non-factual, untrue and incorrect. The *Sydney Morning Herald* reported:

The investigation centres on whether certain developers have received inside knowledge from Strathfield Council on proposals to rezone land, enabling them to snap up sites at bargain prices.

The *Sydney Morning Herald* article continued:

A former state minister, Eddie Obeid, has been caught up in the inquiry into land deals involving Strathfield's former Labor mayor, Councillor John Abi-Saab.

Let me state clearly and categorically that I am not involved in any land deal in Strathfield with John Abi-Saab, or anyone-else. This is a fabrication by the *Sydney Morning Herald*. It has attempted to draw a long bow on the basis of my lifelong friendship with John Abi-Saab, whom I have known since childhood. The article continued:

The investigation began soon after the Mayor, Alfred Tsang, ordered an internal investigation into several council matters earlier this year.

It has been brought to my attention that that investigation was instigated as a result of video evidence of a corrupt act by a councillor of Strathfield Municipal Council. It is there in black and white, yet the *Sydney Morning Herald*, which knows of this evidence, has not tried to clear the air by stating the facts as they are. The article further said:

He [John Abi-Saab] was also a former business partner of Mr Obeid in a planned resort development at Port Macquarie, known as a Rainbow Pacific.

I have never been a partner of or been in business with John Abi-Saab. I was not involved in his Rainbow Pacific project in the late 1980s and early 1990s. My only contribution was when John asked me, as a lifelong friend, to act as guarantor for a bank loan, a fact that has previously been put on the record. I did act as his guarantor, as I would for any friend who needed help. Many years later he was unable to repay the loan to the bank, and as guarantor I accepted my responsibility and paid back the loan. The figure involved was far in excess of \$250,000, as stated in the *Sydney Morning Herald*. The article also said:

Also under ICAC scrutiny is the September 2003 sale of the AMF Bowling Alley, also on Liverpool Road.

The site was identified by Mr Obeid's son, Eddie, who was paid a \$50,000 consultancy fee by the developer, Eddie Chahine.

My son spoke to Anne Davies and put it clearly on the record that he was commissioned by the owners of AMF to sell six sites. Of those six sites he sold two, and he was paid the commission to which he was entitled. To try to insinuate there was anything improper in any of my children—or any member's children—going about their business earning money in the way they know best, that is, finding a buyer for a site, as they are commissioned to do, is drawing a long bow.

Anne Davies spoke to me and I made it clear to her that my involvement in that area was simply through the Cedars Foundation. I stated quite clearly that the Homebush Sports Club, which went into administration at least a couple of years ago, was totally irrelevant and had nothing to do with the council. It is true that the club is on Crown land and is owned and managed by Strathfield council, but the Homebush Sports Club has been there for 40 years. It has paid its rent on time. It went into administration some two years ago. The administrator was Greg Russell from Acuity Legal, professionals in administering clubs that are on the brink of going broke. A number of submissions were made to acquire that club so it could be transferred elsewhere or continue as an ongoing entity.

Sydney Cedars Sports Club was aware of the club being in administration and made a submission for joint club membership to make it into a club that could assist youth and kids in sport. I thought that was a noble gesture. The *Sydney Morning Herald* is the first to criticise when there are problems with the Lebanese, the Samoans, and many other indigenous communities, and we have all raised our hands and gasped, "What can we do, what can we do?" I put it on record that the Carr Government did something: it went into a partnership arrangement with Lebanese youth; it allocated \$2.5 million over two years to further understand youth issues, what was causing problems and how we could solve them.

The reason we sought to join with the Homebush Sports Club was simply to assist the cause. If the club was successful and made a modest profit after providing services to its members, it could spend that money on youth, encourage them to participate in sport, and mentor them into trades and professions—whatever they were best suited for. The *Sydney Morning Herald* has drawn a long bow about my involvement with the Cedars Foundation, which was made up of many people who wanted to contribute to the cause to help youth. Among the membership of the Cedars Foundation are some prominent Liberal Party members as well as some members of the Labor Party. It was non-political. It was engaging in a gesture of community goodwill to help youth however it could.

The *Sydney Morning Herald* article of 28 June was headed "Eddie's crackerjack idea to save the city's troubled youth". That was making a bit of fun out of my attempt, with other members of the community, to resolve some of the pressing issues among youth, who have caused agony to the community at large, and to find solutions to their problems. I reassure the House that the only time the council had any involvement in the decision of how the club would be reopened was in February 2004. The club went through the administrator. There were negotiations for two years, and the Sydney Cedars Sports Club won a tender, paid out the creditors, and decided it would take charge of the club with a new board of directors, under the same constitution but with its objectives changed and oriented to helping youth. That was the intention of the Cedars Foundation participation in the club.

The new council was elected in March 2004, headed by Alfred Tsang, who was a member of the Unity party, and an Independent and three Liberals. They decided that this community club should not be reopened. In fairness to those who were participating in the reopening of this club, the council sat on its hands for two years while the administrator was offering the club as a going entity to anyone and everyone who wanted to take it. Most of the submissions provided to the administrator were to take the 29 poker machines to another club. The general manager of the council at the time objected to that. He wanted the club to remain where it was and continue to serve the local community. That is where the Cedars Foundation won out. That was their proposition. They would have their membership of the club, form a new board, finance it and get it moving as a going concern.

Of course, the politically oriented Alfred Tsang, the Mayor of Strathfield—who is also under investigation—decided to make this a political issue because Eddie Obeid was trying to help re-open the club. I was doing so because I believed the members had noble objectives and that in the long run it would help the community. Alfred Tsang went to the *Sydney Morning Herald* and supposedly spilled the beans; he said this was some crackerjack idea and he was against it because members of the Chinese community are gamblers. He made all sorts of haphazard insinuations.

Today's *Sydney Morning Herald* article demonstrates that that newspaper's journalists are trying to establish a connection between my son and me and the council. We have absolutely no involvement in whatever the council is doing, has done or has not done with regard to land development. My son is accused only of being the seller on behalf of the owners of AMF. So be it; he has done that and sold another building, too. On that basis my name and my photograph are on the front page of today's edition of the newspaper. The Cedars Foundation and the reputable people behind it have also been dragged into this. They have only one genuine interest, which is to put some money into the kitty to help with issues that are important to the community, particularly the Lebanese community. That community has had its fair share of bad publicity because of the actions of a small minority.

Sydney Morning Herald staff have an obsession with me. I have no problem if they want to look at my politics and the issues I pursue—they can attack them. However, they seem to be obsessed with vilifying my family and me. As honourable members know, my defamation action against that newspaper is continuing, and I will have my day in court. This article is very inaccurate and the situation has been selectively reported. Journalists are trying to draw a long bow. The club is in administration, and the council played no part in the decision about who would take it over. When the creditors were paid out and new directors were appointed, the council simply sent an eviction notice within two days, saying get out!

The journalists fail to understand that the club was built 40 years ago by club members with their own money. They had a right to continue on as the same entity with existing members and new members to serve the community. However, the council took a political stand and objected to the club continuing. That matter is now before the courts. Any insinuation made in the *Sydney Morning Herald* about my being involved in any way with any problems at Strathfield Municipal Council—whether the rezoning was done according to the rules and by-laws—is totally inaccurate. When I get some of my infamous colleagues in this place—people whom even the Communists would not want—

The Hon. Don Harwin: Point of order—

The Hon. EDDIE OBEID: I withdraw that.

The Hon. Don Harwin: We have allowed latitude to the honourable member under Standing Order 88 in terms of his personal explanation. A personal explanation is used only to correct the record, not to debate the issue. Not only have we had a debate at length, we are now getting a reflection on members. Madam President, it is your role to maintain order in the House and I should not need to be taking this point of order.

The Hon. EDDIE OBEID: I will conclude. I accept what the honourable member has said.

The PRESIDENT: Order! Is the Hon. Eddie Obeid withdrawing his comment or talking to the point of order?

The Hon. EDDIE OBEID: I withdraw, and I am concluding. The *Sydney Morning Herald* has tried to invent links and has incorrectly implicated me and my family simply because we have been involved in acquiring a club for the benefit of the whole community. The club will serve local youths. I am sure that whatever has been happening at Strathfield Municipal Council will be concluded with an Independent Commission Against Corruption inquiry. Let the cards fall where they may. However, implicating me or my family in anything to do with rezoning, land deals, or councillors is totally wrong. It is disgraceful journalism.

TABLING OF PAPERS

The Hon. Henry Tsang tabled the following paper:

Annual Reports (Statutory Bodies) Act 1984—Report of the Health Care Complaints Commission for the year ended 30 June 2004

Ordered to be printed.

JUVENILE OFFENDERS LEGISLATION AMENDMENT BILL

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

Motion by the Hon. Tony Kelly agreed to:

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

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

SMOKE-FREE ENVIRONMENT AMENDMENT BILL

Second Reading

Debate resumed from 17 November.

Ms SYLVIA HALE [3.05 p.m.]: The Greens believe that this bill is well overdue, but regret that it does not go far enough. We support the long-term goal of the legislation to eliminate smoking in enclosed spaces but we believe that a complete ban on smoking should be implemented as soon as possible. To that end, we will seek to amend the bill in Committee to prohibit smoking in enclosed public spaces from July 2005, not July 2007.

New South Wales is hardly leading the charge in this area. For example, in 2003 New York State banned smoking in indoor workplaces. In March this year the Irish Government implemented a similar ban. It is telling that the Irish Government had the courage to stand up to the pubs and the tobacco industry and recognise that indoor workplaces encompass bars, clubs and restaurants. Of that country's population, 25 per cent smoke—4 per cent more than in New South Wales. However, the Irish Government recognised the need to protect workers in all workplaces, including pubs and clubs.

By January this year smoking had been banned in pubs and bars in California, Connecticut, Delaware, Maine and New York State, as well as in 72 local government municipalities across the United States. El Paso, in George Bush's home State of Texas, banned smoking in bars in January 2002. In February this year the Texas Department of Health released a report analysing sales tax data for 12 years preceding and one year following the introduction of the ban. The study concluded:

... no statistically significant changes in restaurant and bar revenues occurred after the smoking ban took effect.

It noted that this was consistent with similar studies of the impact of smoking bans in other American cities. It appears that smokers do not stay away from bars in droves. Some may change their smoking habits, but most probably move outdoor, or even stop smoking.

A report published on 10 November this year by the United States Centre for Disease Control indicated that the 2003 ban in New York State had resulted in a dramatic decline in the number of airborne pollutants. Second-hand smoke, which contains more than 50 carcinogens, kills more than 38,000 non-smokers each year. The report found that within three months of the ban being introduced, pollution levels at the 20 public places monitored in western New York "dropped an average of 84% in the public places, which included bars, restaurants, bowling alleys, a pool hall and a bingo parlour". Significantly, since New York State banned smoking in indoor workplaces in 2003, bar revenues there have risen by 8.7 per cent.

In New South Wales a survey by NSW Health found that 23 per cent of people say they would go to bars and pubs more frequently if smoking were banned. The Government admits that smoking is a major health risk and puts a major burden on the health care system. The Minister noted in his second reading speech that 54,000 hospital admissions each year in New South Wales are tobacco-related—

The Hon. Dr Arthur Chesterfield-Evans: Tobacco-caused.

Ms SYLVIA HALE: Tobacco-caused, indeed—amounting to a cost to the health system of approximately \$180 million annually. The Cancer Council, the Australian Medical Association and countless anti-smoking organisations have been lobbying for years for a total ban on indoor smoking. The evidence is irrefutable that smoking kills. The need to ban smoking to protect smokers and non-smokers alike from environmental smokers is well established. The Government admits that indoor smoking must be banned. By falling into line with other countries and other State governments, New South Wales is at last taking seriously the risks associated with indoor smoking. But the Government also seems determined to drag its feet for as long as it can.

Queensland, Tasmania, the Australian Capital Territory and the Northern Territory will all introduce full bans before New South Wales does. Community opinion in New South Wales is behind a ban, and all that remains is the legislation to enact it. The Cancer Council has found that approximately two-thirds of all people would support a ban on smoking in public places. By delaying the introduction of this bill until July 2007 the Government is capitulating to the pubs and clubs industry. And make no mistake about it, the staged approach being proposed by this bill will achieve very little until July 2007.

Arbitrary divisions, such as are proposed in the bill, with about 50 per cent of a room being smoke-free and that percentage being reduced over time to 25 per cent, will be impossible to implement. How on earth does one prevent people who are drinking alcohol from moving around a room? Bars are not like restaurants where people sit down and stay seated for the duration in either a smoking or a non-smoking area. In bars most people stand and move around freely as the night progresses and as, perhaps, other patrons take their fancy. Despite what the industry has been saying, this staged introduction will be impossible to implement.

Arbitrary lines about where smoking begins and where it ends will be unworkable. But even if it were possible to police, it simply takes us back 15 years to the back 10 smoking rows in an aircraft. Even if smokers can be made to sit in one place, within no time the entire space is smoke filled. The 50 per cent rule is meaningless in reducing the exposure of people to harm from environmental smoke. This bill allows those bars that are either opposed or indifferent to anti-smoking regulations to remain smoking venues until 1 July 2007. The delay is simply a face-saving exercise for the Government so that, in the face of overwhelming community support for a ban, it can be seen to be acting while at the same time giving its mates in the pubs industry a further 2½ years grace.

The Hon. Duncan Gay: The Government is your mate; you give it your preferences all the time.

Ms SYLVIA HALE: I do not think the Government would contemplate the Greens being its mates. Certainly the Greens do not contemplate that either. Any talk about this bill being a compromise is rubbish. The real compromise is allowing smokers to smoke outside or in their own homes. In fact, these days many smokers choose to smoke outside even when they are at home. The Cancer Council has for some years conducted an education campaign to highlight the dangers of environmental smoke, particularly for children, at home and in a car. This campaign is having an effect, and many people now step outside onto the veranda or into the garden to smoke, even when they are at home. Asking people to smoke outside is not the radical shock-horror stuff that the hotel industry would have us believe.

It would be nice to think that some bars will decide that trying to police an unworkable policy is not worth the hassle, and will simply ban smoking outright from 1 July next year. But that is unlikely. Lazy or

unscrupulous operators will just keep the puffing going until mid-2007, making it difficult for establishments that were prepared to do the right thing to compete. Given the choice between the non-smoking pub on one corner versus the smoking pub on the other, many—though not all—smokers would probably choose the smoking pub. That is why a flat, across-the-board ban is the only way to ensure a level playing field.

One argument put by the industry is that smokers will be forced outdoors and that pushing people onto already crowded narrow footpaths or cramped inner-city streets may be dangerous. This may be true. It would be dangerous to overcrowd footpaths, and for this very reason steps must be taken to provide sufficient outdoor space for smokers. Indeed, with or without smokers, the dramatic increase in footpath cafes and outdoor eating has been a hallmark of urban gentrification in the past decade. But to talk about the dangers associated with overcrowded footpaths is to entirely miss the point. It is equally, if not more, dangerous for people to be crowded into smoke-filled rooms. I remind members of a point I have already made: there are 6,500 smoking-related deaths in New South Wales every year, more than 2,000 of which are from lung cancer alone.

The Greens note the absolute and total capitulation to Star City Casino. The exemption for the high rollers room at Star City Casino is an act of prostitution on the part of the Government, prostitution influenced by the casino's tax revenues. High rollers do not sit and gamble alone; they are wined, dined, primped and preened by a bevy of staff who are exposed to environmental smoke just like workers in any other bar or workplace. Star City might argue that it has to compete with high rollers rooms in other States and that big spenders will simply move to those other States if they are not permitted to smoke in New South Wales. This may or may not be true.

But should the Government be making policy in the interests of high rollers and Star City or in the interests of the workers who are exposed to the hazards and dangers of workplace smoke? Workers in the high rollers room are entitled to the same protection as workers anywhere else in this State. In conclusion, the Greens believe there is no justification for not introducing a full ban on smoking in indoor public areas from 1 July 2005. This will still give the industry seven months to undertake the necessary preparations. On health grounds, there is no justification for delaying a ban beyond this time. We must not forget that people will die as a result of the delay.

The Hon. Dr Arthur Chesterfield-Evans: 11,800 by the—

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! I call the Hon. Dr Arthur Chesterfield-Evans to order.

Ms SYLVIA HALE: As the Hon. Dr Arthur Chesterfield-Evans says, 11,800 people. As the Premier has acknowledged, up to 97 bar staff die every year from the effects of passive smoking. The fact that somewhere between 190 and 260 workers will die needless, preventable deaths as a result of this Parliament's delay should rest heavy on the consciences of those members who do not support the Greens amendment to bring the ban forward to July next year.

The Hon. RICK COLLESS [3.19 p.m.]: I support the Smoke-free Environment Amendment Bill. Smoking and the expectation that workers should be able to enjoy a safe workplace free from toxic substances is a very vexed and complex issue to negotiate from the legislative perspective. To the Hon. Dr Arthur Chesterfield-Evans, who is a long-time and vocal opponent of smoking, the issue is black and white. However, to someone who is a long-time smoker, the issue is also black and white but for completely different reasons. I shall touch briefly on the arguments from both perspectives. In support of the smokers initially, the bill impinges on their personal freedoms and choice. As a former smoker, I enjoyed a beer and a smoke at the pub after cricket, football or golf on a Saturday afternoon with my team-mates. It is a very social thing to do to replay the highlights of the afternoon's game over a beer and a smoke.

The term "a smoke" has been written into Australian folklore. A beer and a smoke after cricket, after work or simply for no reason at all is just as important to many people as having a cup of black tea and a smoke in the bush, the cattle yards or the wool shed, or on a building site or the waterfront. It is the genesis of the very Australian expression "smoko time". This bill will disfranchise all those who enjoy one of the simple pleasures of life—being able to go to their local pub or club, as they have for many years, and enjoy a cold beer and a smoke after work or on Saturday afternoon. Many people in the community are critical of the increasing legislative control over their lives, and one often hears comments along the lines that "next the Government will tax fresh air and charge us to breathe".

I am concerned about the impact of this bill on the freedom of choice for people to smoke if they wish, but they should be considerate enough to allow those who wish not to smoke also not to smoke. This raises the other side of the argument, and it is a very powerful argument once someone has been impacted by the effects of smoking, and even more so by those impacted by the effects of passive smoking. I gave up smoking more than two years ago and, although I was never a heavy smoker, 18 months ago I needed a quadruple heart bypass operation. Until that time I was one of those with the attitude that it would never happen to me. My heart condition may not have been directly attributable to my smoking history as I have a congenital problem with high cholesterol as well.

Despite my "it will never happen to me" attitude, I was aware that I was in a very high-risk group, with a family history of heart disease, high cholesterol and smoking. I did not have a heart attack, but when I went to the doctor my condition was diagnosed as acute unstable angina, which felt more like indigestion than a risky situation with my heart. The doctor assessed that I was in immediate danger of a major heart attack, and a doctor remained in my company until I was admitted to St Vincent's Hospital and placed on the monitors, which I remained on until I went into surgery 36 hours later. As I was recovering in the intensive care unit at St Vincent's, the sister who brought me out of the anaesthetic said to me, "We can tell you blokes who are smokers as soon as we open you up. Please don't ever smoke again."

I was pleased to be able to tell her that I had at that stage already given up smoking some time previously, although I was now realising the folly of ever taking up smoking all those years ago. I pay tribute to the doctors, the nursing staff and all the staff in the heart unit at St Vincent's Hospital. They are fabulously skilled and caring people who obviously have saved many thousands of lives. This life-threatening experience has left me with a much different outlook on life, particularly with respect to smoking and heart disease. The cholesterol condition I have is not something I have control over, other than with medication. My levels were so high that one doctor told me that I could live on lettuce leaves and still have high cholesterol. So I may still have suffered from heart disease even if I had never smoked.

But being a smoker the risk of heart disease manifesting itself as a major heart attack is greatly increased, and if I had not had the bypass operation it is very likely that there may have been a casual vacancy in this House by now. It is these personal considerations that have convinced me that every opportunity must be taken to convince people that they should not smoke. While it basically comes back to a matter of individual choice whether they smoke, it is not that simple for those who work in smoke-filled environments. These people do not have the choice, other than to find a different career path, and that is certainly not an option for everyone. This lack of choice means that they are placed in a situation every day where their health is placed at risk—not a risk that will manifest itself immediately, but a risk that can creep up on them and attack, in many cases without warning.

My younger brother, who was also a smoker, recently thought that he also might have a heart problem. When he was speaking to his heart specialist the doctor drew an analogy that crystallises the risk to one's health of cigarette smoke. The doctor asked my brother whether, if he was about to go overseas and the airline he had booked with crashed one 747 each week before he was due to go, he would still fly with that airline. Of course, my brother said that he would not. The doctor then asked him why he was still smoking, as the risk was about the same. That is how many people die from smoking each week. It is for these very compelling health reasons, which have affected me and other members of my family, that I must support the Smoke-free Environment Amendment Bill.

It is exacerbated by the fact that people who work in smoke-filled environments do not, in the vast majority of cases, have the choice as to whether they are exposed to the toxins contained in cigarette smoke. It is unfortunate that those who enjoy the simple pleasure of a beer and a smoke after work or on Saturday afternoon, or a smoke with their mug of tea at smoko time, will be displaced by this legislation. However, I believe that the benefits to the rest of the community and the safety of workers in those currently smoke-filled workplaces will greatly outweigh the losses incurred by the smokers. It is for those reasons that I support the bill.

The Hon. DAVID CLARKE [3.25 p.m.]: The Smoke-free Environment Amendment Bill is worthy of support. Its purpose is to phase out smoking in enclosed areas of hotels, clubs, casinos and nightclubs—all venues that are frequented by large numbers of people—by July 2007. It will accomplish this by means of a graduated phasing out commencing on 1 January 2005 and achieving completion by 1 July 2007. It is clear that medical science has established beyond all reasonable doubt that smoking constitutes a monumental threat to health in a multitude of ways. Smoke-related diseases and ailments are responsible for many thousands of deaths in Australia annually. Smoking is a major contributor to heart disease and many types of cancer, as well as other

illnesses and diseases. Apart from death-causing health issues, smoking causes physical discomfort such as aggravation of asthma and eye irritations to many who may be in the vicinity of those engaged in its practice.

The restriction of smoking in enclosed places and premises frequented by the public has been a matter of contention and debate for some time. On one side are those who contend that such restrictions are an invasion of rights, an infringement of the right of smokers to indulge in the practice if they so wish. On the other side are those who point out that smokers who indulge in enclosed public locations interfere with the right of others to move freely in such areas without being subjected to health hazards and something which is physically uncomfortable to them. We are faced with a competing clash of rights, but to my mind the scales tilt very heavily to those who seek to move freely in enclosed public areas without being subjected to the threats to their health that derive from smoking.

I believe that this is the clear view of the overwhelming majority of the community. I believe also that the overwhelming majority would support the thrust of this bill. Employees who work in clubs and hotels are particularly at risk from continued smoking in these premises. We have an obligation to these employees to ensure that they are not subjected to the detrimental effects of smoking. Could anyone reasonably or in good conscience suggest otherwise? Additionally, we have a responsibility to members of the public, many of whom are children, who visit such premises. They are entitled to similar protection. Some concern has been expressed that this bill does not have sufficient clarity in some aspects. Time will tell on that matter.

The clubs industry was entitled to expect greater consultation from the Government than it received when it came to the preparation of this bill. However, the clubs, which represent hundreds of thousands of members, have come to expect nothing more than off-handed and contemptuous treatment from the Government. The way the Government is bleeding New South Wales clubs with ever-escalating taxes, for example, is testament to its contempt of clubs and their members. However, that is a matter that club members will deal with effectively at the next State election, because that is when they will sort out this Government in a decisive and permanent way. I believe that the bill should be supported because it goes to the important issues of public health and saving lives. Accordingly, it is in the best interests of the people of New South Wales that the bill should be passed.

The Hon. DAVID OLDFIELD [3.30 p.m.]: My views on smoking are reasonably well known. I am not a smoker. I have been a smoker. I am sorry that I was and I hate to think of the damage I did to my body in my youth in particular as a smoker. But peer pressure and the concept of these things appearing to be trendy or cool sometimes push one into becoming a smoker, as they did with me. Honourable members may remember that I had passed by the House the Public Health Amendment (Juvenile Smoking) Bill, a private member's bill, which gave police power to confiscate cigarettes from children under 18 years.

It had been a clear anomaly for some time that children under 18 could not purchase cigarettes but could smoke them. That is ridiculous. Realistically, it should be illegal for children under 18 to smoke, as it is illegal for them to drink when under 18. My bill at least went in the right direction of giving police, amongst other things, power to confiscate cigarettes from children under 18 in exactly the same way as existing laws allow them to confiscate alcohol from children under 18. Smokers absorb a disproportionate amount of the Health budget. The Hon. David Clarke has already referred to the health problems, and I am sure that the Hon. Dr Arthur Chesterfield-Evans will be particular in his remarks about the health implications for smokers.

There is no such thing as a good cigarette. One of the best advertisements I have seen against smoking had the message, "Every cigarette is doing you damage". There is not a single, solitary redeeming feature in smoking, and as far as I am concerned it is the equivalent of a self-inflicted wound. People should not smoke. I do not like smoking. However, in a pragmatic position, I recognise that people have certain rights in society. One of them is to hurt themselves. We recognise the fact that people do smoke. Given that, I am slightly disappointed that the Government did not engage in the possibility of allowing for separate smoking in enclosed lounges, separately ventilated, possibly staffed by people who smoke, et cetera. That might have better recognised the rights of those who smoke to continue to smoke in a hotel. In general I support the bill. It would be a better world if no-one smoked. I hope that one day we can reach that situation. In the meantime we have to recognise that people have a right to hurt themselves; but at the same time those people should recognise that they do not have a right to soak up our Health budget in the course of hurting themselves.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [3.33 p.m.]: In speaking on the Smoke-free Environment Amendment Bill I am sadly about 25 years late, but we have to make do with what we have. Tobacco was brought back from the New World, North America, by Walter Raleigh. He was beheaded for

treason. Sadly, this was not the reason: they got the punishment right but seemed confused about the crime. Tobacco had been used by native Americans in peace pipes in small doses at ceremonial occasions. Raleigh was smoking in the south of England in a pub called the Virginia Ash Hotel when a woman, believing him to be on fire, tipped a bucket of water over his head. Would that we could all respond in the same way. Smoking took off—presumably because it was addictive. In 1604 King James I of England delivered his "Counter-blaste" to tobacco:

Smoking is a custom loathsome to the eye, hateful to the nose, harmful to the brain, dangerous to the lungs, and in the black, stinking fume thereof nearest resembling the horrible Stygian smoke of the pit that is bottomless.

It is interesting that King James had a number of the medical effects correct. He linked smoking to a religious evil. For many years the church was strongly against tobacco as a defilement of the body and it took a strong moral stand. As the world became more secular the tobacco industry carefully and cleverly used the ploy of associating people who were against smoking with some sort of religious nuts. Throughout the entire history of smoking—certainly since the 1950s—the industry has been totally cynical and ruthless. It has been happy to kill people in order to make its profits. The morality displayed by the asbestos industry has the same sort of approach.

Be that as it may, the per capita consumption of tobacco was relatively small and mainly confined to men, who retired after supper away from women. They wore smoking jackets so that when they took the jackets off and returned they would not smell so bad. In a sense it was a male bonding ritual. Duke invented the cigarette-rolling machine in 1898. Smoking was recognised as harmful and the Juvenile Smoking Suppression Acts were introduced in the Australian States in the period from 1906 to 1912. But it was the First World War that made the sales of tobacco really take off. Soldiers spent time in their trenches before they came out to relatively certain death: 75 per cent of soldiers killed in the First World War were killed by artillery rather than small arms. When the soldiers leapt out of their trenches they were blown to smithereens. The masculine bonding in the smoking ritual enabled the smoking industry to link masculinity and friendship with smoking, which was extremely important in tobacco marketing campaigns following the First World War.

I think that the saying "third time lucky" had its origins from this time. The light from somebody lighting a cigarette would attract the attention of the enemy. Lighting a second cigarette gave the enemy time to pick up a rifle and by the time the third fellow was having his cigarette lit he could be shot—yet another smoking-caused disease. Smoking in public became acceptable after the First World War and gathered ground in the 1920s. In the 1980s I was interested to see a newspaper article about a man who was the oldest prisoner in this State. He had been imprisoned for shooting a man who had had the temerity to smoke in a restaurant, a crime that had occurred, from memory, in 1924.

Reverend the Hon. Dr Gordon Moyes: I remember him well. I used to visit him in gaol.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Perhaps you could name him.

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! I remind members that interjections are disorderly at all times. The Hon. Dr Arthur Chesterfield-Evans should ignore them and continue his speech.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Women's liberation encouraged the view that women had the same right to smoke as men or soldiers had. "Blow some smoke my way, soldier" was part of the marketing of cigarettes to women. Wars were very good for per capita consumption of tobacco: there was again a huge rise in tobacco consumption during the Second World War. The tobacco industry lobbied hard to make sure that tobacco was included in the Marshall Plan aid that rebuilt Europe. People in Europe previously did not smoke because they had no money but once they had an increase in income the industry wanted them to be addicted to American tobacco. It has been the strategy of the tobacco industry ever since to target countries with rising disposable incomes for immense marketing campaigns. So the mistakes made by the First World are being perpetuated into developing countries in sequence as they develop—very cynical but very effective.

Smoking was seen to be relatively harmless. In fact, outrageous claims were made that it was good for you and did no harm. But the seminal article by Richard Doll, in the *British Medical Journal* of November 1950—54 years ago—entitled "The Aetiology of Carcinoma of the Lung", clearly linked tobacco smoking with lung cancer. In the 1950s a series of articles linked smoking with various diseases, basically utilising the new statistical techniques that Doll and his colleagues were using.

In 1961 the Royal College of Physicians expressed concern that for 10 years successive governments had failed for 10 years to legislate against smoking, and that resulted in its seminal report on the effects of smoking in 1962. Across the Atlantic the American Surgeon General asked the tobacco industry to vet all scientists examining the effects of smoking, and his 1964 report was a damning indictment. Even scientists approved by the tobacco industry found that tobacco was the cause of myriad diseases. Since that time the tobacco industry has played politics, despite the known harmful effects of tobacco being sufficient to warrant action. For 40 years governments have done as little as possible while industry has continued to lobby and health forces have ineptly undertaken further research.

Earlier this year I gave a speech on smoking. I visited the Medline web site and found 102,000 articles on the effects of smoking on health. The research done in the 1950s was certainly sufficient to justify political action, yet as late as 1985 John Dollison from the Tobacco Institute still argued that "smoking causes disease" was a hypothesis. There is no end to the lies of the tobacco industry and, quite frankly, the behaviour of the clubs and pubs industry has been a disgrace in this and every other country. Any action that they regard as damaging to their patronage they have steadfastly resisted, and the Australian Hotels Association [AHA] is amongst the worst. The tobacco industry has been in bed with the AHA, subsidising it and, effectively, being a front for a small clique who do not give a fig for public health or the welfare of their patrons; it cares only about a potential loss of patronage. It is nothing but a disgrace, and the lack of action by both sides of this House over the last 40 years is also a disgrace. I have attended many breakfast functions at which some film or football star has launched a minimal no-smoking campaign, yet relevant Ministers congratulate themselves on these pathetic gestures but basically take no substantial action. In 1978 the Roper report, which was commissioned by the tobacco industry, concluded:

[The non-smokers' rights movement represents] the most dangerous development to the viability of the tobacco industry that has yet occurred ... The issue, as we see it, is no longer what the smoker does to himself, but what he does to others.

That was a very prescient remark. It showed that in America the driving force for reducing smoking was the passive smoker. As a doctor I find that ironic because the passive smoker receives only a small dose compared to the smoker. Smokers see themselves at fault for continuing to smoke and poisoning themselves, but no-one actually cares about them. As a doctor I find that offensive, but it should be noted that the political push came from people who did not like the smoke. It was all right for smokers to poison themselves but it was not all right for them to poison non-smokers. The Hon. Rick Colless painted this issue as an argument between smokers and non-smokers. That was the model I started with when I became interested in the tobacco issue in 1980, but I later realised that the issue is between the tobacco industry and the people.

This is a war between money and people, not smokers and non-smokers. It is ironic that non-smokers are criticised for trying to help people quit smoking because, apparently, it is impolite to try to improve someone's health. A similar situation arose with a former Attorney General. It is very difficult to raise health issues with people who have alcohol problems. Both groups regard it as personal criticism. I believe the industry has been instrumental in promoting this by its catchcry, "Leave me alone." Indeed, Benson and Hedges ran a campaign here in Australia called "I know" and people who tried to help smokers were told, "I know", meaning "It is my right to poison myself"—without using the term "poison", of course.

The Collins and Lapsley paper "Counting the cost: Estimates of the social costs of Drug Abuse in Australia 1998-99" from the Commonwealth Department of Health estimated that the cost of smoking to the Australian economy was \$21 billion, of which \$5.1 billion was lost productivity. However, \$52 million of that amount was the result of fires caused by discarded cigarette butts—but that statistic does not take into account the latest bushfires. I interviewed Sir Richard Doll on radio when he visited Australia in 1983. When he published his paper in 1950 tobacco was considered a legitimate business. People did not realise that tobacco was harmful and, therefore, the selling of cigarettes was regarded as a legitimate sales business. Leaders of the tobacco industry expressed concern to him because they realised that their product was dangerous. They asked for his advice on how to fix the problem. Richard Doll told them that it was not his expertise. He was an expert in epidemiology; he examined the harmful effects. He told them that it was difficult to remove certain substances because it was the burning organic substances that produced the harmful chemicals.

I believe that the tobacco industry undertook a large amount of research in the 1950s endeavouring to make its product safe, but could not do so. It was left with two choices: to get out of the business or lie and cheat to avoid being regulated out of the business. The industry took the latter option. Doll commented on the difference in the calibre of people he dealt with more recently from those with whom he dealt in the 1950s. Rather than politicise the issue, he saw his role as giving indisputable scientific facts. He regarded the implementation of his findings as someone else's job. Sadly, most of the medical profession, whose members were happily making a fortune from treating tobacco-caused disease, also regarded it as someone else's problem.

One could count on one hand the number of political activists in Australia who were dedicated to working on tobacco control. And those who were unpaid numbered nil! Those who became politically active basically lost their jobs. Personally I found tobacco unpleasant and I regarded it as offensive that I could not go to a pub without having to put up with cigarette smoke. However, I accepted the smoke, in the same way as others one accepts bad weather. When I started in medicine I found it absurd that so much time and effort was spent treating tobacco-caused disease. Every ward I visited accommodated patients suffering from tobacco-caused diseases. In some medical wards I found many people with chronic emphysema, on oxygen support, fighting for their last breath.

Reverend the Hon. Fred Nile: And still smoking.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Yes, and ducking out to the toilet for a smoke. In the head and neck cancer wards I never saw mouth cancer or cancer of the larynx in a non-smoker. If non-smokers have had those types of cancers, I have not seen them, and I have seen many cancers. In urology wards I saw people who had little tumours growing like mushrooms in their bladders that were the result of tar passing into their urine. In orthopaedic wards I saw tough bikies whose bones would not heal. Years later I read an article in a paper that confirmed what I had deduced at that time: the effect of smoking on blood supply reduces bone union, even in young people. I saw spontaneous rib fractures caused by depletion of calcium resulting from changes in the pH levels because of an increase in carbon dioxide in the blood and respiratory failure. Of course, the cough fractures associated with that are well known.

In intensive care wards I saw people suffering heart and lung failure and other complications. I amputated the legs of vascular patients whose arterial reconstruction surgery had failed. I observed the cleaning of arteries, which were lined with a combination of fat, almost like butter. The fat is shelled out, like sludge out of a pipe, and sometimes it is calcified, almost like stalagmites, so that the opening of the artery becomes blocked. It goes on and on. Every doctor who has worked in surgery has seen this damage, but for some reason the message never seems to get through.

Last week the Premier talked about his meeting with asbestos victims. He said that he was going to do something for them. Well, where has he been all these years? There are smokers in their thousands who suffer like the victims of asbestos suffer. When I lived at Newtown my house was on a gentle slope. My neighbour, who was a smoker, could only walk as far as his letterbox. To get to Newtown to do his shopping he walked very slowly down to Parramatta Road, caught a bus to Grace Bros at Broadway, caught another bus up to Newtown, did his shopping and then wheeled his trolley downhill to home. He could only walk downhill. But you would not even notice him. If you walked down his street, you would merely see him sitting on his front verandah, breathing heavily.

Last week Liz Kernohan died. I attended her funeral in Camden. Everyone said her death was a shock. She was a heavy smoker and she died at, I think, 63 years of age. I confess, I was not surprised. One of the eulogies was delivered by John Fahey, who said that he was surprised to hear of Liz's death. That seemed odd to me. I would not have thought he would have been surprised. He is missing a lung from lung cancer. Nick Greiner, who also spoke at the service, gave his condolences for another smoking-caused death.

A few cases in particular motivated me to join the anti-smoking movement. At Port Kembla I amputated legs and observed people surviving on ventilators. Although there was a huge shortage of doctors in the area, the excellent surgeon Vernon Allen James, who died recently, practised there. I spoke about him on the adjournment debate in this Chamber on Tuesday night. When I assisted him with his patients I wondered whether the tobacco industry had it in for all of us—we looked after the late stage, hopeless cases while the tobacco companies hooked the children on tobacco. A couple of cases in particular brought home the message to me.

When I was working at North Shore hospital a young fellow, from memory 39 years old, was admitted with cancer at the back of his tongue. At the time there was a visiting professor from Glasgow who performed a clever new operation that involved taking a piece of skin from the shoulder and digging the muscle flap in under the flesh, so that when the tongue was taken out, this super flap of skin, nourished from the pectoral muscle, would fill the gap in the bottom of the mouth. After supposedly having all the cancer removed, the patient underwent this elaborate reconstruction to the bottom of his mouth. The visiting specialist from Glasgow completed the operation but later the flap died, and the young man had a nasty piece of dead flesh going up into his mouth.

A person with cancer of the mouth cannot move his mouth so that when he eats, small pieces of food remain in the mouth and rot. This patient had rotting food and a rotting graft in his mouth. He was put in a

private room because the smell that emanated from him was too bad for others in the ward. The pathology showed that the excision was incomplete, and the man was going to die. His wife was 31 and he had an 18-month-old baby. Doctors see this type of case every day, and people here laugh when I talk seriously about the effects of tobacco.

The case that finally got me going, though, was when I was working at North Shore, this time in the coronary intensive care unit when a businessman was admitted after suffering a major heart attack. He was 51 years old, very well-dressed, very intelligent, smoked Benson and Hedges. He had been occupied with his business and thought, like the Hon. Rick Colless, that it could not happen to him. A major heart attack causes a flail segment, which means as the muscular part of the heart contracts the scarred part balloons the other way. The heart is pumping on one side and ballooning out the other, and, therefore, has little output. His angiogram showed a major blockage of the coronary vessels, as might be expected. What was unusual about that day was that I had some spare time and I was able to talk to the man, his wife and his two daughters, who were perhaps aged 14 and 12. I saw what a good family they were.

The next morning we went off to theatre at 8 o'clock. We operated, but it did not go very well. The area of muscle damage was too great. He was put on a balloon pump to try to assist his heart after the operation. I was trying to titrate all the different pressor drugs, that is, heart-stimulating drugs, to keep him going. At about 3 o'clock the next morning his heart stopped. We could not keep it going any longer. So we pumped his chest. I rang the consultant. He said, "Mate, open him up, try and pump his heart internally and I'll come in." So I opened his chest with wire cutters, put the gloves on, and pumped his heart in my hands. I said, "Get the relatives." The boss came in, started pumping the heart and asked me to describe what had happened. I went through it bit by bit with all the drugs I had given and what had happened. He said, "You did the right thing, mate." He put the heart down, pulled the sheet over the man's head and said, "You go talk to the relatives."

I went outside into the corridor, the lights were low. The man's wife and his two daughters were there, tears streaming down their faces. They said to me, "Why did this happen?" I said, "It's just one of those things." Then I thought: It isn't one of those things; it's Benson and Hedges cigarettes; that's why your husband is dead, and for some reason I'm not allowed to say so. I went to bed for the remaining two hours of the night, worked the next day, and finished around seven. I had agreed to take my girlfriend out. I said, "I don't want to go out, I'd rather go to bed, I'm exhausted." She said, "We never go out. You're always tired. Come, we'll go to the movies." We went to the movies in George Street. Outside and in the foyer all the kids, from 12 upwards, were smoking, because it was so glamorous to smoke. We sat down, and when the Marlboro Man rode onto the screen I thought: I'm going to stop this if it kills me.

I rang Brian McBride from the Non Smokers' Movement of Australia, who had tried to get the smoking prohibition enforced on buses. Theoretically the ban, which had been introduced by Pat Hills, was in existence but it had never been enforced, particularly on private buses. Brian McBride was vilified as a nut when he tried to enforce the ban. I joined the Non Smokers' Movement and through its meetings I met the people from BUGA UP. I would like to diverge a little to talk about the health effects of tobacco in a systematic fashion. Rarely are the effects talked about in a systematic fashion. When looking for quotes about tobacco, I found this piece from the *Bloomsbury Book of Quotations*. The words by Tobias Venner, 1577 to 1660, Via Recta ad Vitam Longam, read:

Tobacco drieth the brain, dimmeth the sight, vitiateth the smell, hurteth the stomach, destroyeth the concoction, disturbeth the humours and spirits, corrupteth the breath, induceth the trembling of the limbs, exsiccateth the windpipe, lungs and liver, annoyeth the milt, scorseth the heart, and causeth the blood to be adjusted.

To understand the effects on health of tobacco one must first realise that a smoker is basically inhaling the product of combustion, which has a combination of poisons. If you think of the elements of tobacco smoke in their simplest form and then analyse their effects, you will have some idea of the number of diseases that are caused by tobacco. Think of the five elements: hot gases, particles, tars, carbon monoxide—which is a gas, but I will mention it separately—and nicotine. As this combination goes into the body it produces what I call input cancers. You get an increased incidence of carcinoma of the lip, the tongue, the pharynx, the larynx and the lung as the tar is inhaled. You get an increased incidence of carcinoma of the oesophagus and the stomach as a direct result of the inhalation then swallowing of these toxic substances.

The particles then get trapped in the lungs, and the lungs become markedly effected from the tar, hot gases and particles, which then predispose us to infection by damaging the cilia, which move through the mucus and move foreign material out of the lungs. The cilia become damaged and the foreign material stays in the

lung, pooling there, leading to infection and tissue damage. That leads to emphysema and chronic obstructive airway disease, or chronic obstructive lung disease as it sometimes called. So, we have marked lung effects.

The toxic products travel from the lungs into the blood. So, there is a systemic effect as the toxic products of tobacco move through the body via the circulation. There is a reduction in the oxygen carrying capacity and there is a direct toxic effect on the arteries of the carbon monoxide as the cells lining the arteries are poisoned. As those cells are damaged the platelets condense in order to try to repair them, and that leads to plaque forming on the walls of the arteries.

Carbon dioxide also affects free radicals, which are polar molecules that act as detergents to keep the fat in solution. So the fat becomes less soluble in the blood. Clotting is affected and this leads to a greater tendency to thrombosis. If that were not enough, the nicotine contracts the walls of the arteries so that the hole in the middle of an artery, the lumen, becomes smaller. This increases blood pressure so the heart has a reduced blood supply through the coronary arteries and an increased load through the contracted arteries through which blood is pumped. Naturally, that has a huge effect on the heart. So blood vessels and arteries are affected. Every part of the circulatory system is affected.

There can be clotting or bleeding in the brain. Arteries to the brain can be blocked. There can be blockages of arteries to the heart, which causes coronaries. There is reduced flow to the kidneys. There is reduced flow to the intestine, which can give intestinal angina. There is reduced flow to the skin, which causes premature ageing. There is reduced flow to the uterus, which causes small babies. There is reduced flow to the penis, which causes impotence. I must say, impotence is a valuable side effect because there is nothing like the threat of impotence to middle-aged men to awaken their interest in trying to quit. Poor circulation to the legs leads to amputations—which are so conspicuous in vascular wards.

There are malignant effects as nicotine passes through the body. Tar flows through blood and the incidence of leukaemia is greatly increased. Principally, the tar passes from the body in urine but it also comes out in all secretions. We can smell smokers because tar is coming out in their perspiration. There is an increased incidence of cancer of the breast because tar comes out in breast milk. There is an increase in cancer of the pancreas because tar comes out in intestinal secretions. There is increased incidence of cancer of the cervix because tar comes out in cervical secretions. There is an increased incidence of cancer of the urinary tract and bladder because tar comes out in urine. There is an increased incidence of cancer of the prostate because tar comes out in prostatic secretions. There is a huge range of diseases: input cancers, going around cancers, arterial effects and output cancers, if I could put it that way. If one were to ask in relation to a particular disease whether one would more likely contract the disease if one were a smoker, generally the answer would be yes.

When I joined the non-smokers movement, which I think was in 1981, I met Brian McBride. We used to hold meetings. The members of the movement were almost his cheer squad. He used to write numerous letters. I remember one time reading one of the letters and saying, "They are going to do something in September, are they?" He said, "We are just refiling the old letters. That one is 10 years old." When you write to politicians you get fobbed off with promises that a committee will inquire into your problem, and the years go by. Promises from politicians are not worth the paper they are written on.

When I was holding forth about this very thing at a party while I was working at Royal North Shore Hospital I recall a chap, Stuart White, saying, "That sounds like a very Liberal opinion." I said, "I don't know about Liberal." He said, "Yes, we are a broad church. Why don't you join the Liberal Party and get something done?" I said, "I might as well do something. I had better go and tell the politicians." All I can say is the Liberal Party was of no use. I recall saying to one old fellow, "Do you know that smoking causes \$6 billion worth of damage to the Australian economy?" He said, "Yes, but they gave us \$30,000 last year." I said, "That is only \$30,000; smoking is causing \$6 billion worth of damage to the Australian economy." He said, "Yes, but that is our \$30,000." I said, "Is \$30,000 the going price of the Liberal Party?" He said, "You won't get anywhere with an attitude like that, sonny." He was right; I did not get anywhere in the Liberal Party. I spoke to John Fahey when he was Minister for Industrial Relations and asked him to do something about smoking. Interestingly, he did nothing about smoking, at either a policy or a personal level. Of course, we know what effect smoking had on Mr Fahey.

I made one fatal mistake, and it was probably the worst mistake I will ever make in politics: I took Fred Cole from BUGA UP to the Young Liberals conference. Unfortunately, I let Fred become the after-hours speaker. Fred was a sort of a hippie in his approach, and was not the best spokesperson. Nick Greiner, who was at the conference, formed the impression that people who were against smoking were hippies, and he went on to

do immense harm with British American Tobacco. I joined the Australian Democrats because it was the only party at the time that did not take tobacco money and had a sensible tobacco policy. It took me some years to do that.

After 1960, tobacco became a political battle. The medical system's way of treating tobacco-caused disease is almost foolish in the sense that there does not have to be any tobacco-caused diseases. We have the cure: Stop smoking! We cannot cure the disease at the end stage, but we can spend a fortune on it. Tobacco is fundamentally a political problem, but the political system does not want to know about it. The medical profession is cleaning up, in an inefficient, expensive and not very successful way, a problem that should have been solved by the political system acting in the interests of constituents.

The system should have taken on the tobacco industry and the riffraff of the clubs and pubs industry who support the tobacco industry. Politicians should have taken them on in the interests of stopping disease and public health. If vested interests will not do the right thing for the good of the public, it behoves those who supposedly represent the people to take the necessary action. Bob Carr, in his overweening vanity, has claimed credit for things he has not done. He has been extremely slow in getting to this point. I congratulate Mr Frank Sartor because he is the only Government member who has had the guts to put this issue on the table and drive it through. It is no credit to this Government; it is a credit to Frank Sartor.

As I said, the research was done slowly and with difficulty because, of course, the exact ingredients were not known. The industry has always kept them secret. The research was done again when the industry decided it would co-operate. As long as there were no regulations, they would do the research again. It was revealed at the World Conference on Tobacco or Health in Chicago in August 2000 that the tobacco companies had known in the 1960s what was rediscovered by reputable researchers in the 1980s.

The tobacco industry documents were obtained through the American legal discovery process. An eminent scientist on the stage at the plenary session was asked how he felt about spending his working life researching a question that had already been researched and the answer to which had been documented years before he started his work. He looked extremely deflated and gave a dispirited answer. He knew he had inadvertently been part of the process of the tobacco industry duping the public and delaying so that those responsible could avoid taking the action that they should have taken 20 years previously.

If they had looked at the donut and not the hole, if they had looked at the existing research data rather than pursued tiny bits of data they did not have, they could have come to that conclusion. If they had had access to the tobacco industry data, the answer would have been evident. That is how we have reached this point. Delaying the ban until the middle of 2007 is another part of that process, and some of my amendments are designed to expedite change.

I suggest a tobacco control policy with five elements. The first element is price. People generally care far more about their money than about their health. We assume that a cut will heal, and that evil things will not happen to us. The second element is a smoke-free environment that sets non-smoking as the social norm. The third element is education. People should know about the harmful effects of tobacco. The fourth element is a ban on marketing. We must stop the tobacco industry telling lies. That goes further than advertising; it also involves marketing, which is a broader concept. Of course, any measure must be constantly assessed to ensure that it is effective, because there are different ways to impart a message.

The tobacco companies initially used advertising and then they used the sponsorship loophole, which was good for another 12 years. They are now using various other techniques involving peer groups and paying peer role models to smoke at bars and so on. The fifth element of the policy is to prosecute tobacco executives. Some have suggested that special laws should be enacted to allow the prosecution of tobacco executives. In the early 1980s BUGA UP said we did not need special laws because the executives could be prosecuted under the Trade Practices Act. We could simply ask whether they had sold goods they knew to be inherently faulty, and the answer would have to be Yes! Yes! Yes!

The law is adequate if we have the courage to prosecute the guilty. It is sad that we have one law for the rich and one for the poor. All the penalties we legislate in this place relate to crimes committed by the poor. If someone were to kill one person, he would go to gaol for a long time. However, someone who produces something that kills thousands is given an export award. It is not good enough. The parallel with asbestos is patently obvious. It is interesting that we are talking about introducing legislation dealing with asbestos but nothing is being done about tobacco.

In 1983, Seattle Professor William Weis examined the price sensitivity of tobacco. He found that a 10 per cent rise in the price of tobacco produced a 4.5 per cent fall in adult tobacco consumption, and a far

greater fall in children's tobacco consumption. There was a 24 per cent fall in children's consumption and about a 22 per cent fall in uptake. Therefore, a 10 per cent price rise produced a 45 per cent increase in the consumption of tobacco by children.

A price rise was obviously a positive move. David Sweanor of the Canadian Non-Smokers' Rights Association pointed this out to me in 1983. In 1984 I obtained the material he produced for the Canadian Government and lodged a submission. I then arranged for the Australian Council on Smoking and Health and the Anti-Cancer Council of Victoria to make submissions in 1984, 1985 and 1986. Of course, at that stage the excise component of the price of tobacco in Australia was only about 50 per cent. Denmark was displaying world's best practice with an 86 per cent excise. We have managed to get it to about 80 per cent over the years. "Ashes to Ashes: America's Hundred-Year Cigarette War, the Public Health, and the Unabashed Triumph of Philip Morris" by Richard Kluger states:

Seattle University economist William L. Weis reported in 1983 that smokers devoted 6 percent of their workday to the ritual, took 50 percent more sick days, and made 50 percent greater use of the health-care system than non-smokers. If they hired only the latter instead, Weis added, employers would shave their personnel costs by 20 percent, their insurance premiums by 30 percent, their office maintenance by 50 percent, and their disability outlays by 70 percent, for a claimed total savings of as much as \$4,600 per worker per year.

A similar study of 42,000 households by the United States Public Health Service showed that smokers lost 27 per cent more work hours than non-smokers. It is certainly a general rule that smokers take more sick leave than non-smokers. Warren Buffett, the famous investment guru, knows a dollar when he sees one. He commented:

I'll tell you why I like the cigarette business. It costs a penny to make. Sell it for a dollar. It's addictive. And there's a fantastic brand loyalty.

It is obvious that the relationship between money and tobacco has always been very strong. The history of the BUGA UP group has never been appropriately recorded, so I will do so now. Bill Snow, Rick Bolzan and Geoff Coleman came up with the name in 1978. It may have been Bill Snow and Rick Bolzan who painted the first billboards. Bill had a friend who was sick—thanks to tobacco—and when he drove past a billboard advertising Marlboro cigarettes at White Bay he was offended that tobacco companies were pushing a product that was obviously so harmful. He wrote the word "cancer" across it.

Some time later the three men got together and decided to sell the concept of satirising the tobacco industry on its billboards, which were ubiquitous at the time. They wanted a concept that was naughty and satirical and would capture the Australian idea of standing up to evil bullyboys. Billboard Utilising Graffitiists Against Unhealthy Promotions was born and they signed their work BUGA UP. On the occasional blank billboard they wrote the acronym and the expansion so that people would know the reason for the campaign.

BUGA UP was an unstructured organisation. I hesitate to use the word "anarchist" because that means "communist", "anti-capitalist" and is against everything we all stand for—property rights and so on. However, it had no hierarchical structure. One must make a personal decision to spray paint on a billboard, because it is an illegal act. One cannot be ordered to do that because that would constitute criminal conspiracy, and people are not willing to commit a crime for which there is no personal benefit unless they have searched their soul. BUGA UP was seen as an anti-smoking group, but it was not; its members were against the concept of tobacco advertising.

Some of us were anti-smoking—there is no doubt about that—and some were not. In a sense, there were two factions: the conservative faction, which thought it would just get rid of tobacco advertising and then relax; and the other faction—the more progressive faction perhaps—which was more prescient and wanted more responsibility in advertising. It said that if an industry has so much power over people's behaviour that it can get people to do something as totally irrational as to light something and suck the smoke into their lungs, it needs to be regulated with some degree of social responsibility.

Around that time the advertising industry, which was getting some criticism for tobacco advertising, worked out self-regulatory codes, which were various degrees of farce, and there was a lot of debate about that. A book called *Advertising Regulation* was written by Blakeney and Barnes from the University of New South Wales. I was there with the non-smokers movement writing letters to the Ministers, and I was getting fatuous, ridiculous fobbing-off replies. The Government was clearly going to do nothing. I had been in the Liberal Party, and it was clearly going to do nothing. The Labor Party was not doing any better. Both parties were on the take from the tobacco industry, and I could see that the only people who were making a difference were the people from BUGA UP.

So for me it was an easy choice: was I going to be a wimp who made a lot of money out of cardiac surgery or would I go and help the people who were actually doing some good? It was not really a matter of personal courage, it was a matter of my being too cowardly to do nothing. I could not have lived with my conscience if I had done nothing, so I started spraying billboards, for which I was eventually arrested. Being arrested did some good, in the sense that doctors being arrested for being a part of BUGA UP gave the campaign far more publicity because it could not really be said that we were total riffraff who could not get a job—which of course was, and still is, the standard putdown line against anybody trying to change anything in any sort of illegal fashion.

The Australian Consumers Association tried to take on the advertising regulatory system in the Trade Practices Tribunal and it nearly went broke in the endeavour; it got almost no publicity in the mainstream media, which is incredible considering the significance the case had. Interestingly, because the Australian Consumers Association could not suggest an industry-supported advertising regulation scheme which was self funding, it failed; and the advertising regulation system as it was—which was something of a farce—succeeded because it was better than nothing. Some people argue that it was not better than nothing because they were paying some percentage of their revenues into this so-called regulatory system. Eventually, when the political pressure came off, that whole regulatory system was simply abolished at the stroke of a pen—barely noticed some years later.

Because BUGA UP raised the profile of tobacco advertising and how monstrous it was, advertising bans were attempted by the South Australian Government in 1982 and by the Western Australian Government, more conspicuously, in 1983. The sports lobby stopped this. There was the threat that there would be no sport on weekends if there was no tobacco money to sponsor it, and the sports lobby—which was, of course, addicted to the tobacco money—lobbied against that, and the Western Australian bill was defeated.

The answer was to impose an extra tobacco tax, which we had discovered was a good thing because it increased the price, and the Victorian Tobacco Act added an extra excise to the cost of cigarettes in Victoria and used some of the money to replace the sponsorships, some for health promotion, and some to pay to little clubs and groups, particularly the ethnic clubs that had been taking tobacco money to try to lessen the amount of smoking in ethnic groups. The tobacco industry managed to stop this very successful model from spreading to New South Wales, Queensland and the Northern Territory. They said to Treasury, "Hey, you don't like hypothecated money, do you? You don't like taxes being specifically allocated to health promotion when you have lots of other things you would like to use it for."

Interestingly, the model was picked up by the Californians; they recognised that it was the best model in the world. They have done immensely good and innovative things with their advertising and now they have the greatest decrease in tobacco use in the world. Dileep Bal was the fellow who ran that model, and he delivered a very impressive paper at the World Conference on Tobacco and Health in Paris in 1994. He had assumed that because he did some really progressive anti-tobacco advertising he would lose his job at the end of his term, which I think was two years. He thought he may as well go down in a blaze of glory and run some really good advertisements. He did that and there was a dramatic decline in smoking in California, so dramatic that his contract was renewed. He came to Australia basically because I had urged some of the people here to bring him out as a spokesperson. I will tell about that a little later.

From 1982 I was spraying billboards and I was arrested for that early in 1983. I went to the World Conference on Tobacco and Health in Winnipeg, Canada, in 1983 and BUGA UP was seen there as the most innovative tobacco control initiative in the world. Australia was riding high as the number one country in the world for tobacco control. I cannot remember from exactly when, but from about 1984 to 1998 I edited the non-smokers movement magazine, which was initially called the *Clean Air Clarion* and later became the *Non-smokers News*. I ran a radio program, initially with Freddie Cole, at 2SERFM, from 1983 to 1997. *Puff Off* was modestly called Australia's leading radio program on smoking; it was the only radio program in the world dedicated to the politics of smoking. But I did not want to make extravagant claims. I had hopes that there would be other smoking and health radio programs in Australia that I could be better than, but that never eventuated either.

The main driver of tobacco control in America was the tort law relating to non-smokers being exposed to tobacco smoke. The main driver in Australia, I believe, was a small group of activists centred around BUGA UP but, at the same time, there were some people who had sued, particularly under workers compensation legislation, and the first of these was Roy Bishop, who in about 1983 sued the Surveyor General and the Commonwealth of Australia for his exposure to passive smoking in the workplace in Canberra. He eventually won a minor victory in 1985 and was supposedly given a smoke-free workplace; in practice he was sent to Coventry. He sued the Surveyor General again and won another settlement, I think in 1987.

The other highly significant legal case here was *Leisel Scholom v New South Wales Department of Health*. Leisel Scholom was a psychologist with the New South Wales Department Of Health and she was exposed to an immense amount of smoke because psychiatric patients, of course, have a very high incidence of smoking. She was sensitive to smoke and she tried to get a smoke-free workplace—which theoretically she had but which, in practice, she did not have—and she eventually went on to develop emphysema. She sued the Department of Health. The department could hardly argue that it did not know that smoking was harmful, and she won the first victory in a common law court in the world on the basis of passive smoking.

It has been a fight the whole way. In 1991 we had got rid of tobacco advertising for many years but Winfield had got into bed with the New South Wales Rugby League and were expanding their activities immensely in tobacco sponsorship—that is where a body accepts tobacco sponsorship in such a way that the tobacco industry supposedly sponsors that body when in reality it is advertising its product. That body effectively prostitutes itself to the tobacco industry to allow that advertising. The only difference between sponsorship and advertising is who gets paid.

The non-smokers movement tried to take on Channel 10, but it was found that an association could not lay a charge, so Brian McBride—the hero from the buses—sued Channel 10 over the Winfield Cup sponsorship. I think it was the 1988 Winfield Cup, but I could be wrong. At that time the Winfield spectacular consisted of a huge Winfield flag carried by men and women who also carried an Australian flag as they played the Winfield theme—the Tchaikovsky piece of music, which became known as the Winfield theme—and someone in a helicopter took a photograph of the whole spectacle. Unfortunately, the lawyer defending Channel 10 was Jim Spiegelman. Since that case I have been unable to think about the man with warmth.

There were complaints about the painting under the goalposts and on the A-frames on each side. We put the case that the entire football match was an advertisement because there was practically no time during the entire game that the Winfield A-frames along the side or the perimeter fences, or the goalposts, were not visible. He said, "No, an advertisement must be very short. Which bit do you want?" We chose the Winfield spectacular to give us victory, because one could hardly say it was incidental or accidental exposure of the cigarette brand name. The audience could scarcely see the helicopter shot. We won the case. Interestingly, it cost about \$1 million and was in the courts for nearly five years.

We laid the information in the Local Court, and it went to the District Court to be judged by a jury of four. Then it went to the Supreme Court, where the decision was overturned. The lawyer had shown the jury a cigarette packet, which no doubt had, according to him, impaired their judgment! Presumably they could not understand what they had seen! The matter then went to the High Court, where the Supreme Court decision was overturned and the jury's verdict was upheld. The whole process took about five years. Channel 10 was fined \$10,000, which was less than it had cost us to lay the information five years previously. If you think the law gives justice, think again! Justice delivered the right decision in the end, but the delay gave the tobacco industry more years in which to advertise in Australia.

The disunity of the tobacco and health lobbyists was extremely depressing. Many egos were involved. The public servants who worked in the public health area could not complain because they would lose their jobs. So the best of them were, in a sense, condemned to stay at a fairly low level or remain silent. Some people were good activists but they could not do anything. The treatment lobby, which was the entire health system, was large, and its lack of effectiveness was unbelievably depressing. If ever the story is written by the tobacco lobby it will not make pleasant reading. It would include a chapter called something like "Naïve health lobby defeated easily—another 25 years of sales achieved." One could expect similar headlines.

We tried to raise the issue in Australia. For some years I used to wake up each morning and wonder how I could get tobacco on the front page. I used to have great contempt for people working in the health area because they used to say, "We haven't got any resources." I said, "Have you got a phone? Have you got a library? Have you got a brain?" That is all one really needs to get publicity for a good cause. Find an issue, repackage it for one's local audience, and put it out there. But they all said, "There's nothing we can do." It was extraordinarily effete. Perhaps they could have invented a name. Indeed, BUGA UP invented a name. When it needed an expert to say something, it simply opened the phone book, put a finger on any name, and used that name. We made more accurate health claims than the tobacco industry, whose claims were nonsense. Indeed, some of the industry's secret documents have been found to refer to the success of bogus experts travelling around the world.

While we were successful with workers compensation suits, they were mainly made by public servants because they were the only people secure enough in their jobs to sue their employer over passive smoking. We

spent 20 years trying to find a plaintiff from the hospitality industry who would sue their employer. Hospitality workers were all too scared of losing their jobs. They were dying of tobacco-caused diseases and being exposed to massive doses of tobacco smoke, but they were too scared to sue. That was until the case of the woman, Marlene Sharp, who developed cancer of the larynx from working at Port Kembla RSL and the Port Kembla Hotel. That happened years later, in 2001. It simply shows the security, or lack thereof, of jobs in certain industries in Australia.

The Department of Health had rotating staff. The section dealing with tobacco control would often rotate managers, who would use the same old boring and unsuccessful techniques. And the Government could then say, "We've spent some money on this. We've done something completely unimaginative." It was as if the tobacco control section was a management training unit for people who were, hopefully, on the way up in the health system. Australia had a brief flowering in the Quit for Life campaign in the early 1980s, which was piloted on the North Coast. Indeed, it was world's best practice at that time. That died, perhaps because the Quit for Life campaign was successful.

The Victorian Anti-Cancer Council, under Nigel Gray, managed to get expenditure for tobacco control and made its own advertisements. At one stage in the 1970s it spent 15 per cent of its budget on anti-smoking advertisements. But these were isolated events. Mostly, the cancer council is a research-funding exercise. Although tobacco causes about one-third of all cancers, the cancer council expends only a tiny fraction of its funding on fighting tobacco. If the cancer council's job is to cut the incidence of cancer, we would assume it would allocate funds to where it would get the most cancer reduction per dollar—which for about 40 years has been the fight against tobacco. Why does the Cancer Council not do that? I believe that generally it is captive to the research community, and it gives money to cancer research rather than bring research to fruition in terms of public policy. That is sad. If the Cancer Council wants to get bang for its buck, that is what it should be doing.

That very same lack of application led Garfield Mahood, who ran the Non-Smokers' Rights Association in Canada, to attack the Canadian Cancer Society strongly, charging it with not doing enough—and I charge cancer councils generally with not doing enough. Certainly, that significantly changed the behaviour of the Canadian Cancer Society and, needless to say, it caused a considerable ruckus in the tobacco and health forces.

Some 25 per cent of heart disease is caused by tobacco but, sadly, the Heart Foundation is mainly interested in blood pressure and lipids. I do not believe that the Heart Foundation has pulled its weight in terms of tobacco control. Australia has lost its lead in tobacco control. We know that Ireland has gone smoke free, and Norway and many other countries are leading Australia in this regard. The venality of the pub and club industries has been set back even further because smokers drink more than non-smokers and gamblers gamble much more than non-smokers. The gambling lobby knows that gamblers stop gambling while they go outside to smoke. It has psychology reports on the danger of reduced gambling revenue when people stop smoking because clubs and pubs have smoke-free indoor areas.

Recently I saw a paper from a consultant psychologist on how to keep people gambling if non-smoking regulations are introduced. The gambling lobby is concerned about this. Delaying the introduction of smoke-free pubs and clubs until 2007 will mean that the gambling lobby, and indeed the Government, will give the maintenance of gambling profits a higher priority than people's health—47 years after smoking was shown to cause lung cancer.

The implementation of smoke-free areas has been desultory. I note that the person in WorkCover who was active in implementing smoke-free areas has been transferred, which is odd to say the least. Indeed, when the Smoke-Free Environment Act was enacted with great fanfare—it was significant legislation in 2000—clubs and pubs had 12 months in which to go smoke free or the legislation would be imposed on them. However, four years down the track that still has not happened.

Last year we had the pathetic—indeed, it was disgraceful—"Share the Air" campaign. The idea that we can share the air was rejected in the 1980s. It is like having a swimming pool with a urinating end and a non-urinating end, and expecting non-uriners to swim up the other end. Fluids have flows, and similarly it is ridiculous to talk about smoke-free areas. We should be talking about smoke-free volumes. The Share the Air concept, which means we all share the smoke, is absurd. It is disgraceful that since 2000 the health department has issued leaflets on the Share the Air campaign. It simply shows the power of the tobacco lobby and its proxies, the hotel industry, on these committees. Why we put these people on these committees when we know that their only objective is to delay progress I do not know. It is a question of whether the Government has the courage to do the right thing or it does not. The fact that it does not, despite the overwhelming public support for

a number of years, is a sad indictment of the political process. Never has so much information on a subject been assembled for so little political effect.

Despite the Government's general lack of interest and lack of implementation, because of massive public support smoke-free areas are to a large extent self-policing. What will happen in the future? There has to be some concern that the Carr Government has allowed the bill to be possibly reversed. The fact that the final cut-off date is not until after the next election is very worrying. I think that the Carr Government will fall because of its poor financial policies in terms of the maintenance of public infrastructure. The question then is whether the Liberals will water the legislation down or simply not implement it. It would be nice to hear from the Liberals that they intend to strengthen the bill or bring forward its implementation. But talk is cheap in all of this. Perhaps Mr Carr thinks that if he does not bring it in before the election any hassles that might happen will not have happened before the election and he will still get the money from the clubs and pubs lobby.

The Hon. Don Harwin: He will not be here in 2007.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: That may be so. If the Government wants to know what to do perhaps it should be guided by the Bal editorial. As I said, the expert from California who wrote an editorial in the *Medical Journal of Australia* came over to speak to Craig Knowles. He spoke to the media before he spoke to Craig Knowles and Craig Knowles refused to see him, which was a very foolish decision. Bal pointed out in his editorial that between 1998 and 2001 United States tobacco consumption fell by 34 per cent. In California, which had spent a large amount on tobacco control advertisements, it fell by 60 per cent—almost double the national average. Between 1988 and 1997 the prevalence of smoking in young people had fallen from 11.2 per cent to 5.9 per cent, a 47 per cent fall, which was far in excess of what had been achieved in the rest of America. California had spent \$1US billion over five years in tobacco control.

New South Wales in 2001 spent less than \$2 million. Bal recommended that \$50 million per year as a minimum be spent on quit campaigns in New South Wales. Having a New South Wales surgeon-general would be money well spent. In the United States the Surgeon-General is highly prestigious but has a relatively small office in terms of resources. The United States Surgeon-General looks at the overall health status of the United States and what needs to be done. In practical terms it is a lobby for public health. Again, it looks at the overall picture of health in the country. In a sense it is a small factor lobbying for prevention against treatment-based individual services, which are a bottomless pit. This could be a modestly funded post—perhaps associated with the school of public health—and have a much better effect on resources provision within the health system by looking at disease patterns from year to year and depoliticising such initiatives.

Quit programs are extremely important. They need to be in the media, as suggested by Bal, but personal quit programs have a huge potential and have been used in the United Kingdom. I spent 10 years at Sydney Water, and I was asked to do something about asbestos and other hazards. I said, "The work force here is ageing. It is getting a lot of tobacco-caused disease. Tobacco is causing far more disease than any other single factor in Sydney Water." I was a voice in the wilderness for some time but I finally managed to achieve some success because the antidiscrimination laws said that people could not be made to retire on the grounds of age. The ageing work force was somewhat unfit so we introduced a regime of fitness testing.

Part of that regime was counselling in alcohol and tobacco use to try to get a fitter work force, which included going smoke free, which it was claimed we could not do. But by taking a personal interest in the people, testing them all individually, counselling them individually and then having sessions based in every workplace we got a very high quit rate and a huge cut in the consumption of tobacco in the blue-collar work force in Sydney Water. I am very proud of that work and I think a good number of lives were saved by it. In one case a man stepping up and down on a box got a sore bottom. We discovered that was buttock claudication and he had an aortic bypass. His condition would never have been picked up had he not had that fitness test at work. We were able to conduct the tests for \$40 a head in the tearooms. That is the model that ought to be used for quit programs in a workplace-based situation.

Another patient I saw was an overweight man with bad lung function and very high blood pressure who smoked 50 cigarettes a day. I rang St Vincent's Hospital and said, "I have a man here who is at very high risk of a heart attack. He has all these symptoms. What can you do?" The response was, "Book him in. Which bed is he in?" I said, "He is not in a bed yet. He has not had his heart attack yet." The reply was, "Oh, we cannot admit him if he has not had his heart attack. When he has it give us a call and we will do everything possible." It says a lot about the way health resources are allocated in terms of quitting. Mind you, it took an awful lot of talking even to get the man to agree to quit. There were no facilities that I could send him to for ongoing counselling

and for the exercise program he needed. We could have saved that man's life. I do not know whether he is still alive but he was at very high risk.

I have circulated some amendments to the bill. I believe it must be implemented much more quickly, before 2007. In the Roper report of 1978, which I quoted earlier, the tobacco industry said that it expected the whole world to go smoke free by the mid-1980s. The tobacco industry must be laughing: it has got 20 years since then and it looks like getting more than 20 years. Yet people are claiming that the legislation has been rushed and there has not been time for discussion. Their answer is to talk forever. They do not care about the people who die. Because of the extra delay from the end of this year to the middle of 2007 the number of tobacco-caused deaths in New South Wales, at 13 people a day, will be 11,800. In that time the tobacco industry will succeed in hooking plenty more people. Its main means of hooking kids is to wait until they go to the discos. As people grow up they are allowed to drink, smoke and have sex. Drinking and smoking are part of the growing up ritual. Role models are paid to smoke and encourage people to smoke in these venues. This is having an immense effect on the next generation. It is tragic but history shows that it is always people in the 20 to 24 age group who have the highest smoking rates. If the younger ones are still the ones smoking it must mean that they have been recently recruited. Later they have their own personal struggle as they try to quit. There should be faster implementation of the bill; 2007 reflects a very slow pace, an apologetic pace, and shows the lack of leadership and courage of the Carr Government.

Local councils should be given the opportunity to introduce the requirements more quickly. In the United States one of the first councils that went smoke free was a tiny little town in the middle of nowhere in California. Little towns have councils that are not affected by the tobacco industry. The bigger the government the more big lobbies can affect them; the smaller the government the less. All the small towns in the United States went smoke free first, then the cities started to fall and the States fell later. Some years ago Ted Mack tried to control advertising through North Sydney Council. Philip Morris or one of the other tobacco companies took North Sydney Council to court and he was stopped. In a survey carried out at the time of a North Sydney Council election in 1991 about 72 per cent of people wanted smoke-free restaurants but the industry would not allow that to be introduced through local government. If local councils could introduce smoke-free areas—the tobacco lobby is less powerful in councils—we could get action.

My amendment suggests that legislation should form the bottom line, but that local councils have the power to move more quickly if they so wish. The entertainment industry has held the view that turnover will decline if smokers no longer visit pubs. Statistics show the opposite. Ms Sylvia Hale quoted some extremely good statistics, which demonstrate that the main reason people do not go to restaurants and bars is that they cannot afford it and, second, that they do not like the smoke. Many non-smokers would again frequent those places if they did not have to put up with smoke. I believe they would exceed the number of smokers who would leave, although many have become used to smoking outside.

Smoke-free environments have led to a reduction in the level of smoking. The Federal public service went smoke free in 1987 in response to the Roy Bishop case—again workers compensation law influenced the then head of the public service, Peter Wilenski, who later became the Australian Ambassador to the United Nations. An examination by Borland, Chapman and others, of the number of cigarettes smoked both before and after the introduction of the smoke-free policy in the Australian Federal Public Service showed up to a 25 per cent decrease in consumption by heavy smokers during work hours and resulted in a large number of smokers quitting. Introduction of the legislation will mean that fewer smokers will smoke and the remainder will smoke outside.

Gambling problems have increased because gambling has become the financial mainstay of our pubs and clubs, far more than alcohol sales, and that is more sensitive to cigarettes. The excellent work undertaken with respect to the Crown Casino in Victoria should be replicated at the national level. The money saved from these smoke-free initiatives will far exceed any money that a few Asians put into casinos. Another amendment seeks to tighten the definition of "outdoor space". Some weeks ago I ate at a restaurant in Leichhardt, delighting in the fact that even in that locality restaurants are smoke free. We were given a table in what was supposedly a smoke-free courtyard area, which had a roof. It was between two terrace houses, so it had walls on three sides. The fourth, and supposedly open, side had a solid railing and a large window, which was closed by a blind that totally restricted air flow. Nearby at a large table of 35 to 40 people, three or four people lit up, but the restaurateur said they were permitted to do so because the area was regarded as outside space.

Certain people have sought to make the definition of "outside space" elastic. Indeed, the group that is defining the term in the Australian Capital Territory has had some pretty weird definitions. Basically, any area that is substantially enclosed and that restricts airflow should be defined as indoor space. For example, the pub

at Woolwich has glass walls on all sides, with overlapping umbrellas that effectively form a roof. It is extremely unpleasant when people smoke in this area because it is effectively a closed area. We must be very careful about definitions because elements within the tobacco industry, and probably the hotel industry, will try to redefine the word "outdoors" to circumvent the legislation, as they have sought to do with every smoking control measure since 1950. They will not stop now, and it is up to the Government to show some spine.

I congratulate Frank Sartor. I do not congratulate the Carr Government because it has been very desultory. However, I believe the bill does not go far enough. Australia should lead the world. In the early 1980s we led the way, but we have slipped behind, and it is time that the legislation was tightened. It is being implemented so slowly that the chance of something going wrong is high. Indeed, implementation and enforcement have been so poor that we cannot accept victory as a certainty, although there is a chance. We can say that this is a significant day, but we must be vigilant and tighten up the legislation before it is passed.

The Hon. JOHN TINGLE [4.54 p.m.]: I do not normally feel that banning something is necessarily the solution to a problem. But having been the victim of pointless, counterproductive and discriminatory bans in my sporting life, I still have to say that I think this is different. Although we live in an age of prohibitive legislation, where most of the laws we pass tell somebody they cannot do something, I repeat that I believe this is different. I believe the jury is back on the dangers, particularly to other people, of passive smoking and it is time that we took the sort of action this bill envisages.

I have to say that I have a vested personal interest in this. I have lost to smoking seven people very close to me, including my father. I have had other friends who had very unhappy episodes with lung cancer, cancer of the oesophagus, cancer of the larynx, cancer of the tongue, strokes, heart disease and other disabling events simply because they smoked—and I will not say they smoked too much; I will say simply because they smoked. In discussing this bill the Hon. Robyn Parker said that smoking was a matter of choice, and so it is, in the beginning. But that choice very quickly disappears because nicotine is so addictive. It is not very long before the smoker has no further choice but to keep on smoking.

It gets the smoker in a grip. There is probably nothing we can do—and I think the Hon. Dr Arthur Chesterfield-Evans has suggested this—to help the addicts give it up because they are in the grip of it and they are powerless. They, of course, cannot do very much to help themselves. However, I believe we can do something to try to protect other people who may inhale passive smoke or people who are at the stage of starting to smoke. Maybe we can even dissuade people who still have enough willpower to be able to give it up. But that is not the main factor.

The main factor is that we have to protect the general, non-smoking society from the inroads of the smoke they inhale and which is imposed upon them. I must say that I have a great deal of sympathy with the feeling of the Hon. Dr Arthur Chesterfield-Evans that this is still moving too slowly. I wonder how many people will be adversely affected, how many people will die and how many people will take up the dreaded weed before we bring this law in. I believe we need to move swiftly and decisively. I believe this bill addresses all those issues and I support it.

The Hon. JON JENKINS [4.57 p.m.]: I speak very briefly on this bill. When I was a young man I was in a motor vehicle accident, and most honourable members can see the result of that. During my 18-month stay in hospital—I was obviously very badly injured—I became addicted to morphine as a painkiller. For those of you who do not know, morphine is just heroin. It is the medical name for heroin.

The Hon. Dr Arthur Chesterfield-Evans: No, it is not.

The Hon. JON JENKINS: It works on the same opiate receptors; it is addictive to an equivalent degree. During my recovery period I took up smoking also. In terms of addiction there is no equivalence between the two. Nicotine is far more addictive than an opiate. People who smoke are the real victims. They are the ones who are addicted to an extraordinarily powerful drug. As well as all these punishments, restrictions and other efforts to encourage people to effectively give up smoking permanently, I believe some measure should be included in the legislation to help them because they are the real victims.

The Hon. Dr PETER WONG [4.58 p.m.]: First, I agree with the Hon. Dr Arthur Chesterfield-Evans that heroin is not morphine. Heroin is much more addictive than morphine. I strongly support the Smoke-free Environment Amendment Bill, which seeks to amend the Smoke-free Environment Act 2000 in order to phase out smoking in enclosed public places and licensed premises. I want to recap some facts that were referred to by

previous speakers, in particular, the Hon. Dr Arthur Chesterfield-Evans. According to information from the Cancer Council of New South Wales, in 2001, 21.2 per cent of Australian adult males and 18 per cent of Australian women smoked. More importantly, statistics show that the smoking population peaks at 33 per cent for 17-year-old boys and 30 per cent for 17-year-old girls. Medical practitioners and most members would be aware that women are catching up in the tobacco-smoking statistics. That is not good for our society.

As has been stated by many experts, smoking can cause numerous cancers, including cancer of the lung, mouth and pharynx, oesophagus, larynx, bladder, kidney, pancreas, stomach, cervix, vulva, penis and anus. Further, it has severe side effects on the cardiovascular system, causing stroke, emphysema, hypertension, peptic ulcer, eye cataracts, back pain and impotence. Almost any condition you wish to name is on the list. The Cancer Council has highlighted the dangers of passive smoking of both side stream and mainstream smoke. The Commonwealth Government has issued a fact sheet highlighting the danger of smoking in our society. It states:

Smokers don't only put themselves at risk of serious health problems—people around them can also be exposed to much potential danger. The smoke exhaled by someone else or emitted by the tip of a burning cigarette is called environmental tobacco smoke, and breathing it in is known as passive smoking.

The fact sheet continues, in part:

Children of parents who smoke are likely to:

- inhale about the same amount of nicotine as if they were actively smoking 60 to 150 cigarettes a year;
- have more serious lung infections, such as croup, bronchitis and pneumonia;
- have reduced lung function;
- suffer more asthma attacks.

For adults, smoking increases the risk of developing lung cancer and cardiovascular illnesses. In summary, they are the dangers of smoking tobacco and passive smoking. As the Hon. Dr Arthur Chesterfield-Evans said in his contribution, the amendments in the bill should have gone further and with a tighter time frame. Nevertheless, they are a step in the right direction. At the same time, I am concerned that private casino gaming areas will be granted an exemption from the provisions of this bill. I will speak about that exemption later. I congratulate the Cancer Council of New South Wales, in particular, Dr Penman, who has been persistent in bringing about these long and overdue changes. At a meeting with Dr Penman about 12 months ago I suggested that apart from campaigning actively for legislation he should lobby the Minister for Science and Medical Research. I also congratulate the Minister on banning smoking in public places. As a medical practitioner who knows only too well the effects of smoking on people, I am pleased to see the introduction of this legislation.

Independent research has repeatedly affirmed the effects and dangers of passive smoking. For pregnant women who find themselves in an enclosed environment full of smoke, the effect of passive smoking increases the risk of sudden infant death syndrome. According to the Minister, tobacco-related illnesses currently account for 54,000 hospital admissions and cost government an estimated \$180 million dollars per year. Balancing the rights of smokers as opposed to the rights of non-smokers is not as difficult as many would have us believe. True, smokers have the right to light up a cigarette. After all, it is a product they have worked and paid for. However, their right to a cigarette should cease at a time when their actions will be harmful to others.

I commend the phasing out of smoking in bar rooms, gaming machine rooms and recreation rooms in licensed premises between 1 January 2005 and 1 July 2007, with a total ban in place after this time. The implementation of such changes is the first of many initiatives that need to be taken. As costs associated with tobacco-related illnesses continue to increase, it would be wise to invest in a campaign that warns people of the changes and encourages smokers to quit. While we can bring about changes in the law, we cannot expect to change public attitudes without a coherent and constructive campaign that warns of the dangers and costs associated with this addictive habit. By implementing changes that provide for a smoke-free friendly environment, the onus is placed on the smoker to quit. For all the non-smokers and those who support this action, raising awareness of the dangers posed through passive smoking is a responsibility we should all share.

It is not a question of seeking scapegoats, nor should one be seen to impede the individual rights of smokers. As the Hon. John Tingle said, the rights of smokers cease when their actions are deemed harmful to others. In making it more difficult to smoke in public places, I am sure that many smokers will, in the long term, carefully consider the restrictions and the dangers posed and decide smoking no longer warrants the associated risks. While I strongly support the bill, I am concerned that smoking will continue to be permitted in the

so-called high-rollers private casino gaming areas. If the purpose of the bill is to amend Acts that phase out smoking in all enclosed public places, surely we cannot allow, as the Minister put it, a minor exemption for certain sections of the private gaming or high-rollers rooms at Star City Casino. The employees in these so-called high-rollers rooms are entitled to the same smoke-free working environment that every other establishment in New South Wales will provide.

I constantly hear arguments that by banning smoking in these high-rollers gaming areas, or non-public gaming areas, we will encourage the big spenders at our casinos to travel interstate, where they can smoke their cigarettes and puff away on their cigars. By smoking they may alleviate their growing anxieties, but in the process they endanger the wellbeing of card dealers, croupiers and other staff. While I acknowledge that the casino exemption will be reviewed every 12 months, I remind honourable members that we represent the interests of all the people of New South Wales equally. Unless high-rollers gaming areas have a robotic system that can deal cards, handle cash and deliver drinks, I do not believe that such an exemption is warranted. Given the costs associated with smoking, I find it difficult to accept that the benefits reaped from allowing high-rollers gaming areas an exemption outweigh the long-term costs associated with smoking, passive or otherwise.

While speaking against smoking in support of this bill, I want to make a brief comment on marijuana smoking. Marijuana smoking has been proved to be as harmful as tobacco smoking. Apart from the physical ailments it produces, it can do enormous psychological harm, such as causing depression, psychosis and other mental illnesses. Marijuana smoking is seen as a trendy, beneficial and socially acceptable activity. It would be appropriate for the Government, while tightening the tobacco-smoking laws, to prevent the harmful effects of marijuana smoking through education, media campaigns and other means.

Reverend the Hon. Fred Nile: What about medical benefits?

The Hon. Dr PETER WONG: I note the interjection by Reverend the Hon. Fred Nile. As a medical treatment it should be considered in the same way as heroin and opium. Morphine can be used for medical illnesses, especially terminal illnesses. However, it must be administered under strict control. Marijuana has some definite beneficial effects in the treatment of nausea and the relief of pain. But it is debatable how beneficial it is. It is seen as a recreational and social drug. I do not believe any member of the House, especially those who are healthy, holistic human beings, should advocate the banning of tobacco and support the smoking of marijuana. I commend the bill to the House.

Reverend the Hon. Dr GORDON MOYES [5.09 p.m.]: I acknowledge the rather expert contributions of our doctors—Dr Wong, Dr Jenkins and Dr Chesterfield-Evans. What can a mere Doctor of Divinity, Doctor of Laws and Doctor of Literature say in the light of all that expert evidence? I acknowledge the lifelong work of the Hon. Dr Arthur Chesterfield-Evans and Reverend the Hon. Fred Nile. The Hon. Dr Arthur Chesterfield-Evans' speech, I believe, was his magnum opus on this subject, and I was pleased to be in attendance to hear it and that it has been recorded for posterity. I remember interviewing the Hon. Dr Arthur Chesterfield-Evans about the work of BUGA UP in the early 1980s on my 2GB radio program. I believed that BUGA UP was drawing the attention of the public to a very important issue.

The Smoke-free Environment Act prohibits smoking in an enclosed public place but contains certain exemptions in relation to a hotel, club, nightclub or casino. The purpose of the bill is to phase out those exemptions by 1 July 2007. There have already been a number of references to what effect that will have on the number of deaths caused by tobacco. Depending on what evidence one accepts, there are either 12, 13 or 14 deaths every single day as a result of tobacco-related diseases, and the Government is proposing that for the next 950 days we turn a blind eye to such. Therefore, 14,000 dead people is the cost of this legislation. The Greens and the Australian Democrats have both foreshadowed amendments to bring forward that date, and I will be very happy to support those amendments.

Smoking will continue to be permitted in private gaming rooms of casinos after that date, but this exemption will be regularly reviewed by the Minister for Health. As though that might improve the situation! The exemption safeguards the casino's income and the payment of levies to the Government but it does nothing to safeguard the health of workers who have to work in smoke-filled environments. Casino workers now know what their lives and suffering are worth. Their lives, and the suffering that might be caused by passive smoking, is the amount of the levy paid to the Government by the casino! I commend this bill in general terms save for the provisions that deal with the removal of the right of a person to be compensated by the Crown for any loss that a person may have suffered by the matters specified in proposed section 21A and the casino exemption provisions. I will deal with my concerns about the compensation provisions later. In his second reading speech the Minister stated:

Several compelling reasons shape the decision to bring in further smoking bans ... A plethora of eminent research bodies and health bodies have affirmed that passive smoking causes harm ... There have been 20 successful Australian prosecutions for passive smoking in the workplace.

Some of these were referred to by my colleague Reverend the Hon. Fred Nile in his speech, which outlined the battle he has had for more than 20 years to restrict smoking in public places. The Minister continued:

Tobacco-related illnesses account for 54,000 hospital admissions annually at a cost of \$180 million per annum or \$500,000 per day ...

The initiatives in the bill will serve to curb the adverse health effects suffered by many people who work in areas where people frequently smoke. They will also be a welcome relief to those who frequent areas where people habitually smoke. I welcome those initiatives, although I remain deeply concerned for those who must continue to work in smoke-filled casinos. The health effects of active smoking are well documented. Passive smoking is a phenomenon that has been closely considered as a source of adverse health effects arguably only in the past decade or so. For example, in 1986, the National Health and Medical Research Council examined the issue of passive smoking and found sufficient evidence of an adverse effect on health to recommend that policies and practices be introduced to reduce exposure to passive smoking. This bill is 20 years after that report. This report is one of the many well-resourced reports on passive smoking published in the past couple of decades.

A report entitled "The Health Effects of Passive Smoking", which was published by the council in 1997—10 years after the report I just referred to—found that "the scientific evidence reviewed has found positive associations between passive smoking and the following diseases: asthma in children, lower respiratory illnesses and, lung cancer, major coronary events and other illnesses." It found also:

On the basis of 48 studies of the relationship between passive smoking and asthma, children exposed to environmental tobacco smoke are estimated to be about 1.4 times as likely to suffer from asthma symptoms as children who are not exposed. Passive smoking also aggravates pre-existing asthma in children. It is estimated that in Australia about 8% of childhood asthma—or 46,500 Australian children—is attributable to passive smoking.

That is mainly from their parents. The report continued:

The effect is most marked in children of mothers who smoke heavily (more than 10 cigarettes/day). It is likely that there is an effect on asthma due to lower levels of smoking but this has not been included in the burden of illness estimates.

The report continued further:

On the basis of 25 studies, it is estimated that the risk of lower respiratory illnesses (such as croup, bronchitis, bronchiolitis and pneumonia) is about 60% higher in children exposed to environmental tobacco smoke during the first eighteen months of life ... In addition, a number of studies have reported a positive association with lower respiratory illness in older children, but the conservative assumption was made that the effect ended at 18 months of age. On this basis, it is estimated that about 13% of lower respiratory illness in Australian children under 18 months of age is due to passive smoking.

This is due to inhaling air from smoking parents. In relation to lung cancer, the report found:

Estimating the risk of lung cancer in people exposed to environmental tobacco smoke is complicated by differences in the way studies have been conducted and what they have measured. On the basis of 34 studies, it is estimated that there is an increase in risk of about 30% in never-smokers who live with a smoker compared with never-smokers living with a non-smoker ...

On the basis of 16 studies, it is estimated that the risk of heart attack or death from coronary heart disease is about 24 per cent higher in never-smokers who live with a smoker compared with unexposed never-smokers. Over many years in my work among prisoners I found that almost all prisoners would light up when I began to talk to them. In my work over many years counselling psychiatric patients I found that people suffering from anxiety, depression, schizophrenia and a whole range of other mental illnesses almost inevitably light up when you start to talk to them. I was constantly exposed to passive smoking. I believe years of this have contributed to two heart attacks and five bypasses I have suffered, given that I am a never-smoker.

The report emphasised that the above estimates of burden of illness relate only to exposure at home and include only illnesses in never-smokers. The scientific proof and evidence on this matter is quite overwhelming. For those reasons we would embrace any moves that will increase the prohibition on smoking in public places. As pronounced by Stan Glatz in the *Independent* in 2001:

I'm a great believer in civil liberties, but I don't believe anyone has the right to poison someone else. A cigarette is a little toxic waste dump on fire.

The bill progressively narrows the exemptions that licensed premises can seek and under which they can operate from 1 January 2005 until 30 June 2007. On 1 July all areas in licensed premises, except casino private gaming areas, are to be smoke free. I note that this date is after the next State election. It seems to be a tacit indication that the Government expects reaction from the casinos, the pubs, the clubs and others, and expects the Coalition will then have to deal with it, when Premier Brogden—or will it be Premier O'Farrell—is in charge.

[Interruption]

It is being denied that it will be Premier O'Farrell. I do not have a vote on that matter, so I cannot say. However, I am a bit of a prophet. I note that the person concerned has definitely lost weight, has shaved off his beard and is looking more handsome and telegenic. That is a true sign of a run for leadership.

Honourable members can be assured that the report that is to be presented on 1 January each year for examination by the Minister for Health will have been written in a haze of smoke. There is also a significant issue relating to the retrospectivity of the compensation provision, which should not be upheld. The bill abrogates the right of a person to be compensated by or on behalf of the Crown for loss arising directly or indirectly from any proposed section 21A matter that occurred before the bill's commencement. Of course, sometimes lung cancer and other forms of cancer take some time to develop. I am also concerned, as the committee has emphasised, that the bill will have the effect of rendering any such claims ineffective. As a result of its concerns, the committee has referred to the Parliament the question of whether the retrospective operation of the bill trespasses unduly on personal rights and liberties.

Reverend the Hon. Fred Nile has made this issue a personal crusade. It has dragged on for 20 years. People say that the clubs, pubs, casinos and other venues must have time to implement the necessary changes. I was recently in Ireland and I read that the Irish pubs, which traditionally have been smoke filled, became no-smoking areas almost overnight. I was interested to see while experiencing the life and music in local pubs in Ireland that no-one smoked. How long does it take to read a sign that reads "No smoking"? The Irish discovered that it can be read quickly.

The Hon. HENRY TSANG [Parliamentary Secretary] [5.26 p.m.], in reply: I thank honourable members for their contributions to the debate and their support of the bill, which is a very significant step in the Government's planned commitment to protect the New South Wales public from the dangers of environmental tobacco smoke. It establishes a phased-in timetable that begins in January 2005 and culminates in smoking bans in all enclosed areas of licensed premises by July 2007.

The Government has taken a collaborative approach to this important public health initiative. In order to maximise compliance with the smoking bans, the hospitality industry has been consulted throughout the development of the bans. The Department of Health has undertaken to work closely and co-operatively with operators to enforce the restrictions, especially in the early stages. Public opinion has also been actively sought, and the results of surveys show that support has been steadily growing as the earlier restrictions have come into effect.

An honourable member asked why we are not implementing the ban immediately. By banning smoking in progressive phases, both industry and patrons have come to accept and understand the benefits of a smoke-free environment. The careful timing of the implementation of the bans has been essential to the process of changing community and industry attitudes to smoking in enclosed public spaces. It has allowed people to accept the changes gradually and has led to a high degree of compliance, even when the bans were voluntary. Since the announcement that the Government was proceeding to total smoking bans in enclosed areas of licensed premises, a great deal of support has been expressed by members of the public. Patrons, entertainers and staff who have experienced discomfort and illness from environmental tobacco smoke have applauded the bans.

The Hon. Robyn Parker asked whether the ban would be bad for business. The answer was supplied by the Hon. Don Harwin. Overseas experience has shown that smoking bans increase the amenity of recreational venues leading to increased patronage and employment opportunities. This is in addition to the enormous public health benefits delivered by decreasing exposure to tobacco smoke.

A question was asked also about the definition of enclosed space. The Government is committed to developing a clear, workable definition of enclosed space. Proposed definitions have already been put forward by Clubs New South Wales and the Australian Hotels Association, supporters of the New Zealand model for

defining outdoor areas, and now by the Australian Democrats. It is important that the definition that is finally settled on has broad support across the industry and from health groups. Should the bill be passed—and I am sure that it will be—it is the Government's intention to begin extensive consultation with peak bodies, design experts, proprietors and health professionals.

An honourable member also asked why high-roller clients of Star City should be exempt. The exemption for the international private gaming area of Star City Casino has been granted to maintain parity with its interstate competitors in Queensland and Victoria. It is important to note that the private gaming area of the casino comprises less than 10 per cent of the overall casino floor space and it is not open to the general public. This exemption will be subject to review every 12 months and it does not absolve Star City Casino from its responsibilities under the Occupational Health and Safety Act. I again thank honourable members for their contributions and I commend the bill to the House.

Motion agreed to.

Bill read a second time.

In Committee

Clause 1 agreed to.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [5.28 p.m.]: I move:

No. 1 Page 2, clause 2 (1), line 5. Omit "3 January". Insert instead "1 January".

This amendment will move the commencement date from 3 January to 1 January. My reason for moving the amendment is that generally people make a New Year's resolution on New Year's Eve. I realise 3 January is a Monday, but if people resolve to give up smoking on New Year's Eve, they will stop smoking on 1 January, not 3 January.

The Hon. HENRY TSANG [Parliamentary Secretary] [5.29 p.m.]: The amendment will move the implementation date of the first phase of the smoking ban from Monday 3 January 2005 to New Year's Eve 2005. Given the difficulties that would be involved in enforcing a smoking ban in the middle of the busiest night of the year, resulting in significant disruption in licensed premises on New Year's Eve, the Government opposes the amendment.

Amendment negatived.

Ms SYLVIA HALE [5.31 p.m.]: I move Greens amendment No. 1:

No. 1 Page 2, clause 2 (1). Omit "2 July 2007". Insert instead "4 July 2005".

The purpose of this amendment is, essentially, to do away with the staged introduction of a ban over the next 2½ years and instead introduce a full ban on smoking in indoor public areas from Monday 4 July next year. A number of pubs and bars in New South Wales have already gone smoke free. They include: Bonnie Doon Golf Club at Pagewood, Oatlands Golf Club, Bowral Golf Club, Orange Ex-Services Country Club, Orange Emus Rugby Club, Clovelly Hotel, Cronulla Golf Club, Penrith Panthers nightclub, Cromer Golf Club, the Royal Motor Yacht Club at Toronto, Dubbo RSL Memorial Club, the Royal Motor Yacht Club at Port Hacking, the Duke of Wellington Hotel in New Lambton, the Basement at Circular Quay, Five Islands Brewery in Wollongong, the Tilbury Hotel in Woolloomooloo, Katoomba Golf Club, Woollooware Golf Club, the Mosman Rowing Club, Paddy's Irish Bar at the New Albany Hotel, and the Newstead Bowling Club in Orange.

In all, those establishments total 22 and are the venues listed as smoke free on the web site of the New South Wales Cancer Council. I have identified them for two reasons: first, because they deserve recognition and should be congratulated on their courage and willingness to stand out against the tide of misinformation being peddled by the Australian Hotels Association and some sectors of the industry; and, second, because the list demonstrates that the sky does not fall in when smoking is banned. Many of the venues are highly successful business enterprises that attract large numbers of clients.

As I said in my speech to the second reading debate, on health grounds alone any delay in introducing a total ban on smoking cannot be justified. The delay will result in needless avoidable deaths. There is no justification whatsoever for postponing the ban any longer. For this reason, and for the reasons that have been more than adequately outlined by the Hon. Dr Arthur Chesterfield-Evans and Reverend the Hon. Dr Gordon

Moyes it is incumbent upon all members of this Chamber who genuinely are concerned about the health, well-being and lives of workers in the club and hotel industry or in any enclosed space, that this ban should be implemented at the earliest opportunity rather than delayed for a further 2½ years.

Reverend the Hon. FRED NILE [5.34 p.m.]: The Christian Democratic Party supports this amendment. If this bill had suddenly come out of the blue and—Shock! Horror!—no one knew anything about it, a later date could perhaps be argued. But because we have been debating this issue for many years—in fact the debate started in the 1900s—and because over the past four years there has been regular consultation with clubs and hotels over implementing this legislation, it is obvious that everybody has had sufficient warning. There is no surprise, and I believe that clubs and hotels could redesign their premises to meet the deadline.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [5.34 p.m.]: I have a timetable for phasing in the restrictions modelled on the Government's deadline, but I must admit I rather admire this cutting of the Gordian knot, as it were. I am a little discouraged, however, that someone has taken a more radical position than I in this regard. This legislation was expected by the tobacco industry in the mid-eighties—of course, it should have been in the mid-sixties—and the idea that any more time is needed is a nonsense. I support the amendment.

The Hon. HENRY TSANG [Parliamentary Secretary] [5.35 p.m.]: The amendment introduces complete smoking bans in licensed premises from July 2005. If adopted, this amendment will prevent pubs and clubs from having time to do the necessary design and construction work to expand outdoor areas and build extensions. It will prevent the bans from being effectively communicated to patrons. It will force a major cultural change on the New South Wales community without adequate consultation or time to adjust.

A major advertising campaign is planned to coincide with the phased introduction of the bans. This advertising campaign in pubs relies on the industry to spread the message among their patrons. The industry co-operated fully in advertising and promoting the original Shared Air Agreement in 2000. Industry co-operation cannot be provided within the timetable proposed by the Greens and other honourable members. A complete indoor smoking ban also represents a major cultural change for many patrons of pubs and clubs. The tradition of having a cigarette with one's beer is still very strong in some sections of the community, especially in regional New South Wales.

The Government strongly supports this cultural change occurring for reasons set out in my second reading speech. However, it is unrealistic to expect this cultural change to occur by July next year. The Government's timetable for phasing in bans between January 2005 and July 2007 is a realistic proposal mirrored by similar timetables in other States. I urge members to oppose this amendment.

Question—That the amendment be agreed to—put.

The Committee divided.

Ayes, 9

Mr Breen
Mr Cohen
Mr Jenkins
Reverend Dr Moyes
Reverend Nile
Ms Rhiannon
Dr Wong
Tellers,
Dr Chesterfield-Evans
Ms Hale

Noes, 16

Ms Burnswoods	Ms Griffin	Mr Tsang
Mr Catanzariti	Mr Lynn	Mr West
Mr Clarke	Ms Parker	
Mr Colless	Mr Pearce	<i>Tellers,</i>
Ms Cusack	Mr Roozendaal	Mr Harwin
Mrs Forsythe	Mr Ryan	Mr Primrose

Question resolved in the negative.

Amendment negatived.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [5.46 p.m.]: I move Democrats amendment No. 2:

No. 2 Page 2, clause 2 (2), line 7. Omit "2 July 2007". Insert instead "1 January 2006".

Basically, this amendment brings the final date back to 1 January 2006, which is before the election. There will still be adequate time for the phase-in, which will happen over six months. There is no reason for the phase-in to not take place until 2007. Once again the Government is kowtowing to the hotels lobby, which will ask for extensions forever. This way the final phase-in will be well clear of the election; there will not be a danger of anything happening around election time. In other words, the amendment is truncating the phase-in by six months, from July 2007 to January 2006. I believe that is perfectly reasonable. That is a much longer phase-in period than was provided in Ireland. Consistency with the other States is not important; any inconsistency will have a minimal effect across the border. The idea that we will put our foot out as far as he who goes slowest is absurd. I commend the amendment to the Committee.

Reverend the Hon. FRED NILE [5.47 p.m.]: The Christian Democratic Party supports the amendment in principle. It completely negates the Government's arguments. Amending the date to 2006 will still provide sufficient time for the adjustment or change in culture that the Government is worried about.

The Hon. HENRY TSANG [Parliamentary Secretary] [5.48 p.m.]: The Democrats amendment is similar to, though less draconian than, Greens amendment No. 1, and therefore the Government opposes it.

Question—That the amendment be agreed to—put.

The Committee divided.

Ayes, 8

Mr Cohen
Ms Hale
Mr Jenkins

Reverend Dr Moyes
Ms Rhiannon
Dr Wong

Tellers,
Dr Chesterfield-Evans
Reverend Nile

Noes, 17

Dr Burgmann
Ms Burnswoods
Mr Catanzariti
Mr Clarke
Mr Colless
Mrs Forsythe

Ms Griffin
Mr Lynn
Mr Obeid
Ms Parker
Mr Pearce
Mr Roozendaal

Mr Ryan
Mr Tsang
Mr West
Tellers,
Mr Harwin
Mr Primrose

Question resolved in the negative.

Amendment negatived.

Clause 2 agreed to.

Clauses 3 and 4 agreed to.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [5.56 p.m.], by leave: I move Australian Democrats amendments Nos 3 and 4 in globo:

No. 3 Page 3, schedule 1 [1], line 5. Omit all the words on that line. Insert instead:

Omit the definitions of *enclosed* and *exempt premises*. Insert instead:

enclosed has the meaning given by section 4A.

No. 4 Page 3, schedule 1. Insert after line 6:

[2] **Section 4A**

Insert after section 4:

4A Meaning of "enclosed"

- (1) In this Act, *enclosed* in relation to a public place means:
- (a) having a ceiling, roof or other covering that substantially covers the place (whether permanently or temporarily) and having walls that substantially surround the place (whether permanently or temporarily), or
 - (b) having a construction that causes smoke to remain in the place.
- (2) For the purposes of subsection (1), a *wall* includes anything that prevents the free flow of air.

These amendments define "enclosed". There has been a tradition, for want of a better term, to subvert smoking bans by exempting outdoors courtyards and so on that have three sides surrounded by a wall.

There may be a roof and, on the fourth side, a railing or a half wall up to the height of a railing. The addition of an occlusive blind, made from plastic or canvas, effectively turns an outdoor space into a room. Recently I went to a restaurant in Leichhardt that was at the back of a terrace house. It had a roof and walls on each side and it was effectively completely closed off but could be claimed to be an outdoors space, and thus smoking would be permitted. Having a roof might seem critical, but sometimes the new square umbrellas can be linked to effectively form a roof with only a tiny space between them. The airflow is extremely low. Effectively, it is an indoor space. Anyone there would experience a large amount of smoke pollution. Sections of the hotel or entertainment industry want to define such areas as "outdoor areas" so that smoking is permitted there. The bill is deficient because it does not define "enclosed space". I commend the amendments to the Committee to deal with a major loophole.

The Hon. HENRY TSANG [Parliamentary Secretary] [5.59 p.m.]: The amendments relate to the definition of "enclosed space" in licensed premises. As I said in my reply to the second reading debate, the Government is committed to develop a clear, workable definition of "enclosed space". Proposed definitions have already been put forward by ClubsNSW, the Australian Hotels Association, supporters of the New Zealand model, and now the Australian Democrats. It is important that the definition finally settled upon has broad support across industry and health groups. Should the bill be passed, the Government intends to begin extensive consultation with peak bodies, design experts, proprietors, and, most important, health professionals. These amendments would short-circuit the processes set out in the definition before any consultation has occurred. Therefore the Government opposes them.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [6.00 p.m.]: I must answer the Government's pathetic response. Basically, it either has smoke-free areas or it does not. Consensus will not be reached on this. The interests of the tobacco industry, the backward lobbyists on the Australian Hotels Association, and the clubs will never agree to smoke-free areas. They are trying to find loopholes in the legislation. The Government must take a strong stand. The amendments provide that if the area is effectively an indoor area, it cannot be called an outdoor area. It is a very clear definition. This will merely be another time-wasting exercise by the industry. The Government should grasp the nettle and support the amendments.

Question—That the amendments be agreed to—put.

The Committee divided.

Ayes, 9

Mr Breen
 Dr Chesterfield-Evans
 Mr Cohen
 Mr Jenkins
 Reverend Dr Moyes
 Reverend Nile
 Dr Wong
Tellers,
 Ms Hale
 Ms Rhiannon

Noes, 19

Dr Burgmann	Mrs Forsythe	Mr Ryan
Ms Burnswoods	Ms Griffin	Mr Tsang
Mr Catanzariti	Mr Kelly	Mr West
Mr Clarke	Mr Obeid	
Mr Colless	Ms Parker	<i>Tellers,</i>
Ms Cusack	Mr Pearce	Mr Harwin
Mr Egan	Mr Roozendaal	Mr Primrose

Question resolved in the negative.

Amendments negatived.

Progress reported and leave granted to sit again.

TABLING OF PAPERS

The Hon. Tony Kelly, tabled the following papers:

- (1) Annual Reports (Statutory Bodies) Act 1984—Reports for the year ended 30 June 2004:
 - Royal Botanic Gardens and Domain Trust
 - Sydney Catchment Authority
- (2) Consumer, Trader and Tenancy Tribunal Act 2001—Reporter of Consumer, Trader and Tenancy Tribunal for the year ended 30 June 2004

Ordered to be printed.

SPECIAL ADJOURNMENT

Motion by the Hon. Tony Kelly agreed to:

That this House at its rising today do adjourn until Tuesday 7 December 2004 at 2.30 p.m.

ADJOURNMENT

The Hon. TONY KELLY (Minister for Rural Affairs, Minister for Local Government, Minister for Emergency Services, and Minister for Lands) [6.12 p.m.]: I move:

That this House do now adjourn.

CAMDEN PROPERTY MARKETING PTY LTD

The Hon. CHARLIE LYNN [6.12 p.m.]: Politics is about people. Sometimes political failure affects thousands of people when systems, for example, trains and hospitals, break down. At other times political failure may affect just one person. Either way, when people are unfairly treated it represents the beginning of a cancerous tumour within the system. Today I wish to speak for the third time in this House about a matter that relates to the Department of Fair Trading and Mr John Leach, a real estate agent at Camden. Mr Leach's nightmare started when he purchased his own real estate agency in 2001. He reported a discrepancy in the accounts of Camden Property Marketing Pty Ltd, which was operating a rent roll out of the office operated by his company, Modena Investments.

The discrepancy related to the licensee of Camden Property Marketing, Mr Alex Cameron, fraudulently misappropriating about \$200,000 from his trust account. After the fraud was reported, the Department of Fair Trading sent a couple of its investigators, Mr Laughton and Mr Stanley, to conduct interviews. Incredibly, they decided to prosecute Mr Leach, who had no legal association with Camden Property Marketing. Alex Cameron, who clearly had stolen the money, was allowed to go free. I understand that he was not even interviewed by the two investigators.

What followed was the worst imaginable nightmare for an honest, hard-working, well-respected Camden businessman. Despite Mr Leach's books being found to be in order following an audit by both

L. J. Hooker and the Department of Fair Trading, and despite the Department of Fair Trading having grave concerns following its audit of the books of Mr Cameron, the department elected to prosecute Mr Leach. He was hauled into the department's interview chamber at head office and grilled for three hours. The next day David O'Connor, Director-General of the Department of Fair Trading, signed a paper that destroyed everything Mr Leach had ever worked for. He declared that he was not a fit and proper person to work in the industry.

The process for arriving at this decision was obviously corrupt. The decision to use Mr Leach as a scapegoat for the incompetency of the department had been made before the interview had even taken place. What other conclusion can one arrive at? Can anyone with a sense of natural justice believe that a three-hour interrogation could be transcribed, the evidence tested and conclusions arrived at between 5.00 p.m. and 8.30 a.m. the following day? I was not able to work out why the department was so intent on prosecuting an innocent man until I attended the court case.

During the six-day trial it was revealed that the Department of Fair Trading had been negligent. It knew that Camden Property Marketing was not registered with the department, which meant that the victims of Alex Cameron's fraud would not have a claim on the compensation fund. The only recourse was to use the full legal resources of the department to crush Mr Leach in such a way that he would be both financially and emotionally destroyed. The department would have been successful if it had not been for the intervention of a solicitor, Mr Peter Richardson, who declared that it was the most outrageous miscarriage of justice and abuse of power he had come across in his 30 years experience in the industry. He volunteered his services to Mr Leach. The court case was a massacre. Mr Richardson methodically destroyed every element of the department's case and the investigators, Laughton and Stanley, were exposed as lazy, incompetent fools.

The magistrate hearing the case in the Licensing Court of New South Wales dismissed it and found the following facts. Mr Leach was never the licensee of Camden Property Marketing; Mr Leach never acted as the licensee in charge of CPM; after the resignation of Ms Swann as licensee in charge of Camden Property Marketing on 1 December 2000 Mr Cameron was the de facto licensee in charge of Camden Property Marketing; Mr Cameron exercised full control over the Camden Property Marketing books, particularly the banking transactions; Mr Leach and those working at L. J. Hooker Camden understood that 1 July 2001 was the date that Modena Investments formally commenced trading; Mr Cameron was employed as a real estate salesman by Modena Investments from 1 July 2001 up until 29 July 2001, when he resigned; there was no evidence to show that Mr Leach maintained the books and records of Camden Property Marketing or had a statutory right or obligation to do so; there were no deficiencies in the trust account of Modena Investments and all deficiencies were in the trust accounts of Camden Property Marketing; and Mr Leach is a fit and proper person to hold a license.

Unfortunately, after a four-year nightmare, Mr Leach is not in a position to return to the industry, even though he has been completely exonerated. The willingness of the director-general, David O'Connor to authorise a corrupt process to destroy the life and career of an honest, hard-working real estate agent in order to cover up the incompetence of the department is unacceptable. When I questioned Mr O'Connor on this case during estimates committee hearings he deliberately misled the committee. I was unable to pursue the issue because of the intervention of that duplicitous Labor lapdog in this place, the Hon. John Tingle. It is time he outed himself, formally joined the ALP and gave up the pretence of representing the Shooters Party.

The Hon. Jan Burnswoods: Point of order: I ask that the remark made by the Hon. Charlie Lynn be withdrawn. If he is going to make such a scurrilous attack on a fellow member of this House he should do so by way of substantive motion, not by way of an appalling throwaway remark at the tail end of an adjournment speech on another subject. I ask that he withdraw the remark and in future if he intends to say such awful things to do so by way of substantive motion.

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! I uphold the point of order. I ask the Hon. Charlie Lynn to withdraw the remark.

The Hon. CHARLIE LYNN: Which remark?

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): The remark you made in your speech about a member of this House. If the Hon. Charlie Lynn is fishing for me to repeat it, I will not do so.

The Hon. CHARLIE LYNN: The remark that he should out himself, formally join the ALP, and give up the pretence of representing the Shooters Party?

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! The Hon. Charlie Lynn is flouting my ruling. I have asked him to withdraw the remark. He can simply say, "I withdraw the remark."

The Hon. CHARLIE LYNN: I withdraw the remark.

AIRPORT RAIL LINK

The Hon. ERIC ROOZENDAAL [6.17 p.m.]: The city of Sydney has a top-quality airport rail link. It is a pity hardly anybody uses it. To date it has achieved less than 30 per cent of forecast patronage. Even sadder, the New South Wales taxpayers have paid the better part of \$1 billion for a project that was originally intended to cost them not a single cent. The Opposition seems to think the airport line is a bit of a joke. We have even seen attempts by the Opposition to smear the Government on this issue. The Government, however, does not deny that the line has its difficulties. We are all in agreement that the decision to build the line was a disaster. What Opposition members are keeping quiet about is that it was their decision. The airport line was a Greiner Government initiative, a Greiner Government disaster. The Opposition is hoping the public will forget that as late as 2000 it was still claiming the line as a Coalition accomplishment. Barry O'Farrell, the Deputy Leader of the Opposition, was evidently still proud of the rail line in 2000. He said:

I am very proud of the Airport Rail Link. It was a coalition achievement.

I wonder if Mr O'Farrell is still proud that his achievement has cost taxpayers in excess of \$700 million; \$700 million on a project originally intended to be 100 per cent privately funded? That is what the then Minister for Transport, Bruce Baird, promised the public when he announced the project on 8 October 1990. The next year Mr Baird was still claiming that the project would be fully privately funded, despite the Chief Officer of the State Rail Authority having written to Treasury with the warning that the airport line was "certain to require some degree of underwriting and support".

In June 1993 the Treasury Secretary estimated that the cost of the rail line in its first decade would range from about \$300 million to over \$400 million. The project still went ahead. By December 1994 it was clear the bungled project would cost the public purse \$558 million; a project originally announced to be 100 per cent privately funded. Despite this appalling turn of events, the Coalition ignored the ICAC recommendations to sever ties with a private consortium and put the project out to tender. Perhaps this had something to do with the significant compensation payout the Coalition had, rather stupidly, agreed to pay this group consortium should the rail link not go ahead.

The story of the airport rail link is a simple one. The Greiner Government became very cosy with private industry. This was not at all unusual for the Greiner Government. The cosy partnership went bad; costs blew out. Yet the Coalition ploughed on with the project, throwing good money after bad, and refusing to come clean about the scale of its incompetence and mismanagement. In February 1995, less than a month before the writs were issued for the State election, the Liberal-National Government signed up the taxpaying public of New South Wales to the airport rail link. The rest is history. The people of New South Wales put the Coalition in opposition, where it belongs. The Coalition's parting gift to the people of New South Wales is the airport rail link, costing the people of New South Wales \$700 million.

A lot of time has passed since the Coalition was in government—enough time for it to think it can get away with blaming the Government for its own mistakes. But the Opposition should give the people of New South Wales some credit. The public remembers the planning nightmare that the Greiner and Fahey governments inflicted on this State. The public will think twice before they elect a Government led by an airport rail-link apologist like Barry O'Farrell or, for that matter, John Brogden. The Liberals know they made a mistake making Brogden leader but, as usual, they are incapable of fixing their mistakes themselves.

AUSTRALIAN HISTORY TEACHING

The Hon. DON HARWIN [6.21 p.m.]: Recently Chris Patten, now the Chancellor of Oxford University, made passionate comments about the value of pure research. While noting the desirability of close links between universities and industry, Chris Patten warned:

If you allow commercial considerations to drive research and development [programs] at universities, you ignore the fact that the most real groundbreaking research is curiosity driven.

He concluded:

It's the groundbreaking research that actually does most to alter our quality of life.

While these comments were directed at the influence of business in determining the agendas of our science and engineering faculties, they are also valid for the humanities. Patten reminds us:

The hallmarks of a civilised legacy are what you pass on to the next generation.

I have spoken in this place on other occasions about the crucial importance of robust social history debate in our community. An understanding of our history and society is one of the most precious legacies that we can give to our children. Pure research in historical studies may not alter our quality of life in the tangible way that perhaps advancing science might but, nevertheless, it can have a profound impact. The neglect of Australian history in our State secondary schools is one of this Government's most tragic shortcomings. An examination of the 2005 Higher School Certificate syllabus emphatically highlighted the problem. As a subject, Australian history is not an option offered by the Board of Studies. There is Australian history content in the modern history syllabus, but it is an inadequate, piecemeal approach. In the national studies section, our State's students can choose an Australian history option, but one that covers only the period from 1945 onwards. Gallipoli can be studied as a core option on World War I, but this is a short, general examination of the conflict, which does not examine the Australian experience exclusively or in any meaningful depth.

The need for more Australian historical study, particularly historical study that is pure and curiosity driven, is palpable. As a result, I am extremely pleased to serve on the Sesquicentenary of Responsible Government Committee, one of the historical research endeavours for which this Government can be proud, as it initiated it. The committee is dedicated to the creation of a scholarly record of responsible government in the State of New South Wales by commissioning research through grants and other support. Much of the work being fostered by committee members, including the Leader of the Government, the Deputy Leader of the Opposition and many very fine academics from the University of Sydney, the University of Wollongong and the University of Western Sydney, deserves praise and deserves to be drawn to the attention of this Chamber.

The Hon. Jan Burnswoods: Of course, they are universities that Howard is going to take research from.

The Hon. DON HARWIN: You cannot even be quiet when I am saying something nice about your Government, you stupid woman. Some of the committee's activities included research tools widely used by historians, which are quite important. For example, there is support for an on-line list of the Mitchell Library's collections on notable New South Wales citizens; support for an on-line biographical register of the New South Wales Parliament; an update of D. Borchardt's checklist of royal commissions, which is being supported; and the restoration of historic New South Wales electoral maps. It is unbelievable that we do not even have a collection of all the maps of the New South Wales electorates in a condition that we can be certain will last into the future. That is something that is being looked at.

There is support for the publication of books that will never be commercial but which are important. A number of academics are working on a New South Wales regional political history volume under the capable leadership of Professor Jim Hagan, and that will be excellent work. The core business of responsible government in New South Wales is being considered as part of the history of the New South Wales Parliament. Books are being written on the history of New South Wales elections in the nineteenth century and on the Premiers of New South Wales, which will certainly be worthwhile. I acknowledge and thank the Government for its initiative and I commend the work of the committee. I hope the high standard of the scholarship produced under its auspices will encourage the Government to consider the plight of Australian historical research and act to ensure that we leave our children with a legacy of knowledge and understanding of our past. [*Time expired.*]

SEVEN HILLS POLICE SHOPFRONT

The Hon. Dr PETER WONG [6.26 p.m.]: I refer tonight to the armed robbery of Appino's Pharmacy at Seven Hills and the lack of police resources to deal with such crime. This lack of resources is highlighted by the fact that Appino's Pharmacy adjoins a manned police shopfront, which was unable to do anything about the robbery that occurred next door. I extend my sympathy to the police officer who was photographed in the *Daily Telegraph* on Wednesday 17 November. It must have been embarrassing for a member of NSW Police to be placed in a situation of ineffectiveness. It must have been a further embarrassment that he had to carry the can for the Government.

Judging from the tide of reporting, I am not sure what the *Daily Telegraph* would have had this young man do. Perhaps it expected the police officer, with no backup, to engage in a street fight with the robbers in

question. I am pleased that the officer, who was relegated almost to civilian functions, did not engage in such theatrics. Doing so would only have placed him and members of the public at considerable risk. No doubt the rapid police response to that armed robbery was not generated by the crime itself but rather because a lone police officer was at risk.

The whole fiasco demonstrates the spin that this Government has shoved down the throats of the New South Wales public. Time after time shopfronts have been promoted as offering a valuable service to the public. We now know that they are nothing other than a political front and it is a shame that police officers are being used as instruments in the Carr Government's spin on law and order, with its continual claims that it is putting more police on the streets. It is dangerous to put police officers in such a situation. I support the New South Wales Police Association in any occupational health and safety claims or any other action that it might consider necessary to end this practice.

Until the announcement today by senior police confirming that shopfronts are ineffective, I have been unable to find any statements from their political masters that the shopfronts were only for advice and inquiries. If the public had realised that people could not be questioned or charged in such places they, and I am sure all honourable members, would have asked why. I would have sought an explanation from the Minister as to why he is tying police to desks when he has stated publicly that he is putting more police on the streets. I asked the Minister why police civilians are not sitting at desks providing advice and referral to the public. Is that not what police civilians are meant to do? That was the general idea I have received from the spin emanating from the Minister's office over the past few years. Unity previously fought for the public to have improved levels of service from NSW Police. I am stunned that after the efforts of a committee of this House in the Cabramatta-Fairfield area the Government is still playing silly games and diverting police resources from where they are so obviously needed. Police Association Secretary Peter Remfrey said:

Shopfronts are a waste of time. They provide an illusion of police presence but in reality they do not make it any safer.

Is the Minister aware that such shopfronts are an expensive fiasco and a farce? I demand that he apologise to the public of New South Wales.

NEW SOUTH WALES-VIETNAM TRADE RELATIONSHIP

The Hon. IAN WEST [6.30 p.m.]: Tonight I pay tribute to the relationship between New South Wales and Australia and the economy of Vietnam. Hanoi is the capital of Vietnam, which has a population of 81 million people. The exchange rate is 12 thousand Vietnamese dong to the Australian dollar. Our major export to Vietnam is aluminium.

The Hon. Michael Egan: Are we getting more dong for the dollar?

The Hon. IAN WEST: We are getting more dong for the dollar. Vietnam has a very good trade balance with Australia. We are its fourth largest exporter. The United States of America is the largest export market for Vietnam, with 20 per cent of export trade in 2003-04. About 7 per cent of Vietnam's exports come to Australia. Vietnam's principal imports are from Japan, Singapore, South Korea and Australia. The trade relationship between Australia and the Republic of Vietnam is extremely strong and viable.

The Hon. Michael Egan: That could well be because of the trade mission I went on to Vietnam in 1995.

The Hon. IAN WEST: I have been told that the New South Wales Treasurer has been extremely important in developing the relationship between this State and the beautiful people of Vietnam. The relationship between New South Wales, the Howard Government and the Vietnamese people has been improving. The Commonwealth Government acknowledges the importance of trade with Vietnam as a valuable exporter and importer and developing country. The people of Vietnam have struggled for many years. The Department of Foreign Affairs and Trade [DFAT] web site provides a historical overview of Vietnam, which states:

After a millennium as a Chinese province, the northern region of Vietnam gained independence in 938, following the dissolution of the Tang Empire. Under succeeding local dynasties ruling from Hanoi over the next five centuries, Vietnam fought off several attempts to reintegrate it into China and also expanded its reach southward, gradually annexing the central kingdom of Champa.

The Hon. Michael Egan: Pacific Power built the north-south transmission.

The Hon. IAN WEST: It did an excellent job. I believe that Pacific Power was extremely pleased with the relationship it developed with the Vietnamese people. The DFAT web site also states:

Dynastic struggles led to civil wars during the sixteenth, seventeenth and eighteenth centuries. During this period, Vietnam gained control over the Mekong delta and the first Christian missions arrived. It was not until 1802 that the present Vietnam was united under a single ruler, Nguyen Anh, whose court was located at the central coastal city of Hue.

The Vietnamese people have continued to struggle against the French, the Japanese and the Americans. Their struggle for liberation has been long and savage and they should be extremely proud of their history. [*Time expired.*]

COMMUNITY COLLEGES FUNDING

The Hon. PATRICIA FORSYTHE [6.35 p.m.]: Lifelong learning is a concept that has been embraced by governments for some time, including, according to its rhetoric, by the Carr Government. However, one of the most effective community agencies for the delivery of lifelong learning, the community college network, is facing savage funding cuts. One of the key principles of the Government's policy "Recognising the Value of Lifelong Learning" states:

All adults regardless of their backgrounds and circumstances have the right to access a diversity of affordable, quality learning opportunities.

The reality is that the effect of the savage funding cuts proposed by the Government is that colleges will have to raise fees for many of their courses to a level that will price many people out of the market. Lifelong learning will be beyond their reach. Community colleges are not-for-profit organisations and are the latest victims of the budget squeeze that is impacting on government services and community-based organisations that depend on government funding to underpin their work across New South Wales. Community colleges are not only second-chance education centres but also the entry point for many people who face the trauma of returning to study as an adult. They are also the colleges of choice for many older people. In our ageing society they offer courses which are accessible and which fulfil the policy objectives the Government has espoused of equity, effectiveness and efficiency, and are complementary to the education provided by schools, TAFE and higher education.

Like many other organisations, the community college network is feeling the impact of government decisions that have not been the result of consultation. The latest funding allocations have given colleges little more than eight weeks notice before first term in 2005 of massive cuts to funding, and the remaining funding has been narrowed to vocational education and training, and language and literacy delivery. The delivery of such courses may not sustain many colleges in small communities, but there is no base funding built into the model to ensure colleges can keep their doors open. I know that the College Association believes that colleges in some small communities may have to close their doors unless some form of sustainability grant can be provided. That appears to be sensible. Courses that are outside the vocational stream are price elastic, and it will be problematic for older people on a retirement income or others on welfare benefits to access courses whose fees have risen. Against that background colleges are expected to plan timetables, hire staff and keep their doors open. That will become increasingly difficult for small colleges in small centres.

I will identify some examples of the funding cuts. The South East Community College, which has centres in Nowra, Yass, Ulladulla, Queanbeyan and the Southern Highlands will have its funding cut by 2.4 per cent; the Southern Region Community College at Goulburn will lose 3.7 per cent funding; and Monaro Continuing Education Group, based in Cooma, will get a \$30 increase, but that is so far below the CPI that effectively it is a drop in funding. This is another slap in the face for Cooma from this Government coming after the loss recently of program funding for its Business Enterprise Centre. The Eurobodalla Adult Education Centre at Bateman's Bay faces a 5 per cent cut; and the Far South Coast Community College at Bega will get a \$100 increase—that is a 0.2 per cent variation. The Central West Community College at Bathurst will get a 1 per cent increase and the Albury-Wodonga continuing Education Centre will lose 3.6 per cent funding.

It is clear that most of those colleges are not in wealthy communities. Some of those communities are in drought or just recovering, while other centres have high numbers of welfare recipients or are the chosen destination for post-retirement people. All are part of a forgotten class of people to the Carr Government. They are the people of rural and regional New South Wales. Against that background one must question the methodology behind the funding formula. The cuts in funding go beyond the cuts to individual colleges. There are seven clusters of colleges across the State and these clusters have lost full-time support positions. For

example, the cluster that includes colleges in the State's south-east, the Riverina, Central West and Dubbo will lose its full-time cluster director.

A huge area will be left under-resourced by a government that is arrogant and out-of-touch. The cuts, therefore, are both to individual centres and to the sector as a whole. There can be only one conclusion from these cuts: fees for many courses will have to rise by up to 20 per cent and fewer people will choose to access them. TAFE New South Wales has already identified that people in the 40-to-49 age group is its fastest growing group of students, and in a consultation document it has questioned whether TAFE is "appropriate for this group". If that is its latest agenda, what is the future for adults seeking to access courses outside the strict vocational training regime? I will argue that it is very bleak. Lifelong learning will be merely a lofty idea to which the Carr Government pays little more than lip service.

CENTRAL COAST METHANE GAS EXTRACTION

Ms LEE RHIANNON [6.40 p.m.]: Sydney Gas is currently exploring the Yarramalong and Dooralong valleys to determine the commercial viability of extracting methane. These valleys are within the Wyong water catchment, which is managed by the Gosford-Wyong Councils Joint Water Authority. It supplies 50 per cent of the community water requirements to an urban and rural population of 280,000. The technology to extract methane from coal seams under these two valleys poses a very serious threat to the quality of water resources drawn from the catchment. Experience in the United States of America shows the serious impact that this form of mining has: drinking water levels in wells near methane development has reportedly dropped by 200 feet, and artesian wells that tap into the coal beds have also disappeared.

The Greens call on the Government to prevent gas exploration and extraction on the Central Coast. It is time the mining aquifer is given a major overhaul to ensure that gas mining cannot take place on residential land and is subject to a more strict and independent compensation and arbitration regime. The Greens congratulate Wyong Council on opposing this form of mining in the Wyong valley, and the Australian Gas Alliance and local residents who are leading a very important campaign. Like the Greens, they are not against gas mining overall, but it has no place in these particular valleys. This is a very important issue and I was very concerned when I visited there this week to hear stories of bullying resulting from Sydney Gas operations.

[Time for debate expired.]

Motion agreed to.

The House adjourned at 6.42 p.m. until Tuesday 7 December 2004 at 2.30 p.m.
