

# LEGISLATIVE COUNCIL

Tuesday 28 February 2006

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**The President (The Hon. Dr Meredith Burgmann)** took the chair at 2.30 p.m.

**The Clerk of the Parliaments** offered the Prayers.

**The PRESIDENT:** I acknowledge that we are meeting on Eora land.

## ASSENT TO BILLS

Assent to the following bill reported:

Law Enforcement Legislation Amendment (Public Safety) Bill

## DEATH OF THE HONOURABLE WILLIAM GEOFFREY KEIGHLEY, OAM, A FORMER MEMBER OF THE LEGISLATIVE COUNCIL

**The PRESIDENT:** We have only recently learned of the death on 14 June 2005 of the Hon William Geoffrey Keighley, OAM, aged 80 years, a former member of this House. On behalf of the House I have extended to his family the deep sympathy of the Legislative Council in the loss sustained.

*Members and officers of the House stood in their places.*

## NSW OMBUDSMAN

### Reports

**The President** tabled the following reports:

- (1) Law Enforcement (Controlled Operations) Act 1997 and the Ombudsman Act 1974—Special report entitled "Law Enforcement (Controlled Operations) Act Annual Report 2004-2005", dated November 2005, received out of session and authorised to be made public on 5 December 2005.
- (2) Community Services (Complaints, Reviews and Monitoring) Act 1993 and the Ombudsman Act 1974—Report entitled "Report of Reviewable Deaths in 2004", dated December 2005, received out of session and authorised to be made public on 7 December 2005.

**Ordered to be printed.**

## INDEPENDENT COMMISSION AGAINST CORRUPTION

### Reports

**The President** tabled, pursuant to the Independent Commission Against Corruption Act 1988, the following reports:

- (1) Report entitled "Report on Investigation into Safety Certification and the Operation of the WorkCover NSW Licensing Unit", dated December 2005, received out of session and authorised to be made public on 14 December 2005.
- (2) Report entitled "Report on Investigation into Schemes to Fraudulently Obtain Building Licences", dated December 2005, received out of session and authorised to be made public on 21 December 2005.
- (3) Report entitled "Report on Investigation into the Conduct of an Officer of the Local Court Registry at Penrith", dated February 2006, received out of session and authorised to be made public on 28 February 2006.

**Ordered to be printed.**

## POLICE INTEGRITY COMMISSION

### Reports

**The President** announced the receipt, pursuant to the Police Integrity Commission Act 1996, of the following reports:

- (1) Report entitled "Report to Parliament: Operation Cobalt", dated December 2005, received out of session and authorised to be made public on 14 December 2005.
- (2) Report entitled "Report to Parliament: Operation Whistler", dated December 2005, received out of session and authorised to be made public on 21 December 2005.

**Ordered to be printed.**

## MINISTRY

**The Hon. JOHN DELLA BOSCA:** I inform the House that on 17 February 2006 Her Excellency the Governor accepted the resignations of the following Ministers:

The Hon. Morris Iemma, MP, as Treasurer  
The Hon. John Arthur Watkins, MP, as Minister for State Development  
The Hon. John Joseph Della Bosca, MLC, as Special Minister of State, and Assistant Treasurer  
The Hon. Patrick Carl Scully, MP, as Minister for Utilities  
The Hon. Michael Costa, MLC, as Minister for Finance  
The Hon. Joseph Guerino Tripodi, MP, as Minister for Roads  
The Hon. Eric Michael Roozendaal, MLC, as Minister for Ports and Waterways

On the same day Her Excellency the Governor appointed the following persons to the offices indicated:

The Hon. Morris Iemma, MP, as Minister for State Development  
The Hon. John Joseph Della Bosca, MLC, as Minister for Finance  
The Hon. Michael Costa, MLC, as Treasurer  
The Hon. Joseph Guerino Tripodi, MP, as Minister for Energy, Minister for Ports and Waterways, and Minister Assisting the Treasurer on Business and Economic Regulatory Reform  
The Hon. David Andrew Campbell, MP, as Minister for Water Utilities  
The Hon. Eric Michael Roozendaal, MLC, as Minister for Roads

## REPRESENTATION OF MINISTERS IN THE LEGISLATIVE ASSEMBLY

**The Hon. JOHN DELLA BOSCA:** I inform the House that with respect to the representation of Government responsibilities in this Chamber I shall act in respect of my own portfolios and will represent the following Ministers in the other place:

The Hon. Morris Iemma, MP, Premier, Minister for State Development, and Minister for Citizenship  
The Hon. Robert John Debus, MP, Attorney General, Minister for the Environment, and Minister for the Arts  
The Hon. Diane Beamer, MP, Minister for Fair Trading, and Minister for Western Sydney

My colleague the Hon. Michael Costa, MLC, Treasurer, Minister for Infrastructure, and Minister for the Hunter, will act in respect of his own portfolios and will represent the following Ministers in the other place:

The Hon. Frank Ernest Sartor, MP, Minister for Planning, Minister for Redfern Waterloo, Minister for Science and Medical Research, and Minister Assisting the Minister for Health (Cancer)  
The Hon. Joseph Guerino Tripodi, MP, Minister for Energy, Minister for Ports and Waterways, and Minister Assisting the Treasurer on Business and Economic Regulatory Reform

My colleague the Hon. John Hatzistergos, MLC, Minister for Health, will act in respect of his own portfolio and will represent the following Ministers in the other place:

The Hon. Carmel Mary Tebbutt, MP, Minister for Education and Training  
The Hon. Cherie Burton, MP, Minister for Housing, and Minister Assisting the Minister for Health (Mental Health)

My colleague the Hon. Anthony Bernard Kelly, MLC, Minister for Justice, Minister for Juvenile Justice, Minister for Emergency Services, Minister for Lands, and Minister for Rural Affairs, will act in respect of his own portfolios and will represent the following Ministers in the other place:

The Hon. Reba Paige Meagher, MP, Minister for Community Services, and Minister for Youth  
The Hon. David Andrew Campbell, MP, Minister for Water Utilities, Minister for Small Business, Minister for Regional Development, and Minister for the Illawarra  
The Hon. Kerry Arthur Hickey, MP, Minister for Local Government

My colleague the Hon. Ian Michael Macdonald, MLC, Minister for Natural Resources, Minister for Primary Industries, and Minister for Mineral Resources, will act in respect of his own portfolios and will represent the following Ministers in the other place:

The Hon. Sandra Christine Nori, MP, Minister for Tourism and Sport and Recreation, and Minister for Women  
The Hon. Grant Anthony McBride, MP, Minister for Gaming and Racing, and Minister for the Central Coast  
The Hon. Milton Orkopoulos, MP, Minister for Aboriginal Affairs, and Minister Assisting the Premier on Citizenship

My colleague the Hon. Eric Michael Roozendaal, MLC, Minister for Roads, will act in respect of his own portfolio and will represent the following Ministers in the other place:

The Hon. John Arthur Watkins, MP, Minister for Transport

The Hon. Patrick Carl Scully, MP, Minister for Police

### **TABLING OF PAPERS NOT ORDERED TO BE PRINTED**

**The Hon. Henry Tsang** tabled, pursuant to Standing Order 59, a list of all papers tabled since 1 December 2005 and not ordered to be printed.

### **PRIVILEGES COMMITTEE**

#### **Report**

**The Hon. Peter Primrose**, as Chair, tabled report No. 33, entitled "Protocol for Execution of Search Warrants on Members' Offices", dated February 2006, together with submissions and correspondence.

**Report ordered to be printed.**

### **AUDIT OFFICE**

#### **Reports**

**The Clerk** announced the receipt, pursuant to the Public Finance and Audit Act 1983, of the following performance audit reports of the Auditor-General:

- (1) Report entitled "Liverpool to Parramatta Bus Transitway", dated December 2005, received out of session and authorised to be printed on 5 December 2005.
- (2) Report entitled "Relocating Agencies to Regional Areas", dated December 2005, received out of session and authorised to be printed on 14 December 2005.

**The Clerk** announced further that, pursuant to the Act, it had been authorised that the reports be printed.

### **GENERAL PURPOSE STANDING COMMITTEE NO. 1**

#### **Report: Personal Injury Compensation Legislation**

**The Clerk** announced the receipt, pursuant to standing orders, of report No. 28, entitled "Personal Injury Compensation Legislation," dated December 2005, together with transcripts of evidence, tabled documents, submissions, correspondence and answers to questions taken on notice.

**The Clerk** announced further that, pursuant to standing orders, it had been authorised that the report be printed.

**Reverend the Hon. Dr GORDON MOYES** [2.43 p.m.]: I move:

That the House take note of the report.

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

### **STANDING COMMITTEE ON SOCIAL ISSUES**

#### **Report: The Funeral Industry**

**The Clerk** announced the receipt, pursuant to standing orders, of report No. 36 entitled "The Funeral Industry", dated December 2005, together with transcripts of evidence, tabled documents, submissions and correspondence.

**The Clerk** announced further that, pursuant to standing orders, it had been authorised that the report be printed.

**The Hon. JAN BURNSWOODS** [2.44 p.m.]: I move:

That the House take note of the report.

**Debate adjourned on motion by the Hon. Jan Burnswoods.**

### **TABLING OF PAPERS**

**The Hon. Henry Tsang** tabled the following papers:

- (1) Annual Reports (Statutory Bodies) Act 1984—Report of New South Wales Cancer Council for the period 30 June 2004 to 30 September 2005
- (2) Report of the Independent Transport Safety and Reliability Regulator entitled "Implementation of the NSW Government's response to the Final Report of the Special Commission of Inquiry into the Waterfall Accident—Reporting period October-December 2005", dated January 2006

**Ordered to be printed.**

### **COMMITTEE ON THE INDEPENDENT COMMISSION AGAINST CORRUPTION**

#### **Report: Examination of the 2003-2004 Annual Report of the Independent Commission Against Corruption**

**The Clerk** announced the receipt, pursuant to the Independent Commission Against Corruption Act 1988, of report No. 5/53, entitled "Examination of the 2003-2004 Annual Report of the Independent Commission Against Corruption, incorporating edited transcripts of evidence", dated December 2005.

**The Clerk** announced further that, pursuant to the Act, it had been authorised that the report be printed.

**The Hon. JENNIFER GARDINER** [2.46 p.m.]: I move:

That the House take note of the report.

**Debate adjourned on motion by the Hon. Jennifer Gardiner.**

### **PRIVILEGES COMMITTEE**

#### **Report**

**The Clerk** announced the receipt, pursuant to standing orders, of report No. 32, entitled "Citizen's Right of Reply (Hillsong Emerge)", dated December 2005.

**The Clerk** announced further that, pursuant to standing orders, it had been authorised that the report be printed.

### **SELECT COMMITTEE ON THE CROSS-CITY TUNNEL**

#### **Report: Cross City Tunnel—First Report**

**The Clerk** announced the receipt, pursuant to the resolution of 15 November 2005, of the report entitled "Cross City Tunnel: First Report," dated February 2006.

**The Clerk** announced further that, pursuant to the resolution, it had been authorised that the report be printed.

**Reverend the Hon. FRED NILE** [2.48 p.m.]: I move:

That the House take note of the report.

As members of the House know, from the time the cross-city tunnel was opened on 28 August 2005 there has been a great deal of controversy concerning the tunnel and decisions related to it, particularly those caused by changes to local streets in the Sydney central area, the narrowing of William Street and the removal of free direct access to harbour crossings. There has also been anger over the cost of the toll for motorists to use the tunnel, which, at \$3.56 each way, is not regarded by road users as offering value for money. Road users have voted with their wheels and are not using the tunnel. Traffic figures in February 2006 of around 30,000 motor

vehicles per day are far less than the 90,000 per day predicted by both the Cross City Tunnel Motorway and the Roads and Traffic Authority [RTA].

The committee considered a wide range of issues relating to the cross-city tunnel in its report, many of which can apply to public-private partnerships more generally and will be addressed more thoroughly in the committee's second report. However, the most pressing issue is how to overcome the current chaos as soon as possible. For this reason the committee has taken the decisive step of recommending that the RTA immediately reverse all road changes that will not lead to a contractually imposed liability to pay compensation to tunnel operators and also investigate the feasibility of reversing even those changes that may impose a liability to pay compensation. If this recommendation is adopted, there will be an immediate relaxation of restrictions to the freedom of movement of people in cars moving through the surface streets of central Sydney.

The tunnel is certainly an enhancement to the road network. Greater use of the tunnel will reduce congestion in central Sydney. For this reason I am pleased that the committee has also recommended that the RTA encourage the Cross City Motorway company to reduce the toll immediately to the more reasonable level of \$2.90, which obviously would encourage greater use of the tunnel. More cars mean more revenue.

In its hearings the committee heard from a wide range of people, from community groups affected by surface road changes associated with the cross-city tunnel project, to former Premiers, current heads of government departments, including the RTA and the Department of Planning and Treasury, and the former head of the Cross City Motorway company. On behalf of the committee I thank all the witnesses for their co-operation and evidence. While I appreciated the attendance of former Premiers and Ministers, I was disappointed that the current Premier and current Ministers declined to give evidence to the committee. The people of Sydney and New South Wales deserved to hear from the current leaders of the State and to receive their perspective on the cross-city tunnel.

I did consider resigning from the Chairman's position by way of protest, but I felt that such a great deal of valuable investigation was being undertaken by the committee, and, according to my investigations, as I was appointed by Parliament the committee could not elect a chairman. Therefore, had I resigned from the position of Chairman, the inquiry would have been stalled. I recognised the concern in the community over the cross-city tunnel, and I felt it was important to report on the committee's findings without delay and to make the committee's strong recommendations known to the Government as soon as possible.

I am also concerned, as are other members of the committee, that the draft report and details of the final report were leaked to the media before the committee had considered them. The leaking of reports before they have been discussed and adopted can lead to confusion over the committee's consensual view and does not contribute to the public discussion of the issue. The committee will take strong action to discover the source of the leak, which may include the committee questioning members of the media who have quoted from or referred to the draft report. The report concentrates on the cross-city tunnel. In addition to the recommendations about the toll level and the road changes, the report makes recommendations as to the planning for major infrastructure projects, the methodology for tendering and contract negotiation and the role of community consultation. The second report of the committee will examine more generally the role of government agencies in public-private partnerships and expand upon the recommendations made in this report.

I thank the committee members for their co-operation and support during the first part of the inquiry. I particularly thank the committee secretariat—Rachel Simpson, Cathy Nunn, Laura Milkins, Simon Johnston and Madeleine Foley—for their invaluable assistance and hard work, on one occasion working till 4.00 a.m., in preparing this excellent and comprehensive report in such a short time frame and in accordance with the date set for reporting to the House.

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

## **STANDING COMMITTEE ON STATE DEVELOPMENT**

### **Government Response to Report**

**The Clerk** announced the receipt, pursuant to standing orders, of the Government's response to report No. 30, entitled "Inquiry into Ports Infrastructure in New South Wales—Final Report".

**The Clerk** announced further that, pursuant to standing orders, it had been authorised that the response be printed.

## **GENERAL PURPOSE STANDING COMMITTEE NO. 4**

### **Government Response to Report**

**The Clerk** announced the receipt, pursuant to standing orders, of the Government's response to report No. 13, entitled "Management of the Sydney Harbour Foreshore Authority".

**The Clerk** announced further that, pursuant to standing orders, it had been authorised that the response be printed.

### **SELECT COMMITTEE ON JUVENILE OFFENDERS**

#### **Government Response to Report**

**The Clerk** announced the receipt, pursuant to standing orders, of the Government's response to the report entitled "Report on the Inquiry into Juvenile Offenders".

**The Clerk** announced further that, pursuant to standing orders, it had been authorised that the response be printed.

### **JOINT STANDING COMMITTEE ON ROAD SAFETY**

#### **Report**

**The Clerk** announced the receipt, pursuant to resolution, of report No. 9/53, entitled "Repairing to a Price, Not a Standard—Report of an inquiry into motor vehicle smash repairs under the Insurance Australia Group (NRMA Insurance) Preferred Repairer Scheme, and its implications for roadworthiness, crashworthiness, and road safety", dated December 2005, and a copy of the public submissions and transcripts of public evidence related to the inquiry.

**The Clerk** announced further that, pursuant to resolution, it had been authorised that the report be printed.

### **GENERAL PURPOSE STANDING COMMITTEE NO. 4**

#### **Report: Pacific Highway Upgrades—Interim Report**

**The Clerk** announced the receipt, pursuant to standing orders, of report No. 14, entitled "Pacific Highway Upgrades: Interim Report—Ewingsdale-Tintenbar and Ballina-Woodburn", dated December 2005.

**The Clerk** announced further that, pursuant to standing orders, it had been authorised that the report be printed.

**The Hon. JENNIFER GARDINER** [2.52 p.m.]: I move:

That the House take note of the report.

This report examined two extremely controversial proposed upgrades to the Pacific Highway on the Far North Coast between Ewingsdale and Tintenbar and Ballina and Woodburn. The inquiry came about as a result of the great local unrest generated by the Road and Transport Authority [RTA] announcements of route options and a preferred route for these upgrades. General Purpose Standing Committee No. 4 received extensive evidence from residents of the Far North Coast. The committee's hearings and forum, which were conducted in Ballina, provided an important opportunity for disparate groups and individuals to have their say, many for the first time, about the plans for their communities, which have the potential to affect them greatly.

Local people told us that they strongly support upgrading the Pacific Highway to improve safety and, indeed, to save lives, but they do not want an upgrade of the scale planned by the RTA and the New South Wales Government, namely, a six-lane, 110 kilometres per hour freeway. They were also concerned that the upgrades could destroy some of the most fertile and productive land in the State. Locals were particularly critical of the RTA's consultation processes. Many believed that the RTA decided its preferred route before the consultation process even began and that the consultation process was structured to ensure that community views would not influence the final outcome.

The committee made three recommendations on the RTA's consultation processes so as to ensure that consultation is transparent, representative, timely and influential. The committee also made recommendations on

issues that should be considered in selecting a preferred route, such as, preserving agricultural land, protecting the environment and minimising property devaluation. I call on the New South Wales Government to implement the committee's recommendations as soon as possible, in particular, the recommendations to improve its consultation processes.

**Debate adjourned on motion by the Hon. Jennifer Gardiner.**

## **LEGISLATION REVIEW COMMITTEE**

### **Report**

**The Clerk** announced the receipt, pursuant to the Legislation Review Act 1987, of a report entitled "Legislation Review Digest No. 1 of 2006", dated 27 February 2006.

**The Clerk** announced further that, pursuant to the Act, it had been authorised that the report be printed.

## **SYDNEY ROADS CONSTRUCTION**

### **Production of Documents: Return to Order**

**The Clerk** tabled, pursuant to the resolution of 30 November 2005, documents relating to proposals for construction of roads, received on 14 December 2005 from the Director General of the Premier's Department, together with an indexed list of documents.

### **Production of Documents: Claim of Privilege**

**The Clerk** tabled a return identifying those of the documents that are claimed to be privileged and should not be tabled or made public. The Clerk advised that the documents are available for inspection by members of the Legislative Council only.

## **GREY NURSE SHARK PROTECTION**

### **Production of Documents: Further Return to Order**

**The Clerk** tabled, pursuant to the resolution of 1 December 2005, documents relating to a further order regarding the grey nurse shark received on 15 December 2005 from the Director General of the Premier's Department, together with an indexed list of documents.

### **Production of Documents: Claim of Privilege**

**The Clerk** tabled a return identifying those of the documents that are claimed to be privileged and should not be tabled or made public. The Clerk advised that the documents are available for inspection by members of the Legislative Council only.

## **NEWCASTLE TRANSPORT PLAN**

### **Production of Documents: Return to Order**

**The Clerk** tabled, pursuant to the resolution of 1 December 2005, documents relating to the Newcastle transport plan received on 15 December 2005 from the Director General of the Premier's Department, together with an indexed list of documents.

## **LUNA PARK LEASE**

### **Production of Documents: Return to Order**

**The Clerk** tabled, pursuant to the resolution of 16 November 2005, correspondence relating to Luna Park leases and agreements received on 21 December 2005 from the Director General of the Premier's Department.

## **COAL INDUSTRY WORKERS COMPENSATION SCHEME**

**Production of Documents: Return to Order**

**The Clerk** tabled, pursuant to the resolution of 30 November 2005, documents relating to the Coal Industry Workers Compensation Scheme, received on 21 December 2005 from the Director General of the Premier's Department, together with an indexed list of documents.

**YANGA STATION, BALRANALD****Production of Documents: Return to Order**

**The Clerk** announced the receipt from the Hon. Rick Colless on 7 December 2005 of written correspondence querying whether all relevant documents had been provided with the return to order tabled on 30 November 2005 relating to the purchase of Yanga Station. The Clerk informed the House that subsequently a letter was sent to the Director General of the Premier's Department forwarding a copy of the letter of the Hon. Rick Colless and seeking a response. The Clerk advised that on 7 February 2006 the director general lodged additional documents that had inadvertently been omitted from the return.

**Production of Documents: Return to Order**

**The Clerk** tabled, pursuant to the resolution of 1 December 2005, additional documents received on 7 February 2006 from the Director General of the Premier's Department.

**Production of Documents: Claim of Privilege**

**The Clerk** tabled a document that is claimed to be privileged and should not be tabled or made public. The Clerk advised that the document is available for inspection by members of the Legislative Council only.

**ROADS AND TRAFFIC AUTHORITY AND CROSS CITY TUNNEL CONSORTIUM CONTRACT DOCUMENTS****Production of Documents: Return to Order**

**The Clerk** informed the House that following questions raised by Ms Lee Rhiannon a letter was forwarded to the Director General of the Premier's Department querying whether certain CDs had been provided with the return to order tabled on 8 November 2005. The Clerk tabled the response from the Director General of the Premier's Department received on 7 February 2006 advising that the CDs referred to were created prior to the date specified in the order for papers and therefore fell outside the scope of the order.

**DESALINATION PLANT PROPOSAL****Production of Documents: Report of Independent Legal Arbiter and Documents Reported to be Not Privileged Made Public**

**The Clerk** announced the receipt, pursuant to standing orders, of the report of the Independent Legal Arbiter the Honourable Terrence Cole, QC, dated 22 December 2005, on the disputed claim of privilege by Mr Ian Cohen on documents lodged on 23 and 24 November 2005 relating to the desalination plant. The Clerk announced further that, pursuant to the resolution of 30 November 2005, the report and documents considered by the Independent Legal Arbiter not to be privileged were authorised to be made public on 22 December 2005. The Clerk informed the House that, pursuant to recommendations in the report of the Independent Legal Arbiter, certain information was masked before being made public and additional documents were returned to the Director General of the Premier's Department.

**TUNNEL VENTILATION SYSTEMS****Production of Documents: Reports of Independent Legal Arbiter and Documents Reported to be Not Privileged Made Public**

**The Clerk** announced the receipt, pursuant to standing orders, of five reports of the Independent Legal Arbiter Sir Laurence Street dated 24 January 2006, on the disputed claim of privilege by Ms Lee Rhiannon on papers relating to five separate returns to order regarding tunnel ventilation systems. The Clerk announced further that, pursuant to the resolution of 1 December 2005, the reports and documents considered by the Independent Legal Arbiter not to be privileged were authorised to be made public on 25 January 2006. The Clerk informed the House that, pursuant to the recommendations in the reports of the Independent Legal



Arbiter, certain information was masked before being made public and that certain documents were returned to the Director General of the Premier's Department.

**The Clerk** announced further that, pursuant to the recommendations of the Independent Legal Arbiter, the Roads and Traffic Authority reviewed certain documents and segregated by physical separation those documents considered by the Legal Independent Arbiter not to be privileged. The Clerk announced further that, pursuant to the resolution of 1 December 2005, the documents were authorised to be made public on 24 February 2006. The Clerk tabled a letter from the Roads and Traffic Authority dated 27 February 2006 advising that when reviewing the documents staff of the Roads and Traffic Authority masked certain credit card and bank account information.

## 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**.

### Freedom of Religion

Petitions praying that the House reject legislative proposals that would detract from the exercise of freedom of religion, and retain the existing exemptions applying to religious bodies in the Anti-Discrimination Act, received from **Reverend the Hon. Dr Gordon Moyes** and **Reverend the Hon. Fred Nile**.

### Darkinjung Aboriginal Land Council

Petitions requesting that a parliamentary committee inquire into the circumstances surrounding the appointment, conduct and findings of the investigator into the Darkinjung Aboriginal Land Council, and that the Minister not rely on the investigator's report to take action prejudicial to Darkinjung members, received from **Mr Ian Cohen** and **the Hon. Robyn Parker**.

### Breast Screening Funding

Petition requesting funding to ensure access to breast screening services for women aged 40 to 79 years and to reverse falling participation rates, received from **the Hon. Patricia Forsythe**.

### Anti-Discrimination (Religious Tolerance) Legislation

Petition opposing the proposed anti-discrimination (religious tolerance) legislation and the introduction of heavy penalties that will prevent religious groups from speaking frankly and openly for fear of allegations of vilification, received from **Reverend the Hon. Dr Gordon Moyes**.

### Department of Primary Industries Budget

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

### Marriage

Petition opposing any legislative changes that would violate the basic principles of marriage, received from **Reverend the Hon. Fred Nile**.

### Desalination Plant Proposal

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

**M4 Eastern Extension**

Petition rejecting the options for the M4 eastern extension and requesting a study of and commitment to sustainable public transport, including heavy and light rail, as part of an integrated transport network, received from **Ms Lee Rhiannon**.

**CountryLink Rail Services**

Petition opposing the replacement of CountryLink rail services with bus services in rural and regional New South Wales, and calling on the Government to reverse its decision to close the Casino to Murwillumbah rail line, received from **Ms Lee Rhiannon**.

**IRREGULAR PETITION****Mulgum House, Nimbin****Motion, by leave, by Ms Sylvia Hale agreed to:**

That standing orders be suspended to allow the presentation of an irregular petition from 305 citizens of New South Wales concerning the future of Mulgum House, Nimbin.

**Petition received.****BUSINESS OF THE HOUSE****Withdrawal of Business**

**Private Members' Business items Nos 67, 70, 76, 81, 83, 97, 100, 103, 106, 107, 110, 113, 115, 120, 166 and 174 outside the Order of Precedence withdrawn by Ms Lee Rhiannon.**

**BUSINESS OF THE HOUSE****Suspension of Standing and Sessional Orders****Motion by the Hon. John Della Bosca agreed to:**

That standing and sessional orders be suspended to allow a motion to be moved forthwith relating to the conduct of business of the House.

**Precedence of Business****Motion by the Hon. John Della Bosca agreed to:**

That on Tuesday 28 February 2006 and Wednesday 1 March 2006 General Business take precedence of Government Business.

**BUSINESS OF THE HOUSE****Suspension of Standing and Sessional Orders****Motion by Reverend the Hon. Fred Nile agreed to:**

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 136 outside the Order of Precedence, relating to the Smoke-free Environment Amendment (Motor Vehicle Prohibition) Bill 2005, be called on forthwith.

**Order of Business****Reverend the Hon. FRED NILE [3.22 p.m.]: I move:**

That Private Members' Business item No. 136 outside the Order of Precedence be called on forthwith.

I gave notice of this bill some time ago. I am very supportive of the proposition that the bill be referred to a committee, which will be raised shortly. This is the first time a bill of this type has been moved in this

Parliament. In essence, the bill will prohibit smoking in motor vehicles. In schedule 1 [2], proposed section 5A provides that a person must not smoke in a motor vehicle at any time. The maximum penalty is five penalty points.

I do not want to take the time of the House now, but I wish to refer to a couple of very important points. Smoking in cars is now being debated around the world. I have been studying a proposal from the Cancer Council of Western Australia, dated 12 October 2005, which refers to the need to educate drivers to protect kids from smoke in cars. It says a major education campaign is needed to stop adults smoking in cars when children are present. A new survey undertaken at Curtin University has shown there is strong community support for restrictions on adults smoking in cars with children present. My bill goes further than that. Action on Smoking and Health Australia (ASH) has stated:

There's been much debate in the media about whether smoking while driving should be banned—or at least when there are children, or passengers generally, in the car.

There is a mountain of research on the harm caused to others by secondhand smoke—see the studies at SmokeFree Australia for starters.

There is also much research on secondhand smoke harm to children—see information for parents under Passive Smoke Harms Kids.

Monash University conducted a study entitled *Driver Distraction: A Review of the Literature*, which stated:

Smoking is a common activity among drivers, however it can distract drivers as they remove their hands from the wheel to light a cigarette, hold it for an extended period of time and put it out. Several studies have found that smoking while driving increases the risk of being involved in a crash.

That study noted that research carried out by Brison in 1990 used a case-controlled study to investigate the risk of smokers and non-smokers being involved in a motor vehicle crash, and went on to say:

A self-administered questionnaire was sent out to 1,000 people known to be involved in a motor accident and 1,100 controls who had not been involved in a crash, to obtain information on each driver's smoking status. The results revealed that smokers had an increased risk of being involved in a motor accident than non-smokers and the tendency to smoke while driving further increased this risk.

Another research paper, *Excess injury mortality among smokers: a neglected tobacco hazard*, stated:

Historically, smokers have claimed their right to smoke as long as smoking does not affect others. In this regard, societal concern has been mainly limited to the risk of non-smokers from exposure to second hand smoke, particularly when young children were affected. However, the fact that non-smokers may be at increased risk from various injuries...caused by smokers has not been widely recognised.

That paper gives examples of the causes of such injuries: a fire started by a cigarette thrown out of car windows, job-related accidents, and particularly car accidents. New research is being done on how many car accidents are caused by people smoking. This is another factor that indicates the seriousness of this issue. The rights of smokers to smoke should be qualified accordingly as we begin to realise the potential effect on other people's lives and property. I am pleased to support the proposal that this bill be referred to a joint select committee for further examination and report to the House.

**The Hon. Don Harwin:** Point of Order. Can you state the question before the House? I do not think the previous speaker was clear on what was being debated at this stage.

**The PRESIDENT:** Order! The question being debated is that Private Members' Business item No. 136 outside the Order of Precedence be called on forthwith.

**Motion agreed to.**

## **SMOKE-FREE ENVIRONMENT AMENDMENT (MOTOR VEHICLE PROHIBITION) BILL**

### **Second Reading**

**Debate resumed from 21 June 2005.**

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS** [3.30 p.m.]: I move:

That the question be amended by omitting all words after "That" and inserting instead "a Joint Select Committee be appointed to inquire into and report on tobacco smoking in New South Wales, and in particular:

- (a) the costs and other impacts of smoking,
  - (b) the effectiveness of strategies to reduce tobacco use,
  - (c) the effects of smoke-free indoor venues on the initiation and maintenance of the smoking habit,
  - (d) factors affecting initiatives for smoke-free indoor areas,
  - (e) the effectiveness of media, educative, community and medically-based Quit initiatives,
  - (f) the adequacy of the budget for smoking control initiatives, and
  - (g) the Smoke-free Environment Amendment (Motor Vehicle Prohibition) Bill 2005 introduced by Reverend the Hon. Fred Nile in the Legislative Council.
2. That, notwithstanding anything to the contrary in the standing orders of either House, the committee consist of nine members, as follows:
- (a) four members of the Legislative Council of whom:
    - (i) one must be a Government member,
    - (ii) one must be an Opposition member, and
    - (iii) the Hon. Dr Arthur Chesterfield-Evans and Reverend the Hon. Fred Nile
  - (b) five members of the Legislative Assembly of whom:
    - (i) three must be Government members,
    - (ii) one must be an Opposition member, and
    - (iii) one must be an Independent or crossbench member
3. That the members be nominated in writing to the Clerk of the Parliaments and the Clerk of the Legislative Assembly by the relevant party leaders and the Independent and crossbench members respectively within seven days of this resolution being agreed to by both Houses.
4. That, notwithstanding anything to the contrary in the standing orders of either House, at any meeting of the committee, any four members of the committee will constitute a quorum, provided that the committee meets as a joint committee at all times.
5. That the committee report by 30 May 2006.
6. That this House request the Legislative Assembly to agree to a similar resolution and name the time and place for the first meeting.

I foreshadowed a similar motion last year, which I believe is item No. 188 on the notice paper. This committee is important because medical staff in the Republic of Ireland, which I visited as part of a tour that I undertook as a member of the Joint Electoral Committee, were very keen that parliamentarians be made aware of the immensely harmful effects of tobacco. An investigation by a parliamentary committee in Ireland achieved bipartisan support for a ban on smoking in pubs and clubs there, and that ban has achieved an immense amount of good. Honourable members should note that that ban was successfully introduced in a country with a much higher smoking rate than New South Wales currently has.

I believe that to simply lay facts on the table before members of Parliament, as opposed to detailing those facts in medical journals, as has been the case for a long time, is an extremely important initiative. I have tried to make this very much a bipartisan committee. I hope that the key element of the committee will be to lay the facts about smoking before the members of both this House and the lower House in a systematic and sensible fashion so that everyone can understand exactly why this vital and much neglected issue needs to be addressed by this Parliament in a strong and decisive manner. This motion, which I hope will be supported by all members of this House and by all members of the lower House, will give rise to a committee that will have a wonderful effect on the health of the people of New South Wales.

**The Hon. GREG PEARCE** [3.34 p.m.]: The problem with the amendment is that, contrary to the normal practices of the House and the Parliament in relation to a joint select committee, the membership proposed by the Hon. Dr Arthur Chesterfield-Evans will result in only two Opposition members on a nine-member committee together with three crossbench members, including one from the other place. Whilst the Coalition would otherwise have supported the amendment, unless that situation is remedied we would not be able to do so. Consequently, I move:

That the amendment of the Hon. Dr Chesterfield-Evans be amended by omitting paragraph 2 (b) (ii) and (iii) and inserting instead:

and

(ii) two must be Opposition members.

**The Hon. JOHN HATZISTERGOS** (Minister for Health) [3.36 p.m.]: There are a number of things about this motion that one could take issue with from the Government's perspective as well. Normally the Government has a majority membership on joint committees. This proposal is structured on the basis that the Government does not have a majority. If, in fact, the Opposition's proposal were to be acceded to, and the representation were to be changed—

**The Hon. Greg Pearce:** That is the same as he has put it up.

**The Hon. JOHN HATZISTERGOS:** Well, changed from what has been proposed—then it would be necessary for the Government representation to be adjusted accordingly. The honourable member has tried to encompass the interest of members who have advocated positions in this regard. I know the Hon. Arthur Chesterfield-Evans has a very strong position, and Reverend the Hon. Fred Nile has similarly advocated a very strong view on it. Therefore the proposed representation in this House has attempted to accommodate both gentlemen. Even though I concede that both the Opposition and the Government in the Legislative Council could argue that they are underrepresented, from my perspective—

**The Hon. Don Harwin:** There are seven Independents in the lower House and 31 Opposition members, yet they have equal numbers.

**The Hon. JOHN HATZISTERGOS:** Rather than delay the House, I suggest that the matter be adjourned to a later hour of the sitting. We could have discussions with those interested and see what, if anything, can be done.

**Debate adjourned on motion by the Hon. John Hatzistergos.**

#### **FAMILY IMPACT COMMISSION BILL**

##### **Second Reading**

**Debate called on, and adjourned on motion by the Hon. Dr Peter Wong.**

#### **CRIMES AMENDMENT (PROTECTION OF INNOCENT ACCUSED) BILL**

##### **Second Reading**

**Debate called on, and adjourned on motion by the Hon. Don Harwin.**

#### **ANTI-DISCRIMINATION AMENDMENT (RELIGIOUS TOLERANCE) BILL**

##### **Second Reading**

**Debate resumed from 10 November 2005.**

**Ms SYLVIA HALE** [3.39 p.m.]: I commend the Hon. Peter Breen for introducing this bill, which the Greens support. The bill would provide for an offence of religious vilification—a measure that is important to the Greens. Many Greens are atheists, and others have religious or at least spiritual beliefs. But we would not seek to prevent any person from practising their chosen religion, free from discrimination and vilification. It is important to note that the bill applies to vilification on the basis of both the presence and the absence of religious belief. If someone is an atheist and promulgates the view that religion is superstition and there is no God, and an incensed true believer responds by saying that the atheist deserves to die for uttering such blasphemy, this bill would protect the atheist and allow prosecution of the vilifier. The reverse is equally true.

Without respect for and tolerance of diversity, democracy cannot survive. Authoritarianism and fanaticism become the order of the day. It is to diminish or prevent this eventuality that democracies stress the importance of the separation of church and State. This is never a perfect separation and is often undermined as adherents to the more powerful religious persuasions seek to enshrine practices that reinforce their dominance. A small example of this, and of the imposition of religion in civil society, is the daily prayer which this House

recites and which the Greens are on record as opposing. To me as an atheist, the prayer is irrelevant. However, it is essential to remember that we are a civil State, a secular State, with no established religion, whose many citizens subscribe to either no religious view or a variety of religious beliefs, not all of which are compatible with a Christian view of the world.

But there was a more compelling reason to support this bill, and that is the current worldwide climate of fear that so many governments, including our own, are so busy promoting. It is a time when, around the world, entire ethnic and cultural groups are being demonised, largely because of the actions of small minorities. Here in Australia we are being asked to support anti-terrorism laws that cut into our civil liberties. And while the Prime Minister denies that these laws are aimed at any one community, as we scan the newspapers and listen to the shock-jocks there can be no doubt about who is being targeted. One of Australia's strengths is our development, over the decades, as a peaceful multicultural society. Indeed, almost from the beginning of white colonisation we have always been an ethnically and religiously diverse multicultural society, whether we look at the Irish who were transported as convicts, the Chinese who came to the goldfields in the 1850s, or the Germans who, desperate to escape Prussian militarism, settled in South Australia and Queensland in the 1870s.

In the period since World War II Australia has offered a home to several million migrants across the globe. While there have been tensions occasionally, we have not experienced the violence between different ethnic or cultural groups which, in their own countries, are often portrayed as mortal enemies. Australia is now a country of more than 150 nationalities, with maybe 200 ethnicities. Our community can only work as a cohesive whole if we treat each other with tolerance and respect. Yet today Australia faces problems. We need only look at the way in which those of Muslim persuasion or Arabic background are encountering rising levels of violence and harassment, and are demonised on talkback radio, to be aware of how an important underlying principle of our society is being undermined. Yet people of an Arabic background or Muslim persuasion have long been part of the Australian population and have made valuable contributions to our economy and society.

At this time we should be doing whatever we can to ensure that people of Australia's Arabic or Muslim communities receive the same treatment that all Australians expect, and that their human rights and cultural differences are accepted, respected and protected. This is particularly critical at the current time when, at an official level, the Federal Government is doing its best to undermine years of peaceful and prosperous growth, co-operation and coexistence with the Arab and Muslim worlds. By invading Iraq on the flimsiest of excuses, we have created the probability of destroying decades of long-established good relations with a region that will be of increasing relevance and importance to Australia both demographically and economically into the future.

People should not judge an entire religion by the actions of a small minority who engage in criminal activities and attempt to justify those actions by claiming to be acting in conformity with a religious belief. Indeed, if one looks through the *Bible*, the *Koran* or other religious texts there are often conflicting messages and different ways of interpreting those texts. Virtually all of these books contain words that, usually taken out of context, could justify acts that most people would consider criminal. The Greens support freedom of speech, debate and the exchange of ideas, but we do not support the spreading of hatred and vilification. That is no way to change things and clearly it does not work.

Therefore it is incumbent on members of this House—Australia's oldest parliament—to make it clear that we do not support religious vilification under any circumstances and are prepared to give substance to those words by both expressing support for Australians of Arabic background or Muslim persuasion and by showing leadership on this most critical issue, one that underpins the sort of society that has emerged here and will gradually emerge around the world. By passing this bill we will show that Australia remains a tolerant society. If we fail to do this we will wear a heavy burden—one for which future generations may not forgive us. The Greens support the bill and urge other members of this place to do likewise.

**Mr IAN COHEN** [3.46 p.m.]: I, too, support the Anti-Discrimination Amendment (Religious Tolerance) Bill, and I thank the Hon. Peter Breen for introducing it. It is a wise and appropriate action at this time in history, and I am pleased to speak on the bill. In opposing the bill, Reverend the Hon. Fred Nile quoted former Premier Bob Carr, who said that the commonsense and decency of the Australian people were sufficient safeguards against religious intolerance as "society has strong, clear voices speaking of respect for diversity and tolerance". There are many who do this, and I heartily wish there were more of them. If there were more people of such calibre, perhaps this legislation would not be so vital. However, Bob Carr was not one of these voices. Indeed, he indulged in his fair share of thinly veiled attacks on the Muslim community when he thought it suited his political ends, particularly on so-called law and order issues. Therefore, it is not surprising, nor is it relevant, that the former Premier opposed legislation on this issue.

None of those opposing the bill have opposed its intent or the motives of the member who proposed it. Their issue seems to be with its application. I fail to see how the principles applied here differ from other areas covered by the Anti-Discrimination Act. As I understand it, those opposing the bill seem to be concerned that media discussion of the merits or otherwise of any religion could be grounds for religious vilification and therefore prosecution. They claim to trust the commonsense and intelligence of Australians when it comes to respecting diversity and tolerance, but they do not have any faith in their ability to distinguish between robust debate and outright vilification. In any event, clause 49ZZB (c) specifically exempts normal public debate and discussion from prosecution.

The scaremongering by some members of this House does not justify voting against the bill. Those opposing the bill have made much of a recent court case in Victoria. Anecdotal evidence could be collected about any bill that bears similarities to legislation enacted elsewhere if those opposing it wish to trawl long enough. Claiming that the defendants in one court case have proceeded to the appeal stage of legal proceedings as being evidence of impending disaster is a pretty flimsy pretext for opposing this bill. Indeed, it is a poor pretext for opposing any bill. Reverend the Hon. Fred Nile pointed out that the basis of that appeal rests upon alleged errors and bias on the part of the judge. If that is the case one can hardly blame the legislation itself. What a precedent the honourable member wishes to set—condemning the laws of the State every time a member of the judiciary interprets them in a context with which he disagrees. The issue here is this bill, not legislation somewhere else, and it is spurious to base opposition to this bill upon legal action over one event in one legislature when that event has not yet even reached a legal conclusion.

Much of the debate surrounding this bill has come from the perspective of those who see the potential negatives of enacting it into legislation. I believe that the dangers of the House not supporting it are far greater. All previous debate on the bill occurred before the Cronulla riots. Inflammatory rhetoric from a small but influential group of irresponsible extremists on our airwaves was significant in the events of that day. They were not the only cause, but they were significant. Had legislation such as this been in place before, this provocation may not have occurred, and much of the ensuing drama may not have occurred. Alternatively, if those responsible had still seen fit to provoke the behaviour that occurred—and it is naive in the extreme to suggest they did not know what they were doing—they would quite rightly have been forced to account for their actions.

Reverend the Hon. Fred Nile claimed that many of those whom this bill is designed to protect are opposed to it. I am not sure whom exactly he refers to or what survey he or anyone else has conducted that led to this conclusion, but I would suggest that many of the people whom this law is designed to protect would, due to their strong religious belief, quite possibly hold strong views on other religions. They are opposed to it because it may impinge on their ability to vilify religious views that are opposed to theirs, not because they take issue with having their own rights protected.

There has been an ugly attitude in recent times that is reminiscent of the early days of Pauline Hanson's rise to prominence. Much of the nastiness that arose back then was a result of the political leadership failing to lead and failing to demonstrate that what was being said and done was wrong, and as a result of our knowing it to be wrong. Governments should be able to show leadership on issues of moral importance, as Paul Keating did some years ago, where the vilification of other races and Aboriginal people was taken off the public agenda because of the forceful leadership he undertook on those issues. I agree that normal debate should not be subject to anti-vilification laws, but genuine vilification must be condemned, and we in this House must be seen to be condemning it. We must show leadership, rather than toady to the worst excesses and paranoid fears of the noisy minority.

The Hon. Peter Breen made the point when introducing the bill that it is intended to allow people of all beliefs the opportunity to practise their religion free from vilification. When we hear stories of young Muslim women being harassed because of their headscarves, we have a problem that needs solving. Yes, we have racial vilification laws that can protect religious minorities in some cases where religion and ethnicity are clearly linked. All that this bill does is extend that protection to religions that are not so clearly linked to a particular ethnic group, and to people who choose not to follow any religion at all. To oppose the bill outright is to condemn them to gratuitous vilification, and to send the message that we as a legislature will not protect them. Members who claim to agree with the principle but are unsure of the application should be looking to amend the bill rather than opposing it outright. The alternative is that this Chamber will be seen to support religious vilification, and that is an unacceptable example to set to the people of New South Wales. It is not a complicated bill; it is an ethically and legally sound bill; and it should be supported.

**Debate adjourned on motion by Mr Ian Cohen.**

**ANTI-DISCRIMINATION AMENDMENT (EQUALITY IN EDUCATION AND EMPLOYMENT)  
BILL**

**Second Reading**

**Debate resumed from 13 October 2005.**

**Ms SYLVIA HALE** [3.53 p.m.]: This bill amends the Anti-Discrimination Act of 1977 to remove provisions that discriminate against members of our society who are citizens, voters and taxpayers. The purpose of the amendments is to help to ensure that all citizens of our State, present and future, are treated equally. Such a belief in the equality of all human beings should be self-evident. Indeed, we have decided in the past that we should not discriminate against our fellow citizens on the grounds of their gender, ethnicity, marital status or disability. Women are not now seen as second-class citizens who cannot vote. Women are not now required to resign employment upon marriage, and we no longer lock away those whom we see as different or less able. While we have to acknowledge that for many years we did discriminate against those of other races, people of many ethnicities who make up Australia today are no longer designated as second-class citizens. Such changes reflect the fact that we continually see anew things that we once took as verities but which upon due reflection are seen to constitute values, attitudes and prejudices of past eras.

Today we are considering a further updating of our laws to reflect fair values and attitudes of a world facing the opportunities and challenges of the twenty-first century. We are a multicultural society, and that is one of our greatest strengths. If we look around the world today and its trouble spots, we see places that are riven by interethnic and intercultural tensions and strife, which often spill over into urban warfare with its accompanying carnage and even genocide. So, we should be proud of what we have legislated for and achieved in the past in creating the sort of society where equality is mostly taken as a given.

However, we should remember that "multicultural" means more than merely multi-ethnic. Perhaps it was in recognition of this that the current Government transformed the previous Ethnic Affairs Commission into the Community Relations Commission to represent all communities. In our multicultural society many groups self-identify within Australia through their cultural differences. Thus, Jewish people or Christians can be of various ethnicities, as can those who follow other religions, as can those who are of different sexualities. So, our laws should reflect these circumstances and require that all cultures in our society be treated equally.

It is our role to show leadership in these difficult times, when people of different cultures are increasingly under attack from the bigots, the prejudiced and the ignorant. Australia and New South Wales have a long history of being in the vanguard of change and of making changes that foreshadow—in fact, create—the future. It was in the late nineteenth century that Australia started to pass legislation that would eventually be followed by many other nations, but often only many years later. Such legislation drew a wide range of influential commentators from around the world to see this new thing—a country writing a new sort of future for itself, untrammelled by a past that had saddled Europe with institutions like monarchies and aristocracies, serfdom and slavery.

From Britain, Europe and the United States of America, among those visiting our shores to look at this new beast emerging were such notables as the writer Anthony Trollope, the single-tax advocate Henry George, and the socialists Sydney and Beatrice Webb. Those visitors spoke and wrote glowingly of the experiments in the Antipodes. These foreign commentators were most impressed with the freedoms arising from these experiments, implementing ideas that in Europe were identified with more radical political parties and groups, and were still being hotly debated there.

Certainly there was some reason to be impressed. By the first decade of the twentieth century Australia had generally adopted the institutions of representative democracy, including the secret ballot, the abolition of plural voting, the payment of members of Parliament, and female suffrage. As well, often commented on was its industrial legislation, with such innovations as an eight-hour working day, wage regulation, with minimum wage rates, legislation covering working conditions in factories and compulsory conciliation and arbitration.

Governments had also legislated for compulsory secular education and were agencies for social welfare, providing then such novelties as old-age pensions. These progressive concepts were not implemented in Australia as part of any socialist ideology. Rather, they should be seen as representing a belief that, in a form of egalitarian society that many Australians were committed to creating, there was room for all sectors of society to have a share. In all of these things we showed leadership in pursuing equality, inclusion and equity. Since then



and in so many ways we have moved on. A recent survey by two academics has found that over the past decades Australians have become more approving of working mothers, the benefits of immigration and government expenditure on necessary public services. More than half of Australians under the age of 50 now believe that a same-sex couple with children constitutes a family.

Now it is once again time to move forward and to set the standard. We have been the lucky country in that as we emerged as a nation we were not weighed down with the heavy hand of past depressions, an aristocracy, and a State religion that denied freedom of worship to those of other beliefs or an underclass of serfs or slaves. We are a secular and tolerant State. When we started to implement antidiscrimination laws in the 1970s it was a reflection that we were aware the world had moved on and that the attitudes and assumptions that underlay past legislation were no longer appropriate for the world of 1977.

**Pursuant to sessional orders business interrupted.**

### QUESTIONS WITHOUT NOTICE

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#### CROSS-CITY TUNNEL AND ROAD CLOSURES

**The Hon. MICHAEL GALLACHER:** My question without notice is addressed to the Minister for Roads. In light of a recent statement by Cross City Motorway that it had sought only one road closure and the Government's legal advice that 49 road closures can be undone without the threat of compensation, will the Minister do the right thing and reopen the public roads around the cross-city tunnel and apologise to motorists for his Government's handling of this mess?

*[Interruption]*

**The Hon. John Della Bosca:** Point of order: One of the Opposition members used a very offensive expression, referring to the Minister for Roads as the Minister for road kill. Given the ongoing public concern about the consequences of motor accidents and the road toll, I believe it is an offensive way to refer to the Minister. More importantly, it is an insult to the victims of motor accidents and their families. I ask that it be drawn to the attention of Opposition members that the expression is offensive and that they desist from using it.

**The Hon. John Ryan:** To the point of order: The tradition of the House is that if a member considers a remark attributed to him as offensive he should draw it to the attention of the House. If the Minister for Roads found the term "road kill" to be offensive he should make the complaint himself. It is not appropriate for another Minister to say that "road kill" is offensive. In any event, I am sure there are plenty of rulings by former Presidents that do not make any reference to the term "road kill". All of us know the term to be an endearing nickname for the Minister. If I can put up with references about Ned Flanders, I am sure that the Minister for Roads is not such a blushing flower that he needs to retreat from a good-natured gibe across the Chamber. However, if he is offended, it is up to the Minister himself to indicate his outrage so that we all have the opportunity to see what a blushing and retiring soul he is.

**The Hon. John Della Bosca:** Further to the point of order: The Hon. John Ryan obviously has a case of industrial deafness because he was unable to hear my point of order. Irrespective of the feelings or sensitivity of my good friend the Minister for Roads, whether the Minister found the remark offensive is not the reason why the terminology is offensive. I would have thought that the Hon. John Ryan and the Leader of the Opposition as a former police officer would acknowledge how potentially offensive it is to refer to the Minister for Roads as the Minister for road kill.

**The PRESIDENT:** Order! The Hon. John Ryan is incorrect. Members often take points of order on behalf of other members with regard to offensive language. The term referred to is extremely offensive and ordinarily I would ask the member who said it to withdraw it. However, it was made by way of an interjection, which are disorderly at all times, and it is difficult to ask a member to withdraw an interjection. The term is extremely offensive and should not be repeated.

**The Hon. ERIC ROOZENDAAL:** The cross-city tunnel issue is very topical, particularly today with the release of the preliminary report from the Committee. I commend the Committee members, particularly the Chair, for their work on the report, which was a genuine attempt to grapple with the issues around the cross-city

tunnel. Clearly, the problems associated with the cross-city tunnel need to be dealt with in a smart way. Firstly, there are not enough vehicles using the cross-city tunnel, which is causing major problems on the surface roads. That is why the Government holds a consistent position that the cross-city tunnel operator, as a good corporate citizen, needs to listen to community concerns, of which we are well aware, and review the toll. As Reverend the Hon. Fred Nile, the Committee Chair, said in his report, the community has voted with its wheels and, clearly, the toll is discouraging people from using the tunnel. That is why I have been talking with the cross-city tunnel operator about reviewing the toll.

The second issue is congestion in the city. There have been a number of road changes. Unfortunately, the bush lawyers in this place believe the solution is very simple. Simple Simon on the other side of the Chamber—they are fighting over who is Simple Simon—thinks that with the stroke of a pen we can resolve all the problems. Their leader drops them in it by saying he would tear up the contract in a third world act of government. We are not like that. We are not interested in reckless and irresponsible behaviour. This Government will not subject New South Wales taxpayers to potentially tens of millions of dollars liability, as would the bush lawyers in this Chamber and the bush lawyer that leads them in the other Chamber.

**The PRESIDENT:** Order! I call the Hon. Catherine Cusack and the Deputy Leader of the Opposition to order for the first time.

**The Hon. ERIC ROOZENDAAL:** It would be reckless and irresponsible of the Government to take a unilateral decision to reverse the road changes. The present and previous chief executive officers of the cross-city tunnel have made it patently clear in the steering committee hearings and publicly that if we attempt to unilaterally reverse the road changes without co-operating and working with them, they will take us to court. Then the taxpayers of this State would be subject to tens of millions of dollars of liability. That is not what this Government is about. We are about a co-operative approach with the cross-city tunnel operator to resolve the issues of congestion. It is simple: every additional car that goes through the tunnel means one less car through the city. That is why we are encouraging the cross-city tunnel operator to be a good corporate citizen, to listen to the community and to review the toll. At the same time we are happy to work with the tunnel operator to see what we can do to resolve the issues of congestion around the city.

#### **DEPARTMENT OF CORRECTIVE SERVICES GOULBURN OFFICE**

**The Hon. HENRY TSANG:** My question without notice is addressed to the Minister for Justice. Will the Minister update the House on the new Department of Corrective Services office in Goulburn?

**The Hon. TONY KELLY:** Last Thursday I had the pleasure of opening the new enlarged premises for the south-west regional office of the Department of Corrective Services in Goulburn. The Department of Corrective Services, which is a large department spread across New South Wales, supports decentralisation. Its new home in Goulburn is evidence of that. In fact, once completed early next month, it will be the second largest headquarters of the department outside its head office in Sydney. The building has housed the south-west region headquarters for some time. Now the south-west regional office is the sole occupant of the building, cementing its place as a major Goulburn employer. The department, together with Goulburn gaol, is now the second largest employer in Goulburn. The total project value is \$3 million. It comprises the south-west region custodial administration facility, the south-west region Community Offender Services administration facility, the local COS district office and the Department of Corrective Services human resources state-wide payroll function facility. More importantly, the complex will accommodate up to 104 staff, including an additional 50 staff members. This is a major project demonstrating the complex's importance to both the State Government and the Goulburn Mulwaree Council.

During my visit I also had the opportunity to visit Goulburn Gaol, where I inspected the new video conferencing studio at the High Risk Management Unit [HRMU] or, as it is known, "Supermax". The movement of inmates for court appearances or for any other reason is inherently dangerous and precautions must always be taken. The Supermax accommodates some of the most serious offenders in New South Wales and, in fact, in Australia. These offenders are required to be escorted by up to four officers for court appearances. This includes escorts into the main correctional centre at Goulburn, which has a video conferencing studio for court appearances. The newly completed video conferencing studio at the Supermax continues the department's roll-out across New South Wales. Its aim is to minimise escorted movements of inmates to and from our courts and it does this in association with the New South Wales Attorney General's Department. During the 2004-05 financial year, more than 16,000 inmates appeared in court via video conferencing. That is 16,000 inmates who did not need to be taken outside the prison complex. This figure equates to approximately 34,460 inmate court movements avoided at an estimated saving of \$2.9 million.

Finally, I had the pleasure of announcing the new visitor pre-processing facility to be constructed at the front of Goulburn Correctional Centre. The contract has been awarded to the Wollongong firm that successfully completed the HRMU and the video conferencing studio. It is anticipated that the project will be completed by August 2006. The new facility will provide additional screening of visitors entering the correctional facility. This is all part of an ongoing statewide government initiative to reduce the risk of contraband entering New South Wales correctional centres. It will also reduce congestion at the main gate, enabling more efficient visitor and staff entry into the correctional centre.

#### **MINISTER FOR ROADS PORTFOLIO PERFORMANCE**

**The Hon. DUNCAN GAY:** My question is directed to the Minister for Roads. Will the Minister tell the House what he plans to do differently in the Roads portfolio, if anything, from his failed predecessors?

**The Hon. ERIC ROOZENDAAL:** In the short time that I have held the portfolio I have been endeavouring to grapple with the many issues involved. A number come to mind immediately and, of course, the first is road safety. Last year's road toll was the lowest since the Second World War.

*[Interruption]*

The honourable member asked the question and he could at least allow me to answer it.

**The Hon. Michael Gallacher:** The question is what direction are you taking.

**The Hon. ERIC ROOZENDAAL:** The honourable member asked a question and I am explaining some of the things I would like to see done in the portfolio, but he does not want to sit silently to listen to it.

**The Hon. Duncan Gay:** I am talking about your direction. What are you going to do? What is your plan?

**The Hon. ERIC ROOZENDAAL:** Unfortunately last year's road toll was the lowest since the Second World War, which—

**The Hon. Duncan Gay:** Point of order—

**The Hon. Melinda Pavey:** Why is it unfortunate?

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

**The Hon. Duncan Gay:** My point of order is that my question was quite explicit. I asked what the Minister will do differently. The Minister has been talking about what the previous Ministers have done. My question is clear.

**The Hon. Michael Costa:** He is answering.

**The Hon. Duncan Gay:** He has been trained by you, he is no brighter than you, he has taken your advice and he is not answering the question properly. Let him answer it, and I hope he will.

**The PRESIDENT:** Order! The honourable member asked an extremely general question and the Minister is answering it.

**The Hon. Michael Gallacher:** Point of order: Earlier the Leader of the Government said that in his view a distasteful name was given to the Minister. However, the Minister has just said that it is "unfortunate" that we have had the lowest road toll since the Second World War. That comment is an absolute disgrace. Can he please explain?

**The PRESIDENT:** Order! There is no point of order. The Minister has the floor.

**The Hon. ERIC ROOZENDAAL:** I will take up the point raised by the Hon. Simple Simon. The reason it is unfortunate is that I would like a zero road toll, but I know that is not achievable. The State's traffic

volumes have increased by 25 per cent since 1995. That is one of the issues facing this State. Since the Second World War there has been a tenfold increase in the number of vehicles being driven around the State, but last year we achieved the lowest road toll since that time. We have many good plans in place designed to reduce the road toll and to keep it as low as possible. We also need to keep the roads safe and drivers responsible. There are many challenges. I will be trying to work co-operatively with the Federal Government.

[*Interruption*]

Honourable members opposite are laughing because they know the Federal Government does not want to work with the State Government. We must work co-operatively with the Federal Government on road funding. It holds all the road funding dollars and honourable members opposite know that. The Pacific Highway situation—one of the big issues on the agenda—can be resolved only through a co-operative approach with the Federal Government. That is the sort of issue I will be dealing with down the track.

We must also discourage young drivers from speeding, because it remains the number one cause of fatalities in this State. Like me, honourable members opposite know that statistically young drivers have a much higher chance of being involved in a fatality or being seriously injured than those in other age groups. These are the issues I will be addressing.

Only last week the Government began a drink driving campaign in the country. Filming was done in Bathurst, and the film addresses the risk of drink driving and the fact that the per capita incidence of drink driving in the country is greater than that in the city. They are the issues I will be addressing. I want the motorists of New South Wales to be able to use the roads in a safe and responsible way. They are the issues we must address. A Victorian report released today refers to the number of young drivers who have admitted to driving under the influence of drugs. [*Time expired.*]

#### LEGAL FEES INQUIRY

**The Hon. PETER BREEN:** I direct my question to the Minister for Finance, Minister for Commerce, Minister for Industrial Relations, Minister for Ageing and Minister for Disability Services representing the Attorney General. Is the Minister aware that a report into legal fees and the practice of hourly billing has been outstanding since February 2003? Is he also aware that a report into the Supreme Court costs assessment scheme has been outstanding for a similar length of time? When will the reports into legal fees and the costs assessment scheme be made public? Is the Government committed to making the justice more accessible to law consumers by making the cost of legal services more open and transparent?

**The Hon. JOHN DELLA BOSCA:** I am not sure that I heard the honourable member's entire question, but I think most of it would be properly addressed to the Attorney General. So I will ascertain an answer from the Attorney General as quickly as possible and provide it to the House.

#### PRIVATE HEALTH INSURANCE PREMIUMS

**The Hon. CHRISTINE ROBERTSON:** My question is directed to the Minister for Health. How will increases in private health insurance premiums impact on the health system of New South Wales?

**The Hon. JOHN HATZISTERGOS:** I thank the honourable member for this very important question. As honourable members would be aware, over the past five years the Commonwealth has allowed private health insurance premiums to rise by 33 per cent. Indeed, only last week the Commonwealth approved a 5.7 per cent increase in private health insurance premiums. The question that arises is whether the Australian consumer gets value for his or her health insurance dollar. One would imagine that private health insurance premiums provide an avenue by which the burden on public hospitals can be relieved. However, we know this is not the case, because private hospitals treat the less complex and less seriously ill patients in the public system.

There is no incentive to do otherwise as these hospitals focus on high volume, high profit and low-cost patients. So let me be specific: in New South Wales private hospitals treat only 5 per cent of emergency admissions, leaving the public system to pick up the tab for the remaining 95 per cent of admissions. There are no surprises there. However, the burden on the public health system becomes clear when we compare this with the fact that 48 per cent of all admissions to the hospital system are via public emergency departments.

To further reinforce the point, in 2003-04 private health insurance coverage stood at 43 per cent, but only 34 per cent of total separations in the hospital system were covered by private health insurance. Again, public hospitals pick up the tab. As a result of premium rises, it is anticipated that younger people will drop out

of insurance, not only because of the high cost of insurance but because of the increasing out-of-pocket expenses they have to pay on top of their health insurance premiums. In the last quarter, total patient episodes funded by private health insurance decreased in both private and public hospitals.

Despite this exponential growth in rebate expenditure and the cost of premiums, the Australian Government did not allow more than a 4.4 per cent increase in its comparable 2003-04 allocation for New South Wales public hospitals under the Australian Health Care Agreement. While the Commonwealth Government has granted increases of up to 8 per cent over the past five years, under the Australian Health Care Agreement it has confined New South Wales public hospitals to a 4.4 per cent increase. For this 4.4 per cent increase the public health system is expected to subsidise the treatment of private patients in public hospitals to the tune of \$200 million a year but receive a lower rate of reimbursement from funds compared with private hospitals. If public hospitals received the same amount of reimbursements as private hospitals, the reality is they would be receiving an additional \$330 million.

The Treasurer has recently highlighted the inequitable distribution of the GST to New South Wales. Public hospital funding is yet another area where regrettably New South Wales is being short-changed and is an issue the Treasurer can raise in his discussions with the Commonwealth Treasurer.

### PROGRAM OF APPLIANCES FOR DISABLED PEOPLE

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** My question is addressed to the Minister for Health. Has the Minister received the final report from the inquiry into the program of aids and appliances for disabled persons? If not, when will it be received and publicly released? What are the report's conclusions and when will they be implemented?

**The Hon. JOHN HATZISTERGOS:** The report has not been received. I understand the report is still being completed and will not be available until some time later this year. As to its publication, I am pretty open about these matters: I have not seen it, I do not know what is in it, but the honourable member's request will be favourably considered when the report is received.

### LANE COVE TUNNEL

**The Hon. JOHN RYAN:** My question is addressed to the Minister for Roads. Did the builders of the Lane Cove tunnel offer to build an extra lane each way in the tunnel instead of paying the State Government's upfront development fee? Was that offer refused and, if so, why? When will the State Government come clean on the deal that has been done?

**The Hon. ERIC ROOZENDAAL:** It is good to see the honourable member has read the *Daily Telegraph* and researched the subject extensively. I am advised that the question of the provision of three lanes for the full length of the Lane Cove tunnel was carefully considered during the environmental impact assessment phase of the project. It was found that a three-lane eastbound configuration over the full length of the tunnel would exacerbate congestion on the approaches to the Sydney Harbour crossing. The issue of the Sydney Harbour crossing is worth noting because there are only two defined crossings and, ultimately, all traffic needs to cross over those.

I am advised three lanes over the full length of the tunnel would result in congestion in the tunnel, with consequential safety impacts. In the immediate short term, network adjustments, such as a fourth lane on Gore Hill freeway and traffic management adjustments on the Warringah freeway would be required. Longer-term capacity improvements would also be required on the Warringah freeway and the Sydney Harbour crossings. I am advised the likely costs would be significantly greater than \$200 million. In the westbound direction, provision of a third lane prior to the merge point of the Pacific Highway ramp would have resulted in a significant potential for accidents and interference with traffic flow at the merge point.

Provision of three lanes for significant lengths of the tunnel was assessed as best meeting the project's environmental objectives and was adopted in the Roads and Traffic Authority's environmental impact statement [EIS] proposal. The Roads and Traffic Authority received bids from the private sector, which included options for a full-length three-lane tunnel. These options were assessed on their merits against defined evaluation criteria. It was determined that the full-length three-lane proposal did not offer the best value for money and the Roads and Traffic Authority proceeded to recommend the Lane Cove tunnel consortium's base proposal which conformed with the project planning approval.

I am advised there was no proposal from the Lane Cove tunnel consortium to pay the Roads and Traffic Authority \$79.3 million in lieu of providing a full third lane on the Lane Cove tunnel. The approved tunnel optimised the fit with the existing road network and provided sufficient traffic capacity consistent with the requirements of the project planning approval. It should be noted that the Lane Cove tunnel, as approved and as being constructed, includes a third lane in each direction for significant sections.

### **FEDERAL GOVERNMENT INDUSTRIAL RELATIONS LEGISLATION HIGH COURT CHALLENGE**

**The Hon. PENNY SHARPE:** My question is addressed to the Minister for Industrial Relations. Will the Minister inform the House on the status of the Government's High Court challenge against the Commonwealth's WorkChoices legislation?

**The Hon. JOHN DELLA BOSCA:** I thank the honourable member for her question and for her ongoing interest in industrial affairs. Last month the High Court confirmed that it would hear State Government challenges to the constitutional validity of the Commonwealth's WorkChoices legislation. The High Court has determined that it has the jurisdiction to hear the challenges launched by the governments of New South Wales, Western Australia, South Australia and Queensland. The full bench of the High Court will hear the matter from 8 to 12 May this year and a further directions hearing is scheduled this month.

It is appropriate that the full bench of the High Court of Australia hears this matter of great constitutional significance. This legislation will bring conflict and division to productive and efficient New South Wales workplaces. We will put their case before the High Court that the legislation will demonstrate the Howard Government has misused its authority in conducting a hostile takeover of powers that are constitutionally vested in the States. The New South Wales Government's challenge to the WorkChoices legislation turns largely on the interpretation of the corporations power. The Iemma Government is mounting this challenge to protect workers and their families, small-business owners and farmers, who will all suffer if this unconstitutional law is allowed to stand.

The legal team spearheading the New South Wales Government's challenge will be the Solicitor General, Michael Sexton, SC, and Bret Walker, SC, along with industrial barrister Ingmar Taylor and corporations law barrister Jeremy Kirk. While the Government welcomes the court's decision to hear the States' cases, we are concerned about the Commonwealth's failure to introduce or even to publicise the regulations needed to support the new law. The Howard Government's continued reluctance to disclose the content of these regulations speaks volumes about how dangerously rash and ill-conceived this whole package is. It appears the Howard Government does not want the High Court to examine the regulations, which is possibly a motive for the Government's lack of transparency.

It seems certain that these regulations will be as complex and unbalanced as the legislation itself, and that the Howard Government is struggling to paper over the worst of the shortcomings of this legislative package. As I have said on many occasions, John Howard's workplace changes will remove the award safety net. It will reduce the level of real wages through the Low Pay Commission's operations. It will remove penalty rates, shift loadings, holiday leave and other entitlements, which form the basis of Australian family life in New South Wales. It will remove protection against unfair dismissal; remove protections for vulnerable workers, including protection from exploitative arrangements; and severely limit the independent role of the Industrial Relations Commission and its exercise of broad dispute settling powers, which is the role of the independent umpire in industrial relations.

Unlike the Federal system, the New South Wales industrial relations system is simple and easy to understand for workers and employers and is based on generating a culture of co-operation and education. The New South Wales Government is challenging this legislation because it disadvantages those who can least afford it, it will bring conflict to New South Wales workplaces, it will lower wages, salaries and entitlements, and in some cases it will bring disaster and disadvantage to New South Wales businesses.

### **PACIFIC HIGHWAY UPGRADE**

**Mr IAN COHEN:** My question is addressed to the Minister for Roads. Will the Minister investigate why the Roads and Traffic Authority [RTA] is widening the study area for the Ewingsdale to Tintenbar section of the Pacific Highway upgrade, which could potentially negate the Ballina bypass? Will the Minister investigate why the RTA chose the route with the greatest ecological and social damage to the Ballina to Woodburn section and why the RTA planning proposes to wipe out a distinct threatened species of the coastal eastern emus in the Grafton bypass section?

Will the Minister also investigate the RTA's proposed construction of the farmland of the Sikh community at Woolgoolga, which would have a catastrophic impact on the social fabric of that iconic community? In light of the ecological vandalism and community rights abuse by the RTA, will the Minister personally investigate the RTA's methods of assessment of the North Coast Pacific Highway upgrades and separate motorway options?

**The Hon. ERIC ROOZENDAAL:** I thank the honourable member for his question. I know he has had an interest in this issue for a considerable time. In October 2004 the Roads and Traffic Authority [RTA] began planning for a 16.8 kilometre dual carriageway upgrade of the highway. As a result of the outcome of the Northern Pacific Highway Noise Task Force the development of route options for the project included a review of the previously announced preferred option for the Bangalow to St Helena project. Earlier this year the study was extended to the east of the original study area to look at other feasible route options.

Route options were placed on display for public comment on 21 October 2005 and submissions were extended to 2 September 2005. Community consultation is an important part of this process. No decision has been made on a preferred route. I understand the RTA is responding to an Ombudsman's inquiry with regard to the extended study area, which I believe is one of the concerns of the honourable member. I am prepared to work with my staff to have another look at this matter if the member believes there is a problem.

#### **SELECT COMMITTEE ON THE CROSS-CITY TUNNEL REPORT RECOMMENDATIONS**

**The Hon. RICK COLLESS:** My question is directed to the Minister for Roads. Following public outrage over the cross-city tunnel fiasco, what action will he take to ensure the recommendation of this Parliament's cross-city tunnel committee to reduce the toll from \$3.56 to \$2.90 is implemented?

**The Hon. ERIC ROOZENDAAL:** I have not had a chance to read the full report although it seems that large slabs of it found their way into the media over the last week. The first of the two major recommendations is a reduction of the toll. That has pretty much been the Government's position for a long period of time. We believe the cross-city tunnel operators, as good corporate citizens, need to review the toll. If they want to encourage more vehicles into the tunnel, there is only one option: they need to review the toll. That has been the Government's position for a considerable time. It is a shame that members opposite have not paid attention to that fact.

The second major recommendation relates to city congestion. On that matter the Government's position is clear: we want to work in a co-operative way with the cross-city tunnel operators to resolve this issue. It is pretty simple: every additional car that goes into the tunnel is one less car on city roads. That is why we are encouraging the cross-city tunnel operators to be good corporate citizens and review the toll. The more cars that go through the tunnel, the fewer cars there are on city roads.

#### **COMMONWEALTH GRANTS COMMISSION GOODS AND SERVICES TAX ALLOCATIONS**

**The Hon. TONY CATANZARITI:** My question is addressed to the Treasurer. Can the Treasurer update the House on discussions with the Commonwealth with regard to the GST?

**The Hon. MICHAEL COSTA:** Tomorrow we expect news from the Federal Treasurer on his latest calculations for the GST. We will find out what the Federal Treasurer believes New South Wales taxpayers deserve in GST payments. I can tell you that after his recent comments we are not expecting good news! The Federal Treasurer made a comment just recently, which I thought would have been embarrassing for members opposite, that he would not be giving any additional GST to the State Labor Government in New South Wales. That is an insight into how the Federal Treasurer dishes out GST revenues. He will give additional payments to his mates because they are all he cares about. He is not interested in taxpayers in New South Wales. This GST rort has been exposed by none other than Ian Macfarlane, the Governor of the Reserve Bank, who observed:

At the moment there doesn't seem to be any logical case for taking taxpayers' money in New South Wales and Victoria and distributing it to Western Australia and Queensland.

There for the first time is an independent assessment of the GST and how New South Wales is ripped off so far as GST payments are concerned. No less a person than the Governor of the Reserve Bank has confirmed—

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

**The Hon. MICHAEL COSTA:** The Governor of the Reserve Bank has confirmed what the New South Wales Government has been saying for years: the GST is a rip-off, it discriminates against New South Wales taxpayers, and it is unfair and leads to pressure on our services. The dispossessed on the Opposition benches—most of them have been disendorsed, from what I can gather at the moment—may yell and scream about the GST and the other Labor States, but the facts are clear. The Federal Treasurer has the authority and the legislative ability to alter the GST formula. He does not need to rely on the Grants Commission in that regard. The legislation is clear. I refer to section 9 of the A New Tax System (Commonwealth-State Financial Arrangements) Act 1999, which states that the relativities factor for a State for the GST year is the factor determined in writing by the Treasurer.

Let us put an end to this nonsense claim that Peter Costello cannot, with the stroke of a pen, alter the GST arrangements. He can, and the facts are clear. I want to know why members opposite do not take themselves to Canberra and speak to Peter Costello—they are allegedly in the same party—and seek to redress the problem. They do not care one iota about the taxpayers of New South Wales. The GST is a rort.

*[Interruption]*

I acknowledge the interjection from Ned Flanders. The Hon. John Ryan said he will wait until he is in government before he goes to Canberra. That will be a long time. It is also in line with what Peter Costello said about us not getting additional money because people in New South Wales voted for a Labor Government. That is what is behind this. It is a political rort to take funds out of New South Wales to give to people who are more sympathetic to the Liberal Party's approach. That is what it appears to be. It is a rort.

#### COOK PARK PLAN OF MANAGEMENT

**Ms SYLVIA HALE:** My question is directed to the Minister for Lands. Given that the Minister has been aware since at least 2004 of the strong support by the local community for the Cook Park Plan of Management, which will see the building at 71 The Grand Parade, Brighton-le-Sands, demolished and returned to open space, why did he write to the Mayor of Rockdale on 17 February 2006 in an attempt to stop the demolition? Why did the Minister threaten to remove Rockdale Council as the Reserves Trust manager of Cook Park? Given that a senior citizens' organisation had earlier been evicted from the same building to make way for the demolition, why are the current tenants, the Greek Orthodox Church, being treated differently? Was the Minister's letter in response to intense lobbying from some members of the Greek community and large donors to the Australian Labor Party?

**The Hon. TONY KELLY:** I am absolutely amazed that the Greens would raise this issue, which relates not only to the Greek Sporting Hall of Fame—although I think it has a legitimate claim to be there. The Royal Volunteer Coastal Patrol also received an eviction notice from the council at Brighton-le-Sands. I am aware that Rockdale City Council narrowly passed a resolution, supported by the Greens, to terminate the current leases of the Greek Sporting Hall of Fame—the supporters of which have spent of the order of \$200,000 on the building—and the Botany Bay Royal Volunteer Coastal Patrol located in Cook Park at Brighton-le-Sands. It has also resolved to demolish the building currently occupied by both groups.

I am disappointed that council has made this hasty decision, given that I wrote to the mayor late last year advising him that the most appropriate way forward on this matter was to review the current plan of management for Cook Park and to allow the community to have a say and to give the council an opportunity to reconsider its view. I have written again to council expressing my disappointment that it did not follow the path previously suggested, and I have put it on notice that unless it reconsiders the decision to terminate the occupancy and demolish the building, I shall remove council as the reserve trust manager for Cook Park. The Mayor of Rockdale has replied that the matter will be considered at the next meeting of council, which is to be held this week. I suggest the honourable member should report back to the Greens and attempt to get them to change their minds.

**Ms SYLVIA HALE:** I ask a supplementary question: Is the Minister aware that the lessees of the premises were occupying their tenancies on the ground that they knew the building was to be demolished, and that their leases were subject to them moving out so that the building could be demolished and the land returned to open space as the community and council wanted?

**The Hon. TONY KELLY:** Two groups are involved, one of which is the Royal Volunteer Coastal Patrol. As far as I know, the Greek Orthodox Church sponsored the second group, the Greek Sporting Hall of Fame.



## BUDGET PROCESS

**The Hon. GREG PEARCE:** My question is directed to the Treasurer. Does the Treasurer accept the conclusion of the Audit of Expenditure and Assets that the present budget process is more complex and contentious and is necessary or desirable, that past behaviour suggests that agencies regarded forward estimates as the starting point for negotiation about budget allocations, and that the extent of requests for maintenance funding, namely, extra funding to maintain existing policies, shows clearly that the forward estimates system has not operated as it should? Does the Treasurer further accept the conclusion of that audit that, to be effective, forward estimates must be accepted as representing expenditure limits in succeeding periods, and that Ministers and their agencies should have plans and commitments to contain their operations within those estimates? What action has he taken to implement these conclusions?

**The Hon. MICHAEL COSTA:** I am pleased the honourable member has referred to the Government's audit of the financial activities of the State. Now that I have an opportunity, I want to place on record my thanks to those involved in that audit, particularly Nigel Stokes and Mike Verdigan. They did a terrific job highlighting the problems that State governments have under an inequitable GST arrangement and an inequitable State-Federal financial distribution in being able to meet expanding pressures on expenditure. I have said this publicly to Peter Costello, who made some quite outrageous comments about the efficiency of service delivery at the State level in the face of his own productivity commission report that showed that New South Wales was performing well on a service provision basis relative to the other States.

The bulk of the problems that we face in New South Wales relating to our expenditure are due to the way our Federal fiscal system works. The bulk of the revenue following the GST is collected at the Federal level, but the bulk of expenditure is at State level. There is a complete disconnect between where the revenue is collected and where the expenditure is. As a consequence, the Commonwealth, which collects the revenue, does not have to align its spending with where the demand is. That is where our problems are at a State level. I note that Peter Costello has—

**The Hon. Greg Pearce:** Point of order: My point of order is relevance. The Minister was asked a very specific question about estimates and the budgeting process and the need to rein in Ministers and their agencies. I would ask you to rule that he answers the question.

**The Hon. MICHAEL COSTA:** To the point of order: I was answering the question. The fact is that the forward estimates have been distorted by the way in which we have revenue allocated by the Federal Government to the States. If the honourable member had listened, the answer was very much related to the specifics of the question.

**The PRESIDENT:** Order! The Minister was making general comments about matters referred to in the question and is in order. The Minister may continue.

**The Hon. MICHAEL COSTA:** It is very clear that the States are under pressure. All States are under pressure under the current arrangements for the distribution of revenue from the Commonwealth to the States. The system needs to be overhauled. I note that Peter Costello made some comments on the weekend about an inquiry into the relative tax position of OECD countries in relation to particularly marginal tax rates. That inquiry does not go far enough. Again, it is an attempt to squib on what ought to be the real issue: ensuring that the service delivery element of government, both State and local, has sufficient of the funds collected by the Commonwealth primarily to maintain the services they need.

The forward estimates clearly reflect our projections of revenue and expenditure. If one is in a position, as the Federal Treasurer has already pointed out, of experiencing pressures of demographic change, one has pressures on expenditure. That is why there needs to be an alignment between the revenue collection and expenditure components of government. We do not have that at the moment. It is clearly a major issue and structural reform must be addressed.

**The Hon. Duncan Gay:** What a load of crap!

**The Hon. MICHAEL COSTA:** If members of the Opposition think it is a load of crap, they surely do not understand basic economics or finance.

### SNOWY HYDRO LIMITED SALE

**The Hon. EDDIE OBEID:** My question is addressed to the Minister for Finance. Will the Minister inform the House of the benefits of the proposed sale of New South Wales shares in Snowy Hydro Limited?

**The Hon. JOHN DELLA BOSCA:** I commend the honourable member for his ongoing interest in this matter. In December 2005 the New South Wales Government announced that it would sell its shares in Snowy Hydro Limited through an initial public offering. Since then the Commonwealth and Victorian governments have also decided to sell their shares. The change in ownership of Snowy Hydro Limited will not affect environmental flows or the amount of water available to irrigators. Water use is protected, and will continue to be protected, by a 75-year water license issued by the New South Wales Government. There will be no job losses as a result of the sale, nor will staff lose any of their entitlements. There will be no effect on electricity supply or on the price households pay for electricity as a result of the sale of our shares.

The company will be sold through a so-called "mums and dads" float on the Australian Stock Exchange. Share caps will be used to limit the amount of shares owned by any investor, maximising the number of people who can buy into this great Australian business. Change in ownership will give Snowy Hydro Limited access to new equity, something the company has been seeking for some time. In recent years the company has expanded interstate, investing almost half a billion dollars building and buying power stations in Victoria, purchasing a Victorian energy retailer and entering into contracts with a South Australian power station. The proposed sale will improve the State's balance sheet by around \$1 billion. These proceeds will be reinvested in infrastructure projects and used to strengthen the New South Wales balance sheet, for example by reducing financial liabilities such as superannuation.

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

**The Hon. JOHN DELLA BOSCA:** I can also inform the House that on 21 February I was in Berridale to meet with members of the Snowy River Alliance. Whilst in the Snowy I was able to announce that \$30 million from the sale of Snowy Hydro Limited would be devoted to environmental projects. This will include removal of willows, planting of native trees, enhancement of native fish population in the lower snows as well as the upper alpine regions, and achieving flows in the snows greater than 21 per cent. On 6 December 2000 I made a ministerial statement outlining the \$375 million heads of agreement between the New South Wales, Victorian and Commonwealth governments.

The heads of agreement—tabled in the Parliament that day—detail the process to achieve increased flows up to 21 per cent of average natural flow in the Snowy River, with the objective of further flows to 28 per cent. It also allowed for an additional 70 gegalitres per annum of environmental flows to be devoted to the Murray River. The alpine rivers of the Snowy region also benefited from environmental flows of 120 gegalitres of water per annum.

The agreement explicitly stated that water was to be released from Jindabyne Dam, and after much consultation on design an appropriate release valve on the dam wall is near completion. These capital works ensure that the aspirational target of 28 per cent of natural flows can be released from Jindabyne Dam. As a means of getting water immediately into the Snowy River upon corporatisation, water has been released over the Mowamba Weir since December 2001. The recommissioning of the aqueduct that connects the Mowamba Weir to the main network of the Snowy is in compliance with the processes detailed in the agreement headed "Stages for Increased Flows—First Stage (Initial Release)", which was tabled in the New South Wales Parliament. This does not diminish the level of agreed flows. Water is presently flowing through a temporary siphon and shortly it will flow from the purpose-built valve. Flows in the Snowy River will mimic natural rises and falls in volume throughout the season. The revival of the Snowy continues, as does the growth of this great Australian iconic business.

### EASTER SUNDAY RETAIL TRADING

**Reverend the Hon. Dr GORDON MOYES:** I ask the Minister for Industrial Relations a question without notice. Will the Government be making amendments to the Shops and Industries Act 1962, similar to those introduced in late 2005 for Christmas Day and Boxing Day, to protect Easter Sunday from commercial exploitation? Will the Minister consider prohibiting all major retail trading on this day so that retail staff may enjoy the Christian celebration and holidays? Will the Minister uphold the original intent of the Shops and Industries Act 1962, given his comments in *Hansard* last year, when I asked about this issue, that "when the

legislation was drafted, Anzac Day, Christmas Day and Easter Sunday would not have been considered for gazettal as trade-free days because it was assumed then that no-one would want to trade on those days"?

**The Hon. JOHN DELLA BOSCA:** I commend the honourable member for his ongoing interest in this important matter, which often seems to be ignored by the Opposition parties, certainly at the Commonwealth level and to a lesser extent in New South Wales. A number of important family celebrations and public holidays are part of the Australian annual calendar. Traditionally, many of them have been protected under the New South Wales Banks and Bank Holidays Act, the public holidays legislation or the Shops and Industries Act. Unfortunately, we are in the midst of a constitutional sorting process about exactly what powers the State parliaments will have under the new WorkChoices regime put in place by the Howard Government. I have spoken to the honourable member in this House on a number of occasions and publicly about my concerns relating to this matter.

The Iemma Government is committed to protecting as many rights as possible under the new Commonwealth regime, including the protection of key public holidays. It is instructive to read what the Senate committee—the hanging judge committee—looking at WorkChoices made determinations about. Also, one should take the trouble to read the Minister's comments and those of his representatives in the Senate in *Hansard* on some of these matters. As I pointed out, it is clear that the Howard Government's intention is to make matters such as those ascribed by the honourable member matters for the market.

On more than one occasion I have had cause to discuss the issue of shop trading hours with very senior figures and entrepreneurs for whom I have a great deal of respect. Whether they be corporate executives or entrepreneurs, they make it clear that it is their brief to trade on the days that they can make money, even if it is Anzac Day, Good Friday or Christmas Day. To put it simply, if we want to preserve these important Australian features both of family life, in the case of long weekends that have become important to us as holidays, and/or cultural and religious holidays that we regard as important, such as Anzac Day and Good Friday, we will be in for a long hard fight with the Commonwealth Government. So I give a commitment to the House that this Government will be doing its best within the constraints of the Commonwealth Constitution and whatever the High Court determines about the WorkChoices challenge to protect those key public holidays.

I again reflect on the fact that there were a number of anomalies even before the WorkChoices controversy arose, and members know where I stand on that. The honourable member correctly pointed out the anomalies. Indeed, he might be referring to remarks I made previously that some of the anomalies unfortunately existed because, generally speaking, at the time the legislation was drafted the attitude that it was unthinkable to trade on Anzac Day—or at least Anzac Day morning—or Good Friday did not prevail. However, trading on those days is now regarded as commonplace if one can get away with it. So we will be taking action to do what we can within potentially tough constitutional limits.

#### PACIFIC HIGHWAY UPGRADE

**The Hon. CATHERINE CUSACK:** My question without notice is addressed to the Minister for Roads. Further to the Minister's announcement earlier in question time that he will review the Roads and Traffic Authority's selection of preferred routes for the Pacific Highway upgrades for the far North Coast will he travel to Coffs Harbour and Ballina as part of his review?

**The Hon. Jan Burnswoods:** Point of order: I spoke to the Clerk earlier about this matter. Earlier today the Hon. Jennifer Gardiner tabled the committee's report on the Pacific Highway. Not only did she put the take-note debate on the House's agenda; she started her contribution to the take-note debate. I understand that the rules for questions clearly state that questions must not refer to a matter listed for debate or a matter partially debated in the House.

**The Hon. Duncan Gay:** To the point of order: The question asked by the Hon. Catherine Cusack relates directly to an answer given by the Minister during question time today. If there was a problem with any of that, you should have ruled the question out of order at that time. If the Minister provides an answer in the House, a member is entitled to ask a further question about that answer.

**The Hon. Jan Burnswoods:** Further to the point of order: As I said, I consulted the Clerk earlier about this matter—indeed, it was precisely while the question was being asked. As a member of the committee, I took note of the Hon. Jennifer Gardiner's speech on the take-note debate.

**The Hon. Jennifer Gardiner:** To the point of order: The interim report of General Purpose Standing Committee No. 4, which I referred to this morning, related to the Tintenbar to Ewingsdale and Woodburn to Ballina parts of the Pacific Highway upgrade program. It did not relate to the Coffs Harbour part of the inquiry, which is yet to be completed and reported to the House.

**The Hon. John Della Bosca:** To the point of order: Standing Order 65 (3) clearly states:

Questions must not refer to:

- (a) debates in the current session, or
- (b) proceedings in committee not yet reported to the House.

Honourable members know that there is a debate in the current session.

**The Hon. CATHERINE CUSACK:** My question relates to a different part of the highway. It is not relevant at all.

**The Hon. Jan Burnswoods:** Further to the point of order: Now there are two reasons that the question should be ruled out of order. First, it refers to the whole inquiry. As I said, the interim report was dealt with earlier today. Second, in a couple of weeks the committee will continue its hearings into the part of the Pacific Highway inquiry relating to Coffs Harbour. So not only is the question out of order under Standing Order 65 (4); as the Leader of the Government pointed out, the question is out of order under Standing Order 65 (3).

**The Hon. CATHERINE CUSACK:** To the point of order: May I repeat the earlier part of my question? The question did not relate to the review. It related to the announcement by—

**The PRESIDENT:** Order! It may assist all members if the Hon. Catherine Cusack repeated the question.

**The Hon. CATHERINE CUSACK:** Further to your announcement earlier in question time that you will review the RTA selection of preferred routes for the Pacific Highway upgrades, will you travel to Coffs Harbour as part of your review to hear community opinion on this very important matter? If yes, when will you visit these communities, who are eager to put their views to you directly? If not, why not?

**The PRESIDENT:** Order! I have ruled previously that the words "proceedings in committee" do not refer to public evidence before a committee but simply to proceedings that have taken place within a committee. However, the question is obviously out of order. Standing Order 65 (4) states that questions must not anticipate discussion upon orders of the day or other matter on the notice paper.

**The Hon. JOHN DELLA BOSCA:** I suggest that if honourable members have further questions they place them on notice.

## DEFERRED ANSWERS

The following answers to questions without notice were received by the Clerk during the adjournment of the House:

### CROSS-CITY TUNNEL AND ROAD CLOSURES

On 10 November 2005 Ms Lee Rhiannon asked the Minister for Emergency Services a question without notice regarding the cross-city tunnel and road closures. The Minister for Emergency Services provided the following response:

Please refer to my response to Question on Notice 3485—Emergency Services—Darlinghurst Fire Brigade.

### MONA VALE ROAD UPGRADE

On 10 November 2005 Reverend the Hon. Dr Gordon Moyes asked the Minister for Finance, representing the Minister for Roads, a question without notice regarding the Mona Vale Road upgrade. The Minister for Roads provided the following response:

I am advised that the RTA is undertaking various road upgrades in the Pittwater area. I understand that a preliminary concept design for an upgrade of Mona Vale Road between Manor Road Ingleside and Foley Street Mona Vale has been completed. A decision is yet to be made on its construction.

**COUNTER-TERRORISM MEASURES**

On 15 November 2005 the Hon. David Oldfield asked the Minister for Ports and Waterways, representing the Minister for Police, a question without notice regarding counter-terrorism measures. The Minister for Police provided the following response:

As the honourable member is aware, this matter is currently before the courts. It would therefore be inappropriate for me to comment.

**BALMORAL BOATSHED COMMERCIAL LEASE**

On 17 November 2005 Ms Sylvia Hale asked the Minister for Ports and Waterways a question without notice regarding the Balmoral Boatshed commercial lease. The Minister for Ports and Waterways provided the following response:

I am advised:

The site Balmoral Boatshed stands on is owned by NSW Maritime and Mosman Municipal Council.

The Boatshed has not been sold. The lessee has placed the lease on the market—20 year leases on NSW Maritime and Mosman Council land, the new Boatshed and the commercial mooring licences associated with the Boatshed.

The current annual rent paid to NSW Maritime on the lease is \$40,000, plus GST and is based on the market rental value which, like all leases, is subject to future rent review. Mosman Council also receive rent.

Regarding the practice for lease renewal, the agreement to lease with the lessee of Balmoral Boatshed was executed on 7/4/2000. At that time it was usual to renegotiate with the sitting tenant a further lease, particularly where a tenant proposed significant capital investment.

**PUBLIC SCHOOLS SCIENCE CURRICULUM**

On 17 November 2005 Reverend the Hon. Fred Nile asked the Special Minister of State, representing the Minister for Education and Training, a question without notice regarding the public schools science curriculum. The Minister for Education and Training provided the following response:

In NSW, all schools must teach the mandatory Board of Studies syllabuses, including compulsory science courses from Kindergarten to Year10. In Years 11 and 12 students select from a number of science courses.

In developing the NSW curriculum, the Board of Studies undertook extensive consultation with experts in the field to ensure that content, including that relating to evolution, is consistent with the accepted scientific knowledge, understanding and skills.

Intelligent Design is not in the science curriculum because it is not scientific. It has no status as a scientific theory and is not evidence based.

Intelligent Design is not part of the NSW science curriculum and examination system and would not be considered relevant in any responses to School Certificate or Higher School Certificate science examinations questions.

**CROSS-CITY TUNNEL CONTRACT**

On 17 November 2005 Ms Lee Rhiannon asked the Special Minister of State, representing the Premier, a question without notice regarding the cross-city tunnel contract. The Premier provided the following response:

I draw Ms Rhiannon's attention to the Review of Future Motorways in NSW published by the Premier's Department in December 2005.

As to the legal issues referred to by Ms Rhiannon, I am advised that the RTA provided a response on these issues at the public hearing of the Joint Select Committee into the Cross City Tunnel on 6 December 2005.

**PLUMBING AND DRAINAGE CODE OF PRACTICE**

On 17 November 2005 Mr Ian Cohen asked the Minister for Ports and Waterways, representing the Minister for Energy and Utilities, a question without notice regarding the plumbing and drainage code of practice. The Minister for Energy and Utilities provided the following response:

I have been advised by the Minister for Police and Minister for Utilities that:

The Minister considers that, in most cases, the draft Code does not significantly add to the cost of the use and installation of a rainwater tank.

The role of the Committee on Uniformity of Plumbing and Drainage Regulation in NSW (the Committee) is to produce a Code of Practice that provides cost-effective, efficient and safe plumbing and drainage solutions that protect the health of persons, as well as the environment. The interests of consumers are adequately represented by NSW Health and the Office of Fair Trading. Non-Government representatives on the Committee include the Institute of Plumbing, the Master Plumbers and Mechanical Contractors Association, Hydraulic Services Consultants Australia and the Water Directorate. Non-Government members participate in debates on issues, technical advice and regulatory approaches.

The Code provides workable solutions to the water efficiency requirements of the Building Sustainability Index (BASIX). The Department of Energy, Utilities and Sustainability was advised by the former Department of Infrastructure, Planning and Natural Resources (DIPNR) that major changes to the Code that achieve the BASIX water conservation outcomes were considered in the regulatory impact statement for BASIX. It was therefore considered unnecessary to duplicate the economic analysis already completed by DIPNR.

The increased cost that the Honourable Member refers to only applies to underground tanks which make up approximately 1 per cent of tanks installed. The draft Code requires a testable backflow prevention device to be installed for underground rainwater tanks to ensure that the potable water supply is not exposed to potential contamination from sewage or stormwater runoff. The requirements for above-ground tanks remain unchanged in the new draft Code. Sydney Water continues to install, free of charge, water meters with integrated dual check valves to provide backflow protection to its mains for above-ground rainwater tanks.

The draft Code does not seek to enhance the powers of any water utility. Indeed, Sydney Water continues to actively encourage the use of rainwater tanks and other water conservation devices through a system of rebates for rainwater tanks and subsidies for water efficient fittings for existing dwellings. In addition, the *Sydney Water Regulation 2000* has been amended to allow home owners to change tap washers and install water efficient devices such as tap aerators and water efficient showerheads themselves. Since 1999 there have been 300,475 of these retrofits at a cost of around \$19.5 million.

Each individual rainwater tank installation will vary in cost due to many considerations including, but not limited to, site costs, whether it is installed in a new or existing dwelling, the existing or proposed plumbing layout, proposed uses, method of top-up (if required), size of pump (if required) and choice of above or below-ground installation. It is, therefore, not possible for the Minister to give the guarantee sought by the Honourable Member.

#### **PUBLIC DENTAL HEALTH SERVICES**

On 17 November 2005 Ms Sylvia Hale asked the Special Minister of State, representing the Minister for Health, a question without notice regarding public dental health services. The Minister for Health provided the following response:

I am advised that the term "expressions of interest" is not a term used in relation to the State-wide operation of oral health services in NSW, the Priority Oral Health Program, or the collection of non-admitted patient occasions of service.

#### **PUBLIC TRANSPORT TICKETING SYSTEM**

On 17 November 2005 the Hon. Dr Arthur Chesterfield-Evans asked the Minister for Ports and Waterways, representing the Minister for Transport, a question without notice regarding the public transport ticketing system. The Minister for Transport provided the following response:

The new Tcard ticketing system will resolve the need for multiple tickets when using different types of transport services and will be based on smart card technology. In the future, this will provide customers with the convenience of a single ticketing system for travel on Government and privately operated rail, bus and ferry services.

#### **SWANSEA CHANNEL FUNDING**

On 29 November 2005 the Hon. Michael Gallacher asked the Minister for Emergency Services, Minister for Lands, and Minister for Rural Affairs a question without notice regarding Swansea Channel funding. The Minister provided the following response:

I am pleased to provide the honourable member with details of the works at Swan Bay and Swansea Channel being undertaken for the Lake Macquarie Project Management Committee. The Committee is responsible for the implementation of the Lake Macquarie Improvement Project. The development of the Lake Macquarie Improvement Project was the result of the 1999 Premier's Taskforce Report on Lake Macquarie. Funding for works undertaken through the Lake Macquarie Improvement Project is provided jointly by local government (Lake Macquarie City Council and Wyong Shire Council) and the NSW Government.

In 2002 an extension of the Project and additional funding was approved. This extension is known as the Lake Macquarie Improvement Project, Stage 2.

These particular works at Swan Bay and Swansea Channel are part of the Lake Macquarie Improvement Project, Stage 2. The main component of this work involves the partial closure of the southern entrance to Swan Bay. The partial closure will be achieved by the placement of sand dredged from three sites within Swansea Channel. The sites within Swansea Channel to be dredged were selected to improve navigation.

I have been advised that a contractor has been engaged to undertake the work, and that the work should commence in early January 2006.

#### **DESALINATION PLANT PROPOSAL**

On 29 November 2005 Mr Ian Cohen asked the Minister for Ports and Waterways, representing the Minister for Utilities, a question without notice regarding the desalination plant proposal. The Minister for Utilities provided the following response:

Sydney Water has advised:

An environmental assessment of Sydney's desalination project is being publicly exhibited from 24 November 2005 to 3 February 2006.

In addition to the information provided on Sydney Water's website, the community is able to visit a display at the locations provided on the following dates:

- Miranda Westfield Shopping Centre 3-4 December 2005, 10-11 December 2005, 14-15 January 2006, 21-22 January 2006 and 28-29 January 2006;
- Parramatta Westfield Shopping Centre 3-4 December 2005, 10-11 December 2005, 14-15 January 2006, 21-22 January 2006 and 28-29 January 2006;
- Eastgardens Westfield Shopping Centre 3-4 December 2005, 10-11 December 2005, 14-15 January 2006, 21-22 January 2006 and 28-29 January 2006;
- Hurstville Westfield Shopping Centre 3-4 December 2005, 10-11 December 2005, 14-15 January 2006, 21-22 January 2006 and 28-29 January 2006;
- Marrickville Metro Shopping Centre 3-4 December 2005, 10-11 December 2005, 14-15 January 2006, 21-22 January 2006 and 28-29 January 2006;
- Ashfield Mall Shopping Centre 14-15 January 2006, 21-22 January 2006 and 28-29 January 2006;
- Penrith Westfield Shopping Centre 14-15 January 2006 and 28-29 January 2006;
- Liverpool Westfield Shopping Centre 14-15 January 2006 and 28-29 January 2006.

At these locations, the community can view the environmental assessment, talk to members of the desalination team, taste a sample of desalinated water and take home further information. Further information on the environmental assessment is available on-line at [www.sydnevwater.com.au](http://www.sydnevwater.com.au).

#### **CROSS-CITY TUNNEL TOLL-FREE PERIOD**

On 29 November 2005 Reverend the Hon. Dr Gordon Moyes asked the Minister for Finance, representing the Minister for Roads, a question without notice regarding the cross-city tunnel toll-free period. The Minister for Roads provided the following response:

The Government has incurred no expense in relation to the toll-free period.

#### **LIQUOR TRADING HOURS**

On 29 November 2005 Reverend the Hon. Fred Nile asked the Minister for Natural Resources, representing the Minister for Gaming and Racing, a question without notice regarding liquor trading hours. The Minister for Gaming and Racing provided the following response:

The Government has released a draft Liquor Bill for consultation. The Bill includes comprehensive changes to the liquor regulatory framework which reduce complexity and cost for the community. They will simplify and modernise the law to aid understanding and enforcement.

The Bill proposes that liquor licensing decisions be initially made by the Director of Liquor and Gaming instead of a Licensing Court. A similar process occurs in some other States. The community will be able to make submissions to the Director, and they must be taken into account.

The process will be subject to the checks and balances required by due process and natural justice, without the need for residents to engage solicitors and battle their way through the courts. The community will have increased access to the liquor licensing system at lower cost.

The proposals—including changes to trading hours—have been released for consultation. The Minister for Gaming and Racing has indicated that they are not "set in stone". The Government will carefully consider submissions made in response to the proposals before they are finalised.

#### **POLITICAL ACTIVISM IN SCHOOLS**

On 29 November 2005 the Hon. David Oldfield asked the Special Minister of State, representing the Minister for Education and Training, a question without notice regarding political activism in schools. The Minister for Education and Training provided the following response:

A response to the Hon David Oldfield's representations, on behalf of Mr Ian Hale, was sent on 20 December, 2005.

#### **PUBLIC SECTOR RECRUITMENT FREEZE**

On 30 November 2005 the Hon. Greg Pearce asked the Special Minister of State a question without notice regarding the public sector recruitment freeze. The Special Minister of State provided the following response:

A suspension on advertising and filling of staff vacancies in budget dependent agencies has been in place since 27 April 1999.

Positions exempted from the freeze are important front line service delivery positions in key portfolio areas such as Health, Education and Training, Community Services, Police, Emergency Services and Corrective Services.

The suspension action was imposed as part of an ongoing process to achieve budget savings throughout the sector.

#### GOVERNMENT SCIENTIFIC ADVICE

On 30 November 2005 the Hon. Jon Jenkins asked the Special Minister of State, representing the Premier, a question without notice regarding government scientific advice. The Premier provided the following response:

1. The Marine Parks Authority has made every effort to involve the community in the development of a balanced zoning plan for the Cape Byron Marine Park. Following careful consideration of all submissions, changes were made to the draft zoning plan that resulted in additional access being provided to fishing grounds for both recreational and commercial fishers, whilst ensuring that the objectives of the Marine Parks Act 1997 were achieved.

Consequently, under the recently announced Cape Byron Marine Park Zoning Plan recreational fishers will continue to be able to fish in most areas of the marine park.

2. I am advised that the Premier's statement on the Australian climate was sourced from the Bureau of Meteorology's press release of Monday 14 November 2005. I am advised the Bureau states in its press release that "Australia has experienced its warmest start to a year on record (since 1950), with the January-to-October temperature averaging 1.03 degrees Celsius above the 30-year average (1961-1990). As the year nears an end, a record-breaking year is looking likely—another indicator of climate change".

I am also advised that subsequently, on 16 December 2005, climatologists from the National Climate Centre at the Bureau of Meteorology confirmed that 2005 was likely to be the hottest year on record in Australia.

3. I am advised that the source of the advice provided to the Premier was an article on the United States National Aeronautics and Space Administration website dated 23 October 2005 and entitled "Hurricane season 2005 breaks all records". This article was written by NASA's Goddard Space Centre.

I am also advised that the National Hurricane Centre, part of the United States Government's National Weather Service, released a statement on Thursday 1 December 2005, which summarised the 2005 hurricane season as follows:

"The 2005 Atlantic Hurricane season is the most active on record:

- Twenty-six named tropical storms formed, breaking the old record of 21, set back in 1993.
- Thirteen storms became hurricanes, breaking the old record of 12, set back in 1969.
- Seven hurricanes became major hurricanes (Category 3 on the Saffir-Simpson Hurricane scale), including three hurricanes (Katrina, Rita and Wilma) which reached Category 5 intensity. This is the first time since records began in 1851 that three category 5 storms have been known to occur in a single season.
- Katrina will likely be recorded as the most devastating hurricane in the history of the United States, and was directly responsible for an estimated 1200 deaths in the United States, making Katrina the deadliest US hurricane since 1928. Katrina also caused an estimated US \$80 billion in damage, making Katrina the costliest US hurricane on record.
- Hurricane Wilma had a recorded minimum central pressure of 882 millibars, the lowest pressure on record for a hurricane in the Atlantic basin."

Separately, I am advised that 2005 was not just a record for hurricanes in America. According to the European intergovernmental weather forecasting body EUMETSAT (European Organisation for the Exploitation of Meteorological Satellites), on 9 October 2005, Hurricane Vince crossed the Spanish coastline, the first tropical cyclone on record to make landfall in Spain.

In relation to the question asked as to whether "geological records show that the recent season was a quiet period for hurricane activity", I am advised that there is a discipline of paleotempestology, which involves the assessment of geological formations as evidence of hurricane activity in previous millennia, such as erosion at high levels, or coral debris deposited well inland. I am advised by the New South Wales Greenhouse Office that the Bureau of Meteorology advises that no paleo records exist which are comparable to current observations, which means it is impossible to confirm or disprove such statements. In addition, as paleo records relevant to hurricanes generally look at features such as erosion at high levels, and coral debris deposited well inland, these cannot give an indication of the number of hurricanes in a season, or the severity of a hurricane season overall.

4. Climate change is likely to have wide-ranging impacts on the environment and the general population. The New South Wales Government is ensuring that the most up to date research and scientific opinion is available to effectively inform Governments, business, and the wider community.



I am advised that the Premier receives advice from a range of experts on the environment and climate change from within Government, and expert advice provided by independent advisers. I have been advised by the Department of Environment and Conservation that it is able to provide advice on specific issues relevant to its business such as atmospheric and biodiversity science. New South Wales Government agencies advising the Premier also work closely with other expert bodies including the CSIRO, the Australian Greenhouse Office, and other Commonwealth and State and Territory Government experts.

The Premier also receives advice from a six member independent Greenhouse Advisory Panel, with expertise covering a range of areas, including science, communications, local government, industry, agriculture and law. The Panel includes Mr Kevin Hennessy, meteorologist, and Principal Research Scientist in the CSIRO's Marine and Atmospheric Research Division. Mr Hennessy has been a member of the CSIRO's Climate Impact Group since 1989, and since 1999 has co-ordinated the CSIRO's Climate Impact and Adaptation Working Group, which brings together around 70 CSIRO scientists across a range of disciplines to address climate change issues.

The NSW Government's climate change policies are also based on specially commissioned reports such as those commissioned from the CSIRO's Climate Impact Group and the Australian Bureau of Meteorology. For example, in November 2004 the Government released an important two-part report: Climate Change in NSW - Past climate variability and projected changes in average climate and projected changes in climate extremes.

I am advised that these CSIRO reports on the likely impact of climate change on NSW significantly informed the development of the NSW Greenhouse Plan, recently released by the Premier, and the initiatives it includes.

Recognition of the importance of scientific advice and research also underpins the NSW Greenhouse Plan's new Climate Change Impacts and Adaptation Research Program. The program will further improve knowledge about the likely impacts of climate change on bushfires, water availability, flooding, biodiversity and other environmental impacts in NSW.

The program has allocated \$2 million in funding over four years to a series of research projects that will involve experts and scientists from NSW government agencies such as the Department of Environment and Conservation and NSW Health, and external bodies such as universities and co-operative research centres.

The CSIRO is also currently completing another report on the likely impact of climate change on bushfires in NSW. This is being jointly funded by the Commonwealth, NSW and other States and Territories.

#### **STATE RAIL AUTHORITY EMPLOYEES MISCONDUCT ALLEGATIONS**

On 30 November 2005 Reverend the Hon. Dr Gordon Moyes asked the Minister for Ports and Waterways, representing the Minister for Transport, a question without notice regarding State Rail Authority employees misconduct allegations. The Minister for Transport provided the following response:

An investigation was conducted into the integrity of time and record keeping by certain staff in the Illawarra/South Coast area. In accordance with RailCorp procedures, the matter was referred to the Disciplinary Review Panel for appropriate action regarding a small number of employees.

#### **NATURE CONSERVATION COUNCIL LEGAL AID FUNDING**

On 30 November 2005 Reverend the Hon. Fred Nile asked the Special Minister of State, representing the Attorney General, a question without notice regarding Nature Conservation Council Legal Aid funding. The Attorney General provided the following response:

The NSW Legal Aid Commission uses means testing to ensure that legal representation is effectively targeted to those most in need. The overwhelming majority of the Commission's services are provided to low-income individuals.

In line with Legal Aid Commission's policies there is a limited capacity to provide representation in public interest environmental law matters where the activity or proposed undertaking raises a matter of substantial public concern about the environment.

In deciding where there is a substantial public concern consideration is given to:

- whether or not the activity or proposed undertaking is likely to have a significant impact on the environment in NSW or to substantially affect public use, or enjoyment of that environment;
- the scarcity of the particular attribute(s) of that environment;
- the value of that environment to the community of NSW; and
- the community interests that may be affected, including the impact on the social and cultural needs of the community.

Confidentiality provisions contained in sections 25 and 26 of the Legal Aid Commission Act (NSW) 1979 prohibit the Legal Aid Commission from divulging information about individual applications for legal aid.

**WAVERLEY COUNCIL PARKING FINES**

On 1 December 2005 the Hon. Dr Peter Wong asked the Minister for Justice, representing the Minister for Local Government, a question without notice regarding Waverley Council parking fines. The Minister for Local Government provided the following response:

I provide the following details in response to your questions:

I should first explain that councils are autonomous bodies with rights, powers and privileges conferred by law.

The Department of Local Government monitors council operations. This is in part to determine whether councils exercise their powers in accordance with any relevant legislation and broadly in keeping with any guidelines or standards issued by the appropriate Government authority.

Provided they do so, councils are not generally subject to intervention by me as Minister or the department as to the manner in which they exercise those powers.

I understand that Waverley Council has entered into a private agreement at Westfield's request to cover provision of regulatory services in Westfield's Bondi Junction car park.

In regard to the legislative basis for such a private agreement, I have asked the Department of Local Government to pursue the matter with council, including the provision of any legal advice it has obtained in relation to this matter.

**MACDONALDTOWN STABLING PROJECT**

On 1 December 2005 Ms Lee Rhiannon asked the Minister for Ports and Waterways, representing the Minister for Transport, a question without notice regarding the Macdonaldtown stabling project. The Minister for Transport provided the following response:

I am advised by the Transport Infrastructure Development Corporation that the Review of Environmental Factors (REF) for the project identifies that compliance with the Industrial Noise Policy will be achieved through the implementation of the mitigation measures proposed, including the construction of noise walls.

The REF states that sleep disturbance criteria will be achieved where practicable. To this end, TIDC and RailCorp are undertaking further investigations to ensure that sleep disturbance criteria are able to be achieved through either operational or structural solutions.

**PUBLIC SECTOR RECRUITMENT FREEZE**

On 1 December 2005 the Hon. Greg Pearce asked the Assistant Treasurer a question without notice regarding the public sector recruitment freeze. The Premier provided the following response:

The recruitment of non-frontline staff is subject to obtaining a specific exemption. Exemptions require the approval of the Director-General, Premier's Department on a case-by-case basis. Requests are expected to demonstrate that the position is essential to frontline services.

**PORT BOTANY EXPORTS**

On 1 December 2005 Ms Sylvia Hale asked the Minister for Ports and Waterways a question without notice regarding Port Botany exports. The Minister for Ports and Waterways provided the following response:

I am advised:

Aluminium, wool, beef and cotton are not the four largest exports from Port Botany.

Port Botany handled 1.34 million twenty-foot equivalent containers (TEU) during 2004/2005.

Of these 1.34 million containers approximately 20,000 (TEU) were aluminium export containers, 7,088 TEU of wool, 14,100 TEU of meat, and 11,778 TEU of cotton.

In 2004/05, 133,000 mass tonnes of aluminium from Tomago and Kurri Kurri were exported through the Port of Newcastle.

Aluminium exported through Port Botany is containerised.

All aluminium exported through Port Botany is transported by rail. There are on average two train services from Newcastle per working day.

Containerised exports from NSW regional areas make up less than 10% of the total container trade handled at Port Botany. Aluminium exports represent less than two per cent of total container trade handled at the port.

**STANDARD INSTRUMENT (LOCAL ENVIRONMENT PLANS) ORDER 2005**

On 1 December 2005 Reverend the Hon. Dr Gordon Moyes asked the Minister for Justice, representing the Minister for Local Government, a question without notice regarding the Standard Instrument (Local Environment Plans) Order 2005. The Minister for Planning provided the following response:

I am advised that:

Brothels and restricted premises are addressed in the draft Standard Instrument. They are defined as 'sex services premises'. Sex services as a home occupation, sex services and restricted premises are also defined.

When preparing their own principal local environmental plans, councils will be able to control such uses in their local government area, depending on local circumstances.

The instrument will not impinge upon the ability of local councils to independently determine the validity of a development application for such uses. The draft Standard LEP allows councils to prepare local planning provisions that reflect the detailed planning needs of their local area. Councils can continue to draft appropriate local planning provisions that control the location of sex services premises and restricted premises in relation to sensitive community and residential land uses.

Existing appeal mechanisms regarding the determination of development applications under the Environmental Planning and Assessment Act continue to apply.

**CARINGBAH SEX SHOP LOCATION**

On 1 December 2005 Reverend the Hon. Fred Nile asked the Minister for Finance, representing the Minister for Planning, a question without notice regarding the Caringbah sex shop location. The Minister for Planning provided the following response:

Adult shops are a land use subject to the same provisions of the Environmental Planning and Assessment Act 1979 as any other land use. Council is the consent authority for such developments and I do not have a role in their assessment.

The operation and control of any unauthorised or illegal land uses (including adult shops) is also the responsibility of the local councils.

With regard to Land and Environment Court decisions, to maintain the independence of the Land and Environment Court, it would not be appropriate for the Government to influence decisions of the Court.

**ANTI-TERRORISM LAWS**

On 8 November 2005 the Hon. Peter Breen asked the Minister for Ports and Waterways, representing the Minister for Police, a question without notice regarding anti-terrorism laws. The Minister for Police provided the following response and the Minister for Ports and Waterways provided an explanatory letter pursuant to Standing Order 66 (2) (b):

Mr John Evans  
Clerk of the Parliaments  
Parliament House  
Sydney NSW 2000

Dear Mr Evans

Please accept my apologies for the late lodgement of an answer to the Question without Notice asked of me on behalf of the Minister for Police by the Hon Peter Breen MLC on 8 November 2005 regarding Anti-Terrorism Laws.

Regrettably, the attached response was delayed by a clerical error.

Yours sincerely

The Hon Eric Roozendaal MLC  
Minister for Ports and Waterways

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I am advised that persons in NSW were charged with the Commonwealth offence of doing an act in preparation for a terrorist act. The proposed laws create control orders and preventive detention orders which have been endorsed by the Council of Australian Governments as an appropriate response to terrorism in Australia.

**Questions without notice concluded.**

**BUSINESS OF THE HOUSE****Suspension of Standing and Sessional Orders**

**Motion by Reverend the Hon. Fred Nile agreed to:**

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 136 outside the Order of Precedence, relating to the Smoke-free Environment Amendment (Motor Vehicle Prohibition) Bill 2005, be called on forthwith.

**Order of Business**

**Reverend the Hon. FRED NILE** [5.02 p.m.]: I move:

That Private Members' Business item No. 136 outside the Order of Precedence be called on forthwith.

I move this motion so we can further discuss the committee and its membership.

**Motion agreed to.**

**SMOKE-FREE ENVIRONMENT AMENDMENT (MOTOR VEHICLE PROHIBITION) BILL****Second Reading**

**Debate resumed from an earlier hour.**

**The Hon. JOHN HATZISTERGOS** (Minister for Health) [5.03 p.m.]: Subject to the Hon. Greg Pearce withdrawing his amendment, I move:

That the amendment of the Hon. Dr Arthur Chesterfield-Evans be amended as follows:

- 1 Paragraph 2. Omit "nine", insert instead "eleven".
- 2 Paragraph 2 (b). Omit the paragraph, insert instead:
  - (b) seven members of the Legislative Assembly of whom:
    - (i) four must be Government members,
    - (ii) two must be Opposition members, and
    - (iii) one must be an Independent or crossbench member.
- 3 Paragraph 4. Omit "four", insert instead "six".

**Amendment of the Hon. Greg Pearce, by leave, withdrawn.**

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS** [5.04 p.m.]: I accept the Government amendment.

**Reverend the Hon. FRED NILE** [5.04 p.m.], in reply: I also support the amendment. It is important that we acknowledge both the Government and the Opposition when these committees are being formed so there is fair representation from both sides of the House.

**Amendment of the Hon. John Hatzistergos to the amendment of the Hon. Dr Arthur Chesterfield-Evans agreed to.**

**Amendment of the Hon. Dr Arthur Chesterfield-Evans as amended agreed to.**

**Motion as amended agreed to.**

**Message forwarded to the Legislative Assembly advising it of the resolution.**

**ADJOURNMENT**

**The Hon. JOHN HATZISTERGOS** (Minister for Health) [5.06 p.m.]: I move:

That this House do now adjourn.

**FEDERAL GOVERNMENT INDUSTRIAL RELATIONS LEGISLATION**

**The Hon. GREG DONNELLY** [5.06 p.m.]: The Coalition's new industrial relations legislation, WorkChoices, legalises theft at the workplace—not theft by employees, but rather theft by the Commonwealth Government. The Federal Liberal and National parties, fully supported by their New South Wales counterpart bodies, are presiding over the biggest case of systematic workplace theft ever seen in this State. If larceny as a servant is a serious crime—which it is—the New South Wales Crimes Act surely must be amended to introduce a new crime: larceny by the Coalition.

With the commencement of the new legislation expected in March, ordinary workers are going to be immediately stripped of a number of existing entitlements. Workplace entitlements and benefits enjoyed by workers for decades will disappear overnight. This is not scaremongering; this is the cold, hard reality of the new legislation. No worker is safe from the insidious impact of WorkChoices. As honourable members would know, the new legislation applies to employees of constitutional corporations. The Commonwealth Government estimates that up to 85 per cent of Australian employees will be covered by the new system. Section 116B of the new legislation identifies matters that are not allowable Federal award matters. Section 116B (1) (i) lists one of those matters as union picnic days. In other words, if a Federal award contains a union picnic day entitlement, that entitlement will be struck down when the new legislation commences. I invite honourable members to look at section 116B to see what will disappear from awards just because the Liberal and National parties say so.

Many awards operating in New South Wales contain union picnic day provisions. In most cases they were negotiated by unions for inclusion in awards. In some cases offsets were given by unions to employers to secure the benefit. These provisions sit in awards and provide a benefit to many thousands of ordinary workers in this State. How ideological can you get! The zealots are prepared to burn this entitlement of ordinary workers just because it contains the word "union" in its title. Training leave in awards that contain the word "union" will meet the same fate.

The retail industry in New South Wales is very large. It employs about 15 per cent of this State's work force. We are talking about hundreds of thousands of workers. But for the successful case argued by the Shop, Distributive and Allied Employees' Association, New South Wales [SDA] and its sister Newcastle union, retail workers in this State would have had their picnic day entitlement stolen by the Liberal and National parties. The detailed case was argued before the Industrial Relations Commission of New South Wales late last year, and the judgment was handed down on 31 January. The judgment is worth reading. It reveals the horrible reality that is about to king-hit workers in this State and across the rest of Australia. Pre-empting the impact, the SDA ran a case and successfully argued that, taking into account the history of the entitlement, the benefit should be retained.

The SDA argued that the entitlement should be preserved and renamed "the first Tuesday in November", that day being Melbourne Cup day. Whilst retail workers have been spared the unilateral destruction of one of their award entitlements, other workers in this State may not be so lucky. While this is a small but significant example of the draconian impact of the Liberal Party-Nationals legislation, it is just a warm-up act. The reality is that under the new industrial legislation workers will be protected only with a minimum hourly rate of pay; four weeks annual leave, of which two weeks can be cashed out; ten days personal carer's leave, including sick leave, plus two additional days of unpaid carer's leave; 52 weeks of unpaid parental leave; and a maximum of 38 ordinary hours per week that can be averaged over 12 months. Everything else is up for grabs and \$55 million worth of spin will protect not one Australian worker.

We will progressively see worker entitlements put to the knife by employers. The competitive nature of our vigorous economy will see to that. One by one even good, decent employers will be forced into a corner. Many workers, particularly women and young people, employed in semiskilled and unskilled jobs will soon find their wages and working conditions being caught up in a race to the bottom. New employees will be the worst hit. Peter Debnam and Andrew Stoner completely support the new Federal legislation. They promise that if elected in March next year they will hand over the New South Wales industrial jurisdiction to the Commonwealth. They cannot wait to do so. All fair-minded people who appreciate the pernicious, unfair nature of the legislation look forward to it being struck down following the forthcoming High Court challenge.

### MONA VALE HOSPITAL

**The Hon. PATRICIA FORSYTHE** [5.11 p.m.]: Last Sunday afternoon more than 400 citizens of Pittwater gathered at Mona Vale Memorial Hall to give the Iemma Government and its new local member of Parliament a very clear message—so clear that it needs to be heard by the Government, which was not represented at the meeting. The message is simple: any proposal to close Mona Vale Hospital and sell the land to developers for redevelopment will be resisted at every turn by the local community. To the great dismay of many in the community, a proposal has emerged from Pittwater Council advocating that if Mona Vale Hospital is not to be made a so-called Level 5 hospital for the Northern Beaches, then a so-called Level 5 hospital should be constructed on land that is currently used as playing fields at Warriewood. Further, 1.3 hectares of land at the Mona Vale Hospital site should be sold off for what is described as low-density housing.

Since Pittwater Council was formed in 1992—covering an area from north of Narrabeen to Palm Beach, a land area of just 90 square kilometres—it has been a strong and loud voice on behalf of its community. Today, however, it is out of step with its community on the future of the Mona Vale Hospital site. I have described this proposal as a Pittwater Council proposal, but a number of councillors share the anger of the community and believe that the council has been sold out by the mayor and new member for Pittwater, Alex McTaggart. Let me be very clear about what is proposed in the council's so-called "fall-back" position: the closure of Mona Vale Hospital and the construction of a new hospital less than two kilometres away.

Based on the criteria used to judge the various possible sites for hospitals on the Northern Beaches, Warriewood equates to Mona Vale in terms of distance from the population centre and travel times. The only difference, it would seem, is that the Mona Vale site is on very valuable real estate overlooking the beach and the Warriewood site is a former dump that faces issues such as flooding, land stability and even odours from an adjoining sewerage plant. Member of Parliament Mayor McTaggart has effectively sought to sell out his community. If he persists with his support for this proposal, he too will be dumped. In three months as a member of Parliament he has shown himself to be out of touch with his community. The proposal of an alternative site, which was recently identified by the council, was in response to an undertaking apparently given by the Premier days before the Pittwater by-election that he would entertain building a Level 5 hospital on the Northern Beaches in the Pittwater electorate if the mayor could find an appropriate site.

It seems the definition of "an appropriate site" is one that frees up the quality land on which Mona Vale Hospital sits and presumably also the land on which Manly Hospital sits. On this issue the community feels betrayed by their new member of Parliament who, as the House will recall, was elected on the platform of saving Mona Vale Hospital. Of course, it makes no economic sense to close a hospital which, while it has suffered years of neglect under this Government, is still a very fine hospital situated on an outstanding site and serviced by loyal staff and build a new hospital less than two kilometres away. Such a proposal ignores the community input into the hospital through the fundraising efforts of its auxiliary and the donations of so many and the loss of the community's playing fields at Warriewood.

The community is desperate for a commitment from the Government to the future health needs of the Northern Beaches. A new hospital and a commitment to upgrade Mona Vale Hospital are long overdue. But if the Iemma Government thinks it will turn the new member for Pittwater into a local hero by agreeing to the council's proposal, I can assure the Government it has misread the hopes and aspirations of the people of Pittwater. The community will not allow the Mona Vale Hospital site to become the "Little Bay" of the Northern Beaches. If the Government accepts the proposal for the Warriewood site as its solution for the future hospital needs of the Northern Beaches, it will be signing the death warrant on the political career of Alex McTaggart. It will be yet further proof that the Iemma Government is out of touch and will soon be out of Government.

### **SYDNEY HARBOUR COMMERCIAL FISHING BAN**

**The Hon. Dr PETER WONG** [5.16 p.m.]: I want to speak tonight about dioxin in Sydney Harbour and my fears about the possible poisoning of commercial fishermen and their families, who until recently gained a livelihood from our harbour. I am surprised that despite knowing about the poison in the harbour since at least the mid-1980s the Government has only recently decided to close the area to commercial fishing. The Government will allow amateur fishermen in the harbour to continue catching and eating fish. The Government has made this allowance despite the knowledge that unscrupulous people hide amongst the amateur fishermen and supply fish from their catch to the black market. In an attempt to protect itself from a backlash by amateur fishermen in the lead-up to the next election, the Government will continue to allow Sydney Harbour fish ending up on people's plates.

I congratulate the Minister for Primary Industries on the action he has taken so far, but I will continue to call upon the Minister to stop all fishing in Sydney Harbour. It seems strange that New South Wales Fisheries should wage a massive campaign to stop the black market fishery in northern New South Wales and yet allow the black market to continue unabated here where the fish are clearly toxic. The Government would have us believe that in the past the dioxin levels were acceptable. The Government knows that is not true. The levels at Homebush Bay and surrounding areas have always been above allowable limits. Yet someone drew a line under the Gladesville Bridge and said that it is safe to fish on this side but not on the other. Which Einstein made that decision? What science did they rely upon to support such a ridiculous idea? I am very concerned that the people who made that decision hold government posts and continue to advise the Minister.

I started my campaign about Sydney Harbour poisoning by calling on the Government to brick up Homebush Bay. The more I learn about the issue the more I am sure that is the best option. Homebush Bay must be cut off from the rest of the harbour, at least while the clean-up takes place. If we sacrifice the bay we protect

the harbour. I doubt that we can ever clean up Homebush Bay, so we should put our efforts to better use, turn the bay into a suburb and stop the chemical pollution in our harbour. Further, I called earlier for the testing of commercial fishermen and their families. Such testing has not been done. The Government, New South Wales Fisheries and the Department of Health have all refused to test the fishermen.

Among the many slaps in the face that the fishermen rightly feel they have received from the Government, the failure to test them is considered the hardest. This is especially the case given the so-called compensation package that has been offered to the commercial fishers, which will see \$800,000 provided for the testing of fish, which the fishermen will never be allowed to catch anyway. The fishers say that the \$800,000 should be used to test their wives and children. Certainly no-one with an ounce of credibility or compassion could contest that request. If the poisoning of the harbour is so serious that the prawns must be tested, why are the people who eat the prawns not tested? I will continue to call on the Government to test the fishermen and to put in place ongoing health monitoring. Sadly, the Government must be thoroughly humiliated by an inquiry before it does the obvious thing. Such is life in New South Wales. Bring on the inquiry!

### AUSTRALIAN WORKPLACE AGREEMENTS

**The Hon. IAN WEST** [5.20 p.m.]: Earlier this month building and maintenance workers at the Sydney Opera House were given an advance viewing and first-hand experience of the sad new world of Australian workplace agreements [AWAs]. These AWAs, which are being foisted upon Opera House workers, will result in their being more than \$250 a week worse off. In addition, no apprentices will be employed, Australia's skills base will be further eroded, there will be no opportunities for training and building of knowledge bases for these workers, and the long-term workers on the site, along with their valuable corporate knowledge, will be thrown on the scrap heap.

Under John Howard's individual contracts, these workers are being forced to negotiate alone with multinational company United Group Services [UGS], which has used personnel experts, lawyers, IR specialists, consultants and the company's corporate union to deal with the workers. The company is about to post a \$70 million profit for 2005-06 and John Howard wants to give it a further helping hand at the expense of loyal Australian workers who have helped to maintain one of our national treasures. If UGS gets its way, those with the greatest knowledge of the inner workings of one of our national icons—the building and maintenance workers at the Sydney Opera House—will be thrown on the scrap heap. The same fate awaits millions of ordinary Australian workers and their families. It is a snapshot of the personal disasters now facing many—in particular, the ageing work force—as a result of the introduction of individual workplace agreements. UGS has told the workers at the Sydney Opera House that if they want to retain their jobs they must work on individual contracts. Those contracts will impose substantial wages and conditions cuts. They will also be required to cut ties with their union. The company has also informed workers that it will not be training or even employing apprentices.

The New South Wales Government has commenced action in the High Court of Australia against the WorkChoices legislation, which now gives multinationals such as UGS a free hand in shutting out Australian companies and their workers. If New South Wales is to have any authority in protecting workers and their families from unfair individual contracts, as well as protecting taxpayers and small businesses, from the corporate collusion of large companies, it needs to ensure that project contracts are not awarded to companies that have no respect for members of the Australian work force and their families. The New South Wales Government must ensure that its procurement policies protect workers and their families from such arrangements. New South Wales taxpayers want to be able to maintain control over what they get through taxpayer-funded contracting arrangements. They do not want to throw workers on the scrap heap for the benefit of companies such as UGS.

Large multinational companies such as UGS are able to shift their obligations by outsourcing contracts to smaller subcontractors and body hirers. I am advised that as a result of such action by UGS the Opera House workers, who are being told to sign those contracts, will lose redundancy protection under Australian Construction Industry Redundancy Trust, top-up insurance for workers compensation will go, entitlements of up to \$20,000 a year will be lost, and the New South Wales Government, and therefore taxpayers and small businesses, stand to lose. They will lose workers compensation insurance because legitimate companies in the construction industry pay between 10 per cent and 12 per cent in premiums, but labour hire companies pay only 7 per cent. The State will also lose payroll tax because subcontracting companies declare that they earn less than the minimum threshold of \$650,000 and therefore are not liable for payroll tax. That means not only that New South Wales taxpayers and workers will lose money that should be spent on education, health, transport and

roads, but also that New South Wales and many Australian businesses which are trying to do the right thing and which support workers having the choice to be represented by a union and being part of an enterprise bargain agreement are being unfairly undercut by companies that are arranging their affairs to escape their responsibilities. [*Time expired.*]

### JINDABYNE LAND RELEASES

**The Hon. MELINDA PAVEY** [5.25 p.m.]: I speak on an issue of incredible importance to the people of the Snowy Mountains region of New South Wales. I refer in particular to the people of Jindabyne in the Monaro electorate. As was detailed earlier in the House today by the Minister for Commerce, the Hon. John Della Bosca, the Government has been forced to sell off Snowy Hydro because of its complete and utter incompetence in managing the State's budget. This iconic institution is being sold off to the highest bidder because the Government needs to fill a budget black hole.

The Minister raised many issues today, but he ignored, forgot or did not care to mention something that was raised with him in Jindabyne about a week ago. The town of Jindabyne has a population of 4,320, and people from 65 different ethnic backgrounds live in the area. It has an incredible history. The original town and its inhabitants were relocated in the 1960s when the Snowy River was dammed as part of the Snowy Mountains Scheme. Only a handful of houses from the old town were moved to the new location, so it is relatively new town. Those who have the pleasure of visiting the town will notice a dynamic spirit within the community. Tourism is a major activity in the town during both the ski season and the summer. The town caters for tourists who participate in winter sports and those who participate in extreme sports in the summer.

One issue has been ignored by this Government, but particularly and most seriously by the local Labor member, Steve Whan. The local community is concerned about land releases and the only local vacant land in the area is held by Snowy Hydro. Decent local people, such as Tom Barry and David Madew, have said that they are concerned about Jindabyne's future being controlled by the shareholders of a corporation. There will be no government control and there will be no way for the community to control its destiny.

Many issues have been raised in this House with regard to the LEP for the Snowy region, but this issue exacerbates the community's concern about its future. On behalf of the people of Jindabyne and the local communities affected by this Government's cash grab in an attempt to get out of its budget black hole, I am raising in this Parliament today an issue that I know was raised with the Minister for Commerce. I understand that the Minister was not aware that the future of Jindabyne and the local area is tied up in land in the control of Snowy Hydro. I implore him in a bipartisan manner on behalf of those people to have a decent look at land releases in the area. The situation can be resolved, and it needs to be resolved quickly. We do not know how far the sale process and listing of Snowy Hydro has progressed. We are being kept in the dark and the process is being managed by a multinational firm. We need to act before it is too late to ensure that land releases are protected for the people of Jindabyne and the surrounding area.

### FIREARMS REGISTRATION FIGURES

**The Hon. JOHN TINGLE** [5.29 p.m.]: I wish to draw the attention of honourable members to an erroneous and inflammatory article that appeared in the *Daily Telegraph* on Monday 20 February. The article—part of a two-page spread on pages 8 and 9—carried a banner heading "Fears for Future as State Embraces the Gun". The thrust of the story was that the "fears for the future" arose because there had been a rapid increase of 25 per cent in the past three years in the number of registered firearms in New South Wales. I had great difficulty with this story, for the simple reason that I knew it was completely wrong.

On the Monday morning on which the story appeared, I obtained the firearms registry's registration figures for the past four years, which showed that far from a 25 per cent increase in three years, as claimed by the paper, there had been only 8,717 new registrations in the four-year period, representing an increase of just 1.359 per cent. I repeat: an increase of 1.359 per cent in four years—a far cry from the claimed increase of 25 per cent in three years. It is also important to note that the total of 650,185 firearms registered included stocks held by licensed firearms dealers, which would total many tens of thousands.

I contacted the journalist who wrote the story and, at his request, emailed the factual details and figures to him. Not only did the paper ignore them, but it also did not run a letter to the editor, which I wrote on the same day, drawing attention to the massive errors in the story. It did run a one-paragraph reference at the bottom



of another story, saying that I had disputed its previous day's story on the big rise in registrations, and had sought to back that dispute with my own figures. They were not my figures: in the rebuttal I sent the paper the figures were clearly sourced as coming from the New South Wales Police Firearms Registry.

Whilst I understand that some media are most reluctant to spoil a good story with the facts, I feel that the "fears" which the paper referred to could have been aroused in the minds of many people just because of the claim that there had been a "huge upsurge" in the numbers of legally owned guns in the community. That certainly seemed to be the intention of this story. I am gratified that the registration figures show that shooting sports continue to grow, despite the severe strictures placed on legitimate firearm owners by legislation, but I am concerned that sensationalist reporting of this type can cause unnecessary anxiety and alarm in the community.

We law-abiding firearm owners are used to being demonised, but that is not what worries me tonight. What concerns me is the unnecessary and pointless alarmism of the story. In particular, I find it reprehensible that having been shown, statistically, that there was no basis for the "fear" mentioned in the main story because the upsurge had not happened, the paper failed to correct it in any way or to seek to allay any of the anxiety the story may have created. There is an old saying that you should never believe what you read in the papers. In this case it is, sadly, true!

### **SNOWY HYDRO LIMITED SALE**

**Mr IAN COHEN** [5.32 p.m.]: The decision by the Federal, New South Wales and Victorian governments to sell off their shares of Snowy Hydro Limited will have long-term environmental and economic implications. It is a decision that should be reversed. Governments must consider the significance of water to this continent and the significance of the Snowy to the Australian people. Snowy Hydro Limited must remain in public ownership with energy sales invested in a trust fund for maintenance of the scheme and environmental reparation, including environmental flows. A privatised Snowy hydro scheme will put shareholder interest first. It seems the New South Wales Government has not learnt from the cross-city tunnel fiasco and many other misguided attempts to sell off government assets.

It certainly will not be in the interests of private shareholders of the Snowy hydro scheme to release water for environmental flows. The New South Wales Government says it will spend \$30 million to improve the health of the Snowy but will not use the money to buy out irrigation licences or reduce the water made available to irrigators. Minister Della Bosca's statements ring hollow and it is impossible to see how the Snowy can be guaranteed an acceptable level of health under privatisation. The original intent of the Snowy hydro scheme was water for conservation and irrigation—water regulation—with energy sales as the by-product intended to pay for maintenance of the scheme.

Now Snowy Hydro is considered to be a key asset, accruing lucrative energy sales with the potential for purchase in the international market by large, non-Australian players. The trading of water rights and value against energy sales is unwise and unconscionable and reflects short-sighted, irresponsible thinking.

Global trends clearly indicate the re-municipalisation of water infrastructure in particular and a significant reversal of investment by large players, including Enron, in the water market. Australia seems to be lagging behind and is still privatising water assets. The politics of getting more water back into the rivers have been difficult, to say the least. By agreeing to sell, the Victorian Government, along with its Federal, New South Wales and South Australian partners, will hand the Snowy over to a group of private shareholders who will fight like hell to stop us getting more water back in the rivers. Nick Minchin indicated in December 2000 that the Commonwealth definitely would not privatise Snowy Hydro. During a question time last year, Premier Morris lemma also denied that the interest of New South Wales in Snowy Hydro would be sold off. Now it is evident that the Federal, New South Wales and Victorian governments have jumped on board for a quick cash grab.

Snowy Hydro should present financial information to the people of Australia including annual megawatt sales; the average price attracted per megawatt sold; an estimate of the number of megawatt sales required and the timeline in order to accrue an equivalent expected float price of \$2.3 to \$3 billion; the current profit distribution; the expected profit distribution to shareholders; if privatisation goes ahead, how much of Snowy Hydro will be sold off; guarantees of disclosure of potential conflicts of interest and publication of the decision; and the nature and timing of decisions to invest in gas and renewables prior to publication of the decision.

By selling off this asset, governments will be trading off a healthy income stream for a short-term cash boost since, as shareholders, governments receive dividends from the scheme. Under the Snowy Hydro Corporatisation Act 1997 the three governments have clear legislative responsibilities to establish the scientific

committee, including timelines for reporting and advising on decisions pertaining to the management of Snowy Hydro. There is no evidence that the governments have established the committee. As far as I understand, there are no reports available to indicate performance on environmental flows, climate change and potential impacts on river flows including the Murray, Murrumbidgee and Snowy, for example. Equally, under corporatisation, agreements are in place to de-aqueduct the montane streams and rivers.

The Commonwealth, New South Wales and Victorian governments must be brought to account for their failure to establish the scientific committee prior to further discussion or moves towards privatisation. The estimated underpinning value of the Snowy scheme to agricultural production in the Murrumbidgee Irrigation Area and Murray-Darling in particular, is around \$9 billion per annum. Whilst the Snowy licence is separate from the terms of corporatisation, a 75-year licence with a 50-year renewal option is insignificant in terms of the history and future of agricultural production.

*[Time for debate expired.]*

**Motion agreed to.**

**The House adjourned at 5.36 p.m. until Wednesday 1 March 2006 at 11.00 a.m.**

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