

LEGISLATIVE COUNCIL

Wednesday 9 November 2005

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

The Clerk of the Parliaments offered the Prayers.

VOCATIONAL EDUCATION AND TRAINING 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.

SWANSEA BRIDGES

Production of Documents: Order

Motion by the Hon. Michael Gallacher agreed to:

That, under standing order 52, there be laid upon the table of the House within 14 days of the date of the passing of this resolution the following documents created since 1 January 2000 in the possession, custody or control of the Premier, the Premier's Department, the Cabinet Office, the Minister for Roads, the Roads and Traffic Authority, the Minister for Planning, the Department of Planning, the Minister for Primary Industries, the Department of Primary Industries, the Minister for the Environment, the Environment Protection Authority and the Minister for the Hunter relating to two opening bridges comprising a section of the Pacific Highway spanning the Swansea Channel, known as the Swansea bridges:

- (a) all correspondence to or from the Minister for Roads, the Minister for the Hunter, or the Member for Swansea relating to either of the Swansea bridges,
- (b) all documents relating to the safety or structural integrity of either of the bridges, excluding documents relating to routine or periodic maintenance of the road surface or pavement of the bridges,
- (c) any reports, including funding proposals, relating to construction options for the replacement of either of the Swansea bridges, and
- (d) any document which records or refers to the production of documents as a result of this order of the House.

TALLOWA DAM

Production of Documents: Order

Motion by the Hon. Rick Colless agreed to:

That, under standing order 52, there be laid upon the table of the House within 14 days of the date of passing of this resolution the following documents, not previously provided in an earlier return to order, in the possession, custody or control of the Minister for Utilities, the Sydney Catchment Authority, the Minister for the Environment, or the Department of Environment and Conservation, relating to the proposed raising of Tallowa Dam:

- (a) all documents created since 1 January 2005 relating to the potential environmental impact of the proposed raising of Tallowa Dam, including but not restricted to:
 - (i) Metropolitan Water Plan—Shoalhaven transfer Options: Options review paper—September 2005;
 - (ii) Shoalhaven River: Options for environmental flows and enhanced transfers—September 2005;
 - (iii) Tallowa Dam: Options study for raising—Draft 2.6—August 2005;
 - (iv) Tallowa Dam wall raising: Geotechnical investigation—review of environmental factors—August 2005;
 - (v) Investigation of increased pumping through Shoalhaven transfer scheme and access to dead storages at Warragamba, Avon and Nepean Dams—August 2004, and
- (b) any document which records or refers to the production of documents as a result of this order of the House.

UNPROCLAIMED LEGISLATION

The Hon. Eric Roozendaal tabled a list detailing all legislation unproclaimed 90 calendar days after assent as at 8 November 2005.

PETITIONS

Monaro Electorate Traffic Problems

Petition requesting a review of road construction delays and traffic problems in Queanbeyan, Jerrabomberra and surrounding areas in the Monaro electorate, received from **the Hon. Melinda Pavey**.

Unborn Child Protection

Petition requesting legislation to protect foetuses of 20 weeks gestation and to make resources available for post-abortion follow-up, received from **Reverend the Hon. Fred Nile**.

Desalination and Sustainable Water Supply

Petition opposing construction of a desalination plant in Sydney, and requesting a sustainable water supply through harvesting and recycling of water, and water efficiency, received from **Ms Sylvia Hale**.

Anti-Discrimination (Religious Tolerance) Legislation

Petition opposing the proposed anti-discrimination (religious tolerance) legislation, received from **Reverend the Hon. Fred Nile**.

BUSINESS OF THE HOUSE

Postponement of Business

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

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders

Mr IAN COHEN [11.13 a.m.]: I move:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 187 outside the Order of Precedence, relating to an order for papers regarding the proposed desalination plant at Kurnell, be called on forthwith.

This motion is urgent because the Government is pushing ahead with the desalination plant without waiting to see the outcome of the Commonwealth Government's determination whether the proposed plant should undergo proper environmental assessment under the Environmental Protection and Biodiversity Conservation Act, and the motion should therefore be debated today. The motion is also urgent because of the imminent construction of pilot desalination plants at Kurnell, which are pilot rather than test plants and are therefore intended not to determine whether a desalination plant is needed but to facilitate the building of a desalination plant

It is desirable that the House debates this motion today, because there has not been adequate consideration of the environmental impacts, including greenhouse impacts, of the proposed desalination plant, and there are more cost-effective and energy-efficient alternatives for securing Sydney's water supply that would have fewer negative environmental impacts. The release of documents related to the environmental impacts and to alternative proposals for addressing Sydney's water supply, and related to studies of public attitudes to water reuse, is important so that the public can be well informed about the various options regarding the proposed desalination plant and whether there is really a need for it. Therefore the motion should be debated today.

Motion agreed to.

Order of Business

Motion by Mr Ian Cohen agreed to:

That Private Members' Business item No. 187 outside the Order of Precedence be called on forthwith.

DESALINATION PLANT PROPOSAL

Production of Documents: Order

Mr IAN COHEN [11.15 a.m.]: I move:

That, under standing order 52, there be laid upon the table of the House within 14 days of the date of the passing of this resolution, the following documents, excluding any photographs, technical drawings, maps, plans, designs or specifications, in the possession, custody or control of the Premier, the Premier's Department, the Cabinet Office, the Treasurer, NSW Treasury, the Minister for Utilities, the Department of Energy, Utilities and Sustainability, the Minister for the Environment, and the Department of Environment and Conservation, the Minister for Planning or the Department of Planning and Infrastructure:

- (a) all documents relating to the environmental impact of the proposed desalination plant at Kurnell including, but not limited to, greenhouse impacts and the effects of any discharges from the plant,
- (b) all documents created since March 2003 which refer to alternative proposals for addressing Sydney's water supply, including, but not limited to, water recycling and demand management strategies,
- (c) all documents containing the results of any market research, including surveys and focus groups, into public attitudes related to water use and reuse, and
- (d) any document which records or refers to the production of documents as a result of this order of the House.

It is necessary to make public all documents related to the potential environmental impacts of the proposed desalination plant at Kurnell. The public should not have to stand for the Government telling us to take its word for it that it will all be okay. We have seen this arrogant lack of transparency with the cross-city tunnel. The environmental implications of a major infrastructure project such as a desalination plant must have been open to public scrutiny, especially since it will use very considerable taxpayer funds, as well as increase water prices.

There is a great deal of public concern about the greenhouse impacts of a proposed desalination plant. Former Premier Bob Carr himself once called desalination "bottled electricity". Despite Government assurances that offsets such as the planting of trees will be provided, there is immense concern about the massive amount of electricity that will be needed to power the plant, and about the fact that this electricity will come from greenhouse gas emitting coal. If the Government is really so confident about the greenhouse impacts not being a major concern, it should release these papers.

The community is apprehensive and confused about the effects of discharges from the proposed desalination plant and their impacts on the marine environment and wildlife, including whales which migrate through the waters off Kurnell. The Government should release documents related to potential impacts of the highly concentrated salty brine and other discharges which would be released from the plant, as well as documents related to any other potential environmental impacts. The public have a right to know what the alternatives to desalination are. The Government has presented the desalination plant as a fait accompli, ruling out alternative proposals such as water recycling. There is a perception that, for some reason, viable and cost-effective alternatives have been ruled out and not given the serious consideration that they warrant.

For this reason, the Government should release papers referring to alternative proposals for addressing Sydney's water supply. That will give concerned communities a chance to assess whether the choice for a desalination plant was a reasonable one on the balance of the options available. The Government has repeatedly wheeled out the spin that the public will not accept drinking recycled water. But other sources seem to counter this argument. Various other market research undertaken has shown people's willingness to accept recycled water. Just the other week a blind tasting in Martin Place of tap water, recycled water and commercial bottled water found that most people could not tell the difference in taste, and many were prepared to accept the safety of drinking recycled water.

Warragamba Dam already has significant amounts of recycled sewerage water from the Blue Mountains and Goulburn areas, so that issue needs to be cleared up. The Government should release details of any market research undertaken in respect to the public's attitude to recycled water—the only current survey, which was touted as expressing the views of the public, asked very loaded questions. Major infrastructure projects like a desalination plant should only be contemplated if the process is to be transparent and information accessible to the public. If these decisions are carried out behind closed doors and documents hidden from public scrutiny, public confidence will be gravely undermined. I strongly urge the Government to release the documents detailed in the motion.

The Hon. JOHN DELLA BOSCA (Special Minister of State, Minister for Commerce, Minister for Industrial Relations, Minister for Ageing, Minister for Disability Services, Assistant Treasurer, and Vice-

President of the Executive Council) [11.20 a.m.]: The Government will move an amendment to the motion, but before I do that I will speak briefly to the motion. We as a Government have a very well-balanced approach to securing our water supply.

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

The Hon. JOHN DELLA BOSCA: That includes plans to recycle water. We already have Australia's largest residential water recycling scheme at Rouse Hill, and we are about to open Australia's largest industrial water recycling scheme in the Illawarra. We are currently recycling 15 billion litres of water a year, which is estimated to increase to 70 billion litres by 2011. We are also fitting 500,000 homes with water-saving devices, giving help to people who want to install rainwater tanks, and investing more than \$300 million to stop leaks—making Sydney Water cut water lost from leaks by 25 per cent. We are also increasing the capacity of our dams. Work is on target to finish by August 2006. We are accessing deep water at Warragamba, accelerating excavations for new sources of groundwater, and building a new pipe from the Shoalhaven to Warragamba to transfer excess flows, which is due to be completed by 2008. These works are expected to boost our water supply by 110 billion litres of water a year.

An important part of our plans is to build a desalination plant on industrially zoned land at Kurnell. Last June Sydney Water released an expression of interest document into the desalination project, which allowed companies with experience in building major infrastructure to come forward. It also allowed companies around the world with experience in operating desalination plants to lodge their interest and join with construction companies in building and operating a desalination plant. We have since short-listed three consortia to proceed to the next stage of tendering: submitting pre-designs and pilot testing proposals for the desalination plant. Importantly, the consortia will also submit details of costs and desalination methodology. There is no doubt that people in New South Wales now have greater expectations about disclosure of documents for major projects. We have heard what the public is saying, and we agree that people should be kept informed on important infrastructure projects. That is why we have tabled tens of thousands of pages of documents in relation to the Lane Cove Tunnel and the M7 road projects.

The Hon. Melinda Pavey: Was that on Melbourne Cup Day?

The Hon. JOHN DELLA BOSCA: You cannot make the Hon. Melinda Pavey and her ilk happy.

The Hon. Amanda Fazio: Why would you want to bother?

The Hon. JOHN DELLA BOSCA: The Hon. Amanda Fazio is right, why would you want to bother?

[Interruption]

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

The Hon. JOHN DELLA BOSCA: You cannot make them happy. They say we are not tabling documents, but when we table them at the first available opportunity—today—they say that we are tabling them because it is a favourable news day. The Opposition is very difficult to please, unlike the reasonable people on the crossbench. These documents have passed probity checks and passed through competitive tendering processes. The desalination project has not passed this stage. We are in the midst of a competitive bidding process between separate consortia. It would be highly inappropriate for documents that would undermine that competitive process to be released. Indeed, it would be contrary to the public interest. Sydney Water has appointed an independent probity auditor from Deloitte Touche Tohmatsu to oversee the tendering process.

The probity auditor has made sure that measures are in place to guarantee competitiveness, integrity and probity during all phases of the project. The motion before the House moved by Mr Ian Cohen undermines that process. This independent probity auditor should be allowed to provide advice on which documents are withheld to safeguard this competitive process. The release of any commercially sensitive documents should be considered once we proceed past this competitive stage—when contracts have been signed. This is the appropriate course of action, and it is one supported by the Leader of the Opposition. Yesterday the Leader of the Opposition in the other place said on morning radio, "We said a month ago—

The Hon. Michael Costa: What's his name?

The Hon. JOHN DELLA BOSCA: I think it is the honourable member for Vacluse. He said on morning radio, "We said a month ago, look any contracts under a Coalition Government will be fully disclosed as soon as they're signed." He said that on Radio Station 2GB, which the Deputy Leader of the Government knows all about. He is a regular listener, like myself.

The Hon. Rick Colless: Who's the Deputy Leader?

The Hon. JOHN DELLA BOSCA: The Hon. Michael Costa. I will repeat what the Leader of the Opposition in the other place, the honourable member for Vacluse, said: "We said a month ago, look any contracts under a Coalition Government will be fully disclosed as soon as they're signed."

The PRESIDENT: Order! I cannot hear the speaker.

The Hon. JOHN DELLA BOSCA: They do not want you to hear it because they really do not want to know the truth. However, I will keep repeating it until they hear it.

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

The Hon. JOHN DELLA BOSCA: Yesterday the Leader of the Opposition, the honourable member for Vacluse, said on morning radio, "We said a month ago [we being the Coalition, the Opposition], look any contracts under a Coalition Government will be fully disclosed as soon as they're signed." It is a sensible proposition, and one I agree with. Apparently, it is not one that the Opposition in this place intends to uphold today. Their resolve will be tested if they support our amendment. I call on the House not to interfere with the competitive process because it would undermine the public interest. The competitive process must get under way if we are to build a desalination plant. This is in line with the wishes of the Leader of the Opposition in the other place. Like all good followers, those opposite should always follow their leader.

The House can make the choice today to take responsible action. The Coalition has a challenge before them today when they vote no confidence in the Leader of the Opposition, the honourable member for Vacluse. If they vote against our amendment they would be voting against what the Leader of the Opposition, the honourable member for Vacluse, thinks is the right way to proceed in these matters. In line with this the House can make the choice today to take responsible action supported by the Leader of The Opposition, the honourable member for Vacluse. If honourable members reject our amendment they would be sending a message to business that they have no confidence in the judgment of the leader. They can pack their bags and go elsewhere. I move that the motion be amended as follows:

That the question be amended by inserting at the end:

2. That this House notes that a tender process for a desalination plant is under way and that the production of some of the abovementioned documents may prejudice that process.
3. That this House also notes that an independent probity auditor has been appointed to oversee the tendering process.
4. That this House agrees to accept the advice of the independent probity auditor and exclude from production those documents which the probity auditor advises is likely to prejudice the tender process.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [11.27 a.m.]: The Opposition will support the motion moved by Mr Ian Cohen. However, we will move an amendment to the motion and we will oppose the Government's amendment. The Government is asking us to trust them to decide what should be released. Through cover-ups and the way it operates, the Government categorically has shown the people of New South Wales that it cannot be trusted. Documents that come in should be sent to the independent arbiter, Sir Laurence Street, whom we have trusted to make the appropriate decision. I remind members of the House and the public that, despite the sensational documents that have come into this House, there has never been a leak.

We have confidential documents dealing with the cost of legal expenses on the cross-city tunnel, and we have projections that, at this moment, are sitting in confidential files and have not been released to the public because the members of this House have honoured the trust placed in them, as they should. This is a real test of the Government of New South Wales, which says it wants to be transparent. But with its first chance to show transparency about its new-found whimsy, the Government breached its promise of transparency and tried to apply its own rules to the documents produced. The Opposition, on behalf of the people of New South Wales, will not fall for that trick. We will not breach the confidentiality of companies involved in the tender process.

We want to ensure that the Government has not made these decisions on behalf of the people of New South Wales, because it cannot be trusted. I move:

That the motion be amended as follows:

- No. 1 Insert at the end of the opening paragraph "the Minister for Local Government, the Department of Local Government, Sydney Water and the Sydney Catchment Authority".
- No. 2 Insert after paragraph (c):
- (d) all documents relating to the tender for the construction of a desalination plant at Kurnell,
 - (e) all documents which record or refer to recommendations by Sydney Water in favour of desalination and its opposition to alternative solutions for addressing Sydney's water supply,
 - (f) all documents, including minutes and submissions to and from the Government-appointed expert water panel regarding the desalination plant,
 - (g) all documents which record or refer to the involvement of the former Premier, Bob Carr, before and after his retirement from Parliament in a proposal for a desalination plant, and

The Hon. John Della Bosca: Oh, that is a bit of gratuitous violence.

The Hon. DUNCAN GAY: The Leader of the Government trivialises the last point of the amendment.

The Hon. John Della Bosca: That is rough.

The Hon. DUNCAN GAY: He says it is a bit rough. How rough is it to have a former Premier of this State leave that position and, while his seat is still warm, begin working for the project's principal consortium? As one of my colleagues said today, the Macquarie Bank is not paying him \$500,000 for his good looks. The people of New South Wales need to know the extent of the former Premier's involvement. As much as anything, the amendment will protect him because if he had no involvement in the decision, there will be no documents to suggest to the contrary. However, if he had an involvement, he should not have come within a bull's roar of the project. He should not have been anywhere near it.

The amendment is all about transparency. The Government says it will test the Opposition, but it is the Opposition that will be testing the Government. The Government is intent on forcing a desalination plant on the people of New South Wales—another one of its follies in the same category as the cross-city tunnel. The Government is intent on a costly solution for a problem that can be fixed by a less technological but more thoroughly analytical approach.

The Government should be paying close attention to the supply of power during peak load periods in New South Wales because throughout the summer of 2005-06 there will be blackouts across the State. The Government cannot plan this city or this State properly. There are huge housing developments in Western Sydney where the houses are too big for the blocks, they have no eaves, and their orientation to the block is not to the north and therefore does not achieve optimal environmental benefit. The people who live in those houses will be relying on airconditioning during the next summer, with the result that there will be widespread blackouts across this State, even without the additional load from a desalination plant. If a desalination plant is added to the load, the Government will achieve nothing but chaos.

The Opposition opposes the desalination plant. We believe there should be a properly structured and analytical approach to the provision of adequate water resources for Sydney. The Opposition is opposed to the Government once again attempting a cover-up. We believe that the person appointed by the Parliament, Sir Laurence Street, should decide whether documents relating to the desalination plant should be produced. He has made decisions properly in the past, and I believe he will do so in this instance while protecting true commercial confidentiality. No-one from the Opposition decries that commercial confidentiality in relation to this project should be protected. We trust Sir Laurence Street more than we trust the Government—and no-one in New South Wales blames us for that.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [11.33 a.m.]: The manner in which the Government has claimed that the desalination plant is a fait accompli and avoided adequate public scrutiny is simply outrageous. The Government's own documentation states that it is 2.2 times more expensive to desalinate

water than it is to reuse sewage. The Malabar sewerage treatment plant has a large vacant area of land near Anzac Parade that is owned by the Government and could be used as a site for recycling sewage.

The Hon. John Della Bosca: That used to be a rifle range.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: No, the land is between the Malabar sewerage treatment plant and the rifle range, and provides sufficient space for a sewage recycling plant. I understand that more than 50 per cent of Sydney's sewage water is discarded by the treatment works. The Prospect Reservoir could be bypassed and water could be brought directly from Warragamba Dam along the upper canal from Pipe Head. The Prospect Reservoir, which holds approximately three days supply of water for Sydney, could be used for emergencies or as a supplementary water supply. All that would be needed for a water recycling plant is a pipe from Malabar, or wherever the water is being recycled from, so there is no need for a desalination plant. Most of the required infrastructure and resources for a recycling plant, including vacant land, is already there, and it is outrageous for the Government to propose a desalination plant.

It is ridiculous to suggest that people will not accept recycled sewage water. Everybody knows that water is continuously recycled and reused on spacecrafts and that water is treated and reused for every downstream town. The idea that desalinated water is the only solution is simply a furphy of the Government's propaganda machine. Trade waste water levels are still very high in New South Wales, particularly in the Sydney catchment area, and there is a great deal of scope for cutting back trade waste water usage and for making industries more efficient in their use of water, quite apart from the fact that there has been minimal use of grey water and rainwater tanks in suburbia. The Water Board workers who had been saving water by preventing leaks in water pipes and conserving rainwater were sacked and infrastructure became run down. The Government pocketed the savings from their salaries and called them dividends of its trading enterprise after corporatisation.

The Government has created water shortages very much as a result of its own greed and ineptitude. The Government has adopted a foolish and dogmatic approach to State budgets by refusing to borrow to maintain infrastructure, despite the widely accepted model of borrowing to maintain infrastructure in the interests of stability that led New South Wales in the past to become the premier State in Australia. This Government has run down this State in a most irresponsible fashion. Not content with having done that, the Government built the Northside Storage Tunnel at Manly to deal with sewage overflows. The tunnel would not have been necessary if the Government had maintained the stormwater and sewerage systems adequately by retaining Water Board workers, but instead the Government adopted a policy of sacking Water Board staff to produce funds that could be redirected to a massive project.

The Government built the ocean outfall tunnel and immediately prior to the Olympics gave ridiculous concessions to the construction company. The tunnel was not lined because if rain had fallen two days before the triathlon swim event, there may have been some turbidity of the harbour's water. For the sake of preventing turbidity, the Manly ocean outfall tunnel was not lined, which is quite outrageous. Water in the tunnel could be reused, but the Government refuses to do so, and water recycling proposals are not being discussed. Instead, the Government plans to spend \$2 billion on a desalination plant without having seriously discussed alternatives that I or anybody who takes an even desultory interest in Sydney's water supply could list off the tops of our heads.

It is the irresponsibility and absolute arrogance of the Government that have led it to the point of proposing a desalination plant. Worse than that, the Government has now said that members of Parliament are not permitted to examine documents relating to the desalination plant because of the need to protect commercial-in-confidence transactions. The Government has adopted the position that it is doing a deal and that members of this Parliament will be able to see the documentation after it has stuffed it up. Members of this Parliament have been trying to find sufficient time to examine the 50,000 pages of documentation relating to all the other contracts that this Government has made a hash of, and now this Government has said we can wait for the documentation related to the desalination plant to be released before we will be able to find out what a hash it has made of the desalination project. This Government is doomed because it is so damned hopeless.

We do not want another \$2 billion deficit when the next election is held simply because the Government proceeded without hindrance with a desalination project. Members of Parliament want to know what is going on with this project and why it is needed. That is what this motion is all about, and that is why it should be supported. The Government has put forward the pathetic smokescreen of saying that it has appointed probity auditors—no doubt at vast cost to the public. This is yet another example of consultants with their snouts in the trough providing this Government with a way of proceeding with the project, unfettered by accountability.

The former head of Cabinet, the former Premier, Bob Carr, had access to every State Government memorandum, and has now flipped over to the Macquarie Bank, yet it is regarded as some form of discourtesy to suggest that he might have a conflict of interest. Well, hello! What sort of a community are we living in? The idea that someone can go straight from government to the private sector to lobby for the people that effectively they were negotiating with five minutes before is an absolute disgrace and shows a total lack of probity by the Government.

The Minister is peddling the nonsense that the Leader of the Opposition is more than happy to sit there calmly and wait to release statements only after the Government has done its work of governing New South Wales. In fact, the Government has snuck up on this and called it a *fait accompli* when there has been no proper discussion. It is an absolute disgrace. It is to the credit of the members of this House that, when all these outrageous documents are produced and they spend the night going through them and finding all these scandals, they do not leak them to the media. That is pretty amazing, given the scandalous nature of the documents and the total and utter incompetence of the Government, and the deals that it makes with its mates and so on.

The ICAC says that if the Government did not get money in its back pocket at the time it is not corruption. The Government can have conflicts of interest, total ineptitude, give things to its mates and receive donations from them to win elections, but that is not corruption. Apparently it is corruption only if the Government gets money in its back pocket. That is a pretty snappy definition, a pretty limited definition that suits this Government, funnily enough. This is a perfectly reasonable motion for papers to be produced so members can find out what is going on in this outrageous proposition, in this outrageous contract. Yet, the Government is being all precious about it. I urge honourable members to support the motion and to shelve the Government's outrageous amendment. I support the Opposition's sensible amendment to the sensible motion of the Hon. Ian Cohen.

Mr IAN COHEN [11.41 a.m.], in reply: On behalf of the Greens I support the Opposition amendment and oppose the position put by the Government. I support the passionate contribution of the Hon. Dr Arthur Chesterfield-Evans. It is important that we look at the level of probity that is undertaken by the Government at this time. I was a member of the committee of inquiry into the northside storage tunnel. That massive tunnel received a massive input of public finance. Basically, it is a Sydney Water out-to-sea, end-of-pipe option that is part of the culture of the days when Bob Carr, as the planning and environment Minister, instituted three-kilometre ocean outfall tunnels against the advice and lobbying of many people. We have to change the culture of Sydney Water and turn it around to recycling.

This end-of-pipe solution of engineers at Sydney Water is wasting our resources and our money, and is sending us down the wrong track in a nineteenth century mentality. We have to turn that around. I suggest that we need to get all the appropriate facts in this debate and keep this issue going. A desalination plant is an extension of those tunnels, and it will be a waste of taxpayer's money.

Reverend the Hon. FRED NILE [11.43 a.m.], by leave: I agree with the motion moved by the Hon. Ian Cohen. The wording of the Government amendment is confusing. The amendment refers to "abovementioned documents", but if it is agreed to there would be no abovementioned documents. I understand that that is an error. Under Standing Order 52 there is a system in place, which the Government is aware of and uses whenever a motion is moved for the tabling of papers. The Government has a right to withhold documents which, for commercial purposes and other reasons, it believes should not be made public and should be made available only to members of this House.

When that happens, usually the papers are referred to Sir Laurence Street. If he is not available the papers are referred to an independent person of similar calibre. That procedure set up by the House is sufficient and adequate. It should not be replaced by the Government's proposal of an independent probity arbiter to make that decision before the documents are tabled with the Clerk. That would change the whole process. If the Government wants to change the process, that is another issue that the House should consider as a matter of principle. I do not believe that the procedures should be changed off the cuff at this time. We should use our normal procedure under Standing Order 52.

Question—That the amendment of the Hon. John Della Bosca be agreed to—put.

The House divided.

Ayes, 16

Ms Burnswoods
Mr Catanzariti
Mr Costa
Mr Della Bosca
Mr Donnelly
Ms Fazio

Ms Griffin
Mr Hatzistergos
Mr Kelly
Mr Macdonald
Mr Obeid
Ms Robertson

Mr Roozendaal
Ms Sharpe

Tellers,
Mr Primrose
Mr West

Noes, 21

Mr Breen
Dr Chesterfield-Evans
Mr Clarke
Mr Cohen
Ms Cusack
Mrs Forsythe
Miss Gardiner
Mr Gay

Ms Hale
Mr Jenkins
Mr Lynn
Reverend Nile
Mr Oldfield
Ms Parker
Mrs Pavey
Mr Pearce

Ms Rhiannon
Mr Ryan
Dr Wong

Tellers,
Mr Colless
Mr Harwin

Pair

Mr Tsang

Mr Gallacher

Question resolved in the negative.

Amendment negatived.

Question—That the amendment of the Hon. Duncan Gay be agreed to—put.

The House divided.

Ayes, 21

Mr Breen
Dr Chesterfield-Evans
Mr Clarke
Mr Cohen
Ms Cusack
Mrs Forsythe
Miss Gardiner
Mr Gay

Ms Hale
Mr Jenkins
Mr Lynn
Reverend Nile
Mr Oldfield
Ms Parker
Mrs Pavey
Mr Pearce

Ms Rhiannon
Mr Ryan
Dr Wong

Tellers,
Mr Colless
Mr Harwin

Noes, 16

Ms Burnswoods
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Mr Costa
Mr Della Bosca
Mr Donnelly
Ms Fazio

Ms Griffin
Mr Hatzistergos
Mr Kelly
Mr Macdonald
Mr Obeid
Ms Robertson

Mr Roozendaal
Ms Sharpe

Tellers,
Mr Primrose
Mr West

Pair

Mr Gallacher

Mr Tsang

Question resolved in the affirmative.

Amendment agreed to.

Question—That the motion as amended be agreed to—put.

The House divided.

Ayes, 21

Mr Breen	Ms Hale	Ms Rhiannon
Dr Chesterfield-Evans	Mr Jenkins	Mr Ryan
Mr Clarke	Mr Lynn	Dr Wong
Mr Cohen	Reverend Nile	
Ms Cusack	Mr Oldfield	
Mrs Forsythe	Ms Parker	<i>Tellers,</i>
Miss Gardiner	Mrs Pavey	Mr Colless
Mr Gay	Mr Pearce	Mr Harwin

Noes, 16

Ms Burnswoods	Ms Griffin	Mr Roozendaal
Mr Catanzariti	Mr Hatzistergos	Ms Sharpe
Mr Costa	Mr Kelly	
Mr Della Bosca	Mr Macdonald	<i>Tellers,</i>
Mr Donnelly	Mr Obeid	Mr Primrose
Ms Fazio	Ms Robertson	Mr West

Pair

Mr Gallacher

Mr Tsang

Question resolved in the affirmative.

Motion as amended agreed to.

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

NEWCASTLE MULTIPURPOSE TERMINAL

The Hon. MICHAEL GALLACHER: My question is directed to the Minister for Ports and Waterways. Why did the New South Wales Government and the Newcastle Port Corporation not wait until after the release of the expansion plans for Port Botany, including the release of the commission of inquiry report in addition to the announced upgrade plans for Port Kembla, before closing tenders for the Newcastle multipurpose terminal?

The Hon. ERIC ROOZENDAAL: That is a rather confusing question. I think it displays the Coalition's lack of knowledge of the multipurpose terminal [MPT] and the expansion of Port Botany. If those opposite had a policy on ports, shipping, Port Botany or Port Kembla they might tell someone. But they do not have anything. As honourable members will be well aware, Port Botany has been earmarked as a port precinct since the 1970s and the announcement of its expansion pretty much completes what will happen at the port. It is a mistake to connect the MPT with the expansion of Port Botany. The process of examining the two tenders for the MPT has been going on for many months, as the Leader of the Opposition would be well aware. That process is undertaken independently by the Newcastle Port Corporation, which had to choose the best process and the best outcome for the people of Newcastle. It is a complete furphy to connect the two. The process for the expansion of Port Botany that led to the final analysis was completely independent of the assessment—as the Leader of the Opposition should know.

I note that the Leader of the Opposition, who is sitting at the table sucking on the end of his pen, has been silent on the MPT even though there was a conference in Newcastle. The Opposition has said nothing

about Port Botany except for the comments of the former Leader of the Opposition. Those opposite are absolutely silent about the incompetence of their Federal colleagues regarding the \$200 million Customs fiasco that has massively damaged businesses in New South Wales to the tune of tens of millions of dollars. Incidentally, that farcical computer system still does not work properly. The Opposition has been dead silent about that. Opposition members have not said a thing about the many businesses in New South Wales that have suffered, and they have been dead silent on the MPT. The Opposition is dead silent on all of those issues because when it comes to ports and shipping it has no policies whatsoever.

The Leader of the Opposition will be well aware of public announcements by the Newcastle Port Corporation that it is continuing to look at other opportunities for that site. We will make some announcements about that. If the Leader of the Opposition had been listening yesterday he would know that Newcastle is maintaining its place as the premier coal export port in the world. If only he had bothered to listen.

The PRESIDENT: Order! I call the Hon. Robyn Parker to order.

The Hon. ERIC ROOZENDAAL: If the Leader of the Opposition had bothered to listen during question time yesterday, instead of sitting there chewing on his pen—which is the extent of his policy development in this area—he would know that Sensation Yachts, which is one of the top 10 luxury yacht builders in the world, is basing itself in Newcastle. But the Leader of the Opposition does not listen.

The PRESIDENT: Order! I call the Minister for Finance to order.

The Hon. ERIC ROOZENDAAL: The Leader of the Opposition never makes any contribution.

BOEING AUSTRALIA EMPLOYEE CONTRACTS

The Hon. IAN WEST: My question is addressed to the Minister for Industrial Relations. What action has the Government taken to assist in resolving the long-running Boeing industrial dispute in Williamstown?

The Hon. JOHN DELLA BOSCA: I thank the Hon. Ian West for his question and acknowledge his ongoing interest in this very important matter. The industrial dispute at the Boeing maintenance plant at Williamstown air base near Newcastle has dragged on for more than 160 days. Some 27 aircraft mechanical engineers at the air base have been seeking to negotiate a collective agreement with their employer, Boeing Australia Ltd, which, in turn, simply refuses to participate in the negotiation process. The New South Wales Government is greatly concerned about the inadequacy of current Federal industrial relations arrangements to resolve this matter and the impact on the workers and the families involved. That is why the Iemma Government has stepped in and referred the matter to the New South Wales Industrial Relations Commission under the ministerial reference power of the State Industrial Relations Act. I have asked the New South Wales Industrial Relations Commission to inquire into a number of issues, including the potential economic impact that this dispute is having on the region and the State and the possible health and safety concerns—

The Hon. Robyn Parker: Tell us how many workers are on individual contracts?

The Hon. JOHN DELLA BOSCA: The Hon. Robyn Parker thinks it is good that the company is starving Australian families. I acknowledge that interjection and thank the honourable member. The Hon. Robyn Parker agrees with the Prime Minister and supports Boeing rather than Hunter Valley workers, who are doing the right thing by their families and standing up to that multinational company. We find faults in the law all the time. I have also asked the commission to report on whether it can take any action to assist the parties in resolving this dispute.

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

The Hon. JOHN DELLA BOSCA: This step is necessary because of the failure of the Commonwealth Government to resolve this matter. It is a national disgrace and a clear example of how the industrial relations system will be managed under the Howard Government's brave new world of workplace relations: conflict will rule over co-operation, bullying will take the place of negotiation and intimidation will take the place of fairness. But it is a national disgrace that the Boeing company has the unqualified support of the Prime Minister of this country. We could talk about loyalty, treachery and sedition—that is a valid debate. But what about the lack of loyalty, the treachery and the sedition displayed in undermining the working conditions of Australian families in this disgraceful way?

Although it has the power, the Howard Government has consistently refused to intervene in this matter—indeed, it has prevented the Australian Industrial Relations Commission from attempting to resolve the dispute. John Howard has declared that Boeing is "within its rights" and that the dispute "is not the result of an unfair law or perfidy by the company". The Government has actively supported one of the world's largest and most powerful corporations in a one-sided battle with Hunter Valley engineers and their families. This disregard for both the rights of a work force and the principles of conciliation is exactly the sort of industrial belligerence that the Commonwealth is trying to force upon all workplaces through its new legislation.

Australian workers and their families expect protection from such needless conflict and they deserve to have an independent umpire resolve unfair contests. Our work force should have the democratic right to choose to bargain collectively, as it has done for a century. However, seeing the Commonwealth's radical agenda as a green light, Boeing Australia Ltd has decided to deny its work force this fundamental right—which its American workers enjoy. These are the sorts of workplace relations that Mr Howard wants to impose on all Australians.

HAWKESBURY RIVER OYSTER INDUSTRY

The Hon. DUNCAN GAY: My question is directed to the Minister for Primary Industries. Is it a fact that growers of QX-affected Hawkesbury River oysters signed the contract for the clean-up of the river on only 2 November this year—a good five months after the Government's support package was announced with much fanfare? Is it a fact that this delay has been caused by the Government's lack of action in disposing of spoiled material? In the House on 23 June 2005 the Minister said:

... the clean-up of QX-affected oyster leases is one of the biggest and most pressing challenges facing the industry.

Does the Minister recall making that comment? In light of that comment, how does the Minister justify his tardiness in helping the industry to recover from the mass devastation caused by QX and resume production?

The Hon. John Della Bosca: That is a long question.

The Hon. DUNCAN GAY: It is a very good question and they have been waiting a long time.

The Hon. IAN MACDONALD: The Deputy Leader of the Opposition is completely out of step with industry on this issue. The Government's generous \$2.8 million package to oyster growers on the Hawkesbury River has been of immense value in at least giving them a potential new future. The Government was approached for this assistance package for the clean-up, plus a range of other items that the then Premier and I announced earlier this year. Honourable members will remember that procedures are in place for the massive clean-up of a large estuary that produced 15 per cent of Sydney's rock oyster production. The estuary will not be cleaned up overnight, as many arrangements have to be put in place.

The Hon. Duncan Gay: Five months is not overnight.

The Hon. IAN MACDONALD: It will not be cleaned up instantly as it involves a lot of work. I know it is easy for the Deputy Leader of the Opposition to turn a complex problem into one that can be resolved overnight.

The Hon. Duncan Gay: Is 12 months a fair time?

The Hon. IAN MACDONALD: It will be cleaned up appropriately under contract with the current oyster farmers.

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

The Hon. IAN MACDONALD: Let us be very careful. Previous outbreaks of QX and other problems with oyster leases in other parts of the State have taken from 10 to 15 years to clean up, and some have still not been cleaned up.

The Hon. Duncan Gay: That is some clean-up—you haven't started!

The Hon. IAN MACDONALD: The Deputy Leader of the Opposition has to get into his head that it is a massive process. It involves disposal issues. Where will the product be put once it is pulled out of the river, and under what conditions will the product be taken out?

The Hon. Duncan Gay: How long before you start—12 months?

The Hon. IAN MACDONALD: And the Government gave \$2.8 million for it.

COUNTER-TERRORISM MEASURES

Reverend the Hon. FRED NILE: My question is directed to the Special Minister of State, representing the Premier. Were seven men in Sydney and nine men in Melbourne arrested on Monday night on suspicion of supporting and/or planning an imminent act of terrorism or being members of a prescribed terrorist organisation? Was one of those men shot while shooting at the police, after fleeing a mosque at Green Valley, Sydney? Was a police car torched last night? As a result of the current riots in Paris, France that began on 6 November, have more than 100 police been injured, nearly 4,000 cars and a large number of buildings been torched? In light of those events, what urgent steps is the Government taking to ensure the safety of Sydney citizens from any violent backlash, as has occurred in France?

The Hon. JOHN DELLA BOSCA: To the first part of the question, I answer yes; it is a matter of public record. I also answer yes to the second part of the question. I believe it is a matter of public record that one police officer was wounded during the course of an arrest. The honourable member then referred to the coincidence of matters occurring in Paris, France, in recent days. In response to that component of the question, it is important to understand that one of the aspects of Australia's national prosperity and success has been its ability to have a society that accepts a broad range of religious views and cultural elements and melds those into a single culture.

The strength of that success has been a policy consensus between the major political parties for a long time now. I am not a French sociologist, but I understand that is not the case in France, where various immigrants from the former African and Middle East colonies of France migrated in very large numbers to France in the immediate post-war period, and formed a successful pool of labour for the French in the rebuilding after the Second World War. Although the first generation did well, the second and third generations found themselves to be—

The Hon. Melinda Pavey: Under a socialist government.

The Hon. JOHN DELLA BOSCA: That is not the case. The Hon. Melinda Pavey does not know history. De Gaulle was not a socialist and neither were the majority of French governments in the post-war period. Regrettably the Hon. Melinda Pavey has already got it wrong before she has even entered the debate. I do not want to canvass the to-and-fro of post-war French politics. I am simply making an observation that the analogy between current events in Paris and the situation in Australia is dangerous, although I am sure Reverend the Hon. Fred Nile did not make it with that in mind. We need to think very carefully about the apparent lessons from the Paris riots that seem to have their origins in social and economic issues, and some policy issues. A large section of the French population, albeit a migrant population, some of whom are second and third generation French people, apparently do not feel part of the French nation. Reverend the Hon. Fred Nile might care to note out of interest that from reports I have seen many of these young people are also very angry with their religious leaders and demonstrate against mosques and the like because they believe the mosque leadership is too pro government.

[Interruption]

I do not think the Hon. David Oldfield understands the situation correctly. The point I make is that Australia has a different set of social circumstances. We can be proud of our success in allowing people from a wide range of cultures and religions to come to Australia and make a contribution to Australian culture. We should not be distracted from the fact that in the case of the recent arrests we are dealing with allegations of criminal behaviour, and those matters are before the courts and have nothing to do with a broad religious or cultural view.

CENTRAL WEST FLOODING

The Hon. AMANDA FAZIO: My question is addressed to the Minister for Emergency Services. What is the latest information on the flooding in the State's Central West?

The Hon. TONY KELLY: Earlier today I flew over floods in Wellington and on to Parkes and then I visited Eugowra. I thanked volunteers and met some people whose homes and businesses were affected by

floodwaters last night. Thankfully the Mendagery Creek peaked at approximately 9.5 metres, not the predicted 10.5 metres that would have devastated the township. I know some criticism has been made of the decision of the local police and the State Emergency Services to prepare to evacuate the 730 residents yesterday. In my view, it is better to evacuate than to have a catastrophe reminiscent of New Orleans by leaving residents to fend for themselves. It is hard to predict the exact—

[*Interruption*]

Are you laughing at what I just said?

The Hon. John Ryan: I was laughing at something my colleague said.

[*Interruption*]

The Hon. TONY KELLY: That is disgusting.

The Hon. John Ryan: Point of order: The Minister appears to be interjecting to interfere with a private conversation I was having with my colleague. Is that what he was doing? Whatever the Minister was imputing is unfair and untrue and it is against standing orders to make such imputations.

The PRESIDENT: Order! I remind members that interjections are disorderly at all times. Members wishing to engage in private conversations must leave the Chamber.

The Hon. John Ryan: There was no interjection.

The Hon. TONY KELLY: I distinctly heard him mention New Orleans.

The Hon. John Ryan: Apparently you mentioned New Orleans.

The Hon. TONY KELLY: I didn't mention New Orleans, and it is much better to have—.

The Hon. John Ryan: I was talking about you, not to you.

The Hon. TONY KELLY: Will you be quiet?

The PRESIDENT: Order!

The Hon. TONY KELLY: It is much better to have an actual figure that is lower than the predicted figure than the other way around. Last night a number of people in Eugowra were affected by flooding. A number of houses were flooded, some of which had floodwaters 1.5 metres high passing through them. Fortunately, the flood was not as severe as they had expected. Evacuation was totally in order and the wise thing to do. I place on record my appreciation particularly of the fine work of the SES not just at Eugowra but also at Molong, Broken Hill, Wellington, Trundle, Orange, Wagga Wagga, Griffith, Temora and all the other centres that have suffered the force of Mother Nature during the past few days. The SES will be at work in Dubbo later today, when minor flooding is expected. Often these types of disasters bring out the best in the Aussie spirit, and in the last few days I have seen countless examples. Yesterday 90 per cent of the shopping centre in the main street of Molong was inundated with floodwater. The supermarket was completely flooded and lost all its stock, the pharmacy lost all its stock, and the newsagency lost all its stock and one entire wall of the building. But this morning, with true Aussie spirit, the newsagent was selling newspapers on the footpath.

The Hon. Melinda Pavey: He's a trooper.

The Hon. TONY KELLY: He is a trooper. Last night Eugowra was cut in half by floodwaters. The bitumen on the main road was broken up, and this morning locals were making emergency repairs to the bridge, which connects the two parts of the town. This week the SES, which was formed in the wake of the catastrophic floods that swept through the Hunter Valley and the Central West in February 1955, is celebrating its fiftieth anniversary. This Saturday the community will have the chance to thank the volunteers and the SES when it stages a grand anniversary street parade through the centre of Sydney. I am sure that they will receive a warm welcome as they parade up George Street, Sydney.

MR IAN HARRISON, SC, SUPREME COURT APPOINTMENT

The Hon. DAVID OLDFIELD: My question without notice is directed to the Special Minister of State, representing the Attorney General. Has Independent Commission Against Corruption [ICAC] Assistant Commissioner Ian Harrison, SC, the gentleman who heard the ICAC inquiry into the Orange Grove affair, been appointed as a Supreme Court judge?

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

The Hon. DAVID OLDFIELD: If Mr Harrison has been appointed, was there notification of said appointment in the *Government Gazette* or any other appropriate place, and what was the date of the appointment? If Mr Harrison has been appointed, or is about to be appointed, on what date was he sounded out in relation to his interest in such an appointment? If Mr Harrison has not been appointed a Supreme Court judge, why are senior staff at the ICAC advising that he is no longer available for hearings because he has been appointed a Supreme Court judge?

The Hon. JOHN DELLA BOSCA: In relation to the first part of the honourable member's question I am unsure whether it is a fact. I will check that with the Attorney General and I will get back to him. Because these are Cabinet decisions, I should be aware of whether an appointment has been made, but in the past few weeks I have missed one Cabinet meeting and an appointment may have been made at that meeting. In respect to the third part of the honourable member's question, I am sure the Attorney General will provide information about the process by which Supreme Court judges are appointed and any specifics about which the honourable member might be curious. In respect of the fourth part of his question, I have no idea why ICAC receptionists or other personnel are saying anything.

PEAT ISLAND CENTRE RECREATIONAL DAY PROGRAMS

The Hon. JOHN RYAN: My question without notice is directed to the Minister for Disability Services. Has the Department of Ageing, Disability and Home Care [DADHC] in the Hunter region made plans to review recreational day programs at the Peat Island Centre in Brooklyn? Is the Government planning to reduce the number of recreational staff at the centre? What plans has the Government made to ensure that residents are able to access recreational activities after hours and on the weekend if staff numbers are not reduced?

The Hon. JOHN DELLA BOSCA: Recently I visited the Peat Island Centre where I spent time with residents who are clients of the Department of Ageing, Disability and Home Care [DADHC]. I also had the opportunity to speak to the staff. Neither residents nor staff raised the matters to which the honourable member referred. I will take that part of his question on notice and advise him as soon as I can whether the issues raised in his question are accurate or inaccurate. I will also provide him with a general response to that component of his question. However, I take this opportunity to indicate, as some honourable members are aware, that the Government, through the director general of the department and me, is conducting round table discussions with key stakeholders in the disability sector about accommodation and the accommodation responses of the disability system.

I refer to accommodation in the broad sense of everything from bricks and mortar of the various facilities through to the way in which people can be supported to live within the community in their own homes or with their families. We are undergoing a significant review of the Government's approach to accommodation, which has not yet concluded, but which has been fruitful. The review involves a number of issues in relation to the future of accommodation in current large residences that the Government operates through DADHC and other various group homes operated under the auspices of non-government organisations, DADHC and a series of other facilities the Government operates, and other services provided by DADHC. The answer to the last part of the honourable member's question is: Watch this space. These issues relate to all the Government's residential policies that are currently under review. However, I will undertake to get the balance of the information to him as soon as practicable.

RICE INDUSTRY

The Hon. TONY CATANZARITI: My question without notice is directed to the Minister for Primary Industries. Will the Minister inform the House of whether the State Government has received a reply to the New South Wales Premier's letter to the Prime Minister in regard to forced deregulation of our domestic rice industry?

The Hon. IAN MACDONALD: As the House would be aware, the New South Wales Premier has written twice to the Prime Minister about marketing arrangements for our rice industry. In both letters he staunchly argued the benefits of those arrangements. The Premier's letters of 22 September and 17 October also call on the Commonwealth to intervene and recognise the overwhelming benefits of our current rice marketing arrangements. John Howard's much belated response was not received until 7 November. What was the belated response? It was that intervention by the Australian Government would be inconsistent with national competition policy.

The Hon. Tony Catanzariti: So they are not interested in the rice industry, in other words.

The Hon. IAN MACDONALD: In other words, forget it. It would be inconsistent for him to do anything about what the National Competition Council [NCC] has been doing. The Prime Minister went on to say—and he was very gracious—that he had referred the matter to the Federal Treasurer, who has portfolio responsibility for matters related to national competition policy. In other words, he is saying to the 8,000 people who work in the industry in southern New South Wales, "Forget about it. We're not interested." My question is this: Who is running the show in Canberra, the Australian Government or the National Competition Council? This flippant response is typical of the Coalition's attitude toward rural New South Wales and our primary industries. The Nationals, in particular, have shown absolute disdain for this industry by doing nothing to stop competition reform gone mad. They have had years to intervene and work with the New South Wales Labor Government to save our rice industry from upheaval, yet they have done nothing. Just yesterday in the other House the honourable member for Wagga Wagga went so far as to say that the New South Wales Government should just cop the \$26 million. He said \$26 million is not a large amount.

The Hon. Tony Catanzariti: Who said that?

The PRESIDENT: Order! There is too much chatter.

The Hon. IAN MACDONALD: The honourable member for Wagga Wagga. I would like to know what school of economics the Opposition is getting advice from, because \$26 million represents 350 teachers, five primary schools or any number of critical infrastructure projects in rural and regional New South Wales. The honourable member for Murrumbidgee alleged that he is advised the Government did not even make a submission on behalf of the industry. What rock have The Nationals been living under? We have carried out three reviews in 10 years, held emergency talks with the NCC, worked with the industry to provide information to NCC on numerous occasions, and we negotiated until we were blue in the face.

All the while, members of the Coalition have done nothing, but it is not too late for them to act. They can still appeal to the Federal Treasurer, Peter Costello, to override the approach of the National Competition Council [NCC] toward our rice growers. Peter Costello just has to say the word and we will be more than happy to retain the current arrangements. If Peter Costello refuses to see reason, then members of the Opposition should at least urge him to agree to a suitable transition period for domestic deregulation.

The NCC is currently demanding that new arrangements for the domestic industry be in place by 30 November and implemented by July 2006. The NCC has been very specific about that and indeed wrote to me on 17 October, making it plain that the dates were immovable. In case we were not sure, the NCC again emailed my office on 31 October, reiterating the position. However, industry has always made it clear that it will need at least four years notice, and preferably five years notice, if it is ever forced into domestic deregulation. The Rice Marketing Board's currently exclusive arrangements with SunRice have about 3½ years to run. While the time frame is less than the four to five years that have been requested by industry, a suitable transition period would certainly be more reasonable than forcing major disruption within the next 12 months. Will the Opposition finally stand up for regional New South Wales, which it has neglected in relation to this matter?

PUBLIC-PRIVATE PARTNERSHIPS

Ms SYLVIA HALE: I address my question to the Minister for Health. Given the scandal of the secret cross-city tunnel contract and details that are now emerging about the Lane Cove tunnel and the M7 Motorway, and in view of increased public concern that public-private partnerships [PPPs] are not serving the community but, rather, the interests of the finance and construction industries, will he commit to having the Auditor-General sign off on any PPP contract, before it is finalised, for the Orange Base Hospital? To ensure transparency and public accountability, will he release the full details of the new memorandums of understanding and the contract as soon as it is signed?

The Hon. JOHN HATZISTERGOS: No decision has been made at this point that we will be going to a public-private partnership in relation to the Orange Base Hospital.

MINISTER FOR FINANCE PORTFOLIO PERFORMANCE

The Hon. GREG PEARCE: My question is directed to the Minister for Finance, Minister for Infrastructure, and Minister for the Hunter. At the Legislative Council's budget estimates hearings on 20 September 2005, the Premier described the Minister's responsibility as tax administration and the Office of State Revenue. The Minister has been the Minister for Finance for more than three months. What have been his main initiatives in tax administration since his appointment? What is the amount of tax collected since he became responsible for tax administration?

The Hon. Jan Burnswoods: Point of order: The Hon. Greg Pearce is asking a question based on something he alleges was said in an estimates committee hearing, but the estimates committee process is ongoing. The committee of course is deliberating and the committee processes are as yet unreported to the House. I therefore argue that his question is out of order.

The Hon. Don Harwin: To the point of order: The question as it was asked clearly did not canvass what was said at a budget estimates committee hearing. It was a question directed to the Minister about his responsibilities, as they were described. That does not mean that it was canvassing anything that was said, and clearly it is in order.

The Hon. GREG PEARCE: To the point of order: Madam President, on many occasions you have ruled that it is appropriate for a member to provide the necessary background information when asking a question. The question was:

The Minister has been the Minister for Finance for more than three months. What have been his main initiatives in tax administration since his appointment?

The question went on:

What is the amount of tax collected since he became responsible for tax administration?

How do these collections figures compare with the same period last year?

The PRESIDENT: Order! The Hon. Greg Pearce will resume his seat.

The Hon. Greg Pearce: That was the question. It had nothing to do with budget estimates.

The Hon. Jan Burnswoods: Point of order. Not for the first time, the Hon. Greg Pearce is absolutely ignoring your rulings and your authority, and is simply trying to get more of his question read out under the guise of seeking to speak to the point of order. I ask you to rule that the comments by the Hon. Greg Pearce on the point of order had nothing whatsoever to do with my original point of order.

The PRESIDENT: Order! I rule that that part of the Hon. Greg Pearce's question that referred, *inter alia*, to the estimates committee may not have been in order. However, the major part of the question was in order, and I will allow it to stand.

The Hon. MICHAEL COSTA: Clearly, the Hon. Greg Pearce has actually answered his question in the sense that the Premier has described the duties of the Minister for Finance. I refer him to the very position he quoted. In terms of achievements, the one I wish to highlight currently is my focus on the inequitable State and Federal financial arrangements. On many occasions I have had the opportunity of talking to business groups and community groups and others about this inequitable situation. I have had an opportunity to point out that the Commonwealth Government's cuts to New South Wales have adversely affected our financial position. I have pointed out to a range of business groups that the Federal Government collects \$13 billion in GST and returns only \$10 billion to this State.

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

The Hon. MICHAEL COSTA: I have been able to point out also that more than \$800 million a year has been lost to this State as a result of the Commonwealth Grants Commission's relativity distributions since

the introduction of the GST. I have been able to point out to the community also that \$392 million has been lost each year over five years through the health care agreement. I have been able to point out also that \$10 million was lost in 2004 in payments to the training sector through the Australian National Training Authority agreement. I have been able to point out also that \$23 million has been lost to the State through the Commonwealth-State Housing Agreement.

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

The Hon. MICHAEL COSTA: I have been able to point out also that as a result of the inequitable position of State-Federal financial arrangements, \$34 million has been lost since 1997 owing to the abolition of the Commonwealth's dental program. I have been able to point out also that \$51 million was lost in 2003-04 and \$27 million in 2004-05 through national competition payments as a result of reform penalties that apply to the chicken and rice industries, the liquor industry, rural water reform and other legislative reviews. These are the responsibilities that I have for tax policy.

I will continue to point out that the Federal Government's taxation arrangements are unfair to New South Wales. The Commonwealth Government penalises New South Wales for doing what it is supposed to do—provide first-class services to the citizens of New South Wales. I could go on to outline what has happened in relation to AusLink.

The Hon. Greg Pearce: Point of order: The Minister for Finance has just demonstrated his complete incompetence when it comes to dealing with the Commonwealth Government in relation to financial arrangements, but what I asked him was what he has actually achieved as a Minister.

The PRESIDENT: Order! The Hon. Greg Pearce will resume his seat. There is no point of order.

The Hon. MICHAEL COSTA: It is embarrassing to shoot oneself in the foot by asking a silly question, as the Hon. Greg Pearce has done. His taking points of order to try to use up my time will not resolve the embarrassment of the question he asked. The challenges that this Government has before it are very much the result of inequitable Commonwealth-State financial arrangements. I can list them, and they include the AusLink arrangement, which is another example of how this State was duded by the Federal Government. *[Time expired.]*

RURAL HEALTH MINOR WORKS PROGRAM FUNDING

The Hon. KAYEE GRIFFIN: My question without notice is addressed to the Minister for Health. Will he acquaint the House with the New South Wales Government's funding of the Rural Health Minor Works Program?

The Hon. JOHN HATZISTERGOS: The Rural Health Minor Works Program assists rural health services to fund a smaller scale of capital projects to address identified service needs. Indeed, since the program was commenced in 1994, the Government has provided total funding of \$36 million and under this program has supported some 85 rural health minor works initiatives.

This program has been used for a variety of valuable purposes, one of which is staff accommodation, which is essential to attract and retain health professionals in rural and remote communities. Hence it is a categorical priority. Another focus of the program has been equipment purchase. In the past three years this has included at Broken Hill hospital, the replacement of patient monitoring equipment in the intensive care-coronary care unit, operating theatres and emergency; and at Wagga Wagga Base Hospital, new radiology equipment, including a second mobile image intensifier for the operating theatres and a smaller bedside ultrasound for the emergency department.

The program continues in the current financial year with \$3.87 million allocated to 15 projects across rural New South Wales. Over the next two years the Government has allocated \$10 million, allowing rural area health services to better plan and deliver minor works programs. The 2005-06 projects are: \$150,000 for improvements of heated water systems in Cooma, Braidwood, Batemans Bay, Boorowa and Moruya health services; \$250,000 for improvements to sterilising equipment in Goulburn, Griffith, Wagga Wagga and Bega health services; and \$500,000 for the interim redevelopment of Wagga Wagga Base Hospital's emergency department to enable effective service delivery until the hospital's redevelopment is completed.

At Dubbo Base Hospital there will be resurfacing of roads and footpaths and upgrading of security in the emergency department and staff car parking. That is \$150,000 of infrastructure and security enhancements. Further projects include: general repairs and refurbishment of staff accommodation at Goodooga, Collarenebri and Broken Hill health services to the value of \$132,000; \$155,625 towards the replacement of one of the two existing staff accommodation units and \$430,000 for rectification works at Ivanhoe Health Service; \$203,500 for the construction of staff accommodation at Gunnedah Health Service; and the redevelopment of the Inverell Health Service's staff accommodation to the tune of \$344,850.

In addition, \$350,000 has been allocated for Narrabri Hospital's emergency department, which will be relocated and expanded to provide improved access to the public and increased security to staff; the installation of a new patient lift at Grafton Base Hospital; \$300,000 for an upgrade of the electricity supply and increased airconditioning ward space at Kempsey; and \$215,000 for Macksville to renovate the emergency department to establish a triage room and a mental health treatment/secure room. This will provide an appropriate, safe, secure and more private triage room and mental health treatment/secure area, which is necessary to meet contemporary service models.

Further, \$214,310 has been allocated for the purchase of an echocardiograph machine to establish an echocardiography service to support rapid diagnosis and improved access to specialist services for the Shoalhaven District Memorial Hospital. Last, but not least, \$78,276 has been allocated for the upgrade of the capacity of the pumps at Lithgow Hospital to allow efficient operation of the geothermal airconditioning plant. The Rural Health Minor Works Program delivers projects that are of demonstrable benefit to the staff and community of New South Wales rural towns.

COUNTER-TERRORISM MEASURES

The Hon. Dr PETER WONG: My question without notice is directed to the Minister for Ports and Waterways, representing the Minister for Police. Why have the recent raids on alleged terrorists been so widely publicised, given that the sole purpose of recent legislation leading to them was meant to keep such operations secretive as a matter of national security? What will the Minister do to ensure that future raids do not descend into a news-gate-style spectacle that we have been subjected to so far?

The Hon. ERIC ROOZENDAAL: I will pass the question on to the Minister and obtain an answer.

HUNTER NEW ENGLAND AREA HEALTH SERVICE CARELINK PROGRAM TENDER

The Hon. JENNIFER GARDINER: My question without notice is directed to the Minister for Health. I refer to the Minister's statement in the House on 13 October about the grievance felt by Gunnedah, Uralla and Glen Innes Severn shire councils concerning the actions of the Hunter New England Area Health Service in relation to the tender for a Federal Government Carelink Program. Is it not true that the councils vehemently objected to and rejected what the Minister said to the House? Is the Minister aware that the consortium councils believe that the Hunter New England Area Health Service acted corruptly in that matter? Has the matter been referred to the Independent Commission Against Corruption? Given that the Chief Executive Officer of the Hunter New England Area Health Service has confirmed to the councils that the behaviour of the service in that matter was inappropriate and has apologised to the councils, will the Minister now also apologise for his attack on those councils? If not, why not?

The Hon. JOHN HATZISTERGOS: I stand by my previous answer.

WORKCOVER PREMIUMS AND BENEFITS

The Hon. CHRISTINE ROBERTSON: My question is addressed to the Minister for Commerce. Will the Minister outline to the House the Government's latest efforts to assist injured workers and the employers of New South Wales?

The Hon. JOHN DELLA BOSCA: I thank the honourable member for her question and commend her for her ongoing interest in workers compensation matters. Today we saw the holy grail of workers compensation reform: a reduction in premiums for New South Wales employers and an enhancement of benefits for injured workers. New South Wales employers will benefit from a 5 per cent reduction in all WorkCover industry classification rates from 31 December 2005. This is great news for employers—and great news for employment. This reduction represents a saving for all New South Wales businesses and has been made possible by the Government's hard work to turn around the financial performance of the WorkCover Scheme.

The premium reduction is affordable and responsible, and offers practical help for employers. For example, a Sydney leagues club with a wages bill of \$12 million will save more than \$72,000 on its premium. Claims by club employees in the past three years cost the scheme \$250,000. A southern Sydney glazier with a \$770,000 wages bill will save \$28,500. A Granville auto repairer with a \$154,000 wages bill will save \$292. That employer had a claim in the past year costing the scheme \$97,000—but because it is a small employer, it is protected from any increase in its premium. A business that employs one or two employees will save a few hundred dollars. Larger employers will save tens of thousands of dollars.

Today the Government is also increasing benefits for injured workers who suffer serious spinal injuries. On expert medical advice, WorkCover is providing a 5 per cent enhancement to the spinal chapter of the WorkCover guidelines. This will mean, for example, that benefits for a disc herniation will increase by more than \$1,000 in additional compensation. In the past year, the WorkCover deficit has reduced by almost a billion dollars. The most recent June 2005 valuation saw this positive trend continue, albeit affected by a one-off change in international accounting standards. Honourable members will recall that these successful reforms were opposed by the Opposition—although one shadow Minister has now taken to telling business audiences that his party supported the 2001 reforms. Of course, it did not. The success of the scheme owes nothing to the Opposition.

The independent actuary calculates that the deficit would be approaching \$6 billion if the Government's legislative action had been barred. Further, the actuary has advised that the Coalition's stated policy now would result in the scheme failing to cover its costs. The lessons of the past have not been learned by the Coalition. When the Coalition allowed costs to exceed premiums in the early 1990s, the scheme created a substantial deficit—a deficit that hit \$3.2 billion before the Government's reforms took effect. This Government will not be making those mistakes. The changes to the scheme made by this Government have been significant, responsible and successful. They have delivered a fairer and more effective scheme; and we are passing those benefits on to injured workers and to New South Wales businesses. I assure the House that the Government and the WorkCover Board will continue to look for opportunities to pass on further benefits as the scheme continues to improve.

COUNTER-TERRORISM MEASURES

The Hon. PETER BREEN: My question without notice is addressed to the Special Minister of State, representing the Premier. Is the Minister aware that the Muslim community in New South Wales fears vilification and hate crime as a result of the arrest of seven people on alleged terrorism charges? What steps will the Minister take to enact religious tolerance laws and bring the New South Wales legal system into line with that of the other eastern States of Queensland, Victoria and Tasmania?

The Hon. JOHN DELLA BOSCA: I do not agree with the premise in the first part of the honourable member's question. I said in response to a different question asked by Reverend the Hon. Fred Nile that there is anxiety in the community about these events. I do not think that anxiety is limited or restricted to the Muslim community; I think everybody feels a level of concern about the allegations that have been made in respect of these individuals. As I understand it, at least two of the individuals involved are Australian born and the majority of the others are Australian citizens.

We must focus on the important fact that in the case of these arrests we are talking about allegations of serious criminal behaviour. Those allegations will be tested in a fair court of law where everybody will expect justice to be done. It is important to make the point that all but a small minority of people, regardless of their faith or cultural background, would hold that view. Some members of the community are concerned that some people are likely to react to those who come from an Islamic cultural or religious background. Those who are charged with the enforcement of law in this State are the police, the Commissioner of Police, the Minister for Police and the Attorney General. The Premier has repeatedly given the undertaking that the law of the land will be observed in this State.

The Hon. John Ryan: That is a good idea.

The Hon. JOHN DELLA BOSCA: I emphasise that important point: Under existing laws attacking any person on religious grounds is a serious offence and it will be dealt with by the police, the Commissioner of Police, the Minister for Police and the Attorney General. The Premier has given that commitment to the Islamic community—a commitment that was made on many occasions by the former Premier. I hope I speak for members of all political parties represented in this Chamber when I say that that is a view everybody holds.

The second part of the honourable member's question was whether we should change the legal framework in any symbolic way. I am happy to refer that matter to the Premier. I repeat the response that has been given on a number of occasions: We cannot legislate for tolerance. We can establish a framework so we can legislate against criminal behaviour. We have clearly defined criminal behaviour. The Government views further changes to the law as unnecessary at this stage.

The Hon. PETER BREEN: I ask a supplementary question. The Minister indicated in his response that attacking a person on religious grounds is an offence under the law in New South Wales. Can he inform the House which law is breached if someone attacks a person on religious grounds?

The Hon. JOHN DELLA BOSCA: I think it is a breach of standing orders to ask me for a legal opinion. However, as a humble lay person I am happy to refer the honourable member to the law and all criminal codes relating to assault.

SHOALHAVEN HOSPITAL RADIOLOGY SERVICES

The Hon. DON HARWIN: My question without notice is directed to the Minister for Health. Why are X-ray films of Shoalhaven Hospital patients being sent to Sydney to be read when doctors in Nowra have provided that service for years? Has the Minister reneged on the promise made by his Government in 2002 to appoint a radiologist at Shoalhaven Hospital? If not, when will the radiologist be appointed?

The Hon. JOHN HATZISTERGOS: I am happy to take on notice the details of the specific issue relating to Shoalhaven Hospital. However, I make the point—I made this point in the House yesterday—that there is a shortage of radiologists in New South Wales; indeed, in the whole of Australia.

The Hon. Don Harwin: Not in Nowra.

The Hon. JOHN HATZISTERGOS: The honourable member should listen to my answer. There is a shortage of radiologists. The way to resolve that issue is not to do what the Hon. John Ryan suggested yesterday: that is, introduce a TAFE course in radiology. The way to resolve that is to provide some Higher Education Contribution Scheme funded places in universities for people to be able to study medicine and do some post-graduate work and training in radiology. If the former Coalition Government had done that, we would not have the sorts of problems we have at the moment—problems that were identified in an answer I gave yesterday to a question asked by the Hon. Patricia Forsythe.

Referring to the specific issues in Shoalhaven and Nowra, it might surprise the honourable member to know that I do not sit and organise X-rays to be sent from one hospital to another so that a particular individual can read them. Most of all, patients want their X-rays read and they want a diagnosis. They do not care so much about the identity of the individual who reads the X-rays, or whether he or she is parochially based at one town centre or another. As this matter is of such importance to the honourable member I will obtain some advice on it.

GOVERNMENT BROADBAND NETWORK

The Hon. JAN BURNSWOODS: My question without notice is addressed to the Special Minister of State, and Minister for Commerce. Will the Minister inform the House what the New South Wales Government is doing to assist rural and regional New South Wales to bridge the digital divide?

The Hon. JOHN DELLA BOSCA: The honourable member well knows that the initiatives that were undertaken are valuable because she and I, along with a number of our colleagues, attended the recent successful Dubbo country conference of the Australian Labor Party. I am pleased to be able to inform the House that last Saturday the Premier officially launched and switched on the New South Wales Government broadband service at Dubbo Base Hospital.

The PRESIDENT: Order! I call the Hon. Greg Pearce to order for the second time.

The Hon. JOHN DELLA BOSCA: In a two-way video with Dr John Lambert, an intensive care specialist based at Orange Base Hospital, the Premier was able to witness first hand how health professionals in regional New South Wales can use the Government broadband service. From Dubbo the Premier viewed high-definition medical images and a live video of a critical care patient in Orange, whilst simultaneously talking to

Dr Lambert. I have previously informed the House that the Government broadband service will deliver high-speed data communications infrastructure connecting major New South Wales government agencies.

The network extends across the State, initially covering 24 major regional centres. It is expected to deliver significant savings based on projected demand for broadband services across government. Honourable members may be aware that the contract to provide the core network for the project, or infrastructure, was signed on 31 January 2005 with Soul Pattinson Telecommunications, which was then known as SPT and which is now known as Soul. The core network includes network access points in the 24 regional centres as well as in Sydney and Parramatta. The Government broadband service provides a level of service not previously available to government. It enables better delivery of essential services such as health and education for New South Wales residents in regional and rural communities.

Over time the Government broadband service is capable of providing connections to up to 3,000 sites, including schools, TAFE colleges, hospitals, courthouses, police stations, and a number of other government offices. Service improvements through the use of the Government broadband service will include the following: the provision of specialist teaching to small or remote schools; access to expert medical advice from regional hospitals; the distribution of complex real-time information for emergencies; video conferencing of court and other proceedings; and the sharing of geospatial data for integrated planning and conservation work. Other examples of the broadband service include providing high-quality video conferencing and video broadcasting in real time.

The introduction of the Government broadband service will not only result in improved services. For the first time, it will deliver real competition to the rural broadband market. We are creating competitive pressure to lower prices and improve the quality of telecommunication services. The only telecommunications policy of the Commonwealth Government and The Nationals at any level for regional New South Wales is to sell Telstra. That is their only policy. Our policy is to create a competitor for Telstra, to give the people of rural and regional New South Wales proper access to broadband services, and to bridge the digital divide.

I can also inform the House that following an extensive evaluation process other essential contracts in the provision of the Government broadband service have been finalised. These local access services connect up to 3,000 government sites to network access points on the core network.

CROWN LAND PERPETUAL LEASES

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: My question is directed to the Minister for Lands. Is the Government going ahead with its plan, as suggested in the assessment by PricewaterhouseCoopers, to sell off 11,000 Crown leases—many of which have conservation value—for \$38 million when the estimated market value of this land is \$4.7 billion?

The Hon. TONY KELLY: The Hon. Dr Arthur Chesterfield-Evans's question arises from claims by environmental groups—particularly the National Parks Association of New South Wales, which has issued a press release about this matter in the past week or so—that the Government is selling land valued at \$4.7 billion for \$38 million. With the obvious exception of the Hon. Dr Arthur Chesterfield-Evans, honourable members will be aware that the former Treasurer introduced legislation last year that allows the Government to sell the 11,000 perpetual leases to the farmers connected with the land. Those leases are perpetual: they last forever and ever. It is not like Canberra land that is leased for 99 years. Many farmers and householders have purchased that land at near freehold values. This is not normal Crown land. The Government instructed PricewaterhouseCoopers to assess how much equity the State had in that land and it found that it was between 2 per cent and 4 per cent. Therefore, in accordance with those findings, we offered the land to purchasers at 3 per cent of market value.

The Hon. Dr Arthur Chesterfield-Evans expressed concern about environmental values. When the Coalition was in government it put a moratorium on 3,000 of those 11,000 perpetual leases. This Government has not extended that moratorium for the very good reason—I am not being critical of the Coalition—that since that time an enormous amount of environmental legislation has been passed by Parliament, such as native vegetation and threatened species legislation, that ensures sustainable management of the environment regardless of land tenure. Be it Crown, private or freehold land, that overarching legislation will protect it. Therefore, we do not necessarily need a moratorium on the 3,000 leases. All of them are available for sale—in fact, I think people have applied to purchase about 50 per cent of the land. We will put covenants on the land to protect the environmental values of converted perpetual leases. The covenants will be determined in close

consultation with the Department of Environment and Conservation. At the end of the day, if we believe the environmental values cannot be protected adequately by the use of those covenants, the land will remain in public ownership. But to answer the Hon. Dr Arthur Chesterfield-Evans's question: Yes, the Government intends to continue with those sales.

The Hon. JOHN DELLA BOSCA: If honourable members have further questions, I suggest they put them on notice.

PEAT ISLAND CENTRE RECREATIONAL DAY PROGRAMS

The Hon. JOHN DELLA BOSCA: Earlier in question time today the Hon. John Ryan asked me a question about recreation services at Peat Island. Recreation services at Peat Island are being reviewed to ensure they best meet the needs and wishes of residents. I assure the House and the honourable member that there is no intention to reduce either staff numbers or the level of access to recreation activities at Peat Island for people with a disability.

CIRCLE SENTENCING

The Hon. JOHN DELLA BOSCA: On 12 October Reverend the Hon. Fred Nile asked me, representing the Attorney General, a question about circle sentencing. I can confirm that the availability of circle sentencing has increased significantly since the commencement of the pilot program in Nowra in 2002. The program has now been expanded to Dubbo, Brewarrina and Walgett. Aboriginal project officers have also been appointed in Bourke, Lismore, Kempsey and Armidale to establish the program in those locations over the coming months. It is anticipated that the program will subsequently commence in Western Sydney by mid-2006.

There have been a number of informal representations about the establishment of circle sentencing in Redfern and other areas of New South Wales but, to date, no formal submissions have been made to the Attorney General's Department. An Aboriginal community justice group has recently been established in Redfern. Aboriginal community justice groups are representative local groups of Aboriginal people who come together to examine crime and offending problems in their communities, and develop solutions to those problems. The Redfern Justice Group will work closely with all parts of the Aboriginal community in Redfern and Waterloo to develop a range of strategies to address crime and rated social harm. The justice group will play an important role if circle sentencing is introduced in Redfern. The selection of any additional locations will be guided by careful consideration of a number of factors, including the number of Aboriginal offenders appearing in the local court, the number of Aboriginal offenders sentenced to terms of imprisonment in the local court, and the level of support in the local Aboriginal community.

Questions without notice concluded.

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

BUSINESS OF THE HOUSE

Discharge of Orders

The Hon. DON HARWIN [2.30 p.m.]: I move:

That Committee Reports Orders of the Day Nos 5, 7, 14, 16 and 19 on the *Notice Paper* for today be discharged.

The purpose of the motion, with the concurrence of the Government, is to withdraw from the time allocated for debate on committee reports the discussion of the Legislation Review Committee's bills digests. There is some concern in the House that the list of committee reports is becoming quite lengthy. I think there is general agreement that it is a good thing that joint committee reports will now be discussed. Given that the comments in the bill digests are often canvassed in debates on legislation, perhaps I should reconsider my decision in relation to take-note debates on just the bills digests, as opposed to the Legislation Review Committee's annual reviews and other excellent discussion papers, such as the paper on the right to silence. Therefore I move this motion. In doing so I regret that perhaps there will not be the opportunity to canvass some of the excellent material in the bills digests that deals with regulations, but perhaps that is something we can look at over time. In the interests of properly utilising the hour for committee reports, I think this is a course that the House should support.

Motion agreed to.

STANDING COMMITTEE ON LAW AND JUSTICE**Report: Review of the Exercise of the Functions of the Motor Accidents Authority and the Motor Accidents Council: Sixth Report**

Debate resumed from 19 October 2005.

The Hon. CHRISTINE ROBERTSON [2.35 p.m.]: On 19 October I had almost completed what I wished to say in relation to the income of casual workers, the assessment of their claims, and the work that had been done in the review to bring those matters to the attention of the Motor Accidents Authority [MAA]. The committee was pleased that the MAA had asked the Motor Accidents Insurers Standing Committee to make a full report on that issue. This committee has not received the report, which is well under way, but something is being done to assess what will happen for those people. The Minister was asked for a copy of the report to be provided to the committee as soon as possible. I understand that the Minister has already written to the Motor Accidents Insurers Standing Committee to obtain a copy of the report. This committee will again look at that in the next reporting period.

It was heartening for the committee to register that the MAA and the Motor Accidents Council [MAC] are listening and working with the committee on this review process. I will not go through the recommendations in detail as they are in the report, and I am sure the Hon. Greg Pearce will follow up with more discussion on the recommendations. I point out that the committee is still concerned with the reporting mechanisms, particularly on the profit margins for insurers in the future and the way they are reported. It is written in legislation that they must be reported in detail, but the committee continues to get some sort of précis and it is not impressed. The committee has written a firm recommendation in relation to that issue.

Overall the committee is of the view that the scheme is generally performing efficiently, and the MAA and the MAC are fulfilling their functions under the Act, apart from that reporting requirement. The committee believes that the recommendations in the report would help to further improve the efficiency of the scheme and the functions of the MAA and the MAC, and the committee looks forward to the Government's response to the report. I thank stakeholders for their submissions on this review, and the MAA and the MAC for providing evidence and information to the inquiry. I also thank my colleagues on the committee for their constructive approach to this ongoing review. The committee learned fairly quickly to work very well on specific issues and questions it is given, and I thank the committee.

The Hon. GREG PEARCE [2.38 p.m.]: The sixth report follows a number of other reviews of the exercise of the functions of the Motor Accidents Authority and the Motor Accidents Council. The committee is doing good and essential work because the changes to the Motor Accidents Scheme introduced by the Government raised concerns at the time which have still not, several years later, been satisfied. They relate essentially to whether in an effort to improve the financial performance of the scheme the Government went too far when it introduced thresholds and other changes that took away from injured people proper compensation.

Other concerns about the reforms are that injured people effectively lost their rights to be represented properly and the scheme became very bureaucratised. Instead of simplifying the scheme, the reforms introduced delays and difficulties, so that people who ought to be entitled to proper compensation do not receive it. That is not to say that some of the changes have not been good—experience shows that upfront payment of medical fees to a limit of \$500 has been very useful—but for people with more serious injuries uncertainty about the scheme remains. A number of these uncertainties and concerns are reflected in the report, and I will touch on them briefly. Before I do that I draw the attention of the House to paragraph 2.12 of the committee report. The committee noted that the Motor Accidents Authority [MAA], which has its own budget separate from the scheme, recorded a deficit of \$18.5 million for the year ended 30 June 2004, which, we were told, reduced the financial position of the MAA from a surplus of \$36.3 million in June 2003 to a surplus of \$17.8 million in June 2004.

The evidence given to the committee was that the board of the authority decided to budget that way to reduce its overall surplus. There is a bit of a question as to how the funding of the authority is being managed. The chair of the committee, the Hon. Christine Robertson, raised one of the fundamental and primary concerns about the level of insurer profits. I draw the attention of the House to paragraph 3.27 of the report, which refers to profit trends, and also to the Bar Association submission, which includes a calculation of retained premiums as part of profits, being 23.77 per cent in 2000, 21.34 per cent in 2001, 20.64 per cent in 2002 and 15.63 per cent in 2003. These premiums were measured against profits that the MAA says are acceptable, in the order of 7.5 to

10 per cent. Various paragraphs in chapter 3 deal with those concerns of the committee. The report of May this year focused more on process and the way the scheme is operating. I draw the attention of honourable members to chapter 4, particularly concerns about delays in claims handling. I have had correspondence and seen submissions from a number of people, particularly representatives of injured people, which have set out extraordinarily detailed examples of delay over several years in getting to the stage of an assessment being made.

The committee can continue to do important work on the delays. There is deep concern about delays that seem to have become endemic. Concerns also remain about the application of the Australian Medical Association's guides and about the fairness of people not being able to get compensation for non-economic loss. Mr David Bowen said in part of his evidence, as quoted in paragraph 4.35, "Certainly there are a lot of cases where people who previously would have got a non-economic loss no longer get it." That concern about the fairness of the scheme has not been dealt with satisfactorily for the community. In paragraph 4.36, the chair of the Motor Accidents Council [MAC], Richard Grellman, said, "Yes, I think there is an open debate about whether or not the whole body impairment threshold is at the right percentage and whether it is the right gateway, but so long as the scheme exists that will be a live and open debate." We need to do a little bit more than leave it as a live and open debate if the scheme continues to exist. It is a matter of great concern.

Another procedural matter that arose, and which was of concern, was a revelation that the MAS officers had been checking and amending assessors' reports. We were concerned that assessors might have been doing their reports and then receiving them back with suggestions that they be amended. That certainly is not the role of the MAA, and it was not dealt with satisfactorily. In response to questions on notice—in paragraph 4.49 of the report—the MAA provided information in relation to the review carried out by Mr Zipser, in which he advised, "Data from the MAS case management system shows that since the beginning of the Motor Accidents Scheme 25 per cent of assessment reports have involved a request for amendment." That level of amendment is not satisfactory. Again, it is something that the committee should continue to pursue. The MAA and the Government must take it seriously and provide certainty that officers of the MAS do not suggest to assessors that they change their reports.

Non-economic loss was of considerable concern, and the thresholds continue to be of concern. I refer to paragraph 5.8 of the report in which the committee noted their concern about access to non-economic loss. The Minister advised the committee that the MAA is currently completing a review of the guidelines for assessment of permanent impairment and wants to see the review. There are a significant number of other concerns throughout the report. I encourage the committee to continue its work and to continue to ensure that the scheme amendments, although they may be financially attractive, are fair to people who have been injured and who rely on the scheme, and to look again at some of the procedural issues in relation to delays and administration of the scheme. I thank the committee and the secretariat officers for their time and effort, and for the work they have done.

The Hon. CHRISTINE ROBERTSON [2.48 p.m.], in reply: I thank the House for referring this issue to the committee some time before I came into this place. The committee can play a major part in dealing with specific issues for insurers, the legal fraternity, persons who may be injured and interest groups, who have continued to assist us with our questions. I am very impressed that the MAA and the MAC have been interested in how they interact with us, and how they have responded to our recommendations. I thank everybody involved.

Motion agreed to.

GENERAL PURPOSE STANDING COMMITTEE NO. 2

Report: Operation of Mona Vale Hospital

Debate resumed from 26 May 2005.

The Hon. PATRICIA FORSYTHE [2.50 p.m.]: The inquiry into the operation of Mona Vale Hospital that was undertaken by General Purpose Standing Committee No. 2 earlier this year was most interesting and important. While the Committee was by no means unanimous in its conclusions—there is a brief dissenting report—I would have to say that all the members of the committee were unanimous in accepting that the people of Mona Vale have an enormous passion for and commitment to their hospital. That was reflected in the fact that the committee received 2,336 submissions, which I understand is a record for Legislative Council

committees. Of those submissions, all but 15 absolutely overwhelmingly supported not only the retention but also the upgrading of Mona Vale Hospital.

At the outset I state that the committee was enormously grateful to the secretariat, as it always is, for the background work that was undertaken. In this report, the committee recognises the capacity of the secretariat in working through all of the submissions to provide committee members with an adequate digest of key points and in keeping members apprised of the complex issues involved. The funding of hospitals and health services is not an easy issue to address and the committee did not pretend otherwise. I acknowledge Steven Reynolds and John Young and the support staff, who were really outstanding.

The committee comprised me as the chair, the Hon. Tony Catanzariti as the deputy chair, the Hon. Dr Arthur Chesterfield-Evans, Reverend the Hon. Dr Gordon Moyes, the Hon. Melinda Pavey, the Hon. Christine Robertson and the Hon. Amanda Fazio. The committee's members certainly brought to the task a variety of perspectives, ranging from those who have an understanding of the needs of country health services to those who have an understanding of issues from a medical perspective, such as the Hon. Dr Arthur Chesterfield-Evans. As a result of the inquiry, members of the committee gained a keen insight into the needs of the Mona Vale community.

The terms of reference were focused on the closure of the intensive care unit [ICU] and the reasons behind the transfer of the unit to the Manly Hospital, the level of funding given to Mona Vale Hospital compared with other hospitals in the area, the level of community consultation in relation to changes to the hospital that have been proposed by NSW Health, and the reasons why the hospital has not been made a general hospital for the northern beaches area.

Many complex issues underlie the terms of reference but the need for an inquiry came to a head immediately prior to Christmas last year when it was announced that Mona Vale Hospital's intensive care unit would be closed and its facilities transferred to Manly Hospital. That decision caused enormous community unrest and clearly galvanised the community, and that is why the inquiry attracted so many submissions. Of the submissions received, approximately 1,500 were similar, but were by no means form letters. Each person presented their own perspective, and many of the people who contacted the committee provided their own perspective as either a member of staff or a patient. Of those who identified themselves, 683 were former patients, 42 were current or former medical professionals at Mona Vale Hospital, four were current or former medical professionals at Manly Hospital, and 24 were community volunteers. The remainder, by and large, were identified as having been community representatives.

The siting of a new northern beaches hospital was one of the key issues that underpinned the views received by the inquiry. In a media release at the time the inquiry was announced, I said that NSW Health and the Northern Sydney/Central Coast Area Health Service made it very clear that it did not consider Mona Vale to be a suitable site for the location of the new northern beaches hospital. However, during the inquiry, no reasons were presented that would preclude Mona Vale from being selected. On a review of the evidence, the committee found that Mona Vale would be an excellent site for the location of the new northern beaches hospital. I say that because although it was not the committee's task to find the perfect site, we found no reason why Mona Vale should not be a site.

However, the committee certainly did find that the Mona Vale Hospital is an important health facility that serves a significant number of people in the northern beaches area. The issue of siting therefore became quite significant because the northern beaches area is effectively a peninsula. The Pittwater electorate alone, where the Mona Vale Hospital is located, is a very long and narrow peninsula. People from Scotland Island were also involved. The geography and topography of the area became significant. Mona Vale Hospital has been part of the community of the northern beaches for a very long time. There is absolutely no doubt that the hospital has not been well funded; indeed, the committee was unable to say that it has been less well funded than other hospitals.

The committee's general conclusion was that the northern Sydney region, on a comparative capital funding basis, does not do well compared with other parts of the State. The whole northern Sydney area health service served 15.8 per cent of the population in 1999-2001, yet basically received approximately 1.6 per cent of the Health budget for New South Wales. The northern Sydney area received approximately \$79 million. The committee made nine recommendations including that NSW Health immediately commence the physical upgrading of the emergency department at Mona Vale Hospital, as suggested by interim proposal of the Greater Metropolitan Clinical Taskforce [GMCT] and that Northern Sydney/Central Coast Health [NSCCH] recruit two additional staff specialists to the Mona Vale emergency department.

Let me say that the quality of care and the conditions of the emergency department at Mona Vale Hospital are still two of the most important issues concerning the people of Mona Vale. Certainly the Opposition remains very committed to that recommendation, which ought to become a priority for the Government. Recommendation No. 2 is that the Northern Sydney/Central Coast Health Service provide a timetable and details for the implementation of specific enhancements to patient and carer transport. The committee received evidence relating to patient and carer transport. As I understand it, the issue has not yet been addressed. The committee sought to ensure that better information will be published when it becomes available to outline the background services that require particular levels of activity within the hospital.

The committee discovered that many people have an understanding of desired facilities, but are not clear about the different levels of resources that are needed to underpin those services or the critical mass of patients required to justify the provision of certain services. The committee believes that Mona Vale was perhaps not well treated compared with some of the other hospitals in the area. The committee recommended that NSW Health and NSCCH implement a modification of the GMCT proposal with an additional enhancement of ICU services so that Mona Vale Hospital's ICU is maintained and operated as a level 4 unit and Manly Hospital's ICU becomes a level 5 unit, with a single northern beaches department of critical care.

The committee absolutely supports the retention of the emergency department at Mona Vale Hospital and supports the retention of a level 4 unit at Mona Vale that includes an intensive care unit. The committee heard concerns by clinicians and specialist doctors about simply not being able to provide the level of surgical support at the hospital that traditionally has been provided without the ICU being appropriately enhanced, as well as an upgrading of the physical environment of the emergency department. The committee regarded those recommendations as absolutely critical.

The committee recommended also that the value management study process be broadened to include the valuation selection of a preferred site for the secondary complementary hospital as well as the preferred site for the new northern beaches hospital. In making a decision about where a northern beaches hospital should be located, if it is to offer a higher level of care, there should be a holistic approach to the evaluation and selection of both the complementary hospital and the preferred site. It seems that the Department of Health has focused only on finding a preferred site for the main northern beaches hospital. The needs of the whole peninsula should be taken into account. This matter was covered in recommendation 5, and the committee believes it is absolutely fundamental to the delivery of good health services to the people of the northern beaches for many years to come.

The committee recommended that once the value management study evaluation report for the northern beaches is available, the Northern Sydney and Central Coast Area Health Service make public a full description of the basis of its decision on the preferred site, including the score for each criterion on each of the six sites. It was not the committee's task to make a decision between the sites, but the committee was concerned, and sought evidence, about the time over which the consultation process dragged out. It seems extraordinary that this process has been continuing for years. One must draw the conclusion that the Government has not wanted to make a decision, and as long as it does not make a decision it does not have to commit resources, and as long as it does not have to commit resources it can have money in its capital works program into the never-never.

In this case the Government has taken consultation to an illogical conclusion. The Government now needs to make real decisions in the interests of the health needs of the people of the northern beaches. The committee was clearly of the view that the emergency department needed an upgrade. The majority of committee members believed that the hospital could support an intensive care unit, and that it was absolutely beholden on the Government to find the resources for that. The committee noted also that, whatever site is chosen for the new northern beaches hospital, Mona Vale Hospital should be funded, staffed and equipped to provide an ongoing effective 24-hour emergency service.

During summer the area experiences an enormous influx of people, 24 hours a day. Every day in the summer hundreds of thousands of visitors access the beaches on the peninsula during daylight hours. Because of that, the raw population data becomes irrelevant in making certain decisions about capital support for the area. The committee recommended also that, whichever site be chosen for the hospital, a helipad be included. Some of the sites the committee looked at would not be able to sustain a helipad, which seems a fundamental provision, given the role of the lifesaver support services along coastal New South Wales.

Finally, the committee recommended that the Minister for Health announce publicly a commitment by the Government that all of the Mona Vale hospital land be retained and in future be used or sold only for health

services. I am absolutely convinced that one reason so many people in the Mona Vale area are attached to the hospital is because it is an integral part of the community and they have been well served by the hospital. The people are terrified that, given the Government's record on other matters, it will seek to downgrade the hospital and will then decide that not all of the hospital's land is needed and that it will then seek to sell off some of the land, or subdivide it, to make way for housing, and then recoup some of the funding.

The community is absolutely terrified that that will happen. There has been no clear indication from the Government that it is not considering going down that path. As I said, the inquiry was intensely interesting. We heard from a number of members of NSW Health who, on the whole, were co-operative. The inquiry certainly inflamed some passions and we had a few exciting moments within the committee, and I am sure that some members will refer to that. On the whole, despite the minority statements and despite the politics of the process, committee members generally gave the inquiry their absolute attention.

I thank all my committee colleagues for their commitment to the task. It is not easy to work fairly through 2,230 submissions and do justice to the people who wrote to us, to the community groups, and to the volunteers who have given support to Mona Vale Hospital over a long time. It is an icon to the community of Mona Vale and the whole northern beaches peninsula. The committee members understand that and are committed to its future. The committee's report indicates that the hospital should have a future.

The Hon. AMANDA FAZIO [3.05 p.m.]: In speaking to this take-note debate on the General Purpose Standing Committee No. 2 inquiry into the operation of Mona Vale Hospital, I point out that there were two dissenting reports. I lodged one and the other was lodged jointly by my colleagues the Hon. Christine Robertson and the Hon. Tony Catanzariti. At the outset I should say that the inquiry came up with a number of conclusions, and there was more disagreement about the conclusions than about the actual recommendations. The committee made nine recommendations and the Government members opposed only one of them, recommendation 4, which states:

That NSW Health and NSCCH implement a modification of the GMCT proposal with an additional enhancement of ICU services so that Mona Vale Hospital ICU is maintained and operates as a level 4 Unit; Manly Hospital ICU becomes a level 5 Unit; with a single Northern Beaches Department of Critical Care.

That was opposed following evidence given by health professionals who appeared before the inquiry and said the reason they had not been able to adequately staff the Mona Vale Hospital intensive care unit was that they had difficulties attracting staff, because there was not a critical mass of patients that would attract doctors to work there. If doctors worked there they would not extend their skills or use all their skills. Recommendation 4 was not backed up by evidence given to the committee. Government members on the committee supported the other eight recommendations. Recommendation 1 states:

That NSW Health immediately commence the physical upgrade of the Emergency Department at Mona Vale Hospital as suggested by the Greater Metropolitan Clinical Taskforce interim proposal.

That Northern Sydney Central Coast Health recruit two additional staff specialists to the Mona Vale Emergency Department.

The inquiry came down to considering that NSW Health and the Government had committed to having a new northern beaches hospital, and where that should be located. All local members of Parliament, three of whom at the time were members of the Liberal Party and one of whom was an Independent, signed a letter of agreement supporting the development of a new northern beaches hospital. They agreed on the hospital being built, but not at Dee Why. One proposed site was the Dee Why civic centre. The four local members supported the hospital being located anywhere but Dee Why. That was their common point of view.

People in the Pittwater and Mona Vale areas were very insistent and very determined that the new northern beaches hospital be built on the site of the existing Mona Vale Hospital. People at the southern end of the area, in Manly, were very resistant to that proposal because they wanted the hospital to be built in the middle of the area it was to service; in an area that was easiest for everyone in the catchment area to get to, rather than being constructed at Mona Vale, which is a fair way to the north of the catchment area. Also, that area is very dependent on traffic movements along Pittwater Road. If the traffic is heavy along Pittwater Road, critically ill people could be delayed in getting to Mona Vale from Manly.

There was also a chance that, rather than risk the traffic, people would try to get across to North Shore hospital and so reduce the number of patients that would be treated at the new northern beaches hospital. The Hon. Patricia Forsythe said the committee received a total of 2,336 submissions. Of those, 2,321 supported Mona Vale as the site for the new northern beaches hospital. I think that can be put down to a strong campaign that was run and co-ordinated by Pittwater council, which insisted that the new hospital be located at Mona Vale.

The extent to which Pittwater council supported that proposition was evident in two areas. First, the Pittwater council submission, a whole folder full of data, and the Save Mona Vale Hospital Action Group submission were almost word-perfect copies. The only differences were the colours of the folders. One submission was from Pittwater council and the other basically was from the Save Mona Vale Hospital Action Group. They were so word-perfect that they had the same typographical errors throughout, which was a strong indicator to anybody with any intelligence and nous that they had been produced by the same person but were just presented differently.

If Pittwater council wanted to be that involved in lobbying, it was fair enough to have Mona Vale hospital as the site of the new northern beaches hospital, but it could have been a bit more open about it so that people realised what was going on. One of the staff members from Pittwater council who appeared before the committee said that for the last few years he had been spending between 15 and 20 hours a week supporting the work of the Save Mona Vale Hospital Action Group. I think the fact that that level of submissions came from the north did not indicate a well-informed community viewpoint.

People in the Pittwater end of the catchment area had been very well organised, and people in the Manly end basically said, "We accept that Manly Hospital is an ageing piece of health infrastructure and the proposal to develop a new northern beaches hospital at a site apart from Manly is acceptable." They sat back and waited for a proper planning process to eventuate; they did not attempt to skew the results. I would like to mention some of the facts that are relevant to my dissenting report. If one had a quick look at what had happened one could gain the impression that the State Government was not committed to developing a new northern beaches hospital, which is far from the truth. I said in my dissenting report:

The NSW Department of Health since 1999 has been conducting studies into the reconfiguration of health services on the northern beaches. More recently in the planning process it was identified that health services on the Northern Beaches had not been able to keep pace with modern models of service delivery and that the existing facilities at Manly Hospital had, in general, reached the limit of their useful lives. It was also found that the facilities at Mona Vale Hospital needed to be upgraded and reconfigured.

During the inquiry, Northern Sydney Central Coast Area Health Service ... never swerved from their commitment to providing improved health services on the Northern Beaches that would deliver safe and modern health care to the local community and that the process to do so would be open and transparent.

A Value Management Study ... undertaken in July 2002 supported an option with one hospital as a metropolitan hospital (level 5) and one as a community hospital. It was determined that a new Northern Beaches Hospital be developed, which in effect would be a redevelopment of Manly Hospital, on a new site.

Since this announcement the residents from the northern part of the Northern Beaches have conducted an extensive campaign, funded and supported by Pittwater Council, to have the metropolitan hospital developed on the site of the existing Mona Vale Hospital.

During the course of the Inquiry on 12 March 2005, *The Manly Daily* reported on the Save Mona Vale Hospital Action Group as follows:

"Cashed-up, well organised and well connected, with local doctors and Liberal and Christian Democrat politicians on side, the group has steam rolled any opposition to its parochial interests. While the State Government believes it makes more sense to consolidate health services into one major hospital, it has agreed to retain Mona Vale Hospital in a secondary role to a new facility, which will replace overly tired Mona Vale Hospital."

The Mona Vale community group has stomped all options for a new hospital at a demographically central location such as Dee Why. ***But for people outside of the Mona Vale community, the frustration of waiting six years for a new hospital has become heartbreaking.***

It is notable that all of the local State Members of Parliament ... on 11 November 2004 jointly signed a letter supporting the development of a new centrally located Northern Beaches Hospital.

The Government members of the committee feel it is important to also note that while a range of views and expert opinion representing the needs of residents at the southern end of the northern beaches was received during the Inquiry, this is not adequately reflected in the final report. The State Government has a responsibility to provide health services to all residents of the northern beaches in ways advised by expert clinicians and senior public servants, not to provide health services in configurations suggested by vocal minority interest groups.

I oppose in particular conclusion 2.39, which claims that Mona Vale has been underfunded. That claim is not supported as we received plenty of evidence about funding of Mona Vale and Manly hospitals and also funding of hospitals of a similar size and function. I urge all honourable members to read the report and to look at the two dissenting reports. This is a case where people have been selfish rather than community minded.

Reverend the Hon. Dr GORDON MOYES [3.15 p.m.]: I enjoyed my time on the General Purpose Standing Committee No. 2 inquiry into Mona Vale hospital. I thank all those who took part in the inquiry—my colleagues and the 2,336 individuals and groups who took the time to make submissions. It is the largest number of submissions ever received by a Legislative Council inquiry and it certainly reflects well on the citizenry of the northern beaches. The inquiry heard from 29 witnesses, including two members of the other place, it held three public meetings, and on 21 March it undertook a tour of the proposed sites.

The committee handed down its report. I will not go into the details of that report but I would like to raise a number of issues. The first issue is a personal one. During the course of our inquiry Ms Lynn Hopper, the chairperson of BEACHES—an acronym that stands for Better and Equitable Access to Community and Hospital Services, registered a complaint with the committee regarding an alleged incident involving me following a hearing. She claimed that on 28 February I engaged in intimidating behaviour towards her. I take this opportunity to repeat some of the points I made in the *Manly Daily* on 2 April and also in this House.

The *Manly Daily* states that a nurse at Manly hospital alleged that I, as a member of the inquiry, intimidated her. I placed on the record my version of what happened in a personal statement in this House. While walking back to my office after the hearing I saw Ms Hopper and a staff person who works for Mr David Barr, MP, walking towards me in the Fountain Court. As we approached one another I said, "Ms Hopper, excuse me, but can you confirm you told the committee that BEACHES organised a rally at Manly where more than 1,000 people were present to support a Dee Why site?" Ms Hopper replied, "Yes." I said, "Thank you", and continued on my way. There was no further conversation.

There was no harassment and no seeking of information beyond that already given to the inquiry. I wrote to the *Manly Daily* about this matter, and said that if anybody was present at a meeting organised by BEACHES in Manly attended by over 1,000 residents in support of a new hospital in Dee Why I would appreciate it if they would notify me about the time and place and give me an estimate of crowd numbers. I concluded by stating:

I would like to take this opportunity to repeat my public statement that was published in the *Manly Daily* on 2nd April 2005.

We were seeking evidence of all public rallies organised by BEACHES so that the inquiry was not misled. It should be noted that I did not receive one reply to my call regarding that alleged rally organised by BEACHES. Following procedural advice from the Clerks of the Parliament the committee, without me being present, agreed that the conversation had taken place and decided to take no further action. I undertook a full search of the *Manly Daily* throughout the whole period and there is no evidence whatsoever of any mass rally of 1,000 people supporting the Dee Why site, and not one person who may have been attending sought to contact me. I believe that the president of that society misled the committee. I believe that that misleading was deliberate and I remind honourable members that the witness who lied was under oath at the time.

So, what were the findings of the inquiry concerning this important siting of the northern beaches hospital? The most fundamental conclusion drawn by the inquiry is that the intensive care unit and the emergency department at Mona Vale hospital must be upgraded. I have visited this hospital regularly, my most recent visit being last Friday week. As one walks around the hospital—as the chairperson of several boards of hospitals, both private and public, I am used to walking through hospitals—one can see, regardless of what Labor members say about government expenditure, that the hospital is being demolished through Government neglect. The Greater Metropolitan Clinical Taskforce has proposed downsizing the current level 4 intensive care unit [ICU] to a level 3 high dependency unit. A high dependency unit has less intensive resources to support patients at low risk of morbidity. Those resources do not extend to overnight ventilation equipment. Intubated and ventilated patients remain in a high dependency unit only when immediate resuscitation is being undertaken or while arrangements are being made to transfer them to another hospital with an ICU.

The inquiry acknowledged the modern trend for hospitals to move toward specialised areas of medical expertise. That is not a problem. The proximity of an ICU and an adequate emergency department to population centres is vital for high-quality health care and a swift emergency response. That is critical in this case. If Mona Vale Hospital is downgraded and there is no other hospital nearby, residents of the Pittwater peninsula will be isolated from effective emergency treatment. The committee recommends strongly that NSW Health commence immediately a physical and personnel upgrade of Mona Vale Hospital emergency department and maintain a fully functional level 4 intensive care ward.

Previous speakers have referred to the decision regarding the siting of a new hospital for the northern beaches. This issue was outside the scope of the inquiry. However, as Mona Vale Hospital is one of six sites

being considered as the location for that new hospital and the committee was directed to examine why that 8.8-hectare site had not been chosen as the location, it is important to comment on that matter. As the Hon. Amanda Fazio said, all committee members agreed that the new hospital should not be built at Dee Why. Why should the Government spend \$40 million on a new site when it already owns the much larger site at Mona Vale?

Without going into the details of particular studies on various sites, I note the objections raised by Mr Ian Giles, one of five representatives from the Pittwater Council area, during the committee process. The Hon. Amanda Fazio said that Pittwater Council was too committed during this process. What is the purpose of a council if not to represent the views of local residents? Pittwater Council has done a very good job, for which I commend it. More councils should take notice of residents' views. Even the *Manly Daily*—which, as its name suggests, has a vested interest in this issue—acknowledges that the council has the complete support of Pittwater residents. I was in Pittwater recently and it was interesting to see what the various political parties that are standing candidates in the Pittwater by-election make of the area.

The Hon. Melinda Pavey: Who is Labor backing?

Reverend the Hon. Dr GORDON MOYES: There is no Labor candidate. It should be noted that, according to the New South Wales Government Action Plan for Health, travelling distance and time to hospital should be no more than a maximum of 20 kilometres or 30 minutes drive by private car. The area health service decided to drop this crucial criterion from the venue management study. That criterion is absolutely essential, yet the area health service declared in discussions that it would not consider it. I can inform the House that, of the six proposed sites, the Mona Vale site is the only one within 20 kilometres or 30 minutes drive of the entire northern beaches area.

Appropriately, the remainder of the committee's recommendations stem from our desire to open up the venue management study process and ensure greater transparency. Other issues, which I cannot discuss in the limited time available to me today, raise more questions than they give answers regarding the transparency of the venue management study. One major hospital is to be built in the area and, for the logical reasons I have outlined, it should be built not at Dee Why but on the largest available site. Mona Vale is the largest site and it is owned by the Government. Instead of paying \$40 million to purchase a different site, the Government should spend that money on health infrastructure. Mona Vale is the only site with good helicopter access. It is located in the centre of the population, which is trending north, month by month, and it has the full support of the people of Mona Vale and Pittwater. I commend the committee's report to the House. I have aired my concerns. This matter is not closed.

The Hon. MELINDA PAVEY [3.25 p.m.]: The inquiry by General Purpose Standing Committee No. 2 into Mona Vale Hospital was most interesting. I commend the Hon. Patricia Forsythe for her work as chair and congratulate the staff involved with the inquiry. They faced a huge task because the committee received a total of 2,336 submissions—the most submissions ever received by a Legislative Council committee. That created a lot of work for the secretariat staff, Stephen Reynolds and John Young, who co-ordinated that information.

Why does an upper House inquiry receive 2,336 submissions? It is because the Government is really bad. If the Government annoys, offends, upsets and lies to certain sections of the community, 2,336 submissions will be presented to a parliamentary inquiry. This State Labor Government has an amazing track record in that regard. Interestingly, 2,321 of the 2,336 submissions expressed the view that Mona Vale Hospital should be upgraded and become the new northern beaches hospital. The many people who wrote those submissions cannot be wrong. As the Hon. Patricia Forsythe pointed out, it was not for the committee to recommend or decide where the new northern beaches hospital should be located. But there is certainly a strong feeling within the northern beaches community that the new hospital should be at Mona Vale. Much thought and care went into the preparation of many submissions—they were not all pro forma submissions.

Residents of the Pittwater area were particularly passionate about this issue. It is a great community, with a wonderful sense of community spirit. Community representatives were incredibly motivated and attended most committee meetings. They were very organised and extremely passionate about their hospital—and so they should be. The evidence we heard from intensive care staff, nursing staff and surgeons revealed their huge level of commitment. The same could be said of the Manly hospital staff, some of whom also gave evidence. It is a shame that the Government has set one community against another. That is a very devious tactic.

Mr Ian Cohen: Typical, though.

The Hon. MELINDA PAVEY: Indeed it is. When the Government sets one group against another and divides the community the outcome is bad policy. By playing politics the Labor Party is creating bad policy. It has done that for the past 10 years across New South Wales. That is why this State is facing a budget deficit. Health resources, like all resources across government, are incredibly limited. They must be spent in the best way possible or there will be problems. We have problems in our transport, health and education systems and on our road network because the New South Wales Labor Party played politics rather than pursuing good policy outcomes. That is why New South Wales is facing a budget deficit even though the Government received an extra \$8 billion in property taxes and unexpected increases in GST revenue.

Many complex issues were raised in the inquiry and many of the submissions pointed out a belief that in recent years the Government has deliberately decreased funding to Mona Vale Hospital. The argument of many on the northern beaches is that the Government wishes to relocate the hospital at the expense of Mona Vale, and one can understand why some people think that is the case. The Hon. Dr Arthur Chesterfield-Evans expertly questioned the chief executive officer of the hospital, who admitted that bottled water was removed from the hospital because the area health service was not able to pay for it. It is not the task of this committee to find the perfect site. Considerable evidence suggested a number of sites, and the administrator of Warringah Council, Dick Persson, who was appointed by the Government, assisted the Government by suggesting another site at Dee Why. Again this divided the community because it was generally conceded that it was not a practical solution in terms of location, space and cost.

During the hearings questions of money and accountability arose frequently. Dr Stephen Christley said that the purchase of land was a small cost in the overall development of a new major hospital—the point being that it costs approximately \$200 million for a level 5 hospital. In answer to a question from me Dr Christley said, "Probably a bit more than that". I then asked whether the cost was somewhere between \$200 million and \$300 million?" He said "Of that order". I then asked:

It is reported that the Dee Why site is worth about \$40 million. You are looking at 25 per cent of the cost of a new hospital being the land, is that right?

Dr Christley answered:

Yes. If we translate that back to recurrent terms, our budget is over a billion dollars a year, and that is a relatively small expenditure to get the right result.

The amount of \$40 million is a lot of money for any taxpayer or any concerned administrator in New South Wales. The belief that the Dee Why site was a cheap option because \$40 million is not that much in the scheme of \$200 million or \$300 million for a new hospital was the cause of genuine cynicism and concern within the community. The concern was the Government's preparedness to throw money around and purchase a site at Dee Why that the entire northern beaches community says is impractical and not serviceable. The level of cynicism in the community can be understood given that the Government looks at other sites that would be considered perfect and basically free. The evidence of Dr Christley was very interesting.

The removal of the intensive care unit from Mona Vale Hospital against the advice and the word of the area health service was also the cause of concern and cynicism, and there was evidence to that effect. I am happy to concede that the required level of experience and expertise to run an intensive care unit is difficult to come by. Why would someone go to a hospital that the Government is putting on the backburner and is being allowed to run down? It is because of its own actions that the Government is finding it difficult to attract the calibre and quality of staff that is required.

I am pleased that the Minister announced publicly a commitment to keep the Mona Vale land, but how can the residents of the northern beaches, in particular, Pittwater, trust or believe this Labor Government, which has blatantly lied to them so many times? Whilst the future of the hospital land site is guaranteed the concern is that, as with so many other issues, the Government will renege on its commitment. The belief that came through in many of the submissions was that Mona Vale should be the site for the new northern beaches hospital, because of the calming and pleasant ambience of its coastal location, and the intangible benefit that this can provide to patients and visitors. *[Time expired.]*

Pursuant to standing orders business interrupted.

PRIVILEGES COMMITTEE**Report**

The Hon. Peter Primrose, as Chair, tabled report No 31, entitled "Report on Person Referred to in the Legislative Council (Mr G. Glossop)", dated November 2005.

Ordered to be printed.

**CONSUMER CREDIT (NEW SOUTH WALES) AMENDMENT (MAXIMUM ANNUAL
PERCENTAGE RATE) BILL**

RETAIL LEASES AMENDMENT BILL

ROYAL BLIND SOCIETY (MERGER) BILL

FARM DEBT MEDIATION AND (WATER ACCESS LICENCES) BILL

Bills received.

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

Motion by the Hon. Henry Tsang agreed to:

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

Bills read a first time and ordered to be printed.

NATIONAL PARKS AND WILDLIFE (JENOLAN CAVES RESERVES) BILL

NATIONAL PARK ESTATE (RESERVATIONS) BILL

Messages received from the Legislative Assembly agreeing to the Legislative Council's amendments.

PROTECTION OF THE ENVIRONMENT OPERATIONS AMENDMENT BILL

In Committee

Clauses 1 to 4 agreed

The Hon. HENRY TSANG (Parliamentary Secretary) [3.40 p.m.]: I move Government No. 1:

No. 1 Page 7, schedule 1 [26], lines 17 and 18. Omit all words on those lines.

The Government has moved this amendment following consultation after debate in the Legislative Assembly. The proposal in the amending bill was intended to allow for discretionary review of licences within a short period of time when pollution incidents occurred or complaints arise. However, some concerns have been raised that the shortening of the notice period might diminish the ability of the community to participate effectively in the review process. For this reason the Government proposes to delete these lines and retain the notification provisions in the existing legislation.

The Hon. RICK COLLESS [3.41 p.m.]: As I understand it the amendment retains section 78 (2) (b), which relates to the regulatory authority giving public notice of the licences that are to be reviewed. That is, the notice is to be published not less than one month and not more than six months before the review of a licence is undertaken. The Opposition will support the amendment.

Mr IAN COHEN [3.42 p.m.]: The Greens support Government amendment No.1, which relates to a review of licences. The bill amends section 78 to remove the provision whereby published notice of between one and six months has to be given before the review of a licence is undertaken. This amendment restores the

status quo so that notice needs to be given when a licence review is to be undertaken. This is desirable so that the public has reasonable notice of licence reviews and is able to participate through submissions. The Greens support the Government amendment.

Amendment agreed to.

Mr IAN COHEN [3.43 p.m.]: I move Greens amendment No. 1:

No. 1 Page 7, schedule 1. Insert after line 18:

[27] Section 78 (4A)

Insert after section 78 (4):

- (4A) The EPA must audit, on an industry wide or regional basis, compliance with licence requirements under this Act and whether such requirements reflect best practice in relation to the matters regulated by the licences.

The amendment requires the Environment Protection Authority [EPA] to audit compliance with licence requirements on an industry-wide or regional basis. The EPA's piloted approach to target industry licences has worked quite well in some instances. This audit should include assessing whether such requirements meet best practice. I commend the amendment to the Committee.

The Hon. HENRY TSANG (Parliamentary Secretary) [3.43 p.m.]: The Government is prepared to support the amendment. The bill amends section 78 of the Act to provide that a licence will be reviewed every five years instead of every three years. This amendment has been proposed by the Government to facilitate intensive industry sector audits of licences and follows a successful pilot by the EPA of an intensive review of the licences for the wood preservation industry. The benefits gained from the licence reviews have been maximised already in the initial years of the operation of the Act. Systems have been developed to ensure problems identified in licence reviews are managed upfront when licence applications are processed. While licence reviews remain important, other measures arguably would have a greater impact.

The Greens have proposed section 78 (4A), which will create a legislative requirement for the EPA to audit, on an industry-wide or a regional basis, compliance with licence requirements under the Act and whether such requirements reflect best practice in relation to matters regulated by the licences. The Government supports the amendment because it reflects the Government's intention and practice, as demonstrated by the pilot audits of the wood preservation industry to conduct focused audits across industrial sectors. This will allow the EPA to determine whether licences for those industries reflect best practice and comply with the licence review provisions and other compliance mechanisms in the Act.

The Hon. RICK COLLESS [3.45 p.m.]: The Opposition will not oppose the amendment. We believe that best practice should be encouraged in all management issues. An audit to ensure that happens should be supported.

Amendment agreed to.

Mr IAN COHEN [3.46 p.m.]: I move Greens amendment No. 2:

No. 2 Page 7, schedule 1. Insert before line 19:

[27] Section 78 (4B)

Insert before section 78 (5):

- (4B) Reviews under subsection (4A) are to be undertaken for not less than 2 industries or regions in any year.

The amendment requires that at least two reviews into industry-, sector- or region-wide pollution licence requirements will be undertaken each year. The Department of Environment and Conservation currently runs programs for reviews of different types of pollution at sector level, but there is no set requirement of when it is done. There is a disturbing trend to increase the time period between licence reviews, and the Greens do not support this trend. These reviews need to be done on a regular basis as stipulated in legislation. It is essential that our push to reduce pollution continues between periodic reviews. I commend the amendment to the Committee.

The Hon. HENRY TSANG (Parliamentary Secretary) [3.47 p.m.]: The Government is not prepared to support the amendment. It is not appropriate or useful to mandate a certain number of industry audits each year. The nature and size of these comprehensive audits will vary from industry to industry, and some industries will require more time and resources than others to audit. It is important to retain flexibility to determine the appropriate number of industry audits to conduct from time to time based on the size and nature of the industry to be reviewed, the department's compliance priorities for the year and the best mix of regulatory strategies for making real and environmental gains at the time. I can assure the Committee that the Government will use its best endeavours to maximise the number of industry reviews undertaken in any one year. The Government opposes the amendment.

The Hon. RICK COLLESS [3.47 p.m.]: The Opposition also opposes the amendment. It is too specific in providing that at least two industries or regions should be reviewed every year. What should happen is that reviews should be conducted on a needs basis rather than regulating for a certain number to be done each year.

Amendment negatived.

Mr IAN COHEN [3.48 p.m.]: I move Greens amendment No. 3:

No. 3 Page 10, schedule 1. Insert after line 20:

Insert instead:

- (c) any matters the authority thinks necessary to facilitate the implementation of a waste strategy in force under the *Waste Avoidance and Resource Recovery Act 2001*.

The bill seeks to amend section 87 of the Act to remove the requirement for a supervisory licence relating to landfill sites used for disposal of putrescible waste to be subject to a condition relating to the separation, reuse, reprocessing and recycling of waste. The conditions should be mandatory and there should be less waste being taken to landfills as recycling facilities and technology improve. The Green's amendment seeks to ensure that a supervisory licence facilitates the implementation of the State's waste strategy under the Waste Avoidance and Resource Recovery Act 2001. I commend the Greens amendment No. 3 to the Committee.

The Hon. HENRY TSANG (Parliamentary Secretary) [3.49 p.m.]: After careful consideration and advice from departmental staff, the Government is prepared to support this amendment. The bill amends section 87 (4) of the Act, which relates to supervisory licences for putrescible waste landfill sites, to remove section 87 (4) (c) which currently requires that an appropriate regulatory authority must impose conditions on a supervisory licence with respect to the separation, reuse, re-processing and recycling of waste that is received at a landfill facility. This requirement is sought to be removed by the Government because it does not make sense to impose a mandatory condition on a supervisory licence that may not be relevant to the corresponding operating licence.

The amendment proposed by the Greens seeks to replace the current requirement in section 87 (4) (c) with a new requirement that an appropriate regulatory authority, which is the Environment Protection Authority [EPA], must impose conditions on a supervisory licence with respect to any matter that the authority thinks is necessary to facilitate the implementation of a waste strategy that is in force under the Waste Avoidance and Resource Recovery Act 2001. Section 45 (k) of the Act already provides that, in considering any licence application, appropriate regulatory authorities are required to take into account any waste strategy that is in force under the Waste Avoidance and Resource Recovery Act 2001. The amendment proposed by the Greens essentially complements the existing provisions that are already in the Act, in section 45 (k). The Government therefore supports the amendment.

The Hon. RICK COLLESS [3.52 p.m.]: The Opposition will not oppose the amendment.

Amendment agreed to.

The Hon. HENRY TSANG (Parliamentary Secretary) [3.52 p.m.]: I move Government amendment No. 2:

No. 2 Page 15, schedule 1 [59], proposed section 119 (b), line 18. Omit "7". Insert instead "4".

Tier 1 offences are the most serious category of environmental offences—those that are committed wilfully or negligently. The bill will increase the maximum period of imprisonment which will apply to tier 1 offences and,

for the first time, will introduce a higher maximum penalty for offences that are committed wilfully compared to those that have been committed negligently. The review of the effectiveness of the Act did not result in a recommendation for any changes to gaol terms applying to individuals, which, since 1989, have been set at a maximum of seven years for either wilful or negligent tier 1 offences.

Recently industry groups expressed concern that having an exactly similar maximum gaol term for wilful and negligent offences is inappropriate, given the distinction that has been introduced in the bill for maximum penalties for tier 1 offences. In response to those concerns, the Government is proposing through this amendment to create a distinction between gaol sentences for wilful and negligent offences by making the maximum term of four years imprisonment apply to individuals who are convicted of tier 1 negligence offences. This will send a clear message that both types of tier 1 offences are serious offences, but those involving elements of wilfulness require a more serious penalty. For offences of wilfulness, the maximum term of imprisonment will remain at seven years.

The Hon. RICK COLLESS [3.54 p.m.]: This amendment makes a distinction between wilful and negligent offences of imprisonment for tier 1 offences. The sentence for a wilful offence is seven years and the sentence for a negligent offence is four years. Without the amendment, both categories of offence will be punishable by a sentence of imprisonment of seven years. As the Hon. Henry Tsang pointed out, wilful offences are far more serious than are negligent offences. The Opposition will support the amendment.

Mr IAN COHEN [3.54 p.m.]: The Greens support the Government's amendment. A penalty of seven years imprisonment applies to an intentional or wilful offence as well as to a negligent offence. The amendment proposes to change the penalties so that a negligent offence will be punishable by a sentence of four years imprisonment. The amendment sets maximum gaol offences for tier 1 offences. It seeks to differentiate between wilful tier 1 offences and negligent tier 1 offences. A maximum term of four years for a negligent offence is in keeping with the seriousness of the offences, but the Greens certainly do not oppose the suggestion that there should be a difference between wilful and negligent offences. It is reasonable to make a distinction in prison sentences between punishment for the most serious wilful offence and the most serious albeit negligent offence. The Greens support the Government's amendment.

Amendment agreed to.

The Hon. RICK COLLESS [3.55 p.m.], by leave: I move Opposition amendments Nos 1 and 4 in globo:

No. 1 Pages 16 and 17, schedule 1 [62], line 14 on page 16 to line 31 on page 17. Omit all words on those lines.

No. 4 Long title. Omit "smoke pollution from residences,".

These amendments remove the Government's insertion of domestic air pollution clauses. The legislation will provide for council officers to issue smoke abatement notices when a visible plume of smoke is or has been in the past seven days emitted from a home for 10 minutes, including a period of 30 seconds during which the plume must extend 10 metres from a chimney. The notice requires the home occupier not to reoffend over a period of 21 days. The penalty for failure to comply with a smoke abatement notice is up to \$3,300.

The offence will be almost impossible to prove and to enforce. It will depend on variables such as whether it is raining, how strongly the wind is blowing, and general atmospheric conditions at the time. It will be very difficult to enforce and, as I pointed out at the second reading stage, it will make life very difficult for people who live in colder climates of New South Wales and who cannot afford to install better quality home heating facilities. The bill will expose them to the prospect of receiving a \$3,300 fine each time they light their fires. The Opposition seeks the support of the Committee for these amendments.

The Hon. HENRY TSANG (Parliamentary Secretary) [3.58 p.m.]: The Government will not support Opposition amendments Nos 1 and 4. The Opposition's amendments seek to remove the proposed wood smoke offence from the bill. Excessive wood smoke is a major source of community complaints to both the Environment Protection Authority and local councils, and also can have substantial health impacts. The proposed offence allows for a measured response to the problem of excessive wood smoke. Experience shows that in the overwhelming majority of cases the problem is resolved through education, but for a small minority stronger action is required to address the problem. The Government's proposed wood smoke offence will complement existing community education programs that are conducted by councils and the Department of Environment and Conservation. The legislation has been carefully framed so it can be clearly implemented by council officers when required.

The offence provision currently in the bill will allow council officers to issue a warning notice in the form of a smoke abatement notice when they observe excessive smoke emanating from a chimney at a residence. Residents will have 21 days to address the problem. An offence will be committed only if the occupier fails to comply with the smoke abatement notice.

Mr IAN COHEN [4.00 p.m.]: Opposition amendment No. 1 seeks to remove the new provisions dealing with domestic smoke pollution. The Greens do not support the amendment. Excessive wood smoke is a real pollution issue. It is fair that residents have 21 days to take action after a smoke abatement notice is issued and can be charged with an offence only if they fail to take action within that period. The Greens believe that this is an important issue. In many country towns there are instances of a pall of wood smoke that is made far worse by fires that do not burn cleanly.

The Hon. Rick Colless: How can you get someone to do something within 21 days in winter?

Mr IAN COHEN: The Hon. Rick Colless has asked how does one resolve the problem in 21 days. I think there is fair warning and quite a bit of advertising that clearly indicates the need for slow-combustion heaters. Slow-combustion heaters are more effective, more efficient, burn less wood and last for a long time. Certainly people who want to continue to enjoy the luxury of a wood fire need to do so with a system that minimises the environmental impact of wood smoke, which is a significant health problem particularly for the infirm, those who have respiratory diseases, and children. The Greens do not support amendment No. 4, which is consequential on amendment No. 1. The Greens oppose both amendments.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [4.01 p.m.]: I support the amendments moved by my colleague the Hon. Rick Colless. A lot of people who are trying to change legislation have no idea what it is like to live in cold climates on the tablelands. The Hon. Ian Cohen lives in a warm climate and the Hon. Henry Tsang lives in a different but equally warm climate. The Hon. Henry Tsang has access to natural gas. I spend part of my time in the city and part of my time in the cold climate of Crookwell, which is higher than Cooma. I do not have access to natural gas at Crookwell, and we rely on a wood fire for warmth. The Hon. Ian Cohen said he would be in favour of slow-combustion heaters. The bulk of the heaters in towns are slow-combustion heaters. People in country towns rely on those heaters.

The problem identified by the Environment Protection Authority is that people turn down slow-combustion heaters at night and when they turn them up the next morning smoke is emitted. Many elderly people rely for their comfort and warmth on those fantastic slow-combustion heaters, and part of their health concern is the ability to keep warm on a cold night in Tamworth or Armidale. People in the city are making decisions that affect people in the country without knowing what they are doing—if it feels good on the surface, they do it. But the ramifications for country people are horrendous. Pensioners who live in country towns will have to buy bottled gas or install electric heaters, at great expense. Frankly, they will not be able to afford to run those heaters. Many people will be cold during winter, and their quality of life will be affected. I enthusiastically support the commonsense amendment moved by my colleague the Hon. Rick Colless.

The Hon. HENRY TSANG (Parliamentary Secretary) [4.04 p.m.]: It is not fair for the Opposition to mislead the Committee by saying that the Government is banning the use of wood fires.

The Hon. Rick Colless: This is not misleading. This is a fact.

The Hon. HENRY TSANG: It is only the fireplaces that generate smoke that will be banned. The Hon. Rick Colless should understand that the people who are most affected by excessive drift smoke are those suffering from existing cardiac or respiratory conditions such as asthma, people with vascular complications from diabetes, babies, young children and the elderly. They are the sufferers. If their wood fire does not generate excessive smoke, no-one will complain.

The Hon. Duncan Gay: The only smoke the Hon. Ian Cohen knows about comes from Kombi vans.

Mr IAN COHEN [4.04 p.m.]: That is an indication of the utter irrelevance of The Nationals' participation in this debate. In response, as the Deputy Leader of the Opposition has produced a furphy in this debate, I place on record that I drive a vehicle that is fuelled by vegetable oil, biodiesel. I take great pride in that.

The Hon. RICK Colless: Do you cook your chips in it as well?

Mr IAN COHEN: I get the genteel smell of burnt fish and chips as I drive along the highway. That fuel has 70 per cent fewer particulates than diesel and no dioxins, unlike diesel. I suggest that there are many areas that the Greens and The Nationals should get together to discuss. Another cause of pollution is wood fires, in which I take a great interest. The Opposition is misleading the Committee in this matter. What is being put forward by the Government through this amendment is quite clear. The Hon. Henry Tsang is quite correct. If someone has a reasonable, slow combustion stove that is turned down overnight, there will be very little pollution from it. That still gives people the opportunity to use wood, as long as the wood is not green. That is another issue: the source of the material—getting it right, and making sure that it is properly dried, properly cured—and particularly the type of wood that is burnt.

I have seen many slow combustion stoves, including the commercial brands as well as the homemade ones built from Rheem hot water systems, and all sorts of creative, adaptive opportunities taken to heat a house in a cheap and effective manner. I am not saying that that is necessarily the best way to go overall, but given the fact that people in cold climates need heating, slow combustion stoves can be cranked up in the morning, after they have been on low at night, with the quick addition of the correct fuel so that they do not counteract, or run foul, of the conditions put forward by the Government.

The Hon. Duncan Gay: How?

Mr IAN COHEN: By putting in the right kindling and some paper to start it up again.

The Hon. Rick Colless: You do not put kindling in.

Mr IAN COHEN: I do it every day.

The Hon. Duncan Gay: You just do not know.

Mr IAN COHEN: No, The Nationals do not have a monopoly on country living.

The CHAIR: Order! I call the Deputy Leader of the Opposition to order. I remind members that interjections are disorderly at all times. A number of members are already on one call to order and one member is on two calls to order. I am quite happy to put more members on a call to order if this behaviour persists. Mr Ian Cohen should direct his comments through the Chair and not get involved in slanging matches with individual members on the Opposition benches.

Mr IAN COHEN: I believe that the Government's rules on this matter are quite reasonable. The amendment allows people to continue to effectively use slow combustion stoves in cold country areas. I believe that the Opposition is acting to get an effective cheap headline out against the Government in this matter that does not benefit the overall debate.

The Hon. RICK COLLESS [4.10 p.m.]: I wish to take Mr Ian Cohen to task on some of the issues he raised. The vast majority of wood burning stoves and heaters used by people in country areas are slow combustion stoves. In the early 1950s the heating of water and cooking were done on a Rayburn slow combustion stove. Those devices have been around for years. In those days Rayburn stoves were one of the best quality stoves one could get. In fact they probably still are, but there were two or three good varieties of that stove. People from the Environment Protection Authority have told me that when slow combustion stoves are shut down overnight and they are air restricted, that is when they emit the most smoke.

The new slow combustion fire I have in my home now—a triple-burning stove—cannot be shut right down for that very reason. Apparently it burns all the gases when it is running hot but when it is shut down as low as it can be overnight it still sends much more particulate matter into the atmosphere than it does when it is running hot. When that fireplace is opened in the morning the only thing one has to do is put another log onto the big bed of coals. One does not put kindling into it; one puts on a few small logs of good, dry hardwood and open it right up. If one goes outside after restarting that fire in the morning one sees a plume of smoke over the top of the house. I do not want the Environment Protection Authority to come up my driveway and charge me \$3,300.

The Hon. Henry Tsang: You are misleading the House.

The Hon. RICK COLLESS: I am not misleading the House; that is a fact. The Hon. Henry Tsang has never lit a fire in a cold country town when it is minus 15 degrees outside. Old people who are living in those

houses will freeze if this legislation goes through. They will not be game to light their fires because they cannot afford to pay a \$3,300 fine.

The Hon. HENRY TSANG (Parliamentary Secretary) [4.13 p.m.]: This amendment is not aimed at stopping the responsible use of wood heaters. Wood heaters are an important and cost-effective source of heating for much of New South Wales. This amendment is aimed at trying to stamp out the poor operation of wood heaters that cause excessive smoke and so much grief to surrounding neighbours and the general neighbourhood. Unlike those opposite, the Government cares about the health impact of wood smoke on vulnerable members of the community and it is seeking to do something about it. I have never before heard Mr Ian Cohen say that green is not appropriate in this instance.

Reverend the Hon. FRED NILE [4.12 p.m.]: The Christian Democratic Party shares the concerns expressed by other honourable members about domestic air pollution. It would be wise for the Government to accept this amendment and to redraft division 3—domestic air pollution. I have an interest in this matter as I have a wood burner in my home. The definition of "excessive smoke" is "a continuous period of not less than 10 minutes including a period of not less than 30 seconds when the plume extends at least 10 metres from the point at which smoke is emitted from the chimney". When one starts a fire and one is working on it, that often happens, no matter how careful one is. Let us take as an example an aged pensioner who has smoke coming out of her chimney. Proposed section 142A states:

- (1) A person who pollutes is guilty of an offence.

Maximum penalty:

- (a) in the case of a corporation—\$1,000,000, and in the case of a continuing offence, a further penalty of \$120,000 for each day the offence continues, or
- (b) in the case of an individual—\$250,000, and in the case of a continuing offence, a further penalty of \$60,000 for each day the offence continues.

It is not clear whether a corporation owning a domestic house would be fined \$1 million. The majority of public servants are good but some officious public servants might get carried away with their authority and implement this legislation in a way that is not intended. The Government does not control the individual operations of various inspectors or know what is their interpretation of the legislation. The Government should support this amendment so that that whole division is reviewed. The Christian Democratic Party supports the amendment moved by the Hon. Rick Colless.

The Hon. PATRICIA FORSYTHE [4.15 p.m.]: I listened to the contribution of the Parliamentary Secretary, who said on more than one occasion that the Opposition was misleading the House. He also said that the Government's proposed bill would not result in the elimination of combustion stoves. I would like a further explanation from the Parliamentary Secretary. Is he saying that people owning a house with an open fireplace would be able to use that fireplace, or will they be banned from such use? Would the Parliamentary Secretary give us a clear indication about the use of open fireplaces in households that have them?

The Hon. HENRY TSANG (Parliamentary Secretary) [4.16 p.m.]: During public consultation on the legislation, feedback from councils and community groups indicated widespread support for it. Throughout the review process the issue of wood smoke was a priority for many community groups. In 2003 the Department of Environment and Conservation pollution line received 172 complaints about wood smoke and an additional 335 inquiries requesting information or advice on wood smoke and wood heaters. Furthermore, tackling air pollution from wood heaters was an election commitment of this Government. The results from an environmental trust funded pilot program run by Hunter region council showed that of the 275 houses observed with excessively smoky chimneys, more than 86 per cent fixed their smoke problems after being given information about heater operation and the use of seasoned wood.

A further 12 per cent of heaters stopped smoking excessively after a warning was given. The introduction of a penalty will act as a deterrent to irresponsible wood burning practices for the 2 per cent minority of recalcitrants. In a small percentage of cases where education has not achieved an improvement council officers will be able to issue a smoke abatement notice. If the problem is not fixed within 28 days of a notice being given, council can then issue a fine—the \$200 to \$400 on-the-spot fine is similar to the penalty for littering offences—if smoke is emitted whilst the notice remains in force. The 28-day warning period gives recipients of the notice time to fix the problem.

The Hon DUNCAN GAY (Deputy Leader of the Opposition) [4.17 p.m.]: I note for the record that the Parliamentary Secretary did not answer the question that was asked by the Hon. Patricia Forsythe. I also note for the record that the Parliamentary Secretary said there had been 172 complaints in New South Wales and of those 172 complaints 2 per cent were recalcitrants. There were 172 complaints, but how many fireplaces are there in New South Wales? There are 4,000 in Crookwell shire and 5,000 in Inverell. I suspect that every property in Thredbo and Perisher and every house on the tablelands has one of these heaters.

Earlier Mr Ian Cohen said he had a Warm Ray. About 50 years ago we all had Warm Rays but we got rid of them because they were not much good. They would not burn through the night and they had to be relit the next morning by using kindling. Most of the fires that people have in their homes in New South Wales are slow combustion heaters. The beauty of the slow combustion heater is that it lasts overnight and the next morning it only has to be turned up. Every one of those heaters would breach the rules within this bill because the smoke emissions would be excessive.

Every pensioner who cannot go out into the frost and snow on a Crookwell morning to gather kindling with which to relight his or her heater will be in breach of the legislation. This bill is a typical creation of an elite Government that is out of touch with reality in New South Wales. The Government asserts its point of view because it feels good and forgets about the people who will suffer as a consequence. I join Coalition and some crossbench members in supporting the amendments.

Mr IAN COHEN [4.20 p.m.]: It is interesting to see which debates fire up in this Chamber.

The Hon. Greg Pearce: Who wrote that for you?

Mr IAN COHEN: All of mine are original—you better believe it. Opposition members referred to pollution that is created when slow combustion heaters are restarted. I agree with them; that is a fair point. The Government has identified that there is a need to introduce penalties for polluting behaviour, and that many combustion stoves are left on slow burn overnight. The Deputy Leader of the Opposition referred to the Warm Ray combustion stoves. One does not necessarily have to keep a combustion stove burning slowly all night, creating pollution in almost the same way as a diesel truck does when idling.

The Deputy Leader of the Opposition claimed that poor pensioners will have to venture out into the snow barefoot to collect material with which to relight their stoves. They simply need to make one small adjustment to the way in which they use their combustion stoves: They should turn them off at night and relight them the next morning using kindling and paper, which will flare quickly and not create excessive smoke. It is commonsense. As the Hon. Henry Tsang said, education about the use of proper kindling is important. Using wood that is not cured properly can cause major problems. There are ways that people can use their slow combustion stoves more effectively, mindful of the effect of smoke pollution on their neighbours and the entire community.

Many people install slow combustion stoves because open fireplaces—particularly those that are not well designed—create more pollution than an efficient heater working at capacity during the night. I reject the assertion that stoves cannot be relit effectively in the morning using the correct kindling and other materials that will flare quickly and minimise pollution. We can educate the community about this issue.

The Hon. HENRY TSANG (Parliamentary Secretary) [4.23 p.m.]: The Hon. Patricia Forsythe asked whether people will be able to continue to use open fireplaces in their homes. The answer is yes. However, if smoke pollution causes the neighbours concern, the offender can be fined a maximum penalty of \$200. A larger penalty could be imposed only by a court. If an individual chooses to appeal the original small fine, a court could decide to increase it to a maximum of \$3,300.

In response to concerns about the proposed length and time period of the smoke plume, I clarify for the Committee that the penalty proposed is similar to that imposed for a vehicle that produces too much smoke. It is necessary to give some guidelines to ensure clarity as to how the offences will work. The Government does not support the Opposition amendments.

Question—That the amendments be agreed to—put.

The Committee divided.

Ayes, 18

Mr Clarke	Mr Lynn	Mr Ryan
Ms Cusack	Reverend Dr Moyes	Dr Wong
Mrs Forsythe	Reverend Nile	
Mr Gallacher	Mr Oldfield	
Miss Gardiner	Ms Parker	<i>Tellers,</i>
Mr Gay	Mrs Pavey	Mr Colless
Mr Jenkins	Mr Pearce	Mr Harwin

Noes, 22

Mr Breen	Mr Donnelly	Ms Robertson
Dr Burgmann	Ms Griffin	Mr Roozendaal
Ms Burnswoods	Ms Hale	Ms Sharpe
Mr Catanzariti	Mr Hatzistergos	Mr Tsang
Dr Chesterfield-Evans	Mr Kelly	
Mr Cohen	Mr Macdonald	<i>Tellers,</i>
Mr Costa	Mr Obeid	Mr Primrose
Mr Della Bosca	Ms Rhiannon	Mr West

Question resolved in the negative.**Amendments negatived.**

The Hon. RICK COLLESS [4.31 p.m.]: I move Opposition amendment No. 2:

No. 2 Page 19, schedule 1 [66], proposed section 142D (1) (c), line 21. Insert ", including stock feed made solely from such waste" after "waste".

This amendment allows a person to establish as a defence in the case of proceedings for an offence that the person has placed on the land stockfeed made solely from non-hazardous agricultural or crop waste. Many elements of feed for intensively housed animals are waste products from other businesses, such as mill mix, canola meal, sunflower meal, cottonseed meal and so on that are extensively used as stockfeed. The Opposition would not want that trend to discontinue because of the bill.

Mr IAN COHEN [4.32 p.m.]: This amendment seeks to add a defence relating to pesticides and fertilisers and other substances in relation to land pollution. This proposed defence is that it is stockfeed made solely from agricultural crop waste. The Greens do not oppose the amendment. It is not controversial, and I do not see a problem with it. However, I ask the Hon. Rick Colless whether there will be any problem, given that in the past the helix cotton trash that was fed to stock in times of drought contained contaminated material. Would this amendment open up a situation similar to that problem?

The Hon. RICK COLLESS [4.34 p.m.]: No, I do not think it will, because in that case any chemical residue contained in the stockfeed will come under the auspices of the Pesticides Act anyway and would be controlled from that aspect.

The Hon. HENRY TSANG (Parliamentary Secretary) [4.34 p.m.]: The Government is prepared to support this amendment. A number of defences are already included in relation to the Government's proposed land pollution offence to ensure that the day-to-day activities of farmers applying, for example, pesticides and fertilisers to their land, are not within the scope of this offence. In particular, the bill provides a defence to the land pollution offence if the substance applied to land is non-hazardous agricultural or crop waste.

The amendment proposed by the Opposition further clarifies that non-hazardous agricultural or crop wastes also includes stock feeds, provided the stock feeds are made up only of non-hazardous agricultural or crop waste components. The amendment clarifies the defences originally included in the bill whilst ensuring that the application of hazardous wastes to land is still clearly unlawful.

Amendment agreed to.

The Hon. RICK COLLESS [4.36 p.m.]: I move Opposition amendment No. 3:

No. 3 Page 24, schedule 1 [84], lines 1 and 2. Omit all words on those lines.

This amendment reinstates the "no knowledge" defence. Section 169A of the Act provides a "no knowledge" defence for a director or manager of a corporation for a tier one offence, which is the worst possible offence, such that the corporation contravenes the provision without the knowledge, actual, imputed or constructive, of the person. This defence was incorporated in the original legislation when it was introduced in 1989 by the Greiner Government. The Opposition believes it is appropriate for that provision to remain in the Act. I commend the amendment to the Committee.

Mr IAN COHEN [4.37 p.m.]: The bill removes the "no knowledge" defence for directors and managers charged with an offence committed by a corporation. Opposition amendment No. 3 reinstates that defence. In other words, it seeks to retain the status quo so that the defence is available to senior executives of corporations. The Greens feel that the removal of this defence in the bill is one of the greatest steps forward with the legislative changes, so we do not support Opposition amendment No. 3. Given that we have debated the different range of potential gaol terms between the deliberate and "no knowledge" defences already in this House, I think the Government has a reasonably correct balance, and it is not appropriate to return to the original status quo. The Greens do not support the amendment.

The Hon. HENRY TSANG (Parliamentary Secretary) [4.35 p.m.]: The Government does not support this amendment. The Opposition's amendment would reinstate the "no knowledge" defence that is currently available to directors and managers who are charged with an offence committed by their corporation. The defence is no longer appropriate as it perversely rewards directors and managers who seek to remain ignorant of the poor environmental practices implemented by their companies. The community's outrage in response to the shameful activities of companies such as James Hardie demonstrates that the community expects that directors and managers of companies should not be able to use the law to avoid accountability for their actions.

The "no knowledge" defence has already been removed from occupational health and safety legislation and other environmental legislation such as the Pesticides Act. Good corporate citizens should welcome the change to the existing director's defences in the bill. Indeed, the bill retains the other two existing defences relating to using all due diligence to prevent the offence and the person not being in a position to influence the unlawful conduct. These defences provide an incentive for directors and managers to proactively identify and manage their environmental risks, but give appropriate legal protection to responsible corporate operators.

Amendment negatived.

Mr IAN COHEN [4.40 p.m.]: I move Greens amendment No. 4:

No. 4 Page 36, schedule 1 [129], proposed section 295N (2). Insert after line 14:

- (e) that the effects and benefits of the proposed green offset scheme or work are likely to last at least until the relevant impact of the activity is offset.

The amendment relates to green offsets and amends section 295N (2) to add another paragraph, which provides that the appropriate requisite authority may not impose a condition unless it is satisfied that "the effects and benefits of the proposed green offset scheme or work are likely to last until at least the relevant impact of the activity is offset". The offset scheme must provide continuity so that if the impact of the activity were to continue beyond the licence term or termination of the licence or closure of the facility, the benefit of the offset will continue for as long as the relevant impact. This will not apply if the benefit is offset before the activity is completed. I commend Greens amendment No. 4 to Committee.

The Hon. HENRY TSANG (Parliamentary Secretary) [4.41 p.m.]: The Government is prepared to support Greens amendment No. 4, which will provide that the appropriate regulatory authority may not impose a condition of a licence in relation to green offsets unless it is satisfied "that the effects and benefits of the proposed green offset scheme or work are likely to last at least until the relevant impact of the activity is offset". This amendment reflects the Government's intention in relation to green offsets. Indeed, one of the principles of green offsets as outlined in the Government concept paper "Green Offset for Sustainable Development" is that offsets must be enduring. They must offset the impact of the development for the period that the impact occurs. This amendment gives legislative recognition to this principle, and it is supported by the Government.

The Hon. RICK COLLESS [4.41 p.m.]: The Opposition will not oppose the amendment.

Amendment agreed to.

Mr IAN COHEN [4.42 p.m.]: I move Greens amendment No. 5:

No. 5 Page 39, schedule 1 [129], proposed section 295Q, lines 1-3. Omit all words on those lines. Insert instead:

- (2) The regulations must make provision for or with respect to the following matters:
 - (a) if appropriate criteria and methodologies are available, the criteria and methodologies for determining whether green offset schemes or works meet required outcomes specified in licence conditions,
 - (b) evaluation, on a periodic basis, of green offset schemes or works and publication of such evaluations.

This amendment makes it compulsory for the regulations to provide for criteria and methodologies set out in section 295Q (1) (f), but only when available. The regulations must also provide for periodic public reporting of the findings of evaluations undertaken under section 295Q (1) (f). This monitoring of, and reporting on, licence conditions relating to green offsets will monitor whether they are working effectively. Green offsets are relatively untried in Australia, so they need to be evaluated effectively and the evaluations made public. I commend Greens amendment No. 5 to the Committee.

The Hon. HENRY TSANG (Parliamentary Secretary) [4.43 p.m.]: The Government is prepared to support Greens amendment No. 5. It has been, and remains, the Government's firm intention to make provision in the regulations for criteria and methodology for determining whether green offset schemes and works meet the required outcomes specified in licence conditions. The development of appropriate criteria and methodology for ensuring that green offset schemes and works achieve what they have set out to do is a critical element of the green offset projects. Therefore the Government supports the amended section 295Q (2) (a).

Proper evaluation of green offset projects is a fundamental element of ensuring the success of green offset schemes and works, and ensuring that they have achieved what is intended. The Government is committed to requiring a proper evaluation of green offset schemes and works, and to publishing details of these evaluations. This complements other public accountability provisions in the Act. Therefore the Government supports the amendment.

The Hon. RICK COLLESS [4.44 p.m.]: The Opposition will not oppose this amendment.

Amendment agreed to.

Schedule 1 as amended agreed to.

Mr IAN COHEN [4.44 p.m.]: I move Greens amendment No. 6:

No. 6 Page 52, schedule 2.3, lines 13-30. Omit all words on those lines.

The bill extends, from three years to four years, the period between state of the environment reports. The Greens believe that this reporting should remain on a three-year cycle. More frequent reporting is desirable to ensure that environmental monitoring occurs and information is made publicly available. It is highly desirable that the next reporting should occur in late 2006—before the next State election—so that the people of New South Wales can have an environment report card on which to assess the Government's performance. The rationale given by the Government for a four-year cycle is that it will align with the Natural Resources Commission standards and target framework. This is not a satisfactory rationale, as many of the issues under the Protection of the Environment Operations Act are not relevant to natural resources issues.

Further, the Natural Resources Commission process remains ill-defined. Nevertheless, the Minister for Natural Resources certainly would have an eye to the fact that if the cycle is moved to four years, given that he is so adept at political matters, it clearly can put the reporting for this critical election in 2007 to post election. I have considerable problems with that. Quite apart from that, in the immediate future we need to maintain this reporting on a three-year cycle. Given the importance of environmental reporting it would be in the interests of the whole community to maintain the shorter cycle for this very important issue of transparency. I commend Greens amendment No. 6 to the Committee.

The Hon. HENRY TSANG (Parliamentary Secretary) [4.46 p.m.]: The Government does not support the amendment, which would delete the proposed amendment to the Protection of the Environment Administration Act 1991 and, as a result, would require the EPA to prepare a state of the environment report every three years rather than every four years, as the bill proposes. The Government has proposed an increase in the state of the environment reporting cycle from three to four years to allow for the state of the environment

report to be more closely aligned with the finalised standards and targets currently being developed by the Natural Resources Commission. The extension is also consistent with the longer state of the environment [SOE] reporting time frame at the national and local levels.

The independent Natural Resources Commission has been given the job of developing a range of standards and targets across the areas of biodiversity, water quality, soil quality and salinity. These targets are not yet finalised, but it is expected that they will be adopted in the coming months. Catchment management authorities and government agencies will be expected to report progress against these new standards and targets. The aim is to ensure that progress in implementing the Government's native vegetation reforms can be measured. As the issues covered by the standards and targets cross over many of the issues covered by the existing SOE reporting framework, it would be preferable to delay the next SOE report so that it can be revised to be consistent with the new framework. The Government opposes the amendment.

The Hon. RICK COLLESS [4.48 p.m.]: The Coalition will support the amendment with glee because the next state of the environment report, which is due on 1 October 2007, will absolve the Government from any liability for its environment disasters. I very much look forward to seeing this state of the environment report every three years so there will be a report prior to the next election. Some of the issues we spoke about today in the more heated part of the debate, such as the impact of the provisions of the bill on the community, will come to the fore. I look forward to the report coming forward in October 2006.

The Hon. HENRY TSANG (Parliamentary Secretary) [4.49 p.m.]: I assure the Opposition that if there is no delay, we will have a state of the environment report issued in 2006 and another natural resource management report followed by an environment report dealing with many of the same issues a year later. The amendment will make the process unnecessarily complex.

Question—That the amendment be agreed to—put.

The Committee divided.

Ayes, 22

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

Noes, 16

Dr Burgmann	Ms Griffin	Ms Sharpe
Ms Burnswoods	Mr Kelly	Mr Tsang
Mr Catanzariti	Mr Macdonald	
Mr Costa	Mr Obeid	<i>Tellers,</i>
Mr Della Bosca	Ms Robertson	Mr Primrose
Mr Donnelly	Mr Roozendaal	Mr West

Pair

Mr Hatzistergos Mr Harwin

Question resolved in the affirmative.

Amendment agreed to.

Schedule 2 as amended agreed to.

Title agreed to.

Bill report from Committee with amendments and passed through remaining stages.

**PUBLIC SECTOR EMPLOYMENT AND MANAGEMENT AMENDMENT (EXTENDED LEAVE)
BILL**

Second Reading

The Hon. HENRY TSANG (Parliamentary Secretary) [4.59 p.m.], on behalf of the Hon. John Della Bosca: I move:

That this bill be now read a second time.

As the second reading speech for this bill was delivered in the other place, I seek leave to have it incorporated in *Hansard*.

Leave granted.

The New South Wales Labor Government has been active in seeking a fair balance between employers and employees in the pursuit of greater flexibility in the workplace. As an employer, the New South Wales Government values its employees and is always looking at further ways in which the Government can attract and retain a diverse, experienced and skilled workforce, whilst also achieving value for money for the New South Wales community. This new bill will meet this challenge by securing more flexible delivery of extended leave to New South Wales public servants. In particular, the bill will provide public service employees with earlier access to extended leave entitlements and enable these entitlements to be used at a faster rate. The bill will also provide a new regime to update and clarify the recognition of service provisions in the Transferred Officers Extended Leave Act.

The changes to extended leave entitlements contained in the bill deliver on an agreement reached with the Public Service Association on the main public service salaries award in December 2004. The agreement reached with the Public Service Association was made in settlement of the association's work value and special case claims. Since that time, a number of other groups of employees in the public sector have also received an entitlement to the enhanced extended leave provisions in settlement of their wage and salary claims. Such groups include wages staff in public service departments, police, firefighters and allied health employees. Unlike those groups, the entitlement for the public service will be legislated. Employees covered by the bill include important frontline staff, such as prison officers, child protection workers and court officers.

In preparing the bill, the Government consulted with key stakeholders, including Unions NSW, the Public Service Association of New South Wales, the New South Wales Teachers Federation, NSW Health, the New South Wales Department of Education and Training and NSW Police. The Government is now satisfied that the bill is an appropriate reflection of the settlement with the Public Service Association of New South Wales and the intention of the joint working party, which conducted the review of the Transferred Officers Extended Leave Act.

Turning to the key features of the bill, at a glance the bill will do four things. First, it will allow New South Wales public servants pro-rata access to their extended leave entitlement after seven years rather than 10 years. That is, the quantum of leave available after seven years will be a proportion of the two months that is normally available to employees following 10 years service. This proposal will benefit employees by allowing earlier access to extended leave and removing the need to resign in certain circumstances. To give an example, an employee with seven years service but less than ten years will now be able to access their extended leave in order to care for a sick family member without having to resign. Second, the bill will allow New South Wales public servants to take their extended leave entitlement at double pay. Under this arrangement, the amount of extended leave will be equal to the actual absence from the workplace, plus an equivalent amount in order to make up the additional double payment. For example, an employee may use their entitlement to two months extended leave by taking one month's leave and receiving two months pay.

Importantly, this measure provides incentives to employees with accrued leave to take a well-earned break by providing additional cash at this time. This will also reduce government liabilities that would otherwise accrue, and will assist in meeting the objectives set out in the Government's Fiscal Responsibility Act 2005. While extended leave at double pay provides employees with additional flexibility, it is important to emphasise that the proposal will not be subject to employer influence. Employees will be free to apply for extended leave at double pay, and there will be no ability for employers to compel employees to take periods of double pay. The bill will also amend State superannuation legislation to confirm that extended leave at double pay will not fall within the definition of salary in the closed New South Wales public sector employees' superannuation schemes governed by the Police Regulation (Superannuation) Act 1906, the State Authorities Non-contributory Superannuation Act 1987, the State Authorities Superannuation Act 1987 and the Superannuation Act 1916.

These schemes do not include ups and downs from payments such as special allowances in their calculation of the superable salary. It is therefore consistent that the hump that would arise from double pay extended leave is excluded. The double payment will, however, be superable for employees who are covered by the First State Superannuation Act 1992. This is because the payment is considered to be earnings in respect of ordinary hours of work and therefore within the meaning of salary or wages under superannuation guarantee legislation. Thirdly, the bill will provide that public holidays occurring during a period of extended leave—including a period of double pay—will not be deducted from an employee's entitlement.

That is, one additional day of extended leave will be credited to an employee for any public holiday occurring within a period of extended leave, provided it is on a day on which the employee would have received payment had they been rostered normally. This amendment reflects the current provisions under the State Long Service Leave Act, which applies to private sector employees. Finally, the bill will replace the Transferred Officers Extended Leave Act, which was written over 40 years ago and is very legalistic and difficult to read and interpret. The Act has been rewritten to make it more easily understood and user friendly.

with the provisions to be consolidated into the Public Sector Employment and Management Act and the existing cross-New South Wales public sector mobility provisions under that Act.

This Act essentially provides for recognition of governmental service for the purpose of extended leave from other State, Territory, and Commonwealth governments. Other State, Territory and the Commonwealth governments have similar legislation to provide for mobility across government. The provisions remain largely unchanged, continuing to allow previous eligible service with a recognised governmental employer to be taken into account when assessing and determining an employee's extended leave entitlement. The provisions create a clear definition of a governmental agency and provide for the Director General of the Premier's Department to declare interstate and Commonwealth agencies as recognised for extended leave purposes.

The bill also clarifies that service as a full-time member of the various administrative tribunals is recognised service. The continuity of service requirements have been modified and simplified to allow a person's service to be recognised as long as the new service commences within two months of leaving the previous eligible governmental employer. These changes will improve the efficiency of corporate services in agencies in the application of the provisions of the Act. The bill will also remove situations where employees transferring from other jurisdictions could have a debit or credit service balance based on the extended leave entitlements they may have taken or been paid for by the previous employer. Employees from other jurisdictions with previous eligible service with another recognised governmental employer will also be deemed to have taken or been paid for all extended leave entitlements whilst continuing to be able to have that service recognised for future accruals.

These changes to extended leave will provide public service employees with additional flexibility in balancing their work and personal lives. The three proposals central to this bill—bringing forward eligibility to extended leave after seven years, providing for extended leave at double pay and simplifying recognition of service provisions—will ensure that the New South Wales Government remains an employer of choice, and will assist in meeting the current and future work force needs of the New South Wales Government.

The Hon. GREG PEARCE [4.59 p.m.]: The Opposition does not oppose the Public Sector Employment and Management Amendment (Extended Leave) Bill. This is an extraordinarily cosy arrangement between the Government and the union movement, in particular the Public Service Association. The bill provides for amendments to the Public Sector Employment and Management Act 2002 and the repeal of the Transferred Officers Extended Leave Act 1961 and its regulations. The amendments and repeal give effect to the agreement reached between the Government and the Public Service Association in 2004, when the Government reached an agreement with the Public Service Association regarding leave provisions and public holidays. The existing Transferred Officers Extended Leave Act 1961 provides that government agencies take into account prior service in government offices when calculating long service leave entitlements. The bill repeals the Transferred Officers Extended Leave Act 1961 and replaces the Act with provisions within the new bill.

The bill provides for pro-rata access to extended leave. The bill alters access provisions to provide access after 7 years rather than 10 years. The bill provides for extended leave at double pay. Employees will be able to take, for example, one month's leave on double pay rather than two months leave on standard pay rates. Further, the bill provides some superannuation amendments to allow the creation of superannuation provisions in line with the abovementioned amendments to extended leave provisions relating to the double pay scheme. The bill provides also for the crediting of public holidays that occurred during leave periods. Public holidays will no longer be deducted from an employee's extended leave entitlements and this brings public service provisions into line with private sector entitlements.

The bill abolishes the Transferred Officers Extended Leave Act 1961 and extends provisions of the Public Sector Employment and Management Act 2002 to include provisions for long service leave entitlements. As I said at the outset, this is a cosy arrangement between the Government and the Public Service Association [PSA], and it will increase the cost of government administration. It should be noted that whilst the Government is prepared to continue to deal with the Public Service Association in a way that that union prefers, in Australia there has been an ongoing decline in trade union membership, to the extent that in the private sector only 16 per cent of employees belong to a trade union.

The Public Service Association, which unionised workers in the Roads and Traffic Authority [RTA], recently acknowledged that it has been let down by the Government, as 1,000 jobs are to go from the RTA. The PSA web site states that it has written to the Minister for Roads, Mr Tripodi, seeking an urgent meeting to advise him that any cuts to jobs in the RTA are unacceptable as they will be cuts to front-line services. That is the key to this Government: it is prepared to simply cut jobs without quarantining front-line services. The Assistant General Secretary of the Public Service Association, Steve Turner, was reported on the PSA web site as stating:

If any savings are to be made, then the question needs to be asked, "Why does the Authority need 31 SES General Managers and more than an additional 800 consultants and contractors?" Hefty savings could be achieved in these areas alone.

Recently the Government announced that it was going to cut 400 jobs from CountryLink. In that case front-line people, the ticket sellers, were going to lose their jobs. This hypocritical Government does not ensure that front-line services are protected. Contrast that with the Opposition's policy of a recruitment freeze and quarantining front-line services. That is a much more sensible and equitable policy and will contribute to the future economic growth of the State when the Coalition comes to government in late March 2007.

I turn now to the Government's relationship with members of the public service. The Government has an appalling record of blaming public servants whenever it does anything wrong. The most recent example was the outrageous sidelining of Paul Forward from the RTA in relation to the cross-city tunnel. It is no surprise that the public and the media have not fallen for that outrageous and cowardly action by the Government and by Minister Tripodi. The matter will not go away; the community is very concerned about it. The community cannot trust this Government, and it will not let the Government get away with such behaviour any longer.

Reverend the Hon. FRED NILE [5.05 p.m.]: The Christian Democratic Party supports the Public Sector Employment and Management Amendment (Extended Leave) Bill, which, interestingly, is the result of an agreement reached with the Public Service Association in 2004. It has taken almost a year for the Government to introduce a bill that will provide pro-rata access to extended leave and extended leave at double pay, superannuation amendments, and the crediting of public holidays, and will also update and clarify the recognition of service provisions in the Transferred Officers Extended Leave Act 1961. When reading some background to the bill, I thought that the provisions could be said to be a form of WorkChoice introduced by the Labor Government for public servants in New South Wales! The Christian Democratic Party supports the bill.

The Hon. HENRY TSANG (Parliamentary Secretary) [5.06 p.m.], in reply: I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

HEALTH LEGISLATION AMENDMENT BILL

Second Reading

The Hon. HENRY TSANG (Parliamentary Secretary) [5.08 p.m.], on behalf of the Hon. John Hatzistergos: I move:

That this bill be now read a second time.

[*Quorum formed.*]

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

Leave granted.

This bill proposes amendments to a number the Health Administration Act 1982, the Public Health Act 1991, the Human Tissue Act 1983, the Poisons and Therapeutic Goods Act 1966, and the Podiatrists Act 2003. Schedule 1 amends the Health Administration Act to extend the definition of relevant health services organisation to include the New South Wales Ambulance Service. The Health Legislation Amendment (Complaints) Act amended the Health Administration Act to establish a new statutory privilege for the proceedings of root cause analysis.

The privilege applies to root cause analysis conducted by relevant health services organisations. This is defined in section 20L as relevant health services organisation, which means any area health service, a statutory health corporation prescribed by the regulations, or an affiliated health organisation prescribed by the regulations. The intention was that the definition would cover all New South Wales public hospitals and the New South Wales Ambulance Service. However, the New South Wales Ambulance Service does not fall into any of the categories covered by section 20L. The amendment is needed to include the New South Wales Ambulance Service in the definition.

The proposed amendments to the Human Tissue Act in schedule 2 cover four areas: the use of technicians to remove donated musculoskeletal tissue, donation of regenerative tissue by young children, certification of brain death, and the use of tissue for quality assurance programs. Turning first to the use of technicians to remove donated musculoskeletal tissue, I point out that currently only medical practitioners may remove human tissue other than corneal tissue from a deceased person. Under the Act, corneal tissue may also be removed by a person authorised by the director general. In practice, trained technicians are employed to remove donated corneal tissue.

The proposed amendment will create a similar approach to that applied for the retrieval of musculoskeletal tissue by trained technicians. Musculoskeletal tissue includes muscles, bones and cartilage. The current requirements have reduced the amount of musculoskeletal tissue that is available for use in New South Wales. Tissue removal must be undertaken within a short time after death but medical practitioners are often unable to do this, due to their operating lists and attendance on other patients. Consequently New South Wales currently needs to obtain musculoskeletal tissue from interstate. Technicians are used to retrieve musculoskeletal tissues in Queensland, Victoria, Western Australia and overseas. The New South Wales Bone Bank proposes to offer specialist training to technicians, who will undertake tissue removal.

The second amendment to the Human Tissue Act relates to the current practical prohibition on the use of regenerative tissue provided by very young children. Under the Act, regenerative tissues, such as bone marrow, may be removed from the bodies of children for the purpose of transplantation to a sibling or parent only if a medical practitioner certifies that the child can understand the nature and effect of the donation and transplantation, and is in agreement with the proposal. This requires the child to have a certain level of intellectual and emotional development that is not present in the very young. The proposed amendment arises from a recommendation of the Department of Health's clinical ethics advisory panel. The amendment will allow the donation of regenerative tissue by children, including the very young, when the parent consents to the donation, two medical practitioners certify that the child's sibling or parent is likely to die or suffer serious irreversible damage to his or her health without the tissue, and the risk to the child from the procedure is minimal.

The proposed amendment will also require that one of the medical practitioners is a paediatric transplant specialist or a paediatric medical specialist from an institution other than the institution at which the transplant will occur. The Department of Health's clinical ethics advisory panel is of the view that certification by an independent specialist will ensure that there is an independent assessment and source of advice available to the parents. The proposal provides a permanent life-saving benefit for recipients as opposed to minimal risks and temporary discomfort for the donor. Although there is no physical benefit for the donor child, there is the potential psychological benefit for the child to be later made aware that the child has helped to save the life of a sibling.

The third proposed amendment to the Human Tissue Act concerning certification of brain death arose out of exhaustive public consultation that was undertaken as part of a review of the Human Tissue Act. The Act requires that when a person is to be declared dead by the brain function criteria, two medical practitioners must certify that there has been irreversible cessation of all functions of the person's brain. The proposed amendment provides that when death is to be certified by the brain function criteria prior to the removal of organs, neither of the certifying medical practitioners may be part of the medical team responsible for transplanting the tissues into the body of the recipient or for the primary care of the recipient. This proposed amendment is designed to avoid any concerns of a perceived conflict of interest that may arise if a medical practitioner who is responsible for the care of the recipient were also to certify death of the donor.

The final amendment concerns the strict statutory controls on the use of tissue without the specific consent of the person from whom it was obtained. Currently, certain exemptions to the consent requirement are made for material in blocks and slides used in microscopic examination to be used for coronial, scientific, and educational purposes to improve diagnosis and medical treatment for the benefit of the community. The same overriding public interest requirement applies equally to the use of lawfully obtained bodily fluids for quality assurance, audit, and quality control purposes. It is therefore proposed to extend the exemptions in section 34 to allow lawfully obtained bodily fluid and tissue samples to be used for the purposes of a quality assurance program, audit, or quality control program, and other purposes reasonably incidental to the proper conduct of the facility or institution where treatment is provided.

Schedule 3 proposes an amendment to the Podiatrists Act to insert a regulation-making power in relation to infection control standards. This regulation-making power is in other health professional Acts in the health portfolio and will mean that podiatrists will be subject to the same standards and requirements to prevent infection that apply to other registered health professionals. I turn next to the proposed amendment to section 29 of the Poisons and Therapeutic Goods Act in schedule 4 that allows the director general to authorise the prescription or supply of drugs of addiction. Section 29 (5) (a) currently provides that the authority must specify the maximum quantity of the drug that may be supplied or prescribed. Section 29 (5) (b) requires the director general to specify, in the authority, the period for which the drug may be prescribed or supplied.

Whilst these restrictions are appropriate in many cases, there are circumstances in which prescribers need greater flexibility—for example, the management of severe pain in terminal patients, or long-term patients who may require escalating or continuing doses of drugs for an indeterminate period. It is inappropriate to fetter the appropriate palliative doses, and an administrative burden on medical practitioners to have to seek intermittent amendments to the authority as the condition and level of pain of their patients alters. It is therefore proposed to allow the director general a discretion in relation to whether to specify a maximum quantity of drug and a set time period in each specific case.

As an added safeguard, the amendments to section 28 are included to ensure that injectable drugs of addiction and other addictive drugs that may be susceptible to abuse are subject to more stringent restrictions. These drugs are listed in the regulation as type B drugs of addiction and an authority must be granted for them to be used for periods exceeding two months. The proposed amendment to the Public Health Act 1991 in schedule 5 recasts the exemption for registered nurses undertaking surgical debridement of hypertrophic tissue of the foot as a permissive provision rather than as a defence to prosecution. Currently the section provides a defence to prosecution if the treatment was necessary to provide immediate relief from pain and discomfort.

The proposed amendment will not change the type of foot care that registered nurses will be able to undertake, but it will be framed to provide clear and direct statutory authority to registered nurses so that they may undertake surgical debridement of feet in certain circumstances rather than the less direct authority conferred by a defence to prosecution. The Nurses Association requested the amendment and it is supported by the Australian Podiatry Association. These various amendments are designed to ensure the relevant pieces of health legislation are up to date, accord with current best practice and deliver improved health outcomes for the community. I commend the bill to the House.

The Hon. JENNIFER GARDINER [5.10 p.m.]: The Health Legislation Amendment Bill amends a number of health-related statutes. It amends the Health Administration Act 1982 so that the provisions requiring the appointment of a root cause analysis team in certain circumstances apply to the Ambulance Service of New

South Wales. That brings the Ambulance Service into line with other health services. A root cause analysis is sometimes defined as a comprehensive and systematic methodology that identifies the gaps in hospital systems and the processes of health care that may not be immediately apparent and that may have contributed to the occurrence of some critical event. So it is used to assess events where there have been some problems and failures or setbacks, in particular in acute care.

The Opposition supports the view that the Ambulance Service should be brought under the provisions of the Health Administration Act with regard to those sorts of analyses. The Health Legislation Amendment Bill also amends the Human Tissue Act 1983 and clarifies that a reference to a parent includes a reference to the Minister for Community Services if that Minister has sole parental responsibility for a child in relation to the Human Tissue Act. It makes provision with regard to the removal of tissue from children in certain circumstances, the conditions relating to the medical practitioners who may certify death prior to the removal of tissue from a deceased person's body, and limits the Act in relation to the persons who, in addition to medical practitioners, may be permitted to remove musculoskeletal tissue from a deceased person for certain purposes.

The bill also amends the Act so that small samples of tissue may be used for quality assurance and related purposes. The bill amends the Podiatrists Act 2003 to enable regulations to be made in relation to infection control standards to be followed by podiatrists. The podiatry profession has had quite a bit of an input to ensure that high standards of infection control apply to all its practices. This will enable regulations to be made in that regard. The bill also amends the Poisons and Therapeutic Goods Act 1966 as well as the Poisons and Therapeutic Goods Regulation 2002 so as to limit the types of drugs of addiction that may be prescribed for continuous therapeutic use only with the authority of the Director General of NSW Health.

The bill also amends the Poisons and Therapeutic Goods Act 1966 so as to allow the director general of that department a discretion in respect of whether certain information relating to the maximum quantity of a drug and the time during which it may be prescribed or supplied is contained in an authority to prescribe or supply drugs. The legislation also amends the Public Health Act 1991 so as to provide that a registered nurse may carry out surgical debridement of hypertrophic tissue of the foot using a sharp instrument in certain circumstances. Because the Health Legislation Amendment Bill is tidying up a number of aspects of several statutes, about which there has been reasonable consultation with relevant parties, I am happy to state that, as was the case in the other House, the Opposition does not oppose the passage of the bill.

Ms SYLVIA HALE [5.14 p.m.]: The Greens support this bill as the proposed amendments are of a straightforward and technical nature. However, I place on the public record the Greens general disapproval of bills that aggregate amendments from largely unrelated pieces of legislation. To pool amendments with no common thread other than their falling under the responsibility of the one Minister is sloppy and lazy of the Government. This bill amends the Health Administration Act 1982, the Public Health Act 1991, the Human Tissue Act 1993, the Poisons and Therapeutic Goods Act 1966 and the Podiatrists Act 2003. Schedule 1 to the bill requires that the provisions requiring the appointment of a root cause analysis team in certain circumstances apply to the Ambulance Service of New South Wales.

This amendment is designed to address a problem in section 20 of the Health Administration Act whereby the Ambulance Service does not come under the definition of "relevant health services organisation". The Greens support the Ambulance Service being treated in the same manner as all other health services in New South Wales. The proposed amendments to the Human Tissue Act in schedule 2 are intended to allow parental consent or the Minister's consent where a child is under the care of the State for the removal of regenerative tissue from a child's body where that tissue is needed to prevent the likely death of a sibling. That can occur only when a medical practitioner judges a child too young to be able to understand the nature and effect of the removal of the tissue.

Various safeguards and processes must be followed in these events to ensure that the rights of any donor child are protected. These include gaining the written consent of the parent and the medical practitioner being satisfied that the child is not capable of understanding the procedure. The authorising parent must also be able to understand fully the nature of the procedure. The underlying criteria for tissue removal are that there must be minimal risk, both physical and mental, to the child who is donating the tissue and that the tissue is required to prevent the likely death of the recipient. The amendments in schedule 2 prevent the medical practitioner who certifies that brain function in a deceased donor has ceased being the same medical practitioner who carries out the organ removal or oversees the patient receiving the transplant. This avoids any possibility of a direct conflict of interest. The Greens support this separation of authority.

The last amendment to the Human Tissues Act outlined in schedule 2 authorises persons in addition to medical practitioners to remove musculoskeletal tissue from a deceased person's body. My understanding is that currently only medical practitioners can perform this function. The amendment will authorise technicians to perform these procedures as well as medical practitioners and thus New South Wales will be brought into line with the practice in other States and Territories. The amendments in schedule 2 item [13] extend exemptions in section 34 of the Human Tissues Act to lawfully obtain body tissue or fluid to be used for quality control or audit purposes, and "other purposes reasonably incidental to the proper conduct of the facility or institution where treatment is provided".

Schedule 3 will amend the Podiatrists Act to ensure that podiatrists, as with other health professionals, will be required to comply with infection control standards. Schedule 4 allows the director general to allow the prescription or supply of drugs of addiction. At present the Poisons and Therapeutic Goods Act requires that the director general specify the period for which such a drug may be prescribed or supplied. This amendment allows the director general more discretion and will avoid the necessity for medical practitioners to keep returning to vary an authority. This amendment would, for example, reduce paperwork in a situation where someone in palliative care requires ongoing doses of morphine.

The amendments to the Public Health Act in schedule 6 item [1] will allow nurses to surgically remove necrotic, infected or foreign material from a wound of the foot where the foot is enlarged and the removal would provide immediate relief from pain or discomfort. I understand that the Nurses Association requested this amendment. I have spoken to the New South Wales branch of the Australian Medical Association about the bill and I am satisfied that there is nothing untoward in its provisions. The Greens, therefore, are happy to support the bill.

Reverend the Hon. FRED NILE [5.18 p.m.]: The Christian Democratic Party supports the Health Legislation Amendment Bill, which contains several minor amendments to a number of bills. It seems to be more efficient to incorporate all these bills into one piece of legislation rather than introduce a series of bills that would require a greater amount of time to administer.

Therefore, I do not agree with the Greens' criticism of the bill. The bill amends the Health Administration Act and changes the definition of "relevant health services organisation" for the purpose of facilitating proceedings in the Health Legislation Amendment (Complaints) Act relating to the Ambulance Service. It also makes a number of amendments to the Human Tissue Act, including an amendment regarding the certification of brain death by two independent medical practitioners. The proposed amendment provides that the two medical practitioners required to certify the brain death of an organ donor are not part of the transplant team and are not responsible for the primary care of the recipient. That is a positive move. I have just one question about the bill. The briefing paper that crossbenchers received states:

The amendments also add a regulation which specifies that certain drugs of addiction (injectable or susceptible to abuse) are classified so that an authority must be obtained by a practitioner who supplies them for a period exceeding two months.

I ask the Minister for Health: What are those drugs of addiction? Do they include heroin, for example? I believe medical practitioners cannot supply illegal drugs. The amendment may refer to methadone or some other drug. I seek the Minister's advice on that issue. The Christian Democratic Party supports the bill.

The Hon. JOHN HATZISTERGOS (Minister for Health) [5.21 p.m.], in reply: I thank honourable members for their contributions to the debate and for their support for the Health Legislation Amendment Bill. I stress that the amendments allow the director general the discretion as to whether or not to specify the maximum quantity of a drug and period of its use. In other words, it is only after careful consideration of each particular case that a decision will be made regarding the maximum amount and usage period and whether these aspects should be left to the professional judgment of the medical practitioner in a particular case. This will depend on the condition of the patient and the skills and expertise of the treating practitioner.

As a matter of practice, the maximum quantity of a drug will continue to be specified in the majority of authorities. However, the discretion will make it possible in selected cases for doctors to prescribe as appropriate without the constraints placed on them by a specified maximum quantity. For example, doctors, as pain specialists, will be able to escalate doses as appropriate in order to manage chronic pain or pain associated with a terminal condition. At present when the maximum quantity is specified and there is a valid need to escalate the dose an unnecessary burden is placed on the doctor to reapply to the department for the increased dose. This could delay the delivery of the increased dose of the drug to the patient, and thus cause pain and suffering.

For a range of reasons I think Reverend the Hon. Fred Nile need not be concerned about the question that he raised about the bill. The bill does not deal with drugs of the kind that he mentioned. Clauses 121 and 121A list the drugs to which the bill applies. Therefore, I think Reverend the Hon. Fred Nile can put his concerns aside.

Motion agreed to.

Bill read a second time and passed through remaining stages.

CONSUMER CREDIT (NEW SOUTH WALES) AMENDMENT (MAXIMUM ANNUAL PERCENTAGE RATE) BILL

Second Reading

The Hon. HENRY TSANG (Parliamentary Secretary) [5.24 p.m.], on behalf of the Hon. John Della Bosca: I move:

That this bill be now read a second time.

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

Leave granted.

I have great pleasure in introducing the Consumer Credit (New South Wales) Amendment (Maximum Annual Percentage Rate) Bill 2005. The bill amends the Consumer Credit (New South Wales) Act 1995 and further demonstrates the New South Wales Government's commitment to protecting consumers from unscrupulous lenders.

The bill provides further protection for payday lending customers. Payday lenders offer short-term loans that are often promoted as a means of obtaining easy cash for people who may be financially strapped until their next payday. The people who take out payday loans are usually those who can least afford the excessive fees charged and may take out new loans with the same lender to cover existing debts.

In addition to the high cost of this type of credit, payday lenders may also engage in undesirable practices such as open-ended debits from bank accounts and unreasonable security over property, including household goods.

As honourable members will be aware, the Government brought the payday lending industry within the auspices of the Consumer Credit Code in 2001 to ensure protection for consumers accessing loans through payday lenders. The Consumer Credit Code is the nationally uniform State-based legislation that governs all personal, domestic and household credit transactions in Australia.

In addition to the code protections, New South Wales consumers are protected by a mandatory maximum annual percentage rate, which includes fees and charges on short-term loans of less than 62 days. The code requires pre-contractual disclosure of all costs and terms and conditions of the loan, the provision of a copy of the contract and restrictions on repossession and enforcement.

There is recent evidence that the fringe lending market—a term used to describe credit providers who offer relatively small high-cost loans—has reinvented itself from "payday lending" by increasing the term of loan products to a period greater than 62 days. This has allowed fringe lenders to continue to impose fees and charges far in excess of reasonable costs.

In one case presented by Lifeline Macarthur a person approached a fringe lender for a loan of \$2,000. The annual interest rate for the loan was 28 per cent per annum, with fees and charges totalling \$750. That \$750 was made up of the following: a \$600 establishment fee, \$45 in legal fees, \$60 in direct debit fees—\$5 per direct debit—and a \$45 account-keeping fee at \$15 per month. The term of the loan was three months.

The actual cost of credit for borrowing \$2,000, including interest and fees and charges, was a staggering 288 per cent as an annualised percentage rate.

I am outraged that, despite existing consumer protections, some fringe lenders persist in exploiting the most financially vulnerable members of our community.

This bill will address those predatory lending practices by closing a loophole and requiring all consumer credit loans regulated by the Consumer Credit Code, with the exception of certain products offered by authorised deposit-taking institutions, to include fees and charges in the calculation of the maximum annual percentage rate, regardless of the term of the loan.

I will discuss the provisions of the bill in detail.

Schedule 1[1] extends the current requirement in section 10B to disclose charges that are in the nature of interest charges—whether or not they are expressed as interest charges—as an annual percentage rate from loans under 62 days to all consumer credit contracts captured by the Consumer Credit Code.

The extension of this requirement should have no impact on mainstream lenders as they currently disclose an interest rate. This provision will impact only on payday lenders, who have a history of attempting to subvert the policy intention of the disclosure

provisions by charging no interest but imposing inflated fees and charges. The extension of this clause merely seeks to clarify beyond doubt the intention of the code.

Schedule 1[2] inserts a new section 11, which extends the requirement to include fees and charges in the calculation of the maximum annual percentage rate to all consumer credit contracts captured by the Consumer Credit Code.

This provision closes a loophole in the Act and ensures that credit providers will no longer be able to avoid the intention of the legislation.

Schedule 1[3] amends section 14 to provide that credit contracts that existed before the amendments were introduced are not in breach regardless of whether the inclusion of fees and charges to the calculation of the maximum annual percentage rate would breach the maximum rate of 48 per cent if calculated after the amendments commence. However, if a credit provider wishes to introduce a new fee or charge in relation to those contracts, a calculation must be made to ensure that the contract would not exceed the maximum rate.

Schedule 2[1] amends clause 7 of the Consumer Credit (New South Wales) Special Provisions Regulation 2002 to provide an exemption to the requirement to include fees and charges in the calculation of the maximum annual percentage rate for some products offered by authorised deposit-taking institutions. This will apply when a debtor already has an existing credit contract or debit account with the authorised deposit-taking institution and a temporary extension of that facility is entered into that may attract a fee.

This exception will permit authorised deposit-taking institutions, such as banks and credit unions, to agree to extend credit for very limited periods without the risk that the additional fees will breach the maximum interest rate cap.

The circumstances to which the exemption will apply include temporary overdraft facilities and the overdrawing of a line of credit. This type of credit product or service is not one that is offered by fringe lenders. These products are valued by existing customers of mainstream lenders who appreciate the convenience of such facilities.

Items [2], [3] and [4] of schedule 2 make minor changes to clause 8 of the Consumer Credit (New South Wales) Special Provisions Regulation 2002 for the purpose of clarification with respect to the calculation of the maximum annual percentage rate.

Schedule 2[5] inserts clause 8(6A), which sets out assumptions to be used when calculating the maximum annual percentage rate for continuing credit contracts. These assumptions relate to the term of the contract, the amount of credit or use of the contract, and the amount of repayments.

I know some in the financial services sector have been concerned about the inclusion of continuing credit contracts in these amendments, but to exempt credit cards would leave a loophole in the legislation that would allow fringe lenders to restructure their credit products to fit the criteria for a continuing credit contract, and thereby ensure they did not have to include fees and charges in the calculation of the maximum annual percentage rate.

The New South Wales Government will not allow fringe lenders to circumvent this legislation, so fees and charges will be included in the calculation of the maximum annual percentage rate of continuing credit contracts.

I am also aware that some in the banking community are concerned that the provisions may hinder new product development. In the unlikely event that this is the case, I can assure honourable members that the legislation already contains adequate exemption powers.

I am sure that the amendments to the credit legislation proposed in the bill will catch credit providers who have been avoiding the intention of the consumer credit laws and ensure that the consumers of New South Wales will be protected against unscrupulous lenders. I commend the bill to the House.

The Hon. CHARLIE LYNN [5.25 p.m.]: The Opposition does not oppose the Consumer Credit (New South Wales) Amendment (Maximum Annual Percentage Rate) Bill. The bill amends the Consumer Credit (New South Wales) Act 1995 and aims to protect consumers from unscrupulous lenders who are willing to prey on the vulnerable. The Act sets the maximum annual percentage rate prescribed for credit contracts, which is currently 48 per cent. The amendment proposed in the bill will protect payday lending customers. Payday lenders allow people to borrow money on a short-term basis until their next pay cheque comes in. It is almost always the case that people who take up short-term loans are least able to afford the high charges that these types of loans incur.

Short-term loans are usually for 62 days or less but there is evidence of some lenders extending the period of the loan past 62 days to include the charges and fees in addition to the 48 per cent interest rate. This can result in an effective total annual percentage rate of more than 200 per cent. This bill will amend the principal Act to ensure that all credit contracts, whether for less or more than 62 days, will have a maximum total interest rate of 48 per cent, including charges. In the other place an example was given of case that was referred to Lifeline Macarthur—a wonderful organisation that operates in my local area. In this instance a person borrowed \$2,000. The annual interest rate was 28 per cent per annum, with fees and charges totalling \$750. These fees included a \$600 establishment fee, \$45 in legal fees, \$60 in direct debit fees, \$5 per direct debit and a \$15 per month account-keeping fee. The term of the loan was three months and the effective interest

rate on \$2,000 was a ridiculous annualised rate of 288 per cent. Passing this bill will close the loophole that allows such predatory lending and stop the exploitation of people who are least able to afford effective interest rates of more than 200 per cent. I have received several submissions about the bill that I have not had time to examine in detail. I understand that Reverend the Hon. Fred Nile will address those issues in his speech, and we will take note of his comments.

The Hon. JOHN RYAN [5.28 p.m.]: The Opposition supports the Consumer Credit (New South Wales) Amendment (Maximum Annual Percentage Rate) Bill but we have received some concerning representations from Australian Financial Services Association Incorporated, which is the peak body representing traders known as payday lenders in New South Wales and other States and those who offer short-term loans. I will explain to the House the difference between a payday lender and a short-term lender. A short-term lender is inclined to loan amounts in the order of \$1,000 or \$2,000 over a period of 12 months.

Payday lenders offer very small loans, ranging from as little as \$100 to sometimes as much as \$1,000 but the term of the loan is in the order of two or three months. I have no doubt that the Minister and many honourable members of this House will be motivated by concerns reported in the media and in other places about loan operators who have imposed charges and interest rates on short-term loans which appear at face value to be outrageous. What needs to be understood is that the loan sharks referred to in those stories rarely include the organised commercial payday lender sector.

I do not understand why a person would use payday lending when in most instances a credit card is available. However, it should be understood that the 48 per cent restriction that this bill introduces on payday loans may be tighter than 48 per cent. I understand that 48 per cent is a daily reducible rate which, when equated to an annualised rate on which most of these loans are issued, may be as little as 25 per cent. Many payday loan interest rates do not get even close to 48 per cent, but there are other fees and charges.

Quite often the set-up charge for a small loan of only \$100 or \$200 is going to be close to 50 per cent of the value of the loan because the paperwork involved in a small loan is fairly similar to that for a slightly larger loan. It may seem outrageous that a \$150 loan—to pay a bill to prevent electricity being cut off, or to buy tickets to a sporting event, without using a credit card—would involve a service charge close to 50 per cent of the value of the loan.

Payments of \$25, \$50 or \$75 may represent significant daily reducible interest rates on a loan of \$200 or \$300, but they are not large amounts of money. We need to understand that the payday lending industry has developed for people in our community who do not have or do not want ready access to larger amounts of credit. In fact, the Opposition would consider that to be responsible. Many honourable members would not want people on very low incomes to be subject to significant credit card interest rates when they do not have the income to service them. Many people prefer to borrow small amounts of money for very specific purposes, which are paid off in predictable periods of time, rather than incur the cost and charges involved with operating a credit card.

When payday lending rates are compared to credit card fees and charges, they are not dissimilar. It may seem outrageous that \$60 might be added to a \$300 loan in the payday lending sector but a single dishonour charge from a bank, which this legislation does not impact on, can be as much as \$35. It is quite obvious that banks are entirely capable of charging fees on small amounts of money that leave payday lending for dead in terms of their impact on consumers. The industry is concerned that this legislation has not been well drafted. It is not unusual for the Minister responsible for this bill, the Hon. Diane Beamer, to put before the House legislation that is not properly drafted.

The Australian Financial Association, which has similar objectives to the Minister's, wanted an opportunity to meet with her. The association does not want loan sharks to cut the industry off at the knees and exploit customers, and nor does the Minister. The association believes it is possible, with further negotiation and consultation, to have a bill which allows the industry to operate free of unnecessary constraints but nevertheless cuts out loan sharks. I want to make clear that my comments about the bill, which are based on of submissions I have received from the Australian Financial Association, are made in that vein. The Opposition is interested in proper consumer protection, but it is concerned that provisions in the bill may well be retrospective—the Opposition usually is not happy about that—and will impact on this industry far more onerously than is expected.

Consideration should be given to what might be a reasonable interest rate and appropriate charges. It might be more honest for the Minister to say there ought to be a maximum charge for short-term lending, rather

than refer to an interest rate, which may not be the tidiest way to do this. Additionally, any sort of cap on charges probably should allow payday lenders to pass on the exact amount of any third party charges that may arise, for example, dishonour charges. The fee on a three-month loan might amount to as much as \$75 to \$100, if the amount being loaned is \$100 or \$200, and that will easily exceed a 48 per cent reducible charge. When one considers some of the fees that payday lenders receive from banks, which sometimes could be \$1.25 for a single transaction or \$31 for a dishonour fee, then a 75 per cent application fee and interest rate charge does not seem so unreasonable. In fact, the costs of setting up a credit card, and enduring the costs that are sometimes incurred if the credit card is not paid off on time, can sometimes be much more than those imposed by payday lenders. The industry is quite within its right to say that to some extent it is being victimised at the expense of banks and credit card providers, who are let off scot-free by this legislation.

The Minister would not come into this House and say that there had been no more than half a dozen complaints about payday lenders in the course of a year. Believe it or not, the Department of Fair Trading said there are fewer complaints because the people who take out these loans are so alienated that they are not able to make complaints, but I am not sure that I believe that. Almost every person who takes out a payday loan does not exclusively receive unemployment or sickness benefits as income; they almost always earn an income of some kind. Payday lenders would not give a loan to a person unless their income is in the order of \$1,500 a month because they explained to me that they want to get their money back. They will not lend money to people who earn only the equivalent of unemployment or pension benefits. Ninety-five per cent of people who take out these loans are people in paid employment and well able to service the loan. We are not dealing with people in the main who take out these loans because they are on pension benefits or are living entirely on government benefits. They are people in paid employment and by and large the vast bulk of these loans are charged and paid out on time.

City Finance is not some fly-by-night organisation that cannot be trusted. They are credit providers with a good reputation within the community of providing finance, and they have concerns. They wanted to meet with the Minister to express their concerns, but she would not meet with them. We have heard this before. If a delegation comprising representatives of the Australian Finance Association, City Finance and other payday lenders wanted to meet with the Minister to express their concerns about the bill that is currently before the House, one would have thought that the least the Minister could do would be to listen to their concerns. But she did not even offer them a meeting. What would the Hon. Diane Beamer be doing that would make her life so busy that she could not meet with them? This is not a trivial matter. She is introducing legislation that affects an industry, the peak group of which wanted to meet with her for only half an hour to voice their concerns, but she would not meet with them. They met with one of her staff. She may as well have said to them, "Talk to my hand."

They wanted to meet the person who was making the decision. I would have thought that it was fair enough for them to have the opportunity to meet the Minister. I would think differently if we were dealing with the Premier or the Treasurer, or someone with an absolutely full portfolio, but not one member of this House would think that the day-to-day work of the Minister for Fair Trading is so onerous that on the occasion of her introducing legislation she did not have time to meet a delegation of six or seven representatives from peak groups and organisations such as City Finance. This is neither my portfolio nor my expertise, so I am not in a position to say whether these submissions have merit. But I am able to say that the submissions were well researched. I suspect that Reverend the Hon. Fred Nile might go into this in more detail. I was presented with up to one dozen pages of submissions, all of which have at least substance, if not merit. They deserve to have been considered by the Minister and they should have a detailed response from the Minister before the legislation goes through.

We have half-baked legislation, which may well close down an industry that services not the top end of the market but people of modest means who use these facilities in preference to credit cards. Many of these credit providers said that if they had the time they would have been able to produce people from Lifeline and other consumer credit and advisory services who would have endorsed their submissions and who would have been prepared to support them before the Minister. They believe that the legislation is a knee-jerk reaction and that it is using a sledgehammer to crack a nut. They wanted the opportunity to make submissions to the Minister to finetune the legislation so that it would achieve the overall objectives the Minister had in mind, but not make their lives utterly impossible. They believe it will become virtually impossible for the industry to operate unless they do what the industry did in Canada. Do honourable members know what happened in Canada? Because the legislation does not affect the banking industry, the lenders in Canada bought a bank. Then they were able to impose any charges they wanted simply by filtering their customers through the orifice of that bank.

We could well be about to pass legislation which makes us feel good but has a phenomenal loophole: it does not apply to the whole of the banking sector; it applies only to a particular narrow group of short-term lenders. The larger lenders need only to purchase the facility of a bank. They will write the loan as the payday lender, but they will require the consumer to service the loan through the facility of a bank, and the bank will add all of the charges that the Minister alleges she is worried about. Instead of having this industry on side, it might be forced for survival to try to circumvent the legislation, which will hardly give the outcome we want. I do not want anyone to misrepresent the submissions I am making to the House to suggest that I do not care about people being ripped off. That is not the case. I do not think one member of this House would say that I am not one of the first to stand up for the disadvantaged. I have a reputation that is second to none in this House for being prepared to stand up for disadvantaged people who are being ripped off. I do not think anyone would suggest that I am soft on consumer legislation, given the representations I have made in this House on many occasions about the home building industry.

What the representatives said to me deserved serious consideration by the Minister. They said that the legislation needed finetuning to achieve its objectives. If it is not finetuned, we may create an impossible position. Short-term lenders may circumvent the legislation or the industry may disappear altogether—and then where will all these people go? They will be forced to take out credit cards, and their credit level will be extended way beyond \$200 or \$300; or they will pawn their goods. If anybody thinks that payday lender charges are particularly unattractive, one need only compare them to the charges imposed by pawnbrokers. It is possible for pawnbrokers to charge 10 per cent to 15 per cent of the value of the property over the course of a month. If one pawns something for three or four months and defaults on the payment, one would be in a much worse position than if one had borrowed from a payday lender. We might force this fairly disadvantaged category of the community into loan facilities that are nowhere near as good or as reputable as payday lenders might be, given that in the submissions to me there has not been a litany of complaints about them.

Payday lenders operate in a climate in which the vast bulk of the loans are repaid and they have few complaints. They said they support the concerns of the Minister about loan sharks, and they want them run out of the industry. They were prepared to work with the Minister, but she would not give them a meeting, which is regrettable. It would be preferable if the legislation were further reviewed or delayed so that those submissions could be considered. Sadly, we probably will wind up with the legislation being rammed through the Parliament. If the submissions are true the Minister will have to introduce legislation at a later date to fix up the mess, or payday lenders will disappear altogether from New South Wales. This type of legislation is not found in any other State of the Commonwealth. No other State has this type of legislation, yet some way or another payday lenders are operating without major concerns in all other States. That is certainly another aspect of which honourable members ought to be aware. There are good reasons to be concerned about the content of the legislation. However well founded and however well meaning it might be, it may have a sting in its tail that works against its very objectives.

Reverend the Hon. Dr GORDON MOYES [5.47 p.m.]: The Consumer Credit (New South Wales) Amendment (Maximum Annual Percentage Rate) Bill amends the Consumer Credit (New South Wales) Act 1995 to extend the maximum annual percentage rate, inclusive of fees and charges, to all consumer credit products with the exception of certain specified products offered by authorised deposit-taking institutions [ADIs]. In general, the Christian Democratic Party supports the bill, which intends to bring further regulation to what I term fringe credit providers. However, at the next stage we will deal with some aspects of the bill in more detail. Under the Australian Uniform Credit Laws Agreement 1993 the States agreed to introduce and implement consumer credit legislation in line with uniform national legislation known as the consumer credit code, which was a major peak in the industry. The consumer credit code is a national legislative instrument, not simply a standard or guideline, that governs the provision of credit for personal, domestic or household use. As part of its obligation under the 1993 agreement, New South Wales introduced legislation to implement this agreement, namely the Consumer Credit (New South Wales) Act 1995. The recitals of the 1993 agreement bind the State parties to ensure that State legislation implementing or reflecting the national consumer code remains uniform or consistent with uniform laws.

The States must administer the legislation as far as possible on a uniform basis. However, this bill seemingly is introduced under the umbrella of Part VI of the 1993 agreement, which relates to non-uniform matters. That explains why the previous speaker in this debate, the Hon. John Ryan, indicated that no other State or Territory has provisions that are exactly similar to those of this bill. Among other things, clause 12 of Part VI states that a State or Territory may secure the passage of legislation to provide for the fixing of maximum interest rates payable under consumer credit contracts and the establishment of a scheme for the licensing for registration of credit providers. Presumably the substance and intention of this bill falls under the non-uniform matters; otherwise this bill would be *ultra vires*.

The bill is intended to provide further protection for payday lending customers. Payday loans are loans that are provided for periods of less than 62 days and are often marketed as cash to tide people over until the next payday. Therese Wilson, a lecturer from the Griffith University law school, claimed in her 2004 paper "The inadequacy of the current regulatory response to payday lending" in the *Australian Business Law Review*, volume 32, that there is evidence of a large number of payday borrowers in the United States of America being members of the working poor class. I concur with her opinion. Those who have worked with me over the years as credit counsellors would confirm that most of the people who come to us with credit problems are on low and fixed incomes. They are not necessarily people who are dependent on welfare or government benefits.

Research undertaken in the United States of America has shown that payday borrowers typically do not earn enough money to be able to repay the loan amount in the period stipulated and still have sufficient funds to meet general living expenses, such as food, rent, clothing and transport. It is also said that there is significant anecdotal evidence in Australia that payday lenders are actively targeting consumers on low and fixed incomes. In that regard I cite an article by C. Field, "Pay Day Lending—An Exploitative Market Practice" in the 2002 *Alternative Law Journal*, 27 (1) 36, at page 37. The anecdotal evidence includes the opening of payday lending outlets in predominantly low-income suburbs and the experience that has been reported by financial counsellors.

One only has to drive through suburbs in which most residents are on low incomes to find shopfront payday lenders in great numbers. It is widely known that the cost associated with payday lending credit is very high. Payday lenders are not permitted to charge any more than 48 per cent in interest, and no fees can be charged on top of that. Prior to 1 December 2001 lenders did not charge interest but set fees according to the amount of the loan. In effect that was de facto interest, but because it was not expressed as an annual interest rate, consumers may have been unaware of the true cost of the loan compared with other possible sources of credit. If annualised, the cost of credit for payday loans would average out to 1,000 per cent. I checked that with payday lenders and they acknowledge that that is true.

Quite a bit of misinformation was peddled by what is described as the micro-lending industry in relation to some of the ramifications of the bill. For example, the 48 per cent cap on the effective maximum interest rate that may be charged by payday lenders is already part of the law. A bill was introduced in 2001 that entrenched that provision. Fringe lenders have been able to exploit a loophole in the law by extending the period of a loan beyond 62 days and charging much more than 48 per cent in interest. As payday lenders generally offer loans for fewer than 62 days—loans that are described as short-term loans under the relevant legislation—most of their transactions with consumers would be covered by the code. Therefore, the effective interest rate, including all fees, charges and interest rates, would be subject to strict regulation. However, as the Minister's second reading speech indicates:

There is recent evidence that the fringe lending market—a term used to describe credit providers who offer relatively small high-cost loans—has reinvented itself from "payday lending" by increasing the term of loan products to a period greater than 62 days.

The current practice shows that payday lenders have been circumventing the statutory measures relating to short-term loans by offering loans for longer than 62 days. The obvious result is that fringe lenders continue to impose fees and charges that are far in excess of reasonable costs. The Consumer Credit Legal Centre has stated:

... based on ... casework and advice experience, it would appear that payday lenders in New South Wales have transferred most of their loans to terms greater than 62 days to avoid the interest-rate.

That was not admitted; nor would members of the payday lenders' fraternity who met with members of this House yesterday admit that it is a widespread practice. Moreover, the Consumer Credit Legal Centre states that this situation has resulted in a loophole in consumer protection and has effectively defeated the consumer protection purposes of payday lending reforms. This is also reflected in the alarming increase in problems with fringe lenders over the past three years, as shown in our casework and advice service.

I remind honourable members that I established Credit Line Financial Counselling Services, which is now the largest credit financial counselling service. Between 2002 and 2003 the number of clients who came to the Consumer Credit Legal Centre with a fringe lending problem increased by 350 per cent. The centre provides legal advice and assistance, as do my staff at the Wesley Mission, which includes lawyers who work with people who have financial problems. The centre provides services to approximately 1,000 clients per year and I think my staff counsel approximately 14,000 or 15,000 clients per year. The Wesley Mission represents people in courts, tribunals and alternative dispute resolutions.

Reference to the experience of financial counsellors in this context is invaluable in understanding the plight of consumers when dealing with fringe credit lenders. A financial counsellor with the Wesley Financial

Counselling Service has told me that the majority of clients who come to her for financial counselling have one or more payday loans. She said that clients need only to show identification, produce a pay slip, and sign a direct debit on the bank account that their pay goes into, and they are given a loan.

When I questioned industry representatives about this they all denied that anybody had ever been given a second loan. Some payday lenders are clearly providing additional loans. People borrow from many different lenders in respect of the same pay period. In the experience of my counsellor, people who have a gambling problem are particularly susceptible to this type of easy lending and they usually go to many different payday lenders to borrow \$80 here or \$100 there to feed their gambling addiction.

Quite often the person who has a gambling problem has access to their pay as soon as it has been deposited into the bank account, so there is no money to meet the direct debit charges of the payday lending entity. The client will need to extend the loans and will no doubt incur further fees on top of what they already are being charged. In the experience of my counsellor, many clients who have a gambling problem have families who are relying upon their income to pay the rent or the mortgage and pay for food. Easy lending does not assist their situation by withholding access to money that will be used for gambling. When I confronted members of the industry about that, they all denied that they ever lend to anybody who has a gambling problem. I found that too far beyond comprehension to believe.

An example of the nature of payday lending fees and charges and how they add up is worth noting. I know a person who approached a fringe lender for a loan of \$2,000. The annual interest rate for the loan was 28 per cent per annum, with fees and charges of \$750 consisting of a \$600 establishment fee, \$45 in legal fees, \$60 in direct debit fees made up of \$5 for each direct debit and \$45 for account keeping at a rate of \$15 per month, and so on. I asked members of the representative group who met with members of this House whether those charges were usual or reasonable. They confirmed that the fees and charges were both usual and reasonable.

The term of the loan was three months. The actual cost of credit for borrowing \$2,000, including all fees and charges, is 288 per cent as an annualised percentage rate. The Consumer Credit Legal Centre has provided a number of typical interactions between consumers and fringe lenders. For example, Ms K took out a person loan from Quickcash of \$1,050 at 39.95 per cent interest, with an establishment fee of \$350 and a maximum term of six months. She also had a \$1,150 loan with Everyday Finance for 224 days at 42 per cent interest and a \$350 establishment fee. However, in both loan documents the amount of total interest payable did not correspond with the stated percentage rates and were, in fact, much higher. Applying the formula in clause 8 of the regulation, the effective annual percentage interest rate works out at 104.09 per cent.

Payday loans are covered by the Consumer Credit Code, meaning that all the protection of the code and the documentation required by the code applies to that type of loan in the same way that it applies to personal loans, credit cards and other types of credit. But, there is not one overarching regulatory body, such as the Australian Prudential Regulation Authority, that governs payday lenders. I would commend the Government to considering establishing a regulatory body for payday lenders. This bill will address the loophole that has been exploited by payday lenders by extending the terms of the code to all consumer credit contracts regardless of the duration of the loan.

In the view of the Consumer Credit Legal Centre, the bill is urgently required to ensure that people in desperate circumstances are not driven further into poverty by the cost of credit and to ensure that the existing law in New South Wales achieves its original objective in limiting exploitation in credit provision. I will leave my comments on schedule 1 to the bill until another time, because there are a lot of matters that I would like to raise.

One concern I have with the bill is the retrospective nature of the measure in item [9] of schedule 2 to the bill. This matter was highlighted by the most recent report of the Legislation Review Committee. This provision will apply amendments to be made to the Consumer Credit (NSW) Special Provisions Regulation 2002 to existing contracts. In particular, it applies the inclusion of all credit fees and charges under a credit contract in the calculation of the maximum annual percentage rate. As a result the bill will reduce the money payable under any existing contracts that exceed the maximum annual percentage rate according to the formula set out in the bill to the maximum so provided. If I may, I would like to draw the attention of honourable members to the specific comments made by the committee on this issue. The committee's report states:

The Committee notes that the Bill has the effect of altering the terms of existing contracts where the inclusion of all credit fees and interest charges in the calculation of the maximum annual percentage results in a maximum rate above that prescribed.

The Committee notes that the purpose of including fees and charges within the maximum annual percentage rate is to prevent fringe lenders from imposing fees and charge far in excess of reasonable costs.

The Legislation Review Committee referred to Parliament the question of whether the retrospective effect of the bill unduly trespasses on personal rights and liberties. Can the Government provide an answer to that? Notwithstanding those concerns, the bill will, by and large, prove to be a commendable improvement on the current state of affairs in which payday lenders prey on unsuspecting and vulnerable consumers. These amendments will catch credit providers who have been avoiding the intention of the consumer credit laws. From listening to representatives of the industry I note the failure of the Minister for Fair Trading, Diane Beamer, to meet with them. I am quite sure that my colleague Reverend the Hon. Fred Nile will take up that matter.

In conclusion, I refer again to Ms Wilson's paper, published in the *Australian Business Law Review*, which noted that there is scope to classify—and honourable members should listen to this terminology—payday lending as "unconscionable". The article stated:

[an] alternative approach in government policy is required, away from seeking to regulate fringe credit providers such as payday lenders as if they were providing legitimate financial services and recognising that payday lending needs to be effectively banned.

The author further indicated:

A reluctance to outlaw this largely unconscionable form of credit provision seems partly to be based upon a concern that without the presence of fringe credit providers in the market, low-income consumers will have nowhere to turn to access credit, due to the lack of services available to those consumers from mainstream financial institutions.

Representatives of the micro-lending industry have pointed out that none of the larger financial institutions are interested in lending to consumers who usually rely on payday and fringe lenders. That is an important point. Ms Wilson flouts the concept of allowing for mainstream credit to low-income consumers as an alternative for consumers of payday lending facilities. That is clear food for thought, and I hope that Minister and her advisers take up that issue. Low-income borrowers deserve better than loan sharks, pawnbrokers, and credit card companies that would move into the vacuum if the payday lenders were not there.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [6.05 p.m.]: The object of this bill is to help poor people who take up loans they cannot afford. That is very worthy, and certainly that is my objective. Whether the bill totally achieves that objective is a far more difficult question. In my youth I noted that the *Bible* had great remonstrations against so-called usury. The difference between Islam and other religions is that in Islam one cannot lend, but instead one has to go into some sort of joint venture so that the lender has a vested interest in the outcome. That is regarded as a more civilised way of giving credit.

The object of the bill is to help poor people. Of course, as honourable members would gather from listening to the contributions of the Hon. John Ryan and Reverend the Hon. Dr Gordon Moyes, we have been lobbied by people from the Australian Financial Services Association, which is the body governing payday lenders. The association makes no bones about the fact that it will go broke if this bill is passed. It says that if someone lends a small amount, for example \$100, for a couple of weeks and takes the annualised rate on that, which cuts the amount by a factor of 25, effectively short-term loans will always have very high interest rates. If one considers the \$100 loan for a week, and assuming that it took \$50 to assess that loan, effectively it increases by 50 per cent in one week. If that is annualised, that represents 50 per cent times 52 weeks, which is 2,600 per cent. That is a very high percentage, because there is a fixed cost in the assessment. Everyone complains about the cost of bank assessments, maybe hundreds of dollars, but they are over a large amount of money and are amortised over many years.

There are two different factors in loans. The first is short-term, which means the annualised rate climbs immensely, and the amount of money lent is small so the dollar amount climbs immensely. If one accepts that a fixed amount of time is needed to assess people's ability to pay a loan, there is a fixed cost of meeting a lessened term and a capital sum, which means, of course, that the percentage is very high. The question then becomes: do short-term lenders help people at all? Or would people be better off to run out of money earlier and not try to postpone the reckoning, or avoid the short-term problem by taking on a debt whose repayment requires a very high percentage of their available funds, which is then not available to meet their everyday needs?

For most people, that tends to be looked after by credit cards or overdrafts. The other group is pawnbrokers but there has been a fall in the value of second-hand manufactured goods, or even new goods, and that has resulted in pawnbrokers lending only to the value of 15 per cent of the goods. With second-hand

electrical goods that amount is so small it is barely possible to borrow on. Often jewellery and other items are also pawned. An underbelly of criminal lenders has also grown in the absence of safeguards to keep these activities above board. Legislation such as this might be well intentioned but those aspects of it have to be considered.

In 1999 a Queensland inquiry revealed that visible lenders are not as bad as invisible lenders, which is a commonsense approach. I am concerned that the Government has not been talking to lenders. This is a legitimate area for sociological study. Given John Howard's industrial relations changes, where we will have ants negotiating with elephants to get a deal, real wages will fall. An employer who states, "I am not going to lower everybody's wages" might find himself competing in a market where someone else will. Of course, he has a choice of lowering his costs or going broke.

So there will be a trend towards using unskilled labour, wages will be lower, and the number of working poor will increase. The Government, unwisely, was happy to permit an increase in gambling machines and gambling. It was happy to permit the advertising of lotteries and lotto in an assorted deal with media magnates during the time of Neville Wran. The Government capitulated—in only one of many instances—to the Australian Hotels Association by allowing poker machines in hotels. People are encouraged through advertising to buy goods and services even when there are no real goods, for example gambling. The Government has been happy to allow consumers to be sucked in by that.

The tax rate has resulted in an increase in the cost of housing. The national debt has increased as a result of speculation in housing, and investment in real estate has received preferable treatment. Nationally we have had a binge on housing and there has been a huge rise in the price of houses. At some point that will result in a rise in rents and urbanisation of the country and that will make it harder for people to live in the cities. People will not work in child care centres because child care workers are extremely poorly paid. If people who live in urban areas want to work in child care centres they would have to commute. Inner city child care centres are experiencing a great deal of difficulty obtaining staff because people living in urban areas would rather work in child care centres that are closer to home. So a lot of the working poor are having difficulty making ends meet.

Given that situation, do short-term lenders with high interest rates do more harm than good? Are they merely further exploiting those who will eventually go broke anyway, or are they helping to protect a few people from hitting the bottom and stopping a few from reaching it? I do not know the answer to that difficult question, but it has to be resolved and an inquiry has to be conducted. I note that Victoria and Queensland are conducting inquiries, and I have been informed that Victoria has funded an ongoing research project.

I have continually advocated in this House that ongoing research should be conducted over a five-year period by a university department set up for that purpose. That would provide us with the information we need when considering legislation. We could then base our decisions on research that has been undertaken by well-informed people, rather than on a few letters, a few case histories, or some terrible anecdotes. The Government has still not established what are these people's options.

Some years ago I suggested the formation of a legislative review committee to establish whether legislation that is enforced works, what effect it is having on the people it is intended to help, and what effect it is having on people who are collaterally damaged. Legislation could then be introduced more slowly but in a better and more informed fashion. Instead, the Government established the Legislation Review Committee, which looks at various civil rights aspects. We are told that an economic impact statement of all legislation goes before Cabinet, so we are looking at the money side, not that we ever get to see the information because they are Cabinet documents. We get to see the civil rights side and some of the legal aspects that are carried out largely by committee staff. I think the Legislation Review Committee works hard and I admire it for the work it is doing, but I do not believe the scope of its work is as wide as it should be. I believe there should be public consultation about legislation.

In cases such as this where anecdotes are not really enough there should be ongoing, funded, and applied research. I believe the public service could do something like that, but its independence has been severely compromised by this Government. The Office of Cabinet is appointing heads of departments and Ministers are being isolated in those departments. There is nepotism in the upper and middle levels of the public service, and public servants are not able to give independent advice. I suggest we appoint an academic body to provide ongoing information and to ensure there is public consultation on legislation such as this. This bill would benefit from such a process.

The other flaw in the bill is that clause 12 is retrospective. Effectively, that means we are tearing up existing contracts on which lenders are depending. Presumably that means a person with a contract would simply state, "I do not have to pay for anything over 48 per cent." It will be interesting to see what happens. I am sure these terms would not be negotiated and it would be difficult for the courts to sort it out. In one case there is a contract and in the other case there is an Act that overrides it. If these are short-term loans I imagine that will happen in a short period.

Peter Grantham, a micro lender who approached me, said his clients were very poor money managers. It was his view that money management, a basic life skill, should be a major subject in primary school because it is one area in which people get themselves into trouble. We tend to push everything onto schools, and school teachers tell us that they cannot govern what people eat, their interpersonal relationships, their sports, their money management, or anything else they might want to do. Our society has become increasingly complex. We need some sort of countervailing force because the advertising world tells us we can have what we want when we want it and, if we cannot afford it, we can get it on credit.

I have had some experience with Billboard Utilising Graffitiists Against Unhealthy Promotions, BUGA-UP, which was not purely an anti-smoking group. Its more enlightened members established that advertising was a major force for consumers. Interest groups were told to behave in a certain way in order to maximise their profits. If they wanted people to make rational decisions they had to have a countervailing force or take some responsibility for their advertisements. That is another aspect that was somewhat clumsily dealt with in the tobacco area.

There was a ban on advertising and 20 years later there was a ban on sponsorship. People are now starting to look at the effect of food advertising on the consumption of food. At what point will people start to look at gambling advertising, which was banned until Neville Wran made a deal with Rupert Murdoch and Fairfax before one of the elections some years ago to enable the advertising of lotto? We must examine this problem far more holistically than this bill allows.

The micro lending industry tells me that 11 per cent of its clients default on their loans. Lenders simply write off that money because, as anyone who has had a small debt will know, it is almost impossible to recoup. The cost of recovering small debts through the courts is prohibitive. That is a huge problem for small business, even when clients have the means to pay. Recovering the debt is simply not worth the effort. When people have massive debts a court order simply adds another debt that they will be unable to pay. If we deny such people credit, presumably they will not be able to pay their electricity bill and the lights will go out. If their hot water system breaks down, they will have cold water. If they cannot afford to register their cars, they will drive them unregistered. These are the consequences of denying people credit. The question is: Who will fix those problems?

According to the Australian Financial Services Association Incorporated, 40,000 people with loans will be affected by the bill. There are 200,000 loans in Australia. The Minister referred to no-interest loans but there are only 5,000 of them. I am told that Centrelink offers loans with interest rates of 6 per cent or 7 per cent of the annual payment that people receive from it. But such loans are not sufficient. Some 50 per cent of clients of the Australian Financial Services Association Incorporated are on some form of benefit, although this is often supplemented by a salary. Short-term lenders must be fairly careful to whom they lend money—they do not hand out loans willy-nilly—because if people default, the lenders have to write off the money. Therefore, lenders refuse two-thirds of loan applicants. They offer loans to pay funeral expenses, fines and the costs associated with car accidents, to recover goods and so on. Australian Financial Services Association Incorporated members consider all aspects of lending but obviously only in the context of whether they should lend more money. It would be ideal if someone would reform the lending industry with a view to helping people climb out of the debt trap. I do not know whether there are sufficient numbers of financial counsellors to perform that role. Those who try to educate people in this area are undoubtedly well intentioned but there are probably too few of them.

People need money in their pockets at the right time but they often do not get it. I once made a house call in Newtown on the Thursday before an Easter long weekend. I arrived at a small, immaculately tidy home, where three small children were playing happily and watching television. I asked the woman who met me at the door what I could do for her and she replied, "I haven't got any money". I said, "Sorry, I'm a doctor making an after-hours call", and she said, "I had no idea who to ring so I rang the doctor because I thought you might be able to do something." I explained that there was nothing much I could do and I rang the Newtown Neighbourhood Centre. Of course, my call was answered by a recorded message that said, "We will be closed

from Thursday afternoon until Tuesday morning. Please give us a call on Wednesday". In other words, social work facilities were available only in office hours. That woman did not ask for help until she had spent her very last cent—and that happened on the evening of the Easter long weekend. I think that is indicative of the behaviour pattern of many people facing financial difficulties, who live as normally as possible until they hit a wall. People are often too proud to ask for help.

The payday lending industry is worth \$5 billion in Canada and \$23 billion in the United States of America. Canada has a population of 32 million and 1.6 million people take out short-term loans. The industry in New South Wales claims that this bill will close it down and, if we do the maths, it is difficult to see how an interest rate of 48 per cent will not destroy the industry. An interest rate of 48 per cent on a short-term loan of \$100 would be less than \$1 a week over a year. That would make lending in the very short term almost impossible. I think this bill will close down short-term lenders. I wonder why the Government has not devised some other method of helping those in need. The solution that this bill offers cannot work in the case of short-term loans, which will simply become unavailable.

Like just about every man in the country, I am a great fan of the wondrous actress Cate Blanchett. Her latest cinematic contribution is *Little Fish*, in which she plays a woman who has kicked a drug habit and who now manages a video rental store. She tries to secure credit in order to make a small extension to the store. Her boss, who likes her, agrees with her idea. But she is knocked back for credit everywhere she goes because in the past, while under the influence of drugs, she defaulted on a loan. She of course gets very upset, breaks some ornaments in a small lending office and tries to get the money through dealing drugs. And then the trouble starts. The title, *Little Fish*, refers to the drug chain and what happens to those at the end of it.

I believe the Government should delay passage of this bill until the issues that I have outlined—including retrospectivity—are addressed. There should be an inquiry into the bill. We must ask whether we need a regulatory body to examine the issues systematically, to regulate the lending industry and to advocate on behalf of borrowers. I believe all legislation should receive that sort of scrutiny. This bill is a good example of what happens when members must make decisions about legislation and the complex issues it addresses shortly after receiving it and without the benefit of supporting data. Interestingly, the Opposition does not oppose the bill. Presumably that means Opposition members would vote for the bill if there were a division on the second reading, even though they outlined its faults. It is a worry that this manifestly inadequate, though well-intentioned, bill will be passed. People who are forced to take out short-term loans will no longer be able to get them as a result of this bill. It is unclear what their fate will be.

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

[The Deputy-President (The Hon. Christine Robertson) left the chair at 6.29 p.m. The House resumed at 8.00 p.m.]

GENE TECHNOLOGY (GM CROP MORATORIUM) AMENDMENT (POSTPONEMENT OF EXPIRY) BILL

Second Reading

The Hon. IAN MACDONALD (Minister for Natural Resources, Minister for Primary Industries, and Minister for Mineral Resources) [8.00 p.m.]: I move:

That this bill be now read a second time.

The Gene Technology (GM Crop Moratorium) Amendment (Postponement of Expiry) Bill introduces a small but important amendment to the statute that provides a moratorium on growing genetically modified crops in the State. That statute is the Gene Technology (GM Crop Moratorium) Act 2003. It enables a moratorium to be imposed on the cultivation of specified genetically modified crops in New South Wales. The Act is due to expire on 3 March 2006. But as the legislation is still needed, the bill will extend the Act's operation for a further two years. The three-year duration of the Act was originally considered appropriate. It was thought that this period would allow sufficient information to be collected on the potential impact of genetically modified crops.

The House will be aware that under the intergovernmental agreement, the human health and environmental aspects of gene technology are managed on a national basis by the Federal Office of the Gene Technology Regulator, pursuant to the Commonwealth Gene Technology Act 2000. The Gene Technology Regulator assesses the potential impact of proposed dealings with gene technology on human health and the

environment. However, the Gene Technology Regulator does not consider marketing or trade issues in making its assessments. These issues are managed by the States, together with industry. To date, the focus has been on GM canola. This is because it was the first broad-acre GM food crop that was approved for commercial release by the Federal Gene Technology Regulator.

Members would recall that following these approvals by the Gene Technology Regulator, this Government moved decisively to impose moratoriums on the cultivation of GM canola in New South Wales. The New South Wales Government has maintained a staged, careful approach to introducing genetically modified crops into the State. In keeping with this philosophy, it is important that independent, small-scale agronomy trials of GM canola occur prior to larger-scale segregation trials being conducted to address marketing issues. Small-scale agronomy trials of GM canola have been approved during the current moratorium period. But due to a variety of reasons, including the ongoing drought, these trials have not been undertaken. Consequently, larger-scale segregation trials have not proceeded.

Marketing issues associated with the possible adoption of GM canola have been researched to some degree at a national and State level. However, at this point the lack of segregation trials means that there has been no practical demonstration of the capacity to segregate GM and non-GM product across the supply chain to differing market standards. A review of the Commonwealth Gene Technology Act 2000 is currently being undertaken. This review will consider, among other things, whether economic, marketing and trade issues should be assessed under the Commonwealth Act. It is unlikely that the outcome of this review will be put into effect until 2007. In any event, the New South Wales Government would not support ceding management of marketing issues to the Commonwealth.

Until now I have focussed my comments on GM canola. I draw the attention of the House to the fact that the provisions of the Act can be applied to any specified GM food plant, not just canola. Various GM food plants are currently being trialled under the Federal regulatory system, and those food plants may be considered for commercial release in the future. They include herbicide-tolerant Indian mustard, wheat with altered starch content of potential benefit to human nutrition, and salt-tolerant wheat. They also include sugarcane with altered sugar content, virus-resistant white clover, pineapples with reduced occurrence of blackheart and delayed flowering, and virus-resistant papaya. It is evident that many of these advances in gene technology have the potential to help address a range of human, environmental and industrial issues. However, they may also pose unique challenges associated with their potential impact on marketing. It is therefore important that New South Wales maintains the capacity to control the release of these new GM food plants until such time as the potential marketing issues are resolved.

Given the lack of segregation trials, the uncertainties associated with the review of the Commonwealth legislation, and the rapid advances in the development of GM food plants, New South Wales needs to maintain measures to preserve the identity of GM or non-GM food crops for marketing purposes. Amending the Act will ensure that a moratorium on the commercial cultivation of GM canola in New South Wales can continue to be imposed. Extending the duration of the Act will provide more time to collect necessary data, as well as time to reconcile any outstanding uncertainties relating to the marketing of GM and non-GM products. The proposed amendment also provides further consistency with gene technology moratorium legislation in other States, in accordance with the intergovernmental agreement. I commend the bill to the House.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [8.08 p.m.]: I lead for the Opposition on this extremely important bill. I state at the outset that the Opposition will not oppose the Gene Technology (GM Crop Moratorium) Amendment (Postponement of Expiry) Bill; indeed, we support it. The bill extends the current expiry date of the Gene Technology (GM Crop) Moratorium Act for another two years, to March 2008. The extension of the moratorium is necessary to ensure that further trials, which provide industry with valuable information regarding the marketing and protocols of GM crops, can go ahead prior to their commercial release. As ongoing drought conditions have limited the scope for trials to be conducted during the course of the current Act, an extension of the moratorium to allow trials to occur is essential to allow for further research and the collection of all-inclusive information regarding GM agricultural products.

It is appropriate to take the opportunity presented by this bill to test fully genetically modified products to ensure that they are safe, to ensure that protocols are developed to provide safeguards against contamination, and, most importantly, to ensure that our valuable export markets, upon which our farmers and their communities depend, are not jeopardised in any way. It is a well-known fact that the New South Wales Opposition has supported a moratorium on the commercial release of GM food crops in New South Wales.

The implementation of the moratorium was a policy the Coalition took to the last State election and it was belatedly picked up by the Labor Party in the final weeks of the campaign. Clearly the Coalition recognised the need for further research and development of the issue, and that position has not altered. We support a continuation of the current moratorium, and we want trials conducted under this moratorium. Such trials must be properly conducted and monitored to ensure that they do not jeopardise the current important markets of New South Wales and Australia. In addition, they must not be used as a backdoor means of releasing GM crops commercially before we are ready.

Genetic modification is the manipulation of the DNA structure of organisms to produce particular traits or characteristics. Understandably, there is a great deal of concern among farmers and in the general community about the production and consumption of GM food crops. It is a fact that supermarket consumers are reluctant to buy GM products. That phenomenon has not been caused by the Opposition; it is more likely a consequence of irresponsible comments by green groups.

Whilst the Opposition is not opposed to the production of GM crops in New South Wales, and is supportive of the continuation of trials, it has a number of concerns about GM crops that are shared by farmers and the community in general. The first concern is liability. Gene technology companies must accept full responsibility and liability for the potential contamination of GM-free crops. It is essential that the companies that own and stand to benefit from the sale of these products and technology are responsible for any economic or environmental harm caused to the product of other farmers by GM contamination through absolutely no fault of those other farmers.

Reverend the Hon. Dr GORDON MOYES: They must indemnify the farmers.

The Hon. DUNCAN GAY: Exactly. This reflects the widespread concern within the farming community about responsibility and liability for GM contamination. The importance of contamination and GM thresholds was brought to the fore a number of weeks ago following the detection of trace levels of GM canola in Australia's non-GM canola production systems. Traces of the GM canola variety Topas 19/2 were found in a consignment of conventional canola from Victoria, and was subsequently identified in South Australian canola stocks by grain marketers. On 14 September 2005 traces of GM canola were found in two varieties of non-GM canola grown in national variety trials in Western Australia. In September this year 15 to 20 non-GM crop trial plots were destroyed in New South Wales because of contamination concerns. The traceability of low-level contamination levels, especially in New South Wales, where GM trials have not been conducted and testing has not occurred, is a major concern of the New South Wales Opposition, the network of concerned farmers and many other farmers, millers and members of the general community throughout regional New South Wales.

In response to the recent detection of trace levels of GM canola in non-GM production systems, the October 2005 Primary Industries ministerial council meeting agreed to a nationally consistent definition of threshold levels in canola grain for trace GM events approved by the Office of the Gene Technology Regulator. The council agreed to adopt a threshold level set at 0.9 per cent for canola crop and 0.5 per cent for seed for the coming two seasons in 2006 and 2007. Thereafter the intention is to set a limit of 0.1 per cent. Whilst all Ministers who attended the meeting agreed to the thresholds, two Ministers—Kim Chance of Western Australia and Steve Kons of Tasmania—maintained their desire to keep their States GM-free and to clean up GM contamination. So two of the Minister's Labor colleagues have taken the challenge and are performing, but he is not. Once again he has indicated to this State that he does not have the ticker to tackle the hard issues.

It is also important to note that while some industry groups do not oppose the agreed threshold levels, there are reservations throughout regional New South Wales. For example, during our consultations with the Australian Wheat Board [AWB] we were advised that it does not oppose a 0.9 per cent tolerance for GM canola as an interim measure to manage the coming canola harvest, but only so long as the tolerance is for GM canola events that have regulatory approval domestically and widespread international acceptance and that it is an interim measure. The AWB also indicated that as Australia's largest grain marketer, it has not experienced any disruptions to trade as a result of the detection of trace amounts of the Topas GM event in Australian canola.

Whilst the New South Wales Opposition has many reservations about the introduction of GM threshold levels, I am pleased that at least the thresholds are consistent with those permitted in arguably the most sensitive international market—the European Union. Perhaps the only other attractive feature of the threshold levels is that they will ensure that farmers will no longer be potentially liable for accidental or unintended GM material found in crops at levels of 0.9 per cent for grain and 0.5 per cent for seed.

Frankly it is disappointing that the current zero GM tolerance level will have to be replaced by an exemption issued by the Minister under the legislation. I am not sure who it is but someone had not done the right thing. I do not think the Minister for Primary Industries cares, and if people were to read the debate on the Gene Technology (GM Crop Moratorium) Bill in *Hansard* they would know where he is coming from. A longstanding concern of the Opposition is that the performance, segregation, co-existence, contamination, marketing and handling of GM and non-GM crops remain unresolved and must be dealt with prior to the commercial release of GM food crops.

Although it may not be intended that GM products be released into the environment, accidental releases have occurred. Grain delivery sites, with cross-pollination by insects and wind of rail loadings and transport facilities, are potential areas of accidental and unintended spread of GM crops to non-GM crops in the supply chain. The Opposition supports the extension of the current moratorium until March 2008 as hopefully it will provide the opportunity for these matters to be properly resolved. As the Minister and many honourable members are aware, I have been a longstanding advocate for the nomination of the Grain Harvesters Association on the New South Wales Gene Technology Advisory Board.

The Australian Grain Harvesters Association conducts large-scale contract harvesting and should therefore have a role in the New South Wales Gene Technology Advisory Committee board. The introduction of GM crops in Australia has many implications for professional harvesting contractors and currently there are widespread concerns that the post-gate harvest cleaning of transport facilities in New South Wales is minimal. In comparison to what the Minister for Primary Industries has done—virtually nothing—under the South Australian Act the cleaning and post-harvest procedures are clearly outlined. The Act details the cleaning of pollen trap plants or material from pollen trap plants, and the location site must be cleaned within 14 days of harvest or nine months after planting.

The area in which equipment is cleaned must also be cleaned. Such procedures could reduce the risk of contamination and cross-pollination. Whilst pre- and post-farm issues have largely been unaddressed by this State Government to date, I have been pleased to learn recently that the Minister and his office are now actively consulting with the Australian Grain Harvesters Association on the GM issue. I certainly hope that the issues I have raised concerning grain harvesting protocols come to fruition through those negotiations. Honourable members will remember that when the Gene Technology (GM Crops Moratorium) Bill was debated I pleaded with this Minister to include the Grain Harvesters Association, hardly a leftist group, on the committee. If the Minister was not paying lip service to the issues of segregation and contamination, the first area where detailed protocols would be in place would be with the harvesters on this issue.

The Hon. Ian Macdonald: Duncan has already got two votes on the NCC—

The Hon. DUNCAN GAY: The Minister has had his chance. He will get another chance in a minute. Unless the Minister has something positive to say he should keep a lid on it for a minute. Contract harvesters harvest the bulk of the grain crop across Australia. They travel from crop to crop, from variety to variety, from farm to farm, and from State to State. Most of them start in the north of the country early in the season and finish down south around Christmas or early in the New Year. Proper protocols should be put in place for these harvesters if we want to keep the integrity of those who want GM and those who do not want GM.

I have received only one letter that was critical of my stance, and that was from a person in high office at the New South Wales Farmers Association. In hindsight, if he had had his thinking cap on he probably would not have sent that letter. If he wanted a release of GM he should have supported me to make sure about proper protocols with the Grain Harvesters Association, which had examined the issue to make sure that those who were non-GM could not be contaminated by GM. At the time the New South Wales Farmers Association stopped the Opposition helping. People like him should think about what they are doing. Before going into an area from which we may not be able to emerge, we need to make sure that proper liability and contamination protocols are in place. They are not there at the moment and that is why many of us support the continuation of the moratorium.

The Opposition has consulted widely on the GM issue. Many organisations are strongly in favour of GM crops going ahead, and other organisations would prefer us to hasten slowly on the issue. The Opposition is of the view that there is not yet enough information available regarding the production, marketing and handling of GM crops to warrant the commercial release of GM food crops in this State, and that is why the Opposition supports this legislation before the House.

The Opposition consulted the New South Wales Farmers Association, which said that it would like the Minister to provide an assurance. The New South Wales Farmers Association seeks a clear definition of what is meant by "marketing purposes" under the Gene Technology (New South Wales) Act 2003 when trade is under the jurisdiction of the Commonwealth. The Minister may have addressed a part of that in his second reading speech—I know the Minister is not listening but his advisers are—and I ask him to address that matter in reply. Given the lack of demand for GM products, it is unthinkable to rush the commercial release of GM food crops. It is an understatement to say that consumers are not demanding commercial release, and their concerns are completely justified.

From a farming perspective the performance, segregation, co-existence, contamination, marketing and handling of GM and non-GM crops remain unresolved, and must be dealt with prior to the commercial release of GM food crops. Although it may not be intended that GM products be released into the environment, accidental releases have occurred—as we have seen over the past few months. Grain delivery sites, cross-pollination by insects and wind, rail loadings and transport facilities are potential areas of accidental and unintended spread of GM to non-GM in the supply chain.

An extension of the GM moratorium during the next three years will allow development and implementation of important safeguards and will ensure that protocols for the supply chain and the marketing of GM crops are right before GM crops are commercially released. Contrary to the view of some within the community, the Opposition is not saying that GM crops should never be commercially released; it is just saying not yet. The Opposition does not oppose the Gene Technology (GM Crop Moratorium) Amendment (Postponement of Expiry) Bill. As I have said on many occasions, it is not good enough potentially to grow two truckloads of a product if you cannot sell one of them.

Mr IAN COHEN [8.30 p.m.]: On behalf of the Greens I support the Gene Technology (GM Moratorium) Amendment (Postponement of Expiry) Bill. I congratulate the Minister on extending the moratorium on the conservation of genetically modified crops in New South Wales for another two years, in spite of subsequent protests from the New South Wales Farmers Association and other GE proponents. A representative of the Grains Research and Development Corporation [GRDC] on the Minister's advisory Council had this to say to fellow members about the extension of the New South Wales moratorium:

This [the moratorium] extension is just political posturing and is at complete odds with the object of the initial Gene Technology (NSW) Act 2003. Unfortunately, this all changed with the introduction of the various State-based GM crop moratorium Acts, which completely ignore and undermine the object of the former Act. They have an extremely narrow focus on marketing issues, and have replaced the earlier noble objective of protecting human health and safety, and the environment.

It certainly is comforting to know that the GRDC considers that protecting human health and environment are noble objectives, but if I were a farmer who funds this organisation through levies I would be a bit disappointed and concerned about the lack of regard for marketing issues and economic impacts on farmers. The extension of the moratorium is essential. It brings our State into line with other States, as is only sensible. No independent trials have been carried out to determine how genetically engineered crops will impact on the growing and marketing of conventional non-GE crops, and whether it is possible to grow GE and GE-free crops alongside each other, or even in the same State. It has not been determined whether it is possible to keep supply lines and, if not, how this would impact on overseas markets in particular.

In a letter to the Minister on 15 October the New South Wales Farmers Association says that Monsanto and Bayer believe that the moratorium legislation actively discourages GE trials, and the company also refuses to pay monitoring costs. The New Wales Farmers Association, in going into bat for these large corporations, as usual, urges that they not be charged the monitoring costs. The association quotes the biotech companies saying in their letter that the lack of trials is due to a "lack of defined objectives and has been a pathway for the commercialisation of GM crops". The association also argues the case on behalf of the biotech companies that a contamination threshold be introduced. In addition, the New South Wales Farmers Association wants to weaken and limit the Minister's advisory council by, for example, changing section 13 of the Act to limit people appointed to the advisory council to those with "nominated expertise". No doubt the association and its allies, Monsanto and Bayer, would like to get rid of the only voices of dissent on the Minister's advisory council, that is the network of concerned farmers and the Nature Conservation Council, the only ones truly representing the majority of farmers in the community on the council and the only ones providing genuine input.

I wonder who would have the necessary expertise, perhaps only those who have a vested interest in the GE crops—their friends at Monsanto and Bayer. It seems extraordinary that this organisation, which purports to represent farmers, is, in reality, representing the biotech corporations before the interests of farmers. Given their

way, these corporations would have a devastating impact on our farmers, who wish to continue growing conventional GE-free crops, and would completely ruin organic farmers. It is no wonder that the membership of the association has dwindled so that it represents only a minority of farmers. The association's biotechnology policy says that farmers should be "protected by a cost-effective and robust system of identity preservation implemented along the line and length of the supply chain". By now the association knows that this is impossible. Identity preservation is neither possible nor could it be cost effective. It is abundantly clear that if it has been difficult to prevent extensive contamination by more than one variety of GE canola right across the country during moratoria, it would be impossible to maintain identity preservation if GE crops are introduced commercially.

As a result of a study by the CSIRO we already know that current tests for identity preservation are impractical and will become increasingly more so if the more than two currently proposed GE canola varieties are introduced. The Australian Oilseeds Federation [AOF] wrote to the Minister on 20 October asking for the same levels of allowable contamination—0.9 per cent in crops and 0.5 per cent in seed for canola planting. It is interesting to note that in its letter the AOF uses the phrase "while we remain in a non-GM environment". It appears that the AOF is anticipating that we will move out of a non-GE environment. During this period of the so-called moratorium on the growing of GM food crops there have been a series of GE contamination incidents with canola. There has been contamination of the New South Wales breeding trials for canola and the national variety trials for canola, contamination in a shipment destined for Japan, and now contamination of the ATR Grace variety of canola in New South Wales and other States. Recently Geoffrey Carracher, a canola farmer from Wimmera Victoria, was devastated to find that his 64-hectare crop worth \$48,000 was 0.5 per cent contaminated with Bayer's Liberty Link gene.

The Hon. Ian Macdonald: When it was retested it ended up at 0.1. Sorry, I shouldn't have interrupted.

Mr IAN COHEN: Perhaps the Minister might like to correct me in his speech in reply if that is the case. The information I have is that this man was devastated to find that his 64-hectare crop worth \$48,000 was 0.5 per cent contaminated with Bayer's Liberty Link gene. Alarming, the same ATR Grace seeds he purchased were sold also to farmers across three States—New South Wales, Victoria and South Australia—creating serious legal and financial problems for them. The irony is that he specifically asked the seed company to provide GE-free seeds. I understand that 15,000 hectares of ATR Grace are currently growing in New South Wales. It would appear that more than \$10 million worth of this year's canola crop in New South Wales is contaminated, with levels potentially five times the acceptable level to be classified as GE free in the European Union. Was this vast level of contamination purely accidental, or has it been a deliberate attempt to contaminate huge areas of a farm and to force our canola farmers into growing GE canola? This appalling situation must be investigated thoroughly and immediately.

The Australian Oilseeds Federation must be forced to release the results of the national investigation into contamination. I hope the Minister's advisers are listening because, obviously, the Minister is not paying any attention. One wonders how it is possible for seed supply companies to get it so wrong. Why can they not guarantee 100 per cent GE-free seed? Why are protocols not in place to screen seeds when a Department of Agriculture, Fisheries and Forestry document has identified contaminated seed supply as the number one risk to our GE-free status? Perhaps it is the case that they do not care if the seed is contaminated. After all, many seed companies are either owned by or have close links to Monsanto. They have vested interests in spreading GE contamination far and wide. They know that if there is sufficient contamination our farmers may be forced to go GE, as they will lose the GE-free markets anyway. They can then start collecting royalties. The biotech industry has accumulated losses of more than \$40 billion, and will do whatever it takes to recoup these losses.

These companies have a decades-long history of total ruthlessness. The Minister may need to be reminded that Bayer is the company that supplied Zyklon B to the gas chambers, and was the number one financial supporter of the Nazi Party. Monsanto brought us Agent Orange, DDT, PBCs, dioxins and other deadly chemicals. They tried to destroy Rachel Carson when she published her groundbreaking book *Silent Spring* in 1962. Currently they are buying up seed companies and water resources all over the world. They are determined that every country will grow GM crops and pay royalties to them. These companies will do whatever it takes to get their own way. It was enlightening to see the reaction to the introduction of the Australian moratorium in an intercompany analysis. They asked themselves where they had gone wrong. They had Government Ministers onside, they had the necessary bureaucrats onside, they had their people in the media onside. They were used to getting their way in the United States of America where they had their own people at high levels in the Bush administration, yet still moratoriums were introduced in Australia.

We have to realise that these are not altruistic organisations that are working for the public good. They are all about control of our farms and farmers and our food supply. Genetic engineering is a vehicle for them to lock farmers into buying ever-increasing quantities of their pesticides, which is what is happening in countries that have fallen into the GE trap. They are trying to spread their genetically engineered seed all over the globe and collect royalties from as many farmers as they can. Meanwhile the scientific evidence is growing that Roundup is 10 times more dangerous to human health than was previously thought and indeed has been banned altogether in Denmark.

We cannot afford to allow these corporations to destroy our organic farmers and force our conventional farmers to go to GE. If the Minister for Primary Industries continues to pander to these corporations by taking the softly, softly approach on GE contamination, unlike his counterparts in Western Australia and Tasmania, he will be personally responsible for a runaway effect that eventually will prevent any farmer in New South Wales from growing GE-free crops. When the Minister first heard about the contamination in New South Wales, he should have immediately ordered his department to investigate, test and destroy the crops that were contaminated instead of lamely passing the buck to his heavily biased advisory council, knowing that it had no powers to do anything about cleaning up the contamination.

In any case, most members of the Minister's advisory council were hand picked for being strongly pro-GE. There are only two sceptics on the Minister's council, plus the independent chair. All the rest are absolutely gung-ho in favour of the introduction of genetic engineering, regardless of the impact on farmers who wish to remain GE free. Indeed some members of the Minister's council are already talking as though GE-free produce will become a niche market. Evidently the New South Wales Farmers Association even voted against a motion to assess the financial impacts on farmers of the introduction of thresholds and called the proposed assessment a red herring. Who does the council represent?

The Minister may have read the press release urging him to take a leadership role, but he did not. I did not hear him even express public concern or outrage about the contamination. He did not jump immediately to the defence of the vast majority of farmers who do not wish to grow GE crops. The South Australian Government pulled up the GE-contaminated varieties that were found to be growing in the canola national variety trials. Why did the New South Wales Minister not order similar action? What good is the data from a contaminated trial? Why did the Minister not order the destruction of contaminated crops and an immediate clean-up? Why did the Minister not investigate whether farmers growing the Grace variety of canola in New South Wales also had contaminated crops?

The Minister's immediate response was to lamely parrot the line of the corporations and their GE supporters that we needed thresholds to allow for contamination. It is not possible to be partly pregnant. People either grow GE-free, or GE crops, but not both. The ruling of the Australian Competition and Consumer Commission [ACCC] on this is crystal clear. GE-free and non-GE means 100 per cent GE free. A farmer cannot claim that his or her crop is GE free or even non-GE if it has any level of contamination, irrespective of whether the level is 0.1 per cent, 1 per cent, or 10 per cent. We also have to remember that when land is contaminated with GE, it may remain contaminated for a very long time. A recent United Kingdom report, which was financed by GE companies and the Department of the Environment Food and Rural Affairs, shows that GE crops contaminate the countryside for up to 15 years after they have been harvested. Farmers who try out a GE crop for a single season will find that their fields are blighted for a decade and a half.

The report torpedoed the United Kingdom Government's plans to allow the introduction of GE canola into the United Kingdom. Ministers had stipulated that the crops should not be grown until rules had been worked out to enable the GE crops to co-exist with conventional ones. But the research shows that this is effectively impossible. The study, which was published by the Royal Society, examined five sites across England and Scotland where GE canola had been cultivated, and found significant amounts of GE plants were growing, even after the sites had been returned to ordinary crops. The research concludes that the research reveals "a potentially serious problem associated with the temporal persistence of rape seeds in soil". The researchers found that nine years after a single modified crop had been grown, an average of two GE canola plants would grow in every square metre of an affected field. After 15 years, this came down to one plant per square metre—but that is still enough to break the European Union [EU] limits on permissible GE contamination. Research has shown it is not possible for GE-free canola to exist alongside GE canola has not deterred our fervent GE proponents here in Australia.

The Australian Oilseeds Federation [AOF] decided at its general meeting on 13 October that it "would incorporate in the definition of Australian (non-GM) canola a specification of .9% adventitious presence of

OGTR approved events". The Australian Oilseeds Federation says it "had established this standard some time ago and believes that it is now timely to incorporate this into the industry's definition and Standards Manual". It says, "This is supported by Australian Seeds Federation threshold of 0.5% in canola planting seed." Well may the AOF make that unilateral declaration, but it does not change the ACCC's ruling. The AOF may try to wriggle out of this contamination problem and the legal liability it brings and it may be convenient for it to have an arbitrary threshold, but that means nothing.

Other problems are associated with thresholds, apart from the fact that canola with any level of contamination cannot be exported legally as either GE-free or non-GE. In some countries there is an acceptance of a level of an adventitious or accidental amount of contamination below which the product is not required to be labelled as GE.

The Hon. Ian Macdonald: What is Japan's level?

Mr IAN COHEN: The Minister has a bevy of advisers—he can find out. Proponents of a contamination threshold talk about meeting the most stringent requirements—the European Union's—which have set a contamination threshold that on the face of it is 0.9 per cent, while the real level is only 0.1 per cent, as I shall explain shortly. Japan currently has a threshold level of 5 per cent. However, Japan's 5 per cent level applies only to GE lines that are approved by the Japanese Ministry of Agriculture Forestry and Fisheries [MAFF]. Any canola or other product that is contaminated at 5 per cent or less by a line that has not been approved by MAFF would need to be labelled GE. The 5 per cent threshold is not a blanket threshold and may be lowered in any case, depending on the product.

In all countries, the tolerance for GE material in any food or raw material from varieties that are not approved for use in food or feed is nil. I point out international polls show that the Japanese people—82 per cent of the population—are most opposed to GE foods. The Seikatsu Club Consumers' Co-operative in Japan, which has 260,000 members and buys 1 per cent of Australia's canola crop each year, has written to Federal Minister for Agriculture, Fisheries and Forestry, Peter McGauran, urging him:

... to take more strict measures to prevent seed [contamination] from genetic pollution, including stronger rules for field trials, and to ensure more strict identity preserved distribution.

The Japanese attitude to GE produce was illustrated recently in a report in the *Hindustan Times*, Mumbai. India's soy meal exports to Japan are expected to triple from this year's 250,000 to 300,000 tonnes because it is GE free. Davish Jain, the managing director of the Indore-based Prestige Group, told Reuters:

There is demand from Japan for non-GMO soy meal. India produces this kind of soy meal and does not allow GM seeds.

The buyers in the countries we supply rely on a rigorous paper trail showing the actions that the farmers and the supply chain have taken to prevent any contamination, including a rigorous testing regime, which will be extremely difficult, considering the recommendations by industry of a GM-canola testing regime that will prove to be completely impracticable to operate. The Minister may not have had the chance to read the latest CSIRO report on the problems of testing for thresholds, "Segregating GM and Non-GM Grain in the Australian Storage System". I strongly advise him to do so. The CSIRO make it very clear that each GM strain of canola would need to be tested independently. Only two strains of canola are proposed for general introduction, Monsanto's Roundup Ready and Bayer's InVigor. While Roundup Ready canola can be tested within minutes with a lateral flow test, InVigor needs a laboratory test using the enzyme-linked immunosorbent assay [ELISA] system and takes several days. Even then, one hybrid cannot be distinguished from another.

Just imagine a row of a dozen trucks from different farms lined up at the silo, each with a 30-tonne to 60-tonne load of canola. The testing spears can be thrust as usual into the load, and testing can begin for contamination using a few litres of canola seed from each truck. Does the Minister imagine that those trucks will wait for a week or more at the silo before the test results come back? The suggestion is laughable, of course. Each truckie will wait for a few minutes at the most. The canola will be loaded into the silo very quickly and all the loads will be mixed together. There could well be 300 truckloads of canola from two or three dozen properties, all mixed together in the silo. If one in four of those truckloads were contaminated with GE material to the same level as Geoffrey Caracher's, the resulting contamination of the entire silo of 10,000 tonnes would exceed the actual European Union [EU] limit of 0.1 per cent for adventitious presence.

In addition, if the contamination were by a level unapproved in the receiving country, the entire 10,000 tonnes of canola could be sent back or ordered to be destroyed. Testing subsequent to mixing may show which

farm the contamination came from. Would that farmer be penalised after the event for contamination over which he had no control? Recently GrainCorp issued a press release stating that farmers who had confirmed contamination need not tick the box informing the depot whether the crop is GE or GE-free. It would, of course, be an offence under the Act at present to deliver a crop with any level of contamination to the silo. GrainCorp effectively is encouraging farmers to break the law. And what is the penalty for that? What happens if a farmer delivers to a silo canola over the proposed 0.9 per cent threshold, which is confirmed by testing after he has delivered it, when that canola is mixed with other canola? Will the farmer be prosecuted for breaking the law?

Recently the Primary Industries Ministerial Council held a meeting to rubber-stamp the proposal to allow for 0.9 per cent contamination in crops and 0.5 per cent in seeds. The proposal is that a shipment with 0.9 per cent contamination would be labelled "non-GE", which is neither true nor within the ruling of the Australian Competition and Consumer Commission. The proponents of the 0.9 per cent threshold falsely believe this will satisfy the European Union market requirements; but under a recent German ruling it will not.

Although both Western Australia's Kim Chance and Tasmania's Steve Kons supported the threshold proposal, presumably reluctantly, both have declared that they wanted their States to remain GE free and will strive to do so. A few days ago Kim Chance said, "The Gallop Government is committed to protecting the State's clean and green status." We have not heard such a statement from our Minister. Is the Minister also committed to protecting the clean green status of New South Wales, or is he so blinded by the pseudo-science of Monsanto and Bayer that he cannot see the importance of protecting our reputation?

This brings us back to the question of whether it is possible for Australian farmers to retain the freedom to choose whether they plant GE-free canola or GE canola, or will this freedom be taken away by Monsanto and Bayer in connivance with GrainCorp, the Australian Oilseeds Federation, the New South Wales Farmers Association and other pro-GE advocates? The authors of the CSIRO report go so far as to suggest:

... grain handlers and marketers will need to assess whether the additional costs of ensuring a non-GM supply is adequately compensated by price premiums for such consignments.

Until now there have been no costs for GE-free growers. They have been able to sell their 100 per cent GE-free canola to the EU at a price premium. There have been no segregation costs. Growers can sell their GE-free canola anywhere in the world without inhibition, but not so with GE canola. GE advocates say again and again that the costs for identity preservation should be borne by those who wish to remain GE free, as there are no identity preservation needs for GE canola. It is merely sold as GE canola when the markets accept it.

The real irony is that if we are capable of maintaining an identity preservation system, which has been placed in jeopardy by the sheer carelessness, or perhaps just bastardry, of the seed companies, it has been proposed that the cost of maintaining the system would be borne not by the companies who hope to profit from GE but by the majority of the farmers who wish to continue growing conventionally, and by organic farmers. How extraordinarily unfair is that! Surely those who wish to profit by changing the status quo should be made to pay for that change and not burden existing farmers.

The Hon. Duncan Gay: Hear! Hear!

Mr IAN COHEN: I thank the Deputy Leader of the Opposition; that is a real appreciation from The Nationals.

The Hon. Duncan Gay: Who will pay for the tests?

Mr IAN COHEN: Ask the Minister.

The Hon. Duncan Gay: That means that the farmers have to pay for it.

Mr IAN COHEN: I would have hoped that even a pro-GE Minister would agree with that. It is a bit like if I were driving down the road and another car crashed into me, and the driver of that car said, "You have to pay for the repairs to your car and mine, mate. It was your fault you were on the road." The cost of an identity preservation system has been estimated by the Australian Bureau of Agricultural and Resource Economics and the Federal Department of Agriculture, Fisheries and Forestry at between 10 and 15 per cent of the value of the canola, approximately \$35 a tonne. Such a cost levied on conventional farmers would negate the premium currently enjoyed by suppliers to the GE-free European Union market. The CSIRO report stated that the premium may well increase if GE-free produce becomes harder to source.

The cost of such a system should, undoubtedly, be borne by the GE companies and the users of their products, not by conventional and organic farmers. In the EU the finished product must be labelled "GE" if GE is present in levels above the set tolerance level or if GE is found in testing throughout the supply chain as part of the identity preservation system, or if there is no identity preservation system and no guarantee of GE-free status.

Australia has no identity preservation system and no rigorous testing regime, and unless there is a guarantee of GM-free status, farmers may be forced to market as GM if any contamination is found, thus losing the premiums and the markets. European Union Regulation 1829/2003, "labelling of genetically modified food and feed", was introduced in April 2004 and caused both food and feed manufacturers in Europe as well as their overseas suppliers a great deal of concern. The concern arises around the key terms "adventitious" and "technically unavoidable" with regard to GE content.

Although it seemed at first that the GE labelling regulation would provide clarity in dealing with food and feed products and ingredients that contain genetically modified organisms, it soon became apparent that the devil was in the detail. For example, what really is an "adventitious or technically unavoidable presence of genetically modified material"? The answer to that question appears to be the level of GMO detection, which currently is 0.1 per cent, nine times lower than the threshold proposed by Monsanto, Bayer and the Minister for Primary Industries.

In July 2005 a German breakfast cereal mix manufacturer received a letter from an enforcement agency that had reviewed and tested the company's product, which included a soy ingredient, knowing that the labelling requirements do not apply if food products contain material of less than 0.9 per cent content, as long as it is adventitious or technically unavoidable. The enforcement agency took samples of the cereal mix, and they tested at 0.6 and 0.7 per cent of genetically modified DNA. It then argued that to determine the adventitious or technically unavoidable presence of the material, the company would have to demonstrate its efforts to avoid the use of such material. A review of the company's quality management files showed that GMO tests conducted in part resulted in 0.4 per cent, and 0.1 per cent GE content. In addition a laboratory report provided by the supplier of the raw material showed 0.3 per cent GE content. These facts caused the enforcement agency to state that a GE content of less than 0.1 per cent must be considered adventitious. But for values between 0.1 per cent and the 0.9 per cent threshold an operator would have to demonstrate that the GM presence detected is adventitious and technically unavoidable.

The Hon. Rick Colless: Just like the train is five minutes late but still on time.

Mr IAN COHEN: That is right. It is a difficult situation. The breakfast cereal manufacturer pointed out to the agency that it had procured the soy ingredient as non-GMO. The problem was that the cereal company knowingly used a soy ingredient that contained between 0.1 and 0.9 per cent GE DNA. The agency emphasised that adventitiousness must be excluded if an operator knowingly uses GE ingredients in food production. To verify that it was technically unavoidable the company must submit evidence proving that no equivalent product at less than 0.1 per cent GE is available on the market.

The European Union [EU] labelling threshold of 0.9 per cent above which a manufacturer must label his product as containing GMOs is irrelevant if the GE content below this threshold is not adventitious or technically unavoidable. Enforcement authorities draw samples not only to be tested for GE content but also to draw conclusions based on a document review as to whether these two criteria are met. Knowingly processing ingredients above 0.1 per cent GE content does not meet the adventitious criterion. European food or feed manufacturers who want to avoid GE labelling need to use raw materials and ingredients that are practically devoid of GMOs. This also clarifies that a blending down to a GE content below the 0.9 per cent threshold can be no solution to avoid labelling.

If known contamination has been watered down by GrainCorp to, say, 0.9 per cent contamination, or even as low as 0.2 per cent contamination, this would need to be labelled as GE canola in Europe. GrainCorp seems to be totally oblivious to the fact that the 0.9 per cent threshold in the European regulation avoids GE labelling only if other strict criteria have been met. The German sanctions for infringement of labelling laws have fines of up to €50,000 and prison terms. To guarantee acceptance of our canola as GE free we will need to supply that market at a 0.1 one per cent threshold.

The Minister might introduce an exemption order allowing a so-called adventitious presence of 0.9 per cent in canola grain for export but it is highly likely that this would not be regarded as an adventitious presence

by European importers or enforcement agencies. A European user of Australian canola with contamination as low as 0.2 per cent or 0.3 per cent who labels his or her product GE free or non-GE could end up in gaol. It would be a tragedy for Australian farmers to lose this European market. The Canadian share of that market has fallen from 53 per cent to virtually zero in just a few years as a result of Canada's headlong rush into GE canola. Canada was supplying 1,183 kilo tonnes of canola a year as recently as 1994, but by 2001 that had fallen to zero.

The GE-free canola shortfall has been made up by growers in Hungary, Czechoslovakia and Australia. Australia currently supplies 19.4 per cent of the EU market, a very important market for us, and there is a real risk that we, too, will lose it as a result of dithering and indecision by the Minister. If we cannot guarantee that our canola is genuinely GE-free, the Europeans will increase their purchases from Eastern Europe. The Minister should follow the lead of his fellow Ministers in Tasmania and Western Australia by taking whatever steps are necessary to keep our GE-free crop genuinely GE-free, that is, 100 per cent GE-free and not just partly GE-free.

The world has shown that it is very wary of GE food and that is not likely to change in the near future. News just coming out of Russia is extremely serious for Monsanto and Bayer. Monsanto already has a confidential feeding study that reveals the potentially adverse effects of GE canola, including a 15 per cent increase in the liver weight in rats fed with GE canola. It has refused to release the data for public scrutiny. A few weeks ago Dr Irina Ermakova of the Russian National Association for Genetic Security [NAGS] made public the results of research led by her at the Institute of Higher Nervous Activity and Neurophysiology of the Russian Academy of Sciences.

During the experiment Dr Ermakova added GE soy flour to the food of female rats two weeks before conception, and during conception and nursing. The control group had female rats that did not have anything added to their food. The experiment comprised three groups of female rats. The first was a control group, the second was a group with GE soy addition, and the third was a group with traditional soy addition. The scientists counted the number of females giving birth, the number of rats born and the number that died. After three weeks scientists observed that four females in the control group gave birth to 44 rats. After three weeks, three were dead and 41 were alive—a death rate of 6.8 per cent. Of the group given normal soy, three females gave birth to 33 rats and after three weeks three had died—a death rate of 9 per cent. Of the group fed GE soy, four females gave birth to 45 rats, and after three weeks 25 of the 45 had died and only 20 were still alive—a death rate of 55.6 per cent.

The Hon. Rick Colless: What was the cause of death?

Mr IAN COHEN: The only difference was the consumption of GE products compared with non-GE products. Not only was there a very high death rate amongst rats fed GE soy, there was also a low birth weight. Thirty-six per cent of the rats born weighed less than 20 grams, providing evidence of their extremely weak condition. In a nutshell, over half the rats fed a diet containing GE soy died, while very few of the controlled group died. Doctor Ermakova said:

The morphology and biochemical structures of rats are very similar to those of humans, and this makes the results we obtain very disturbing.

The NAGS vice-president, Aleksey Kulikov, said that the findings produced by Dr Ermakova confirmed the necessity for full-blown health tests on GE products. To date there has not been a single long-term study on the health effects of eating GE food. Why not? This rat research, coming on the heels of the confidential Monsanto research, should ring loud alarm bells for all those who wish to rush so blindly into this new and untried technology. Monsanto has an appalling history of littering the world with dangerous chemicals. Millions of people are still suffering in Vietnam from its Agent Orange.

Monsanto and Bayer are not benign corporations who wish to feed the world; they are genetically engineering and patenting foods, buying up seed companies, and acquiring water rights around the world to get global agriculture by the throat. If they are allowed to, their dupes will turn our farmers into sharecroppers locked into paying royalties and using more and more pesticides. It will spell the end of organic farming, the end of seed saving by farmers, and the end of agriculture as we know it in this country. Family farms will be absorbed into giant American-style corporation-controlled industrial factory farms where the only concern is profit regardless of the cost to health, the environment and rural communities.

The moratorium that the Minister is extending should be lifted only if stringent conditions are in place to protect farmers, namely, strict liability, a guaranteed identity preservation system, and precise detection

methods. I will move an amendment to that effect. The Minister should do his utmost to ensure that our State remains GE free and out of the control of these unworthy corporations. I ask the Minister to stand up and fight for his State. He should show some backbone and support the majority of farmers in the community who wish to remain GE free. As Dr Elizabeth Cullen of the Irish Doctors Environmental Association said recently:

Genetic engineering of food is an unholy alliance between bad science and big business.

To ensure that the biotech companies do not ride roughshod over small farmers we need an Act along the lines of the Vermont Farmer Protection Act, which provides that the manufacturer of a genetically engineered seed or plant is liable to any person who suffers injury by the release of a genetically engineered crop produced from such seed or plant and it would cover injuries such as the loss of any price premium that would have accrued to a farmer and other costs incurred, including penalties as a result of a breach of contract. One farmer in North Dakota, for example, had a contract to supply food grade soybeans to Japan, but when his supposed non-GE crop arrived in Japan it was tested and found to be contaminated. He lost many thousands of dollars on that sale as well as his reputation. That is one of many such stories. That farmer would have been able to claim compensation under the North Dakota Farmer Protection Act.

The Federal Government's Agriculture and Food Policy Reference Group recently released a publication entitled "Australian Agriculture and Food Sector: Future Directions". This reference group is headed by Peter Corish of the National Farmers Federation, which is a very pro-GE group. But even this paper acknowledges that GE liability issues must be addressed. GE proponents have been insisting that the common law is enough but, even according to this group, the common law is not a workable system in terms of redress. The tide is beginning to turn when it comes to thinking about the need for strict liability. We need an Act to impose strict liability in New South Wales. Such legislation would pass through the upper House certainly. The question is whether the Minister is prepared to buck those two multinationals and make them liable for unwanted contamination. Are Monsanto and Bayer more important than our family farmers?

We are at a watershed. The future of our family farms is in the Minister's hands. Once we cross the GE Rubicon there will be no going back. The Minister has done the right thing by extending the moratorium for another two years. He should now extend it further until stronger protections are in place for farmers. Better yet, he should make it a permanent ban. I give the bill the Greens' somewhat qualified support.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [9.11 p.m.]: The Gene Technology (GM Crop Moratorium) Amendment (Postponement of Expiry) Bill is simple and straightforward, and I support it. Its sole purpose is to add another two years to the current moratorium on the commercial release of genetically modified [GM] crops in New South Wales, which will push the expiry date back to 3 March 2008. New South Wales, Victoria, Tasmania, South Australia and Western Australia currently have moratoriums on the commercial release and production of GM canola. Under section 129 of the Commonwealth Gene Technology Act, the Ministerial Council for Gene Technology must establish an independent review of the Act's operation. As part of this review, the independent panel is holding a series of public forums seeking input from the community.

The committee set up to review this Act has released two issues papers that deal with five of its 10 terms of reference. The problems the review has thrown up are exactly those that could have been predicted when the Act was introduced. First, the Gene Technology Regulator [GTR] should consider ethical and economic questions as well as health and the environment. Second, the precautionary principle should be applied when considering licences for GM technology. Third, communications from the GTR are difficult to understand. They should be written in plain English and use consistent and easily understood terminology. Fourth, according to the Greens, all data used by the GTR in making a decision should be available to the public. According to the GM technology industry, even more data than that which is declared commercial in confidence should be protected from use by third parties.

Fifth, the Act restricts the right to appeal against decisions by the Gene Technology Regulator to "eligible persons". The Environmental Defender's Office thought there should be open standing for merits and judicial reviews. Sixth, three community-based advisory committees report to the GTR. One is a technical advisory committee and the other two deal with ethical problems and community consultation. Yet under the Act the GTR can consider only health and environmental questions. How are the other two committees—which cost \$25,000 a year to run—relevant to its decision making?

The Act needs to be changed to include consideration of social and economic impacts. The composition of these committees is controversial. The industry argues that only persons with "some expertise, reasonable

views and the necessary recognised qualifications" should be members. The Office of the Gene Technology Regulator has recognised that the Gene Technology Ethical Committee has made some valuable contributions to the risk analysis framework.

Seventh, the time allowed for decisions to be handed down seems excessive. Ninety days are allowed for making even small modifications to existing licences. The decision-making process probably could be simplified. A quick preliminary screening process is suggested to check whether all necessary information is supplied. Eighth, the monitoring of trial sites by the Office of the Gene Technology Regulator appears to be satisfactory as far as the industry is concerned. Only 5 per cent of the monitored sites were found to transgress some regulation, and these were corrected by community action. However, the Australian Network of Environmental Defenders thought the compliance monitoring was neither effective nor appropriate.

Ninth, according to Greenpeace, strict liability for damage caused by genetically modified organisms [GMOs] should lie squarely with the companies advocating GM technology, regardless of whether the GMO has received government approval. Australian courts have been unwilling to make any general ruling as to the damage done and the source of liability. This is a State matter and cannot be regulated by a Commonwealth Act. The Act provides for liability insurance to be imposed as a licence condition, but the Gene Technology Regulator has not imposed such a condition so far.

The contamination of non-GM crops with genetically modified organisms is a recurring problem—as many people predicted before the legislation was passed. Genetically engineered contamination already has occurred in crops. According to Professor Tim Reeves, Chair of the New South Wales Advisory Council National Variety Trials, contamination levels are up to 20 per cent. Some customers of non-genetically modified grains, such as Japan, require a guarantee of zero contamination and pay a premium for such a product. Such a guarantee can no longer be given for Australian primary products, and this may represent a commercial loss for growers. There have been accounts of cross-contamination of crops already, and trace amounts of genes have been found in some conventional grain varieties.

The Australian Oilseed Federation has suggested that a tolerance level of 0.5 per cent contamination of canola seed be allowed. The European Union [EU] has a 0.9 per cent threshold level. The Grains Council wants the standard tolerance level set at 0.9 per cent, which is the same as the EU level. The council's David Ginns said on ABC radio on Tuesday 25 October that GM material has been detected in crops in four States and that farmers could face legal action for accidental contamination. He continued:

The great concern that we've got, is that with what we assume to be a zero tolerance level, is that this state legislation is effectively going to make criminals out of innocent people who have, not by their own choice, some level of GM canola in their standard conventional canola crops.

That is a major concern. On ABC television on Friday 28 October Greenpeace accused seed companies, including Bayer, of contaminating seed with genetically modified material to force Australia to accept the technology. New tolerance levels have been set for canola seed, with GM tolerance levels established at 0.5 per cent for the next two seasons and at 0.1 per cent after that. Greenpeace spokesman John Hepburn said that the decision lets biotech companies off the hook. He stated:

To be honest, it probably sounds a slightly cynical view but it seems as though around the world GE companies have almost adopted a conscious strategy of contamination, to force acceptance of their product or adoption of their product.

Contamination will continue to spread unless you put in strict controls and really push for zero contamination of seed.

Bayer CropScience has declined to comment on the Greenpeace allegations, but says it welcomes the setting of a GM tolerance level. Australia's agriculture Ministers will be asked to agree on a national maximum residue level for genetically modified canola in conventional crops. No country permits any levels of contamination with unapproved varieties of GE canola and there is nothing in place to stop New South Wales canola being contaminated further with unapproved GE varieties and to stop shipments being rejected on that basis. Under EU regulation 1829/2003, labelling of genetically modified food and feed, enforcement agencies consider the quantification level of the genetically modified organisms test method of 0.1 per cent as the threshold below which GM content may be detectable and considered adventitious. However, a threshold between 0.1 per cent and 0.9 per cent requires food producers to demonstrate that the GM presence detected is both adventitious and technically unavoidable. To verify that it was technically unavoidable the company must submit evidence proving that no equivalent ingredient with less than 0.1 per cent is available on the market. The EU market will therefore not accept an established and set level of contamination of 0.9 per cent—and that is before we consider the complexities of meeting these requirements.

One might ask: What is the point of extending the moratorium if the Commonwealth and the States are going to allow "minimal contamination"? It is just moving the goalposts in the GM debate from zero per cent to 0.9 per cent, which naturally the companies' favour. The companies that advocate genetic modification have a positive incentive to contaminate the whole country and get rid of rival products. It is a bad situation and it is appalling that the farmers who are trying to maintain GM-free crops must meet the costs of contamination, which it is in the interests of the others to spread.

The analogy offered by Mr Ian Cohen was most apt: A person is driving down the street, someone crashes into him, and he is told that it is his fault for being on the road and that he has to pay for the damage to the other car and his car. The proponents of genetic modification can contaminate non-GM crops, sue the farmers who grew them for stealing their seed, and wreck the market. And still the farmers are trying to prove that their seed is not contaminated and are trying to keep it that way. That is totally unreasonable, and a much stronger attitude is required.

The moratorium is obviously a start. As I pointed out, it will give the Minister a huge discretion, and I am not sure that is a good thing. Certainly the philosophy of letting American seed companies dictate the level of contamination in our GM crops on the promise of supposedly higher yields—which have not, in fact, eventuated—is appalling. Those who want to make the change, and will profit from the change, should bear the costs. Extending the moratorium is a step in the right direction but a stronger attitude is required. There will be significant benefits to Australia if our markets remains GE-free, but it will suit the American seed companies just fine if we destroy those markets.

The Hon. JON JENKINS [9.20 p.m.]: I support the Gene Technology (GM Crop Moratorium) Amendment (Postponement of Expiry) Bill. This small bill will amend the statute that enables a moratorium to be imposed on the cultivation of specified genetically modified crops. The current Act is due to expire on 3 March 2006, and this bill will provide an extension of the moratorium until 2008. This is the third time I have spoken on this subject in the very short time I have been a member of this Parliament. Indeed, it was the first subject I spoke about in this Chamber. In one of my former careers I worked with viruses and bacteria daily; I performed the almost blasé procedure of taking genes from one source and placing them into other objects.

I do not have any great fear of molecular biology; indeed I have an intimate understanding of it. However, I have some reservations about its use. As I have said on previous occasions with regard to such biology, I would advise caution and care rather than haste and negligence. For that reason also I support the bill. Genetic modification and genetic engineering will happen, and the Government should be planning over the next few years—and I presume I will not be here for most of it—during this moratorium period for what is about to happen. I state again, genetic engineering, whether in crops or other products, will occur.

The Government should use the next few years to prepare and plan for what is about to happen. A co-ordinated group of scientists must advise on the benefits and dangers of the genetic modification of various crops. A strategic plan must be implemented to deal with the logistics of handling GM crops from the farm gate to their end distribution point. Plans must be put in place to manage the escape of GM crops into the wild per force of humans, animals or the winds when it occurs—not if it occurs, but when. A consultation and feasibility process of segregated regions and the handling of equipment must undertaken. Just as we now have fruit-fly exclusion zones into which fruit cannot be taken, we will have in the future GM exclusion zones into which types of organic matter cannot be taken. I realise it would be very difficult to keep birds, animals and wind out of a specific area but the Government should plan for this and acknowledge when it cannot stop the spread.

Other issues to be resolved include whether it is simply inevitable that GM crops will become the norm, as they have in Canada and the United States of America, where they predominate, or whether it is feasible to provide a segregated area. The Government should ensure a system of transparency and openness—which I realise have not been among the Government's best attributes to date. I have urged the Minister on every possible occasion to enable competent people to oversee and manage this process.

The Hon. Duncan Gay: I am pleased that you have changed your voting habits. You are now voting for transparency.

The Hon. JON JENKINS: I always have in this House. The Government should put in place the best possible plans it can to deal with foreseeable eventualities. It should put in place a flexible management practise that can respond rapidly to any unforeseen eventuality, most particularly in relation to the escape of GM crops. I remind the Minister that in 2004 he gave a guarantee to New South Wales Farmers that their liability would be covered. I am sure the Deputy Leader of the Opposition would remember that guarantee.

I have stated on many occasions that for better or for worse genetic modification is coming. As a former molecular biologist I have my own concerns about this technology, including crop modification. I remind honourable members that a year ago I warned that these crops would escape. The Government should already have had a plan in place in that regard. I presume the Government had a plan in place for the recent escape. A year later my warning has proved to be correct: a crop was contaminated. Last month I asked the Minister for Primary Industries whether, in light of the widespread genetically modified GM contamination in canola bodies, there were now reasonable grounds for New South Wales to suspect that its canola crops in the ground may also be contaminated. I asked also whether the Government had conducted any widespread testing to ascertain that.

The Victorian experience has shown that an escape will occur. The bill will change the levels at which produce is declared GM-free or not GM-free. Whether that level is 0.1 per cent, 0.5 per cent or 0.9 per cent is a matter for the experts and the markets to determine. The Greens view is that any technology or genetic engineering is bad. We all talk about solar power and alternative energy sources but what has that got to do with genetic engineering? Current solar cells run at about 15 per cent—totally useless in terms of generating any real quantities of energy for residential use.

The Hon. Duncan Gay: It is not as bad as wind power.

The Hon. JON JENKINS: Not quite as bad as wind power but almost. In order for solar cell technology to be useful to a modern society we need to get the efficiencies up above the magic 30-plus per cent. The only way that will be possible is by using organic solar cells. Plants harvest energy at 80 to 100 per cent, depending on the type of plant. The only way solar cell technology will become a viable alternative energy source is by genetic engineering, and by the genetic engineering of viable complexes that can be used in organic solar cells.

The Hon. Duncan Gay: But you don't have to eat a photovoltaic cell.

The Hon. JON JENKINS: No, you do not. But you can recycle it. I conclude by repeating my warning: genetic engineering is coming, and with genetic engineering we have to move forward cautiously and slowly—but ever forward. I echo the concern of others that the process should not be driven by some faceless corporate. That is particularly important, because a corporate does not have good science and community benefit among its primary goals. Unfortunately the Government's track record of allowing, in this case, ideologically driven policy in return for Green preferences does not bode well for the premise of good science and community benefit.

Reverend the Hon. FRED NILE [9.29 p.m.]: The Christian Democratic Party supports the Gene Technology (GM Crop Moratorium) Amendment (Postponement of Expiry), which extends the expiry date of the Act for another two years to March 2008. The original Act, the Gene Technology (GM Crop Moratorium) Act 2003, prohibited the commercial cultivation of specified genetically modified food crops in New South Wales. As honourable members know, the prohibition expires on 3 March 2006. The Government introduced the bill to extend the moratorium. If the moratorium were to lapse on 3 March 2006, development of GM canola could proceed across the State without adequate safeguards. The three-year moratorium as originally proposed was considered to be appropriate. In that time we could have had various trial crops, particularly genetically modified canola. According to the Government the drought and other factors limited the scope for small-scale experiment and large-scale segregation trials needed to provide this information. Further research is required on segregation, market access and market standards to ensure that future decisions are based on good science. This necessitates an extension of the moratorium together with the capacity to exempt appropriate research trials.

I note the Greens have foreshadowed moving amendments, which would seem to make it impossible for the moratorium to ever conclude. We will not support the Greens amendments. I note that at some point there will be discussion about other crops. Various GM food plants are currently being trialled under the Federal regulatory system, and those food plants may be considered for future commercial release. They include herbicide-tolerant Indian mustard, wheat with altered starch content with potential benefits to human nutrition, and salt-tolerant wheat. They also include sugarcane with altered sugar content, virus-resistant white clover, pineapples with reduced occurrence of blackheart and delayed flowering, and virus-resistant papaya. It is obvious that we will discuss gene technology well into the future as it affects our human existence, the environment and related industrial issues.

I note from Mr Ian Cohen's contribution that the Greens have adopted a take-no-prisoners position. They are totally opposed to any GM development. His speech contained what I would regard as a great deal of

scare mongering, which will not help a calm consideration of the bill and the future of GM crops. I understand the New South Wales Farmers Association has supported the moratorium, but would prefer the moratorium to lapse on the original date in 2006. I do not have a copy of that letter, but we normally seek to represent the view of the New South Wales Farmers Association, a reputable body that represents farmers in this State and has their best interests at heart. We support the bill.

The Hon. IAN MACDONALD (Minister for Natural Resources, Minister for Primary Industries, and Minister for Mineral Resources) [9.33 p.m.], in reply: I thank honourable members for their contribution to the debate. Despite the scaremongering of the Greens, genetically modified crops have been the fastest-growing crop regime on the planet over the past decade. I find the Greens position ironic. I have not heard too many statements from the Greens opposing gene therapy, which is one of the most widely used medical science techniques to treat many human diseases. The Greens have no objection to using gene therapy to assist humans, but when it comes to modifying food for a beneficial purpose, whether it is environmental or health related, the Greens take an approach directly opposite that taken by everyone else. They attack in the most alarmist manner gene technology applied to food, but do not oppose the use of gene technologies to eradicate diseases that are of great concern to humankind. Mr Ian Cohen referred to the position in Europe. In that regard I thought it important that I explain to honourable members the exact position in Europe with regard to conventional crops that have some small level of GM present.

The Hon. Rick Colless: Contamination.

The Hon. IAN MACDONALD: The Hon. Rick Colless probably would benefit from this too, as would the Deputy Leader of the Opposition. The European Union web site contains questions and answers on the regulation of genetically modified organisms [GMOs]. It refers to conventional products, which is what we have been talking about in relation to the maximum residue limits [MRLs] that have been recommended federally and rolled out across the country: The web site reports the following:

Exemption from the traceability and labelling requirements

Conventional products, i.e. products created without recourse to genetic modification, may be accidentally contaminated by GMOs—

The Hon. Duncan Gay: Which are not part of this bill.

The Hon. IAN MACDONALD: But the honourable member has raised it. I will continue to quote:

—during harvesting, storage, transport or processing. This does not only apply to GMOs. In the production of food, feed and seed, it is practically impossible to achieve products that are 100% pure. Taking this into account, the legislation [the European legislation] have laid down limits above which conventional food and feed must be labelled as products consisting of GMOs, containing GMOs produced from GMOs.

In other words, the legislation lays down limits above which conventional food and feed must be labelled. I continue:

These conventional products "contaminated" by authorised GMOs are not however subject to traceability and labelling requirements if they contain traces of these (authorised) GMOs below a limit of 0.9%, provided the presence of this material is adventitious or technically unavoidable.

Therefore, you are permitted to sell that product into the European market provided it is a conventionally based product and it has an MRL less than 0.9. In other words, farmers around this country, including Mr Ian Cohen's friend in Victoria with his 48 hectares of farm canola, can sell their crops into Europe without facing the labelling laws relating to GMOs because they were adventitious and are below 0.9 per cent. The Greens and their couple of friends in The Nationals have been dishonest. I wish they would sit down and read the rules relating to Europe. Not too long ago, when testing of crops was asked for by Japanese importers, a trace level of 0.1 per cent, or some similar low level, was found. But the crop went to Japan because under their rules the MRL is 5 per cent. Let us not muck around with this nonsense about the European Union.

The Hon. Duncan Gay: But it is adventitious, not overall.

The Hon. IAN MACDONALD: If the crops are under 0.9 per cent adventitious presence, they can be labelled as conventional crops within the European Union. This is the rule, yet I hear nonsense in this place about some great economic loss because there is a trace—

The Hon. Duncan Gay: Point of order: The Minister is misusing the word "adventitious". He has indicated that this level can be present every time. If the intention was that it could be present every time, this word would not have been used. If the Minister were to look up the word in a dictionary, he would find that its meaning is "an unusual position or place; accidentally or casually acquired; not there on purpose".

The Hon. IAN MACDONALD: I do not think anyone suggested it is there purposely.

The Hon. Duncan Gay: You did.

The Hon. IAN MACDONALD: I did not say it was there purposely. I did not say that.

The Hon. Duncan Gay: You absolutely did. You are now lying.

The Hon. IAN MACDONALD: I am not.

The Hon. Duncan Gay: You are not only stupid but also lying.

The Hon. IAN MACDONALD: The Deputy Leader of the Opposition is over the top. If the Deputy Leader of the Opposition had listened, he would have noted two terms.

The Hon. Duncan Gay: I did listen to you.

The Hon. IAN MACDONALD: The Deputy Leader of the Opposition did not listen. I used two terms, "adventitious or technically unavoidable".

Mr Ian Cohen: Who wrote this speech for you—Monsanto or Bayer?

The Hon. IAN MACDONALD: I am reading from the European Union's guidelines and regulations, which Mr Ian Cohen pretended in this House he knew something about, but he knows nothing. I suggest he should read them because they point out that if the level is under 0.9 per cent, it is regarded as a conventional crop if it is "adventitious or technically unavoidable". I think Mr Carracher's crop damage in Victoria would fit either of those two terms—no question about it—so he will not lose a cent. This bill makes a small but important change to the Gene Technology (GM Crop Moratorium) Act 2003. If Mr Ian Cohen wants to cite what is happening in Europe, he should get his facts right. The bill extends the moratorium's expiry date by two years. The extension of the Act until March 2008 is required to allow further consideration of the possible implications of GM food crops on the marketing of agricultural produce from New South Wales. The Deputy Leader of the Opposition raised the issue of legal liability, which also is not strictly relevant to the amendment.

The DEPUTY-PRESIDENT (The Hon. Kayee Griffin): Order! Before the Minister proceeds, I did not have the opportunity earlier to rule on the point of order of the Deputy Leader of the Opposition because members were shouting at each other. The point of order is not upheld.

The Hon. IAN MACDONALD: In relation to strict liability, the matter has been actively considered at the Federal level. Two separate parliamentary committees accepted that reliance on common law was appropriate for providing a remedy for victims of genetic contamination. I am confident that liability issues will once again be considered during the current review of the Commonwealth Gene Technology Act 2000, which is currently being considered by the States. The issue of liability is also being actively considered in other countries such as the United Kingdom, the United States of America, Canada and New Zealand. All those countries have accepted a reliance on common law and existing statutes. I am advised that any farmer whose crops may have been contaminated by GM crop trials could pursue common law remedies such as trespass, nuisance and negligence.

I assure the Deputy Leader of the Opposition that in relation to segregation the advisory council has informed me that it supports the introduction of thresholds for the presence of GM trials and conventional canola in line with the thresholds proposed by industry and agreed to at the recent primary industries ministerial council meeting, which adopted the position that had been put forward by the Federal Minister for Agriculture, Fisheries and Forestry, Mr Peter McGauran. Those thresholds are 0.9 per cent for canola grain, in line with the standard adopted by the Australian Oilseeds Federation, and 0.5 per cent for canola seed, in line with the standard adopted by the Australian Seed Federation. Given that industry has signalled a preference for the introduction of thresholds, I have consulted extensively on this matter with the New South Wales Farmers Association, marketing organisations, growers and industry bodies as well as other State governments.

In regard to the supply chain issues raised by the Deputy Leader of the Opposition, I point out that these are exactly the issues that the moratorium is designed to address and they are one of the key reasons why the moratorium will be extended. It is interesting to hear Mr Ian Cohen talk about who represents farmers. Does he seriously claim that the Nature Conservation Council and the Network of Concerned Farmers represent more farmers than do the organisations to which I have already referred? The problem is that Mr Ian Cohen wants to debate the merits of environmental and health aspects of GM crops when he knows only too well that the matter is being handled by the Office of the Gene Technology Regulator [OGTR] under the national framework. The simple truth is that there have been several reports on whether there is a premium for GM-free canola. All the reports have found that there is not. Japan, which is one of the most sensitive markets, accepts a threshold of 5 per cent.

Regarding the Wimmera farmer who claimed that his crops had a contamination level of 0.5 per cent, it is interesting to note that when his crop was independently tested, the tests revealed a contamination level of approximately 0.1 per cent. As for the conspiracy theory that has been advanced by Mr Ian Cohen, I can say only that the Government does not act on speculation but, rather, on facts. I would be happy to review any evidence, rather than rumours, that he has to offer. Mr Ian Cohen also asked why I did not order my department to investigate the incidences of contamination. The simple fact of the matter is that I did that, but I also referred the issue to the advisory council. Is Mr Ian Cohen suggesting that I should not have done that? For a person who voted for the inclusion of the advisory council when the original bill was being debated, I find his position hard to reconcile.

In relation to harvest protocols, which were referred to by the Deputy Leader of the Opposition on behalf of the Australian Grain Harvesters Association, I point out that he is quite incorrect in claiming that no protocols have been developed. GrainCorp carried out quite a deal of work on this matter, which was the subject of considerable debate when I was considering granting an exemption order for exactly the type of trials that the Deputy Leader of the Opposition sought. GrainCorp quite rightly was concerned that revealing this work would compromise a commercial advantage it held. I am not at liberty to reveal the details because they were provided to me in confidence but I assure the House that the commercial considerations are substantial.

I could engage in a lengthy discussion on those issues, suffice it to say that the maximum residue levels [MRLs] that have been proposed in relation to New South Wales reflect the national standards that have been adopted by the primary industries ministerial council after considerable discussion and debate. The MRLs in the terms I have described have been entirely necessary because under New South Wales legislation it is illegal to continue to grow GM material, particularly canola that had been excluded. The MRLs have also been necessary to provide certainty for New South Wales farmers. In taking that action I was supported very clearly and loudly by New South Wales farmers. The MRLs provide farmers who may have adventitious or unavoidable presence of GM in their crops at levels that are below MRLs with protection against legal liability.

Having made those remarks, I commend the bill to the House and suggest that if some members of the Opposition really want to understand the European Union's position, they should examine the European Union's guidelines and regulations. I will provide them with the web site address so that their research staff can research the questions and answers on the regulation of genetically modified organisms in the European Union.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 and 2 agreed to.

Mr IAN COHEN [9.50 p.m.]: I move Greens amendment No. 1:

Page 2, clause 3, lines 9-10. Omit all words on those lines. Insert instead:

omitting section 43 and by inserting instead the following section:

43 Expiry of Act

- (1) This Act expires on 3 March 2008 if, before that date, the Minister certifies, by notice tabled in each House of Parliament, that the pre-conditions for expiry of this Act have been satisfied.

- (2) If this Act does not expire on 3 March 2008, this Act expires on such later date as may be declared by the Governor to be the date of expiry of this Act, by proclamation published in the Gazette.
- (3) The Governor may make such a proclamation only if the Minister certifies in writing, before the proclamation is made, that the pre-conditions for expiry of this Act have been satisfied.
- (4) For the purposes of this section, the *pre-conditions for expiry of this Act* are that:
 - (a) legislation has been enacted in New South Wales that ensures that persons who cultivate or distribute, or hold patents in relation to, GM food plants are strictly liable for any contamination of non-genetically modified plants or crops that occurs as a consequence of that cultivation or distribution, and
 - (b) there are measures in place to ensure that GM food plants are fully segregated from non-genetically modified plants or crops and that the costs of segregation are met by those persons who hold patents in relations to, or who sell, plant, cultivate, distribute, harvest, transport or store, GM food plants, and
 - (c) those measures include a regime for the testing of plants to determine whether they have been genetically modified by means of a testing method that:
 - (i) provides results within one hour of testing, and
 - (ii) is 99% accurate to a contamination level of 0.01%, and
 - (iii) can be used at any stage of the supply chain.

This amendment seeks to keep the GM crop moratorium in place until certain conditions have been met. The earliest the moratorium could be lifted would be 3 March 2005. The moratorium could only be lifted on that date, however, if the following preconditions had been met: (a) that strict liability legislation had been enacted in New South Wales with respect to GM contamination of non-GM crops; (b) that a guaranteed identity preservation system was in place, ensuring that GM plants and non-GM plants could not be mixed; and (c) that precise and timely detection methods are available for testing plants for GM presence. If these conditions are not met by 3 March 2008 the moratorium will remain in place until such time as the Minister certifies in writing that the conditions specified in subsection (4) have been met. Only when the Minister certifies that the conditions have been met would the Governor proclaim the date of the expiration of the moratorium, and it would be published in the Gazette.

I have already spoken about the need for strict liability in respect of GM contamination in my second reading speech. Common law redress is not adequate for farmers whose non-GM food crops are contaminated with GM material and any subsequent losses they suffer as a result. Strict liability should apply to those who cultivate and distribute GM food plants, as well as those who hold patents for them. Another necessary precondition, which should be in place prior to the lifting of the moratorium, is the need for a guaranteed system that ensures complete segregation between GM and non-GM food crops to ensure that contamination of non-GM crops does not occur. The cost of maintaining this system must be borne by those who sell, plant, cultivate, distribute, harvest, transport, store or hold patents for GM food plants. Currently the onus for preserving identity falls on the farmer who wishes to remain GM free. This is patently unfair and the onus should fall on the party who could potentially be responsible for GM contamination of non-GM food crops.

Finally, the measures that ensure an identity preservation system must also include an accurate testing regime to provide results quickly, within an hour; be 99% accurate to a contamination level of 0.01 per cent; and be able to be used at any stage of the supply chain, be it in the mature plant, seed or any other relevant stage. Current testing regimes are, as I outlined in my second reading speech, inaccurate in many circumstances and slow. For a guaranteed identity preservation system to work, there must be an effective testing regime. Only after these conditions have been met should the moratorium be lifted. I commend the Greens amendment to the House.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [9.52 p.m.]: I indicate that whilst the National Party is close to the Greens on this issue, we are not that close as to support this amendment. The amendment is inspirational and has much within it that I find acceptable. The problem is the totality of it. The people who demand the right to grow GM should accept the right of their neighbours not to be contaminated. The Greens amendment runs very close to the crux of our concerns on GM. My concern is not that we are going to remain GM free but that when we get to 3 March 2008, and are one year into the new Debnam Government with me as the Minister making the decisions, we may find that during the reign of this incompetent Labor government the worst may have happened and it locked in legislation that was inappropriate for the situation

that we faced at that time. I wish I could be assured that we will be in a situation in 2008 for which these regulations are appropriate. Because of the concerns that I have, I think the Greens may be locking us into a moratorium in perpetuity that does not reflect the true situation. For those reasons I cannot support it.

The Hon. IAN MACDONALD (Minister for Natural Resources, Minister for Primary Industries, and Minister for Mineral Resources) [9.54 p.m.]: I thank the honourable member for his comments and also the Hon. Ian Cohen. I must say the little bit of fantasy by him is interesting. I still cannot work out his logic but as he is voting with me I will accept that. I know it has been because of my failing, in a sense, that we have not been able to conduct these trials, but I have been praying every night for the last three years that the drought ends.

The Hon. Duncan Gay: You are an atheist. How can you pray? You are wasting your prayers.

The Hon. IAN MACDONALD: I have never declared myself an atheist and there are many ways of praying.

The Hon. Duncan Gay: You might have been on your knees but you weren't praying.

The Hon. IAN MACDONALD: I might have been on my knees and I might have been begging the rain to come. To Reverend the Hon. Fred Nile that is probably praying. It is close enough to it. I know I am responsible for many things but I do not think I am responsible for the drought. It is unfortunate that we have not had rain but if you want to blame me for the drought I will accept it. I know the Hon. Duncan Gay has a high understanding of my intelligence and my ability to make decisions and make things happen. I do feel that he has praised me indeed by suggesting that I am responsible for this drought, or the breaking of it, hopefully.

The effect of this amendment is only to allow the Act to expire if certain preconditions are met relating to strict liability, segregation testing and so forth. I have on several occasions requested that the New South Wales Agricultural Advisory Council on Gene Technology consider the liability issue. The matter has been actively considered at Federal level and two separate Parliamentary Committees have accepted that reliance on the common law is the appropriate remedy.

The Hon. DUNCAN GAY: But you haven't done anything. Nothing has been achieved.

The Hon. IAN MACDONALD: The Parliamentary committees, on which there is a strong Coalition presence, have said that the common law is the way to go, and the common law is the way it is handled in Britain. I am confident that liability issues will once again be considered during the current review of the Gene Technology Act 2000 and I am sure the Hon Duncan Gay has already written it in.

The moratorium on GM food crops is specifically intended to allow the collection of information needed to properly assess all the issues surrounding GM crops, including segregation and supply chain issues. It would be a mistake to settle policy positions before industry and the New South Wales Agricultural Advisory Council on Gene Technology assesses the evidence on segregation and provides advice. I therefore believe that the amendment is far too restrictive and does not give the House much chance of allowing this legislation, if we let some of these issues proceed. It tries to tie up a government in 2008 in an unreasonable way and therefore is rejected.

Reverend the Hon. FRED NILE [9.58 p.m.]: I did indicate in the second reading contribution that the Christian Democratic Party would not support the amendment of the Greens because it is so detailed. For example, the last part of the amendment has the preconditions for expiry of the Act. It then has requirements that, from a Government point of view, have to be fulfilled to the nth degree. I believe that would mean this moratorium would never end and would be forever ongoing. It takes away the ability of this House to monitor the whole role of GM crops in this State. The Christian Democratic Party opposes the amendment.

Amendment negatived.

Clause 3 agreed to.

Title agreed to.

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

GOVERNOR-GENERAL'S RESIDENCE (GRANT) AMENDMENT BILL**STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL (NO. 2)****GREEK ORTHODOX ARCHDIOCESE OF AUSTRALIA CONSOLIDATED TRUST AMENDMENT
(DUTIES) BILL****FIRST STATE SUPERANNUATION LEGISLATION AMENDMENT (CONVERSION) BILL****SHOPS AND INDUSTRIES AMENDMENT (SPECIAL SHOP CLOSURES) BILL**

Bills received.

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

Motion by the Hon. John Della Bosca agreed to:

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

Bills read a first time and ordered to be printed.

BUSINESS OF THE HOUSE**Postponement of Business**

Government Business Orders of the Day Nos. 5 and 6 postponed on motion by the Hon. John Della Bosca.

**CONSUMER CREDIT (NEW SOUTH WALES) AMENDMENT (MAXIMUM ANNUAL
PERCENTAGE RATE) BILL****Second Reading**

Debate resumed from an earlier hour.

Ms SYLVIA HALE [10.03 p.m.]: The Greens support the bill.

Debate adjourned on motion by Ms Sylvia Hale.

ADJOURNMENT

The Hon. JOHN DELLA BOSCA (Special Minister of State, Minister for Commerce, Minister for Industrial Relations, Minister for Ageing, Minister for Disability Services, Assistant Treasurer, and Vice-President of the Executive Council) [10.05 p.m.]: I move:

That this House do now adjourn.

JAMES COOK UNIVERSITY SCHOOL OF MEDICINE

The Hon. JENNIFER GARDINER [10.05 p.m.]: It was a privilege to visit and be briefed on the operations of the medical school at the James Cook University, at its Townsville campus. For that I thank the Executive Dean of the Faculty of Medicine, Health and Molecular Science, Professor Ian Wronski and his staff. Professor Wronski is, among other things, a former president of the pioneering Australian College of Rural and Remote Medicine, an important body that has helped give rural and remote medicine a special profile in high places. The James Cook University School of Medicine is the only full medical school in northern Australia, primarily based in Townsville but with staffing resources located throughout northern Queensland with clinical schools at Cairns, Atherton, Mount Isa and Mackay. As Australia's newest medical school, it commenced in 2000, it has the latest in educational approaches and technologies, but with a strong emphasis on community links. Its vision is to pursue excellence and provide leadership and medical leadership and research.

In particular, programs will be responsive to the health needs of the communities of northern Australia. The school will be a leader in the focused areas of rural and remote health, indigenous health and tropical medicine for Australia and for the wider Asia-Pacific region. The James Cook University [JCU] offers a Bachelor of Medicine and a Bachelor of Science program. The success of this medical school offers a model that may well suit non-metropolitan New South Wales. The JCU medical school is uniquely qualified in the fields of rural, remote and indigenous health and tropical medicine. Information technology pathways are used extensively. Each week's learning is available to students online; interactive electronic workbooks are used, as are virtual laboratories.

Students are able to study in the discipline of general practice and rural medicine. The school's founders understood that the provision of adequate relevant health services determines the sustainability of many non-metropolitan communities. Health is their anchor. The Queensland health system has been under serious stress and well and truly in the spotlight, due to the revelations of multiple inquiries into Dr Patel's record at Bundaberg hospital. JCU's School of Medicine is a bright spot in that State's stressed health infrastructure.

The faculty is making a valuable contribution to helping make up Australia's serious doctor shortage, a phenomenon that is not going to end any time soon. In its first four years, there have been several thousand undergraduates at varying stages of their degrees. JCU has its eyes well and truly on helping provide the health work force needed in Australia, recognising the future demands for those trained in biomedicine and for super nurses and clinical assistants. It is a credit to many people, including community minded local campaigners who were unrelenting advocates for such an institution, that such a fine and popular medical school was brought to fruition.

Part of the negotiations making it a viable proposition involved closing the old, rambling Townsville General Hospital in the town, and the building of a new base hospital, almost in spitting distance of the faculty at the university campus. Within the school a collaborative centre of excellence is being developed; it aims to be a leader in research. Students undertake courses in Townsville for the first four years and then branch out to Cairns, Mackay and Mount Isa for their final two years. Most of the intake is from non-metropolitan backgrounds. Happily many are from Townsville; the city's young people choosing to stay in their home city instead of departing for a capital city medical school. They have access to a state-of-the-art medical school in a vibrant city in one of the most attractive regions of Australia. It attracts applicants from many other parts of Australia.

The graduates will be well trained and confident. This year, many of the applicants were from elsewhere in Australia. Unlike older metropolitan medical schools, James Cook University chose to buck the metropolitan trend to cut the years of study in medicine. JCU believes that, especially for those destined to practice in rural and remote locations, wide training is required. James Cook University sets great store in the need to graduate health professionals who relate very well to their patients.

Accordingly, two-way laboratories and mock doctors' consulting rooms are used so that students can gain experience in communicating with their patients whilst being monitored. I had the privilege of inspecting those facilities and other sorts of facilities. Students have access to excellent workrooms where they can study together. Hot spots have been set up at the health education precinct on the campus. At a café, which is just near the general hospital, medical training and other students can mix. The James Cook University medical school is an aspiring place. I look forward to the day when New South Wales can boast at least one such medical school located outside Sydney, Newcastle and Wollongong.

TRIBUTE TO SIR RICHARD DOLL

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [10.10 p.m.]: Tonight I pay tribute to Sir Richard Doll, probably the greatest epidemiologist who ever lived who does not appear to have an obituary in any of the Australian media, which I believe to be a great omission. Sir Richard Doll was born on 28 October 1912 in England and, as I said, he was probably the most distinguished medical epidemiologist who ever lived. He established the fact that cigarette smoking caused lung cancer and he went on to show that it caused bladder and other cancers and cardiovascular disease.

Richard Doll did seminal work with Richard Petro on the health of doctors and their families, demonstrating an increased risk of suicide and liver disease. He carried out major research on the risks and benefits of the contraceptive pill, low radiation and the dietary treatment of gastric ulcers. He graduated from St Thomas's Hospital Medical School in 1937 and served with the Royal Army Medical Corps in France in the

Middle East during the Second World War and experienced the retreat from Dunkirk. He lived through the economic depression of the 1930s and walked some of the way with, and provided medical support to, the Jarrow hunger marchers in 1936, which led to his strong views on social justice and a fairly left-wing political stance.

In 1944 he contracted tuberculosis of the kidneys and had one kidney removed. He went to work with Bradford Hill at the Medical Research Council in January 1948. Government statisticians had drawn attention to the fact that there had been a huge increase in lung cancer deaths and the Medical Research Council held a conference to decide whether the increase was real and whether a cause should be identified. Doll said:

At the time smoking seemed a normal and harmless habit. Eighty per cent of men smoked.

Doll and Hill both thought that the most likely cause would prove to be pollution—smuts from coal fires were terrible in those days and had been for decades, and the expansion of the motor industry had meant more tarring of roads and more exhaust fumes. There was a known association of pipe smoking with lip cancer, but it was thought to be caused mainly by the heat of the pipe stem. Doll and Hill designed a short questionnaire administered by social workers to 650 male patients in London hospitals.

The results were so compelling and so unexpected that Doll and Hill took them to the Medical Research Council, which advised them that the results might be peculiar to London and suggested they repeat their study in other cities. So they studied 750 similar patients in Bristol, Cambridge, Leeds and Newcastle. In 1947 Doll and Hill visited hundreds of patients in London hospitals who had been diagnosed with lung cancer or who were suspected of having it. In 649 cases of lung cancer only two were non-smokers. Doll's and Hill's numbers were so striking that what others had regarded as an association they could instantly claim to be a causation.

Doll was so struck by the certainty of his research that he instantly gave up smoking, commenting, "It wasn't so difficult." Others were harder to convince. In 1950, when the first survey was complete, the secretary of the Medical Research Council suggested that the results might apply only to London. However, a strange thing happened. When the results were published in 1952 no-one took much notice. The same thing happened when a similar study appeared in the United States of America. The survey was still considered to be quite small. Even the most eminent health officials refused to believe that lung cancer was largely self-inflicted. Doll said:

This wasn't a result of pressure from the tobacco industry, although they did make sure that if ever there was an article about it, it was accompanied by another one from a doctor who said that the link was a lot of nonsense.

The tobacco industry had an unusual ally. The cancer advisory committee of the Department of Health suggested a period of inaction. Doll remembers being told, "You shouldn't frighten people into thinking that smoking might be dangerous." But he made a contribution beyond establishing the effects of smoking—he made a great contribution to radiation research. In 1957 Richard Doll in collaboration with Michael Court Brown published the first report of a follow-up study of British ankylosing spondylitis patients treated with X-rays.

That study has become one of the classic investigations of the long-term effects of the medical uses of ionising radiation. The medical irradiation studies confirmed the raised risk of leukaemia and other cancers following radiation received at high dose rates in the course of therapies. Another study investigated leukaemia mortality amongst a large cohort of children who had received low doses of radiation during antenatal X-ray examinations at hospitals in London and Edinburgh. Doll travelled widely and was much in demand as a lecturer or adviser in medical circles all over the world.

He received a large number of awards and was unlucky not to have received a Nobel prize. He set up the national blood service and insisted that Britain should avoid the American path of paying donors for their blood. Sadly, this very day the Minister Assisting the Minister for Health (Cancer) refused to conduct a parliamentary inquiry into smoking in New South Wales because he is scared of the hotel industry. That shows, unfortunately, that the work of Sir Richard Doll still remains to be completed. [*Time expired.*]

COUNTRY LABOR CONFERENCE

The Hon. CHRISTINE ROBERTSON [10.15 p.m.]: Tonight I want to speak about the Country Labor conference that was held last weekend in Dubbo. The conference was the largest rural political conference in the Southern Hemisphere, attended by many members from this side of the House. The country

conference is an important part of the Country Labor calendar and it is important for the Australian Labor Party as a whole. It is where people from the country get to have their say on important issues and where Country Labor takes up the fight on those issues to ensure they are an important part of the broader Australian Labor Party agenda.

The country conference and Country Labor have a proud history of fighting for country communities and issues. The Nationals let the Federal Government and its competition policy kill the chook meat industry and now it is doing nothing to save the rice industry, which is currently threatened by this policy. Concerns were raised at the conference about the many cutbacks the Howard Government has inflicted on country New South Wales, but the greatest anger was directed at pending workplace changes to be inflicted by Canberra on the working people of Australia. This year conference delegates vowed to continue the fight against Howard's workplace changes. It has taken 90 years to win our rights at work and more, and we will fight to keep them—not just now and at the next Federal election but for another 90 years, if necessary.

Premier Iemma promised to challenge the Federal bill in the High Court. The next Prime Minister Kim Beazley promised not to amend these laws, but rather to rip them up. That is because Labor cares about working people. We are proud to be the product of decades of fighting for workers rights. We all marched down the main street in Dubbo in protest of these changes chanting, "Your rights at work—Worth fighting for." Every man and woman in that march meant it. We did that because we are Country Labor. We know that country workers are often given a raw deal in the workplace. Making it a punishable offence to disclose the contents of a workplace agreement is just one example of how to make it worse.

If people do not sign an agreement or they bring support or, heaven forbid, try to negotiate an interview in a job-seeking process the response will be, "Next, please." Their choice at work will be take it or leave it. We will fight until we win because we are Country Labor. That means we are a powerful force. We are proudly an integral part of the New South Wales branch of the Australian Labor Party. We have a Country Labor committee, which is an integral part of the New South Wales branch of the Australian Labor Party. It works all year to bring issues from its communities before the Government and it writes our policy from decisions at conferences and issues from individual members and party units.

We also have the Country Labor parliamentary group, which is growing at every election because of our excellent representation. Delegates to the country and State conference, State and Federal electoral councils, country branches and individual country members are the backbone of the Country Labor team, all working for country communities. Because of this our priorities come from watching local issues. That is why we get outcomes within the Australian Labor Party and for the communities for whom we work. As honourable members well know, we have five Country Labor members in this House. The Nationals have four.

We are not just the rump of another political party, we are a force to be reckoned with within our own party and not just some sort of tack-on. We would not have let Telstra be sold. Another thing Country Labor has to fight for now is telecommunications, which are essential for our future. More fights for equity are needed. We will do it but the Federal Coalition Government caused it. We would not have let the conditions of country workers be destroyed. We will be a major force in getting them fixed for country people and country families. Since 1996 a string of Howard Government policies have hurt people in country New South Wales.

As our infrastructure is underfunded and as competition policy destroys our industries—mind you, competition policy with no social conscience attached—industrial relations changes will hurt workers everywhere, but particularly in the country. If members of The Nationals truly represented country people they would take up the fight with the Liberals and oppose these policies. But they are nothing more than puppets. Time and again Country Labor has taken issues from local communities to Government and come back with results. Unlike The Nationals, we listen to country people and represent them. Unlike The Nationals, we are not beholden to another political party that could not care less about the country. Country Labor gets results. Unlike any honourable members opposite, Country Labor is the only voice that truly stands up for all country communities—not just a select few in those communities.

JEWISH NATION FUND

The Hon. DON HARWIN [10.20 p.m.]: On Monday evening it was my pleasure to attend a gala dinner hosted by the Jewish National Fund [JNF] and at drinks gathering prior to that function to meet the forty-fifth Vice President of the United States, Albert Gore Jr. The Jewish National Fund is an international body dedicated to raising funds for environmental development projects in Israel. Having identified agricultural

improvement as key to the viable sustainability of the Jewish state, David Ben Gurion, the first Prime Minister of Israel, dedicated his nation to the greening of the desert. The JNF remains committed to fulfilling his legacy. Long recognised as a champion of environmental management as well as conservation, former Vice President Al Gore was an obvious choice for keynote speaker at the launch of the JNF's latest fundraising initiative.

In the book that he published before he was elected Vice President, Mr Gore praised the efforts of the JNF, identifying its tree-planting movement as "a model for what could be accomplished all over the world, both in degraded areas of the underdeveloped world and in industrial societies." He praised the fund's project not only for reforestation but also for developing soil and water conservation strategies and for improving timber-harvesting practices. At the dinner, guests viewed a short film outlining the JNF's latest project on the provision of water to the Bnei Shimon part of the Northern Negev. An arid area of 30,000 acres, Bnei Shimon receives an annual rainfall of between 200 and 280 millimetres. Most of the cultivated land is not irrigated and gets enough rain for profitable grain farming on average only once in every five years.

In December 1986 I visited Israel as part of a Young Political Leaders delegation. During the visit I skirted the edge of the Northern Negev while travelling between Tel Aviv and Gaza, so I have some familiarity with the region. The key to population growth and sustainable agricultural development in this region is the supply of fresh water. The JNF has identified the treatment of wastewater as the solution. Two massive recycling reservoirs will be used to treat sewage outflows from nearby Hebron, delivering 2.4 million cubic metres of water annually for agricultural use. This supply will enable the environmentally responsible development of low water demand crops, such as olives, garlic and cactus fruit, on a scale able to support an additional 6,000 residents. I am sure that many honourable members will be struck, as I was, by the irony of such wastewater recycling projects being developed in the deserts of the Middle East while in Sydney our State Labor Government continues to dismiss recycling and stormwater harvesting proposals in favour of an environmentally damaging desalination plant.

Al Gore's speech at the launch of the JNF's Northern Negev fundraising campaign was an entertaining and enlightening mix of self-deprecating humour and fascinating comments about Middle Eastern politics. For example, he told us how he used to fly across the United States of America aboard Air Force Two and now, just a few years later, he has to remove his shoes whenever he boards a flight! His political observations covered a range of issues, from the Israeli withdrawal from the Gaza Strip, through Iran's nuclear ambitions, to Turkey's entry into the European Union and its wider implications. To have someone of Mr Gore's status speak at length on such complex and critical political issues was a wonderful opportunity and a great privilege for me.

I would like to take this opportunity to extend my thanks publicly to the Jewish National Fund for its hospitality. I thank particularly the President of Jewish National Fund in New South Wales, Zev Bashan. I also thank one of the Vice Presidents of JNF New South Wales, Anna Berger, with whom I had a most interesting discussion about the fund's work and its water recycling projects. I also extend my special thanks to all the table hosts who supported the event and made it possible, most notably Lew and Eva Levi—I notice that Lew is in the public gallery, accompanied by Councillor Joy Clayton of Waverley Council. Lew hosted Councillor Sally Betts of Waverley Council and me at the function. It was certainly a tremendous evening. The work undertaken by the Jewish National Fund is of great importance and continues to be an example to the rest of the world of responsible environmental management. I wish the JNF well with its project in the Northern Negev.

SABIAN MANDAEAN ASSOCIATION IN AUSTRALIA LIMITED

Reverend the Hon. FRED NILE [10.25 p.m.]: On 8 November I received an unusual letter from the Sabian Mandaean Association in Australia Limited, which states:

Dear Mr Nile,

The Sabian Mandaean Association encloses for your information a copy of a letter dated 29th September 2005, which we were surprised to receive from the Hon. Peter Breen M.L.C., together with a copy of our reply.

We would be grateful for an opportunity to discuss these matters with you.

Yours sincerely,
Khosrow Chohaili
Delegate of the
Board of Directors

The Hon. Peter Breen's letter says:

If you have any comments to make about my observations in the debate, or those of the Reverend Fred Nile, I would like to hear from you.

In its letter to the Hon. Peter Breen—it is a six-page letter so I will read only extracts from it—the Sabian Mandaean Association states:

To give a direct answer to the question that you have put to us, I have to advise that the Rev. Fred Nile's remarks regarding the *Koran* as reported in *Hansard* are very understated. In fact the *Koran* contains numerous toxic passages which have led to much misery for millions of people over many centuries and are continuing to do so.

Mandaeans have come to Australia to escape from Islam. There is now a substantial and growing Mandaean community living in south-western Sydney.

The letter continues:

The virulence of Islamic hatred toward us may stem in part from the fact that the Mandaean religion is utterly dissimilar to Islam and is in many ways the antithesis of Islam. Islam was imposed by force and is maintained by terror. The teaching of John the Baptist is opposed to violence. In our very long history Mandaeans have never sought to impose our religion upon anyone else.

The association says to the Hon. Peter Breen:

We were somewhat surprised to receive this request from you as Mandaeans' familiarity with the *Koran* is acquired under painful circumstances. In Iraq and Iran, Mandaean schoolchildren are forced to study the *Koran*. Muslim teachers regale Mandaean schoolchildren with lurid accounts of the fate allegedly awaiting them in hellfire as "infidels". Muslim teachers also identify Mandaean children to their Muslim classmates as "infidels" for whom the *Koran* prescribes various forms of abuse and mistreatment. In some instances Muslim teachers may even encourage older Muslim students physically to attack younger Mandaean children on the basis of *Koranic* texts.

This is a serious matter. I received several letter in the past from the Sabian Mandaean Association about the persecution of members of their religion, including attacks upon them in Australian detention centres. The letter says:

In the immigration detention centres in Australia and on Manus Island and Nauru many Muslims continued to mistreat Mandaeans in various ways when they had the opportunity to do so. There has been a long series of attacks by Muslims against Mandaeans, Tamils and Christians in the detention centres. These attacks have been reported by the Human Rights and Equal Opportunity Commission, Amnesty International, Lutheran Community Care and others ...

Mandaeans have come to Australia to escape from Islam.

As I said, the virulence of Islamic hatred toward the Mandaeans may stem in part from the fact that they are members of a peaceful organisation. They are a credit to our Australian way of life, and they are making a positive contribution. The letter to the Hon. Peter Breen continues:

Muslims are particularly targeting Mandaean religious leaders [in the Middle East].

He spoke about attacks on religious leaders in Iraq and Iran who are suffering a violent form of persecution. Delegate Khosrow Chohaili concludes:

We would be most happy to provide further information. We shall look forward to hearing from you at your earliest convenience.

TRIBUTE TO MR EDDIE PAKES

The Hon. PETER PRIMROSE [10.30 p.m.]: On Friday 28 October my family attended the funeral of Eddie Pakes. Eddie left this world with a guard of honour provided by his friends: the men and women he called "comrades". In his eulogy, Paul Bastian, State Secretary of the Australian Manufacturing Workers Union [AMWU], said:

Eddie Pakes was a good and decent man, a fine tradesman, a much respected comrade, a great trade unionist, and a friend to all. He will be genuinely missed by everyone who knew him.

No person could hope to be remembered with greater affection and respect. Eddie Pakes was a man whose commitment and courage over more than half a century made a real difference to the struggle by working people for decent living standards and a fair and just society—one that considers the needs of all, not just the privileged few. Many of the men and women who formed the guard of honour for Eddie are no longer young, and their lives have not been easy. But, like Eddie, they have maintained a commitment to each other that is beyond the passing friendships and relationships of convenience that seem to be so common today. They call each other "comrade" and that word means something. It says something about the very deep sense of commitment and trust that developed through their struggle together as unionists to improve the lot of the working people they represented.

Eddie was a man who dedicated his entire life to his family and the union movement. And while the love of his life was his wife, Shirley, his life's work was his union, the AMWU. Eddie was absolutely untiring in his commitment to his union and the workers and their families it represented. I know that it was a source of immense pride to him that his three children are all committed to these same ideals and, like their father, they are now all engaged in their own ways in the struggle for workers' rights against the current Federal Government legislation. Eddie Pakes was a quietly spoken man who was both liked and respected. He was not a man who imposed his views on others. Rather, he listened to others and worked with them.

It is because of the commitment of people like Eddie Pakes that his union, the AMWU, not only survived but grew in strength as the leading progressive grassroots union it is today. When Eddie's health finally forced him to retire, he continued to take a prominent role in AMWU campaigns. He was recently awarded life membership of the AMWU Retired Members Association in recognition of his extraordinary contribution as a unionist, and to that organisation in particular. Eddie took a strong interest in working to achieve justice for James Hardie's victims, and until he died he played a leading role the current campaign against the proposed Federal industrial relations legislation. In fact, Eddie died on his way home from a meeting of the AMWU Retired Members Association that had been discussing just that issue.

Despite the huge amount of time he devoted to union campaigns, Eddie Pakes also found time to be involved in other community activities. As a foundation member of the Sutherland Trade Union Club and an active member of the Australian Labor Party he took every opportunity to ensure that the views and needs of working people were never forgotten. I am told that when Eddie heard the tragic story of a worker who took his life rather than be alone in his old age, Eddie personally contacted the Minister for Health and demanded that resources be allocated to ensuring that no other worker should suffer this way. As a result, the Minister appointed Eddie to the Government's Health Advisory Board, on which he served two full terms doing what he did best: representing the interests of working people. This is yet another example of Eddie's compassion and commitment to social justice. I offer Shirley Pakes and her family my deepest condolences on their loss. I assure them that the contribution of Eddie Pakes towards making the world a better place will never be forgotten.

Motion agreed to.

The House adjourned at 10.34 p.m. until Thursday 10 November 2005 at 11.00 a.m.
