

LEGISLATIVE COUNCIL

Thursday 9 March 2006

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

The Clerk of the Parliaments offered the Prayers.

SELECT COMMITTEE ON THE CROSS-CITY TUNNEL

Extension of Reporting Date

The PRESIDENT: I report the receipt of the following message from the Legislative Assembly:

Madam PRESIDENT

The Legislative Assembly informs the Legislative Council that it has this day agreed to the following resolution:

That this House agrees to the resolution in the Legislative Council's message of Wednesday 1 March 2006 relating to the extension of the reporting date of the second report of the Joint Select Committee on the Cross City Tunnel to Wednesday 31 May 2006.

Legislative Assembly
8 March 2006

JOHN AQUILINA
Speaker

SELECT COMMITTEE ON TOBACCO SMOKING

Membership

The PRESIDENT: I report the receipt of the following message from the Legislative Assembly:

Madam PRESIDENT

The Legislative Assembly desires to inform the Legislative Council that the following members of the Legislative Assembly have been nominated to serve as members on the joint Select Committee on Tobacco Smoking in New South Wales:

Ms D'Amore
Mr George
Mrs Hancock
Ms Judge
Mr McLeay
Mr Morris and
Mr Torbay.

Legislative Assembly
8 March 2006

JOHN AQUILINA
Speaker

LAND TAX MANAGEMENT AMENDMENT (TAX THRESHOLD) BILL

FINES AMENDMENT (PAYMENT OF VICTIMS COMPENSATION LEVIES) BILL

Bills received.

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

Motion by the Hon. Tony Kelly agreed to:

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

Bills read a first time and ordered to be printed.

PETITIONS**Drug Detection Dogs**

Petition requesting the repeal of all legislation that allows police without warrants to use sniffer dogs to perform searches on people, received from **the Hon. Penny Sharpe**.

Tallowa Dam

Petition opposing the construction of a pipeline from Tallowa Dam north and the raising of the dam wall, received from **Mr Ian Cohen**.

GENERAL PURPOSE STANDING COMMITTEE NO. 1**Report: Budget Estimates 2005-2006**

Reverend the Hon. Fred Nile, as Chairman, tabled report No. 29, entitled "Budget Estimates 2005-2006," dated March 2006, together with transcripts of evidence, correspondence and answers to questions taken on notice.

Report ordered to be printed.

Reverend the Hon. FRED NILE [11.07 a.m.]: I move:

That the House take note of the report.

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

SELECT COMMITTEE ON TOBACCO SMOKING**Membership**

The PRESIDENT: Order! I inform the House that the Clerk has received the following nominations for membership of the Joint Select Committee on Tobacco Smoking:

Government member: Mr Greg Donnelly
Opposition member: Mr Don Harwin.

Motion, by leave, by the Hon Tony Kelly agreed to:

That the House agrees to the time and place for the first meeting of the Joint Select Committee on Tobacco Smoking contained in the Legislative Assembly's message of 8 March 2006.

Message forwarded to the Legislative Assembly advising it of the resolution and the membership of the committee.

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

The Hon. PATRICIA FORSYTHE [11.11 a.m.]: I move:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 166 outside the Order of Precedence, relating to a reference to General Purpose Standing Committee No. 4 regarding the affordability and availability of land and housing in New South Wales, be called on forthwith.

I do not use contingent notice often and I do not abuse the privilege. However, item No. 166 relates to the cost and availability of land and housing in New South Wales. It is of the utmost importance that the item be called on forthwith so that a reference can be sent to a committee for a proper examination of an issue of great concern to the people of New South Wales.

Motion agreed to.

Order of Business

Motion by the Hon. Patricia Forsythe agreed to:

That Private Members' Business item No. 166 outside the Order of Precedence be called on forthwith.

GENERAL PURPOSE STANDING COMMITTEE NO. 4

Reference

The Hon. PATRICIA FORSYTHE [11.12 a.m.]: I move:

That General Purpose Standing Committee No. 4 inquire into and report on the affordability and availability of land and housing in New South Wales, and in particular:

- (a) the cost of housing compared with other States of Australia,
- (b) the impact of State government and local government fees, charges, taxes and levies on the cost of housing,
- (c) the impacts of the nature of property title (for example, Strata or Torrens), the present State Government land release policies and proposals, and local government requirements for design and construction,
- (d) the time taken by State and local government to determine land subdivisions and housing construction applications,
- (e) the availability of low cost housing and emergency accommodation,
- (f) the availability of rental property for tenancy and the operations of the Consumer, Trader and Tenancy Tribunal, and
- (g) any other relevant matter.

I gave notice of this motion late last year, but it is as topical today as it was then. If members have not yet read today's newspapers, they would not be aware of an article in today's *Daily Telegraph* headed "Families paying the price". The article begins by noting that more than 6 in 10 young people in New South Wales are putting off having children because they cannot afford to get onto the housing ladder. The motion calls for an inquiry into the cost of housing in New South Wales compared with the cost of housing in other States, and the fees, charges, taxes and levies involved in the cost of housing.

I certainly am aware that legislation currently before the House deals with one aspect of the motion, but that does not mean it cannot be examined appropriately by a committee of the Parliament. The inquiry will examine local government charges, such as section 94 contributions that are levied on developments, the impact of levies imposed by Sydney Water, and a whole range of things that, taken together, add many thousands of dollars to the cost of development of land in New South Wales.

The inquiry will examine whether the property title system used in New South Wales impacts on the cost and availability of land and housing, the provision of low cost and affordable housing, and the actions of the Consumer, Trader and Tenancy Tribunal. I understand that my colleague the Hon. Don Harwin will move an amendment to the motion that the reference be sent to the Standing Committee on State Development rather than to General Purpose Standing Committee No. 4. I am well aware that the Standing Committee on State Development has almost finalised its current reference, and it will be perhaps only weeks before a report is issued. Therefore there could be no argument that the Standing Committee on State Development has neither the time nor the capacity to pick up this reference—it has no other references pending.

The reference goes to the broad issue of State development because cost and availability of land and housing in New South Wales are factors that many people consider when they are deciding whether to relocate to New South Wales or out of New South Wales to States such as Queensland and Victoria—our true competitors in an economic sense. If the cost and availability of land and housing in New South Wales are impediments to people staying in this State, it is appropriate that the Parliament understand what is causing that.

It would be easy to say that this is simply about the supply and demand of land, because market forces in supply and demand will have a significant impact on price. But it is not as easy as saying that if the problem is lack of supply you release more land. That may be part of it, and we will need to examine the current land release policies, but I would be the first to admit that when releasing land for housing and development, responsible public policy demands that one be mindful not only of current demand but also of future demand. It is always beholden on a government in its land release policies to look not only for the now but also to the future. It is absolutely important that we try to weigh up some of those factors.

There is no doubt that affordability of housing in New South Wales is a problem. The definition of affordable housing is when housing represents no more than 30 per cent of a household's gross income when taken together with the other fundamentals that make up life such as the cost of food, education and medical services. However, the reality is that the average Sydney mortgage consumes 36.7 per cent of a household's gross income, which is above the threshold figure that represents the definition of affordable housing.

Although these figures are particular to Sydney, one cannot ignore the fact that when Sydney prices are high there is a flow-on effect to other parts of the State. At the end of last year 8.5 times the median Sydney income was required to purchase the median Sydney home. That figure is not significant until one compares it with that in New York, where less than eight times the median income is required to purchase a median house or unit. In London it is 6.9 times the median income; in Melbourne—an interstate comparison—it is only 6.4 times the median income; and in Atlanta, where I once had the privilege of spending a couple of weeks, it is 2.8 times the median income.

When a house in Sydney costs 8.5 times the median Sydney income, people begin to realise that when they purchase a house, particularly in the greater Sydney region, they are taking on a very significant commitment. Indeed an article was published in the *Daily Telegraph* on 18 February under a telling headline, "Debt sentence for home buyers", that relevantly made the point that new home buyers will never pay off a Sydney house. If that is the lot for young people in our city, then we must, as a matter of good public policy, seek to examine the factors that are at play. Do they relate to the whole planning process, particularly the time it takes for developments to be approved? Do they go to some of the requirements of design and construction in New South Wales compared with other States?

It may well be that those factors prove not to be significant as we are now moving toward national standards, but even so it is a relevant consideration, which is why I have included it. I want to say to the Government that this is now a question of priorities. If the Government opposes this motion, it will be rightly accused of not giving important and due weight to the cost and availability of land and housing in New South Wales, which goes to the very capacity of people in New South Wales to have a quality of life that we would regard as appropriate. If people spend their lives coping with an extraordinary burden of debt because of the cost of housing, that impacts on many other things. It is appropriate for this Parliament to undertake this very broad inquiry, and it will be appropriate for it to be undertaken by the Standing Committee on State Development.

Last week, after I spoke to the Government about having this motion debated, I understand that Government members reported to some crossbench members that it was not necessary for the House to undertake the inquiry because another committee of the Parliament was examining a similar issue. Government members have given members a very wrong impression by saying that. The inquiry they were referring to is being undertaken by the Legislative Assembly's Public Bodies Review Committee into the allocation of social housing.

All honourable members of this House would understand that social housing is a much more narrowly defined area within housing. It particularly relates to public housing and community housing, which is not the basis of the inquiry I am proposing. The inquiry that I propose has a much broader scope than that; it is focused on the cost and availability of land and housing, which is the subject of almost daily media reports. Comments are being made by people such as the executive director of the New South Wales branch of the Housing Industry Association that express real concern over housing development in this State. In late February he was quoted in the *Sydney Morning Herald* as saying:

We hate the levies. In a city where affordability is at crisis point we already have more levies imposed than other states.

The motion should be passed today because that is the issue we want the inquiry to examine. He went on to state:

This refers to local council levies, often of about \$45,000, plus a levy to Sydney Water of \$17,000 on average, plus power and sometimes road levies and expenses.

Without wishing to canvass other issues that are before the House, I mention the possible potential for the application of an additional levy to be applied to land in growth areas of the greater Sydney region being considered by the House later today. At every turn there are factors in New South Wales that impact on the cost and availability of land. People think that headlines about million dollar houses are not relevant to them, but there is always a flow-on effect. Indeed, the whole basis of the valuation of land in this State is the price of real estate, and land taxes are calculated from that base. Anybody who received a land tax bill last year in respect of

rental property would well know that property prices right across this State have increased enormously, particularly in coastal areas, over the past five years.

I do not wish to take up too much of the time of the House as I am sure honourable members would be well aware of the issues. However, I urge honourable members to consider the motion and the amendment and the opportunity to inquire into one of the most important issues currently facing this State. As well as underpinning the cost of living in this State, the cost and availability of land and housing impact on decisions being made by young people about where they live, where they work, whether they will have a family and on the choices people make about retirement. Some of these factors may be outside the control of government, but many of them will be very much the consequence of public policy in this State. It is absolutely appropriate for the Standing Committee on State Development to examine this issue because it is so fundamental to the future development of New South Wales.

The Hon. DON HARWIN [11.26 a.m.]: I congratulate my colleague the Hon. Patricia Forsythe on moving the motion and putting an outstanding case for establishing the inquiry. I move:

That the question be amended by omitting "General Purpose Standing Committee No. 4" and inserting instead "the Standing Committee on State Development".

I commend both the amendment and the motion as it will be amended to the House.

Ms SYLVIA HALE [11.26 a.m.]: The Greens oppose the motion on a number of grounds. The first is that we believe the Standing Committee on State Development is an inappropriate committee to conduct such an inquiry. That committee is more appropriately concerned with issues of major infrastructure. If there is to be an inquiry, it would be better for it to be conducted by General Purpose Standing Committee No. 4. Leaving aside that question, a major reason for opposing the motion is that we have had a plethora of inquiries into housing. One suspects that this inquiry will probably be just another talk fest that will produce little action other than possibly berating the activities of the State Government, which I for one would have no problems with, and letting the Federal Government off the hook. I have great problems with the Federal Government's activities in the housing field.

I note that there have been numerous inquiries into housing in the past 10 years and a flurry of activity in the past three years. In 2004 we had an inquiry into home ownership by the Productivity Commission. That inquiry exhaustively examined all the issues that the proposed inquiry seeks to address. The productivity inquiry examined the cost of land, the impact of taxes, fees and charges, and the cost of building materials. It also examined the impact of the first home owners grant. The conclusion of that inquiry was basically to do nothing at all because it was believed the market would correct itself and house prices would somehow magically come down. In 2005 the framework for national action on affordable housing was negotiated at a meeting of State and Territory housing, planning and local government ministers. Labor Senator Kim Carr subsequently produced a discussion paper on the housing crisis. Recently the Australian Capital Territory Government hosted an affordable housing summit. The Australian Capital Territory Council of Social Service released an excellent document entitled "The Wealth of Home", which contains numerous policy suggestions. In 1998 the New South Wales Ministerial Task Force on Affordable Housing produced an excellent report with many recommendations, few of which the Governments has acted on. In 2003 an inquiry was conducted into community housing, which also produced numerous recommendations, which I have been told the Minister for Housing is now considering. In New South Wales several summits on homelessness have been held.

The Greens have made a submission to the current inquiry into the allocation of social housing. The Premier is reported to have a team working on an affordable housing strategy for New South Wales and the team's recommendations are to be released in August. The Greens have written to the Premier with suggestions for the content of that affordable housing strategy. Many housing organisations, academics and the Greens are trying to improve the housing situation in New South Wales and in Australia. The problem is not one of a lack of inquiry or research; there are bucket loads of papers, reports and conferences on affordable housing.

Recently the Housing Industry Association again put its views to members on the crossbenches about what it thinks causes house price inflation in New South Wales. Everyone is aware of the problem but there are marginally differing views on the causes and what should be done. If one reads the proposed terms of reference in the Hon. Patricia Forsyth's motion it is not hard to come up with answers to the questions posed. Nor is it difficult to discern the Coalition's agenda. The answers to the first two terms of reference in paragraphs (a) and (b) are already fairly well known. Paragraph (a) refers to the cost of housing in New South Wales compared to other States. We all know the answer to that question. New South Wales median housing prices are as expensive, and mostly more expensive, than anywhere else in Australia.

Sydney outstrips all other Australian cities in housing cost and that is not as a result of the costs of construction, which apparently have fallen. Rent and sales report No. 75 for the 2005 September quarter, released by Housing NSW, shows that the median price for all dwellings in New South Wales was \$358,000 and in Sydney the median price was \$417,000. Median rents for all dwellings for the 2005 December quarter were \$260 a week for New South Wales and \$290 a week for Sydney. Inner Sydney median rents were \$355 a week. A recent report by Demographia found Sydney to be the seventh most expensive city in the world—more expensive than New York, London, Auckland and Vancouver.

The terms of reference in paragraph (b) refer to the impact of State and local government fees, charges, taxes and levies on the cost of housing. To find the Coalition's reason for instigating this inquiry one need look no further than that term of reference. The Coalition is probably hoping it can prove that stamp duties and section 94 contributions are the culprits that push up housing prices, but it is more complex than that. Stamp duty and section 94 costs are real but they may not make up the greatest proportion of the land and house package cost. For houses that are not brand new, those charges make little impact on the resale price and, therefore, affordability.

The Coalition and the Property Council of Australia would like to minimise developers' contributions to infrastructure. The Greens would probably agree with some aspects of the argument that government, that is taxpayers, should pay for long life infrastructure over time, using debt finance if necessary. I suggest that the Coalition wants the committee's finding to be "Let us release more land." The Greens argue that a city needs planning and that land release has to be done with reference to the impacts on the environment and the eventual containment of sprawl. Unless we want Sydney to become a megalopolis and expand forever, we have to set a limit somewhere.

We must focus on genuine decentralisation policy and strategies to encourage settlement beyond Sydney. There seems to be a common delusion that inflating house prices creates wealth but that is a bit of an illusion. In the strict sense, housing is not a productive investment; investing in producing goods is. Housing creates demand for construction and consumer goods but high housing prices produce nothing other than capital gains for the lucky owner who sells at a profit and stress for the over-mortgaged first home buyer. Too much private investment, encouraged by negative gearing and capital gains tax concessions, is going into housing. That is a trend against which economists have warned. As long as that pattern of investment continues, prices will keep steady, or escalate. The problem is not just stamp duty and section 94 levies; it is global patterns of investment whereby the capital sloshing around has been switched into real estate.

Income inequality also contributes to this problem. Incomes are rising at the top end, which means richer people can afford to spend more on housing and that pushes up the price for everyone. That practice prices out ordinary working Australians, especially the young. Easy credit also encourages borrowing and it takes only a couple of minor percentage point changes to the interest rate and banks start foreclosing on over-mortgaged households. Before we launch into yet another inquiry it is worth restating the conclusions of the New South Wales Affordable Housing Taskforce that was chaired by Professor Julian Disney in 1998. The task force found:

- there is a grave shortage of affordable housing in New South Wales;
- the shortage has worsened substantially during the last decade;
- the whole NSW community will suffer unless the supply improves substantially over the next decade.

The task force recommended that the New South Wales Government should:

- place affordable housing at the centre of its priorities for action;
- set targets for improving supply throughout the State;
- provide support and guidance for organisations which will help to achieve those targets.

The task force believes that governments and non-profit groups must increase their direct supply of affordable housing, especially for the poorest households, and that local councils, developers and financiers must also become much more involved, especially in co-operation with each other as well as with non-profit organisations and government agencies. That was the conclusion of the Government's task force in 1998. Meanwhile the problem has become worse, housing prices have escalated, no targets for affordable housing have been set, and basically little has been done. That inaction is well known, which is why the Greens are reluctant to support the proposed inquiry with its suggested terms of reference.

I have been told that academics who worked on the 1998 task force, those who have put so much work into affordable housing issues over the years, as well as many non-government organisations and housing activists, are frustrated because they have drawn attention to the problem by producing excellent research and meeting with government but they have seen it all come to nothing. Their efforts are not resulting in change or anyone actually doing anything and the problem is not going away. The Government appears to want to drag its heels until we reach a point of absolute crisis and dysfunctionality.

The Greens have suggested, and will continue to advocate for, the following measures to ease the housing affordability crisis: first, an increase in capital funding for social housing and a revitalisation of social housing so that in the long term it generates surpluses that can be reinvested; second, a levy for social and affordable housing purposes on many new multiunit developments by amending section 94 of the Environmental Planning and Assessment Act, or amending State environmental planning policy 70—and a minimum of 10 per cent affordable housing for each new development should be the target; third, support for, and access to, affordable finance for developing self-managed, shared equity housing, such as residential parks run by residents, co-operatives and multiple occupancies; fourth, more affordable housing provision in Landcom projects; fifth, the use of vacant government land for affordable housing; sixth, support for self-build, sweat-equity schemes; and, seventh, tax concessions to landlords who lease their properties to social and affordable housing providers.

How can those measures be funded? We should expand and broaden land tax, increase Commonwealth funding through the Commonwealth-State Housing Agreement, remove negative gearing and remove or means test the first home owners grant. That is a brief summary of the Greens' housing policy. We believe it would make a real difference to housing affordability. The reason why many parties would not support such a program is that it would reduce housing prices and, therefore, cut into the potential capital gains of individual home owners and real estate investors.

The capital gains we are seeing today, however, are quite obscene. People who bought houses in their twenties over 25 years ago could realise threefold, sixfold or even greater capital gains on the original purchase. What have they done to deserve that windfall? Have they expended any energy? They have done little other than sit in their homes for 25 years and watch house prices triple and quadruple. I am not blaming home-owners, it is not their fault that their homes have dramatically appreciated in value, but many have been encouraged to become property investors. On the back of their asset appreciation they can borrow and buy another house or unit as an investment property. They become landlords as well as owner-occupiers.

The net result is that the rapid price rises, and investment in housing for rent, force other people out of the market. These renters become the cash cows of the investors and help them to pay off the mortgage on their investment property, but it gives renters little chance, especially in Sydney, of ever being able to buy. It is little wonder that people are leaving. Even the Reserve Bank Governor, Ian Macfarlane, told younger aspiring home-owners to seek a better life elsewhere. Renters have little security of tenure and no viable alternatives to private rental, unless they can qualify for Department of Housing accommodation, which is increasingly difficult.

We have a shrinking and residualised social housing sector, which represents only about 5 per cent of New South Wales housing stock. It is available only to those on very low fixed incomes. For most average working people there is nowhere else to go except into the private rental market. I suspect that if the inquiry proceeds it will produce no more than another report that gathers dust on the shelf. What we need is action because the issues have been canvassed over and over again. It is action that is needed, not mere words.

The Hon. TONY KELLY (Minister for Justice, Minister for Juvenile Justice, Minister for Emergency Services, Minister for Lands, and Minister for Rural Affairs) [11.41 a.m.]: The New South Wales Government does not support an inquiry into the affordability and availability of land and housing in New South Wales. The Government already has a wide range of policies and initiatives under way to improve access to land and housing in New South Wales. In addition, this inquiry would duplicate a number of other projects already under way, and due to report this year. These include the Legislative Assembly Public Bodies Review Committee inquiry into the allocation of social housing, an interdepartmental committee of all relevant New South Wales Government agencies to develop a New South Wales Government strategy on affordable housing, and a statutory review of the Consumer, Trader and Tenancy Tribunal Act 2001.

In December 2005, the Government released the metropolitan strategy, to plan for and manage housing and population growth in New South Wales, while ensuring that Sydney remains a strong, vibrant and sustainable city—financially, economically, environmentally and socially. The Government has provided

approximately \$1.695 billion since 2000 to New South Wales residents under the first home owners grant. Over the same period, the New South Wales Government has foregone \$950 million in revenue under the First Home Plus Scheme. The Government also organised and hosted the first National Affordable Housing Conference in June 2005, played a leading role in developing the framework for national action on affordable housing, provided stamp duty exemptions and abolished the vendor tax, and established the Centre for Affordable Housing in 2002, within the Department of Housing, to develop, test and promote affordable housing options in New South Wales.

The New South Wales Government is actively identifying how it can build on this broad range of work and, in collaboration with the private sector and the community, provide greater access to affordable housing and land in Sydney. In October 2005 the Premier established an interdepartmental committee of all relevant New South Wales government agencies to develop a New South Wales Government strategy on affordable housing, with the aim of finalising a new strategy in 2006. The successful implementation of that strategy is ultimately reliant on community and industry partners. The committee is examining a broad range of options and mechanisms that could be used by government, the community and industry partners to improve housing affordability for appropriate sectors of the New South Wales population. This work will include, for example, examining housing needs and housing sizes, land use planning, financing models and social issues. Honourable members will see that the Government and the other House already have a significant number of inquiries under way, so the Government will not support the motion or the amendment.

The Hon. PATRICIA FORSYTHE [11.44 a.m.], in reply: I thank Ms Sylvia Hale, who spoke on behalf of the Greens, and the Minister for their comments. Ms Sylvia Hale completely misunderstands the brief of the Standing Committee on State Development. The Greens' view was that it ought to be concerned only with major infrastructure, which is nothing like the issues on which the Standing Committee on State Development focuses. One has only to refer to inquiries conducted by that committee in recent times, such as regional development, science and its commercialisation and the committee's most current reference on rural and regional skills, to establish that the role of the Standing Committee on State Development is far broader and focuses on things that impinge on our capacity to develop our economy. In essence, that is what it does; it is not about infrastructure at all.

With regard to the notion that a plethora of inquiries are being conducted so we should not have another, we ought to hold back for another week or two until the Greens next pop up with a request for an inquiry. It is simply nonsense to suggest that if inquiries are being conducted somehow there is no further role for the Legislative Council to play; inquiries are being conducted and we do not want any more. That is the proper course to be followed in relation to any issue that is worthy of inquiry. The honourable member referred also to Federal Government policies, which might well be one element. However, Federal Government policies apply equally across the whole of Australia. My motion refers to the cost and availability of land and housing in New South Wales.

What is so different now? Why does it cost so much more to purchase a block of land and housing in New South Wales than it does in other States? In part it has to do with the supply of land but it also has to do with State and local government fees, charges, taxes and levies. Aspects of Ms Sylvia Hale's speech sounded like something left over from another era or perhaps another century. It was a bit of socialist claptrap. Her reference to money sloshing around in the real estate sector should make for interesting reading. Honourable members should circulate the Greens housing policy in those areas where they like to portray themselves as being good and responsible policymakers. I think it would frighten the living daylights out of some people who from time to time think it is a good idea to support the Greens.

There are issues of concern about the supply of land in New South Wales. In 1998 a task force made a number of recommendations about housing in New South Wales, but that is no reason why we should not conduct another inquiry. Indeed, it ought to be a reason to establish why, having conducted that inquiry, we have not seen a significant change. A point overlooked by the Greens is that day after day the statistics reveal—members of the media do a good job by providing us with a daily diet of newspaper articles on this issue—it is becoming increasingly difficult to purchase land and housing in New South Wales. The best the Government could do to oppose this motion was to suggest that a number of policies and initiatives were under way. All I can say is: Those policies and initiatives are failing to address this issue.

We are dealing with some of the fundamental issues in the planning portfolio and in Landcom's policies. Earlier I was the first to acknowledge that we will not solve these problems merely by releasing land; this issue has to be put into the context of future needs. However, it highlights the small number of blocks of

land that have been released over a period by Landcom in New South Wales. Councils throughout New South Wales that are desperate to release land and change land zoning—in some cases from agricultural to rural residential and in other cases to urban lots—are confronted by all sorts of barriers erected by the Department of Planning. That is why this motion is before the House today.

Land affordability and availability are important public policy issues. The Government's policy failure in this area is evidenced by the high price of land and its non-availability. It is almost impossible to purchase land in some country areas. Some country councils have no lots for sale in their local government area. Each year councils come to Country Week and promote their area as a great place to move to in order to take some pressure off Sydney. But when one asks council officers what land is available in their local government area they talk in terms of one or two lots. In some cases there is zero land available for industrial parks.

Jindabyne is an area in which I take a particular interest—my colleague the Hon. Melinda Pavey asked a question about it recently in the House. If one asks about land in that area one will discover that virtually nothing is available. Yet the local council has projected a population increase of 4,000 over the next 20 years. These are important issues. This motion is about the release of land not just in Sydney but across the State and the impact of government policies in this area. People in local government are confronted by policy obstacles every day. It is not the cost of nails, timber and labour but the underlying costs—the section 94 contributions and the impact of levies imposed by Sydney Water, for example—that make building a house in New South Wales so expensive. It costs money to develop every lot of land.

The Government claims that it has policies in place and initiatives under way but they are failing and must be examined. That is why the House should support the Hon. Don Harwin's amendment and refer this matter to the Standing Committee on State Development. That is the appropriate body to examine this issue. The committee has a Government majority; I am not seeking to have the issue captured by Opposition and crossbench members. I am proceeding in a responsible manner and calling for the matter to be referred to the appropriate parliamentary committee for consideration.

The Standing Committee on State Development has always focused on these sorts of issues—contrary to the nonsense assertions of the Greens. Greens members have obviously not read the standing orders that govern the operation of the Standing Committee on State Development. Housing availability and affordability impact on people across the State and affect both ends of the real estate market. I appeal to honourable members to support the amendment of the Hon. Don Harwin and this motion.

Amendment agreed to.

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

The House divided.

Ayes, 12

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| Dr Chesterfield-Evans | Mr Gay | <i>Tellers,</i> |
| Mr Clarke | Mr Lynn | Mr Colless |
| Mrs Forsythe | Mrs Pavey | Mr Harwin |
| Mr Gallacher | Mr Pearce | |
| Miss Gardiner | Mr Ryan | |

Noes, 23

| | | |
|-----------------|-------------------|-----------------|
| Ms Burnswoods | Mr Kelly | Mr Roozendaal |
| Mr Catanzariti | Mr Macdonald | Ms Sharpe |
| Mr Cohen | Reverend Dr Moyes | Mr Tingle |
| Mr Costa | Reverend Nile | Mr Tsang |
| Mr Donnelly | Mr Obeid | Dr Wong |
| Ms Griffin | Mr Oldfield | <i>Tellers,</i> |
| Ms Hale | Ms Rhiannon | Mr Primrose |
| Mr Hatzistergos | Ms Robertson | Mr West |

Pairs

Ms Cusack
Ms Parker

Mr Della Bosca
Ms Fazio

Question resolved in the negative.

Motion as amended negatived.

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

ROADS AND TRAFFIC AUTHORITY AND VOLUNTEER COASTAL PATROL ACCOUNT

The Hon. MICHAEL GALLACHER: My question is addressed to the Minister for Roads. Is the Minister aware of the significant patrol, safety and boating work—work that would normally be undertaken by other authorities, such as the Water Police—that was undertaken by the Volunteer Coastal Patrol last year during the Swansea Bridge closure debacle? Is the Minister further aware that a number of months ago the Volunteer Coastal Patrol forwarded an account to the Roads and Traffic Authority requesting reimbursement for that work? Why has the Roads and Traffic Authority failed to pay the account or even acknowledge its receipt?

The Hon. ERIC ROOZENDAAL: A quick phone call to one of my very efficient and hardworking staff can resolve issues such as an outstanding account. However, since the honourable member chooses to raise it in the Chamber I will endeavour to get an answer as quickly as I can.

MULTIPLE ANTIBIOTIC RESISTANT ORGANISMS

The Hon. TONY CATANZARITI: My question is addressed to the Minister for Health. What is the latest information on multiple antibiotic resistant organisms?

The Hon. JOHN HATZISTERGOS: I thank the honourable member for this opportunity to update the House on what the Government is doing to ensure that multiple antibiotic resistant organisms [MROs] do not feature as a significant issue. Honourable members will remember that on 19 October 2005 I informed the House of a summit convened in Sydney regarding MROs. The control and prevention of MROs is a significant concern for health systems across the world. MROs can cause serious illness and sometimes death in hospital patients. That is why I am pleased to report that NSW Health authorities have recently received \$1.6 million to help bolster the attack on multiple antibiotic resistant organisms. The funding will support the implementation of several recommendations made by an Expert Advisory Group set-up to examine MROs.

Funding will be made available for the remainder of 2005-06 with \$1.6 million in recurrent enhancement to take effect from 1 July for the implementation of the Expert Advisory Group's recommendations in response to MROs in New South Wales. The advisory group's recommendations include: systems to support compliance with antibiotic prescribing guidelines and restricting the use of certain types of antibiotics; standardised programs for screening vulnerable hospital patients, including those in intensive care, renal dialysis, oncology, haematology and transplant units; development of information for patients and relatives about isolation procedures if colonisation or infection occurs and what they can do to help prevent transmission; and a stronger focus on infection control practices, particularly hand hygiene by health care workers.

The recommendations were considered and endorsed by stakeholders at the statewide MRO summit last year. The Clinical Excellence Commission, in collaboration with NSW Health, also launched a hand hygiene campaign targeting nurses, doctors and allied health workers to improve the levels of hand washing and hygiene among health care workers. The additional funding will support the implementation of recommendations regarding surveillance, screening of patients and staff and controlling antibiotic use. New South Wales is a national leader in the field of infection control and these recommendations will build upon the comprehensive, mandatory system of monitoring and health care for acquired infections that are already in place in all public hospital facilities across the State.

JONES SAWMILLING, TYNDALE

The Hon. DUNCAN GAY: My question is directed to the Minister for Primary Industries. Has State Forests had a meeting with all sawmillers on the North Coast and advised them of a 20 per cent cut to quota because of a lack of supply? The Minister will recall from correspondence I handed him yesterday that the critical shortfall in timber has forced Jones Sawmilling at Tyndale to retrench six timber workers today. Why has State Forests failed to deliver on its contractual obligations? Are other contracts in other parts of the State under threat? Is the Minister aware that any breach of contract potentially leaves the taxpayers of New South Wales liable for large amounts of compensation?

The Hon. IAN MACDONALD: I am aware that Jones Sawmilling near Grafton successfully tendered for a type C wood supply agreement, after having been supplied with salvage logs on a parcel sales basis in the past. Jones Sawmilling preferred to sign an agreement for 2,000 tonnes per annum, rather than the 5,000 tonnes offered by Forests NSW. That constitutes about one load of logs per week. I have been advised that the mill also draws supplies from private property. The wood supply agreement with Forests NSW allows for a proportion of the supply to comprise highland species and plantation sourced timber. The company's mill set-up means that smaller sized logs, although within the specifications of the wood supply agreement, are more expensive to process.

The company also prefers not to take plantation material, which is less suitable for flooring. Forests NSW is confident that it is complying with the terms of the wood supply agreement and has advised Mr Jones it is prepared to negotiate a proportion of smaller logs of his preferred species in lieu of the unwanted highland and plantation material. I encourage Mr Jones to accept Forests NSW offer of further negotiations

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

DRIVER ABILITY ROAD TEST LICENCE TESTING MANUAL

The Hon. JOHN TINGLE: My question is addressed to the Minister for Roads. Has the Roads and Traffic Authority [RTA] decided not to allow copies of the Driver Ability Road Test Licence Testing Manual to be issued to licensed driving instructors or registered training organisations? Given that the manual contains the criteria that testing officers need to have to be able to issue the red P-plate, does the Minister feel that it should be available to testing officers? Does the Minister agree that, since the manual is upgraded periodically to include any new or changed road rules, it is vital for testing officers to be aware of these rules to carry out their work properly? If so, will the Minister ask the RTA to make these manuals available?

The Hon. ERIC ROOZENDAAL: I thank the honourable member for his question. I will immediately instruct the RTA to check this situation and come back forthwith.

MOTOR VEHICLE ACCIDENT INJURIES COMPENSATION

The Hon. JAN BURNSWOODS: My question is addressed to the Minister for Commerce. What is the Government doing to assist people catastrophically injured in motor vehicle accidents?

The Hon. John Ryan: Point of order: The question invites the Minister to announce new policy relating to the treatment of people with catastrophic injuries and an associated change to the motor accidents insurance scheme in New South Wales. This matter should be the subject of a ministerial statement. The honourable member is offending the standing orders by requesting the Minister to announce new policy.

The Hon. John Della Bosca: To the point of order: I announced this policy about an hour and a half ago in the company of the Premier. I thought the House might be interested in this very important matter.

The Hon. John Ryan: Further to the point of order: The Minister has just admitted that he plans to announce a policy, which is new.

The PRESIDENT: Order! It is certainly true that a question may not seek an announcement of government policy. I remind the Minister that that is the thrust of the standing orders. He may talk generally about an announcement that he has previously made, but he must not announce government policy.

The Hon. JOHN DELLA BOSCA: Earlier today I had the pleasure at Sydney Children's Hospital to be with the Premier as he launched a major expansion of the new green slip scheme.

The Hon. John Ryan: Point of order: The Minister is in fact announcing a new policy. He went out with the Premier and a new announcement was made with regard to a new policy.

The PRESIDENT: Order! I made a clear ruling that the Minister is in order if he is talking about a policy that has previously been announced. There would be very little that Ministers would be able to talk about if they were not allowed to talk about government policy that had previously been announced. The standing orders are clear: a Minister cannot announce new policy in the House. The Minister is talking about a policy that has previously been announced.

The Hon. JOHN DELLA BOSCA: I would have thought honourable members opposite would be interested in this matter, but apparently they are not. Before we went to work on the scheme, the average green slip cost was over half the average weekly pay packet. It is now less than a third of average weekly earnings. Our hard work is paying dividends, and now we can dramatically increase the coverage for the injured. Legislation that is being introduced today in the Legislative Assembly will establish for the first time no-fault coverage for all children injured in a motor vehicle accident. Additionally, adults suffering catastrophic injuries in a motor vehicle accident will be supported for life, regardless of fault in the accident. This is a historic change in the provision of care and compensation for children, and it is a safety net for the catastrophically injured, who may otherwise be forced to rely on their families to provide a lifetime of care. In line with the Government's discussion paper issued in June 2005, the scheme will be funded by an average \$20 per year increase in motor vehicle green slips. Considering the massive reduction in the average price of a green slip, it is a very modest increase to pay for what will be a very substantial increase in benefits.

Around 125 people a year are catastrophically injured in a motor vehicle accident. Most are young men and are less than 20 years old. Catastrophic injury involves mostly brain injury and spinal cord injury. Each year around 35 people will have a spinal cord injury, 82 people will have a traumatic brain injury, and three people will have other severe injuries, that is, severe burns or injuries requiring amputations. The Iemma Government scheme will offer lifetime assistance, including aids and appliances, home and transport modifications, personal care, domestic and child care services, assistance with community access, educational and vocational services, respite care, and life care co-ordinated to assist the person to access and manage services.

The scheme unveiled today is broader than the concept previously canvassed because it also includes the no-fault benefit for children. The community recognises that young children are not physically or psychologically able to keep themselves safe in traffic. The no-fault benefit will provide families with the assurance that their injured child will get the treatment, rehabilitation and care needed for their recovery. Currently, a child that runs out onto the road or rides a bike into the path of a car may not be entitled to benefits. This is because, under the current principle of fault in motor vehicle accidents, there may literally be no-one at fault, other than the child. The new scheme provides need-based care, not fault-based care. The no-fault benefit for children will come into effect from 1 October 2006, with the benefit for the catastrophically injured commencing 12 months later. The changes have attracted broad support from organisations such as Spinal Cord Injuries Australia, the Brain Injury Association of New South Wales, and indeed the parents I met at the hospital today. This is a tremendous initiative to help families, injured children and the catastrophically injured.

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

SYDNEY HARBOUR COMMERCIAL FISHING INDUSTRY COMPENSATION

The Hon. Dr PETER WONG: My question without notice is directed to the Minister for Primary Industries. Is it true that the Minister informed the media on a number of occasions, and representatives from the Metropolitan Commercial Fishermen's Association, that the compensation package for the closure of Sydney Harbour would be worked out on the fishermen's three best catches and then doubled?

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

The Hon. Dr PETER WONG: Why is the Minister's department insisting that fishermen must take a package that is totally different from that which the Minister promised, which will equate to only two years of real income, rather than the Minister's promised six years of real income? Given that the Minister has told the public that fishermen will receive a six-year package, will he now make an announcement informing the public that they will not now do so and will receive only two years of compensation?

The Hon. IAN MACDONALD: The honourable member has not got this right. I have made it very clear right from the beginning that the package that would be offered is precisely the same package that is being

offered to the fishers in the marine parks at Cape Byron as well as the marine parks in the Manning and Batemans shelf area. I have made it very clear that that formula applies to this instance. I have made it clear also that we will offer emergency assistance based on an upfront sum of \$10,000 in relation to the fishermen accepting a package under the scheme.

I understand we already have the first proposal back—a number of others are very close to it—and some of them will receive very substantial sums indeed. The fishing ban put in place on 24 January was based on the recommendations of the expert panel, which made it clear that the elevated levels of dioxins levels in bream and prawns in Sydney Harbour were unacceptable. So commercial fishing has been banned. I believe our fishing package is generous. It has been approved by the Seafood Industry Advisory Council in many discussions and we are sticking by that package because we believe it is fair and just. It means up to \$5 million will be paid out assisting those fishers.

NOWRA RESPITE CARE FACILITIES

The Hon. JOHN RYAN: I direct my question to the Minister for Disability Services. Is it a fact that one of the clients who is blocking the respite house in Nowra that was the subject of my question without notice on Tuesday is an 11-year-old boy with significant disabilities arising from a genetic brain disease? Is it a fact that this boy's parents wrote to the Minister last October informing him that they had relinquished the boy to the care of the department after they were no longer able to cope with meeting his needs at home? Did they plead with the Minister to have the boy located in supported accommodation closer to their home at Wollongong so that he could continue to have regular contact with his family and continue attending his regular school with his friends, rather than being located more than an hour away at Nowra? Is it a fact that on some weeks the only contact this boy has with his family is by telephone? Why has the department not made a better effort to keep this young child in closer contact with his parents and family?

The Hon. JOHN DELLA BOSCA: As I have indicated previously to the honourable member and the House I always will decline to answer in a way that impinges on the privacy of the clients or their families. However, in this specific instance I am aware of the individual's sad and difficult circumstances. I have checked with the Department of Ageing, Disability and Home Care and I am confident that it is doing everything possible to resolve the matter appropriately, which means providing respite that is more convenient and appropriate for the client and the location of his family. However, it is unhelpful to attempt to elicit from me any information about the private matters of individuals. I respect their privacy, and I would ask him to do the same.

The Government understands the importance of respite care for people who care for a person with a disability, and it is committed to those services and their being located conveniently, especially when the client involved is very young. That is why funding for respite care has doubled since 1996. Recently I announced an additional \$48 million over three years for respite for older carers as part of a joint initiative with the Commonwealth. As I have mentioned previously, New South Wales has about 405 respite beds in centres operated—

The Hon. John Ryan: Point of order: The question I asked the Minister related to supported accommodation, which is different from respite. The unfortunate fact is that this young man is locked into a respite bed. What he is asking for is supported accommodation. The Minister has gone off on a tangent, which is not relevant to the question I asked.

The PRESIDENT: Order! The Minister is supplying information that has to do with the question, and may continue.

The Hon. JOHN DELLA BOSCA: On the broader question of accommodation the honourable member is aware that I have been sponsoring a serious revision of the approach to accommodation by the Department of Ageing, Disability and Home Care. The Government intends to make significant announcements about that in the near future. But he is quite correct in saying that there are differences between respite care and accommodation, although his narrative indicates how closely linked are the management of the two different streams. When we have blockages in respite facilities the department needs to work with families to find alternative support arrangements for people who have become homeless not only because of their need for supported accommodation, as he pointed out, but also because the blockage of that disability respite bed means that other families are unable to access respite, which places pressure on those families. The point of the Government's reform program in disability services is to give maximum support to families before critical situations, like the one he described, develop.

BRIGALOW BELT SOUTH BIOREGION WOOD PRODUCTION EXTRACTION OPERATIONS

The Hon. CHRISTINE ROBERTSON: My question without notice is addressed to the Minister for Primary Industries. Will he update the House on negotiations with local timber mills in the Brigalow region?

The Hon. IAN MACDONALD: The Brigalow decision was about finding a sound, balanced outcome to give security to the local timber industry and protect key areas for biodiversity. As part of that decision the New South Wales Labor Government will allocate \$80 million over the next five years to support job creation, industry development and conservation management. More than half of this is being directed to support the local timber industry, to provide added security and help the mills with value-adding projects. Today I can inform honourable members of some very important developments on this front. This morning I met with the Paul family from Gunnedah Timbers and Baradine Sawmilling. George, Paddy and Michael are in the back of the Chamber. Brendan was there earlier. I have received correspondence from them. One of the letters states:

Dear Minister,

As Director of Gunnedah Timbers I confirm that I intend to imminently sign a 20-year wood supply agreement with Forests NSW. At a meeting with Forests NSW on Thursday 9 March in principle agreement was reached on all outstanding issues.

We have continued discussions with the Paul family on a 20-year wood supply agreement that has been offered. Through the agreement Forests NSW will supply the mills with 33,000 cubic metres of timber from the regions of forest estate each year for the next two decades. More importantly, it will deliver a level of security never before seen in the Brigalow timber industry, and it will give the Paul family the confidence they need to invest in their future. It will also provide security for the estimated 50 workers employed at the two mills. I can inform the House that this morning's discussions were extremely positive. The Pauls have signed the letters of intent. Over the next few days we will work with the Pauls to finalise the details with a goal that supply agreements are signed, sealed and delivered very shortly.

Once 20-year supply agreements are in place we will begin negotiating with the companies on a series of proposed mill upgrades and value-adding projects. Part of the \$80 million Brigalow package includes up to \$15 million for an industry development fund, which will help local mills invest in value-adding projects, new timber products and export opportunities. Under this scheme the State Government will contribute \$2 for every \$1 invested by industry to help upgrade development, processing techniques, and business and market development activities. The State Government and the local mills will work together to create a world-class timber industry in the region. A \$140 million industry adjustment scheme helped to transform our South Coast and North Coast timber industries into state-of-the-art, cutting-edge operations, and I am confident that we can do the same with the Brigalow.

The Pauls already have indicated a number of projects they want to work toward, including drying kilns and a planning machine to assist with the export of floorboards to the United States of America, a two-saw edger to improve mill efficiency and the proportion of wood recovered from logs, and the purchase and installation of log scanners to track and record dimensions of logs accurately, which ultimately will boost efficiency and overall management in the mill. We will assess these projects as a matter of priority. I look forward to working with the Pauls to promote the development of their mills. We also are continuing very positive discussions with a number of other timber mills in the region. I hope to announce more 20-year supply agreements in the very near future. I can also inform the House that Forests NSW has begun recruitment for up to 45 cypress thinning jobs in the Brigalow belt. This will help with long-term management of white cypress pine regrowth in harvesting areas on both public and private land. They are part of a \$12 million job creation program for the region.

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

The Hon. IAN MACDONALD: The cypress thinning jobs will provide ongoing employment for people from local towns such as Baradine, Gwabegar, Narrabri, Gunnedah, Inverell, Bingara and Gilgandra. They also will promote the growth of saw logs and ensure the availability of high quality timber to sustain the region's cypress sawmilling industry. This is a five-year program. These developments are further evidence of the State Government's ongoing commitment to helping create a state-of-the-art world-class cypress industry. It shows we are continuing to meet the needs of affected mills and the community.

Q FEVER VACCINATION PROGRAM

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: My question without notice is directed to the Minister for Primary Industries. Is the Minister aware that Q fever is a far greater risk to our farmers than bird flu? Is the Minister aware that Q fever is carried by sheep and causes infertility in ewes and death in young lambs? Is the Minister aware that many shearing contractors insisted that shearers they employ are vaccinated because if they get Q fever they may be unable to work for months? What is the current cost of the vaccine? What cost-effectiveness studies have been done for the vaccine in humans, and in animals? In view of the reply given by the Minister for Health on 7 March 2006, what measures will be taken to protect abattoir workers, saleyard staff, shearers and farmers handling ewes during lambing? Where will they obtain the vaccine and what will it cost? What effect does Q fever have on livestock exports?

The Hon. IAN MACDONALD: That is a very noble and detailed question that gets to the heart of a lot of issues. But the real heart of the issue is the Commonwealth, which has responsibility in this area. Yes, I am aware of the difficulties that can be experienced by workers with Q fever, particularly in the sheep industry. On behalf of the Hon. Dr Arthur Chesterfield-Evans I will undertake to write to the Federal Minister to ascertain what action he proposes to take as the custodian of the nation's health.

TIMBER BRIDGES REPAIR PROGRAM

The Hon. JENNIFER GARDINER: My question without notice is directed to the Minister for Roads. What is his response to the suggestion by the honourable member for Tamworth that vehicle registration charges should be increased by up to \$10 to help to fund the elimination of the backlog or fund the replacements that are required for the State's timber bridges?

The Hon. ERIC ROOZENDAAL: I advise that, as the Premier stated in Parliament last week, all road initiatives will be considered within the context of the budget. From 1998 to 2004, 140 timber bridges were replaced or upgraded by the Roads and Traffic Authority at a cost of \$163 million.

[Interruption]

The Hon. Jennifer Gardiner should listen. She has asked the question and she should listen. The works were carried out primarily on State roads and were funded under the Country Timber Bridge Program. The State Government provides councils with financial assistance to maintain their regional roads, including their timber bridges, under two main programs. Block grants are provided to each council under a funding formula that takes into account the length of timber bridges that fall under their responsibility.

The repair program, funded by the State Government on a dollar-for-dollar basis, provides funding to councils on a case-by-case basis. More than \$1.5 billion will be spent on the New South Wales rural and regional road network in the 2005-06 budget, which represents 62 per cent of the Roads and Capital Maintenance Program of \$2.4 billion. This year's total roads budget of \$2.88 billion is the eleventh consecutive record roads budget delivered by the New South Wales Labor Government. The majority of those funds is spent on roads outside Sydney. The country roads maintenance budget alone is \$475 million.

[Interruption]

The PRESIDENT: Order! If members wish to ask supplementary questions they must stand and seek the call.

The Hon. Michael Gallacher: The Hon. Jennifer Gardiner tried, but the Hon. Eddie Obeid was shouting out.

The PRESIDENT: Members have to actually seek the call.

The Hon. JENNIFER GARDINER: I ask the Minister a supplementary question: Will he, in the context of the budget about which he has been speaking, consider the suggestion of the honourable member for Tamworth that there be a \$10 increase in vehicle registration fees to help to fund timber bridge replacements?

[Interruption]

The PRESIDENT: Order! I remind members that a supplementary question must seek elucidation of a matter referred to in the Minister's response to a question. However, the Minister may answer the question if he wishes to.

The Hon. ERIC ROOZENDAAL: Issues relating to the budget should be directed to my colleague the Treasurer. He is the appropriate person to ask.

TAX SYSTEM REVIEW

The Hon. EDDIE OBEID: My question is addressed to the Treasurer. Will he update the House on moves to study taxation arrangements between the Commonwealth and the States?

The Hon. MICHAEL COSTA: I thank the honourable member for this important question. I welcomed the announcement by the Federal Treasurer, Peter Costello, that he was going to conduct a major review of the tax system. I thought it was a sensible initiative. However, it did not take long for me to realise that it was a political stunt and he had no intention of looking at the tax system in the required detail to resolve some of the problems that have emerged and that are very obvious to everybody. Only this week Mr Costello was quoted in the media as saying that he had scaled back earlier expectations about a big tax overhaul. Clearly what was being announced was a stunt and had nothing to do with what I think most people regard as important.

[Interruption]

I note that once again the Hon. Melinda Pavey is interjecting. She has a very distinctive voice and, I should add, very distinctive handwriting. This morning somebody slipped a note under my door. It appears to be in the handwriting of the Hon. Melinda Pavey.

[Interruption]

The Hon. John Ryan: Point of order: The Minister was asked a question related to Commonwealth-State relations. He then sought to produce a note that I think he said by inference was produced by one of my colleagues. I am sure that whatever this question involves, there is no chance whatever that anything one of my colleagues wrote has any relevance to this question on Commonwealth-State relations. He was clearly not answering or giving information that was in any way relevant to the question he was asked. In addition, he was probably about to commence some sort of an attack on a member, and that also would be outside the standing orders.

The Hon. Greg Pearce: To the point of order and a further point of order: If the Minister proposes to read from a document, he is required under standing orders to authenticate the document. If it is in fact a document prepared by the Hon. Melinda Pavey she has already indicated that she has not approved its release and she has not seen it. If the Minister wants to refer to it he will need to authenticate it independently, or he is invited to take it to the Hon. Melinda Pavey now and ask her to authenticate it—that is if he wants to sustain his argument that it is in fact an authentic document from which he is entitled to quote.

The Hon. Melinda Pavey: To the point of order: I would like to make it known that it is obvious the pieces of paper the Treasurer has referred to have been stolen.

The PRESIDENT: Order! I call the Hon. Peter Primrose to order for the first time. There is no standing order that provides that a document must be authenticated before it can be read from.

The Hon. Eric Roozendaal: She has authenticated it. She said it was from her notebook.

The PRESIDENT: I remind members that there is no such standing order, and the Hon. Greg Pearce should know that. However, I remind the Minister that his answer must remain relevant to the question asked. The Minister's time for speaking has expired.

The Hon. EDDIE OBEID: I ask a supplementary question. Would the Minister elucidate on his answer?

The Hon. MICHAEL COSTA: As I was explaining, Peter Costello's tax review is a clear sign of insincerity on the part of the Opposition in relation to matters dealing with tax and other important issues. That is why I was referring to these notes, which were slipped under my door and which appear to be—

The Hon. John Ryan: Point of order: Madam President, again the Minister is attempting to flout your earlier ruling that he should be relevant. He is clearly about to read from a document that is not relevant. He is attempting to launch an attack on a member in contravention of the standing orders, which state quite clearly that if a member wishes to attack another member he or she must do so by way of substantive motion.

The PRESIDENT: Order! I have absolutely no way of knowing what is in the note until the Minister reads it.

The Hon. Duncan Gay: Point of order: My point of order relates to relevance. The Minister is about to read from a personal note that the Hon. Melinda Pavey indicates was probably stolen by the Labor party. It is not beyond Labor Party members to hold microphones up to doors. The Minister's reading this note would be akin to my reading in this House a transcript of Premier Bracks talking about the economic record of the State Government. I would not be mean enough to repeat Premier Bracks' conversation before an open microphone on the electability of the New South Wales Government, or its economic record, or the dead wood that is left in this House. I would not do that, because it would be irrelevant to the question—and what this member is trying to do is totally irrelevant.

The PRESIDENT: Order! The Deputy Leader of the Opposition will take his seat.

The Hon. MICHAEL COSTA: The Coalition will not move forward unless the real reasons for the loss in the Pittwater by-election are acknowledged. They were the comments made by the Hon. Melinda Pavey in that— [*Time expired.*]

The PRESIDENT: Order! I call the Minister for Natural Resources to order for the first time.

ILLEGAL LAND CLEARING INVESTIGATION

Mr IAN COHEN: My question without notice is directed to the Minister for Natural Resources, Minister for Primary Industries, and Minister for Mineral Resources. Have departmental officials ever applied no-go zones on the investigation of incidents of illegal land clearing? Does the Minister have concerns that that could be corrupt and potentially illegal behaviour? If such behaviour came to the Minister's attention, would he refer officers to the Independent Commission Against Corruption?

The Hon. IAN MACDONALD: That allegation was made in articles in the *Sydney Morning Herald* a little while back. I have not been able to ascertain in any shape or form whether the allegations have any merit whatsoever. They fell on the back of comments by a number of people as reported in the *Sydney Morning Herald*. The Ombudsman is investigating some aspects of the comments, but overall the answer is no.

HOSPITAL EMERGENCY DEPARTMENTS TREATMENT BENCHMARKS

The Hon. GREG PEARCE: My question without notice is addressed to the Minister for Health. Why, according to figures currently on the Department of Health web site, are only 48 per cent of emergency department patients at the Royal North Shore Hospital in potentially life-threatening condition seen within the 30-minute benchmark?

The Hon. JOHN HATZISTERGOS: The honourable member does not seem to understand the benchmarks and how they operate. For his edification, I make it quite clear that people who are immediately life-threatened have to be seen not in 30 minutes but in 2 minutes. At hospitals across the State, not only at Royal North Shore Hospital, 100 per cent of those people are seen within that benchmark. Would the Hon. Greg Pearce like to know the Coalition's figures in that regard when it was in government? It was 76 per cent! In other words, it was Russian roulette as to whether one was treated in an emergency department within two minutes.

The Hon. Greg Pearce: Point of order: My point of order is relevance. My question was in relation to the potentially life-threatening category. The web site of the Department of Health states that only 48 per cent of those were within the 30-minute benchmark, not the two-minute benchmark the Minister is talking about.

The PRESIDENT: Order! The Minister was making general comments, and was in order.

The Hon. JOHN HATZISTERGOS: I had not finished my answer. As for the rest of the benchmarks, it is about time members of the Opposition woke up to themselves and realised what they are on about. Apart

from category one, which requires every patient to be seen within two minutes, the other four benchmarks do not anticipate that every patient would be seen within those benchmarks. It makes it quite clear that that is not the case. The benchmark figures are there to assess the overall performance of the emergency department, and that does not necessarily mean that every patient has to be seen within that time. However, major emergency departments do have clinical initiatives nurses, so that any patient will be assessed.

The Hon. Greg Pearce asked me a question, but he is now chatting with his colleagues. Obviously he does not understand what this is all about. Any person who is not seen within the benchmark set down by the Royal College of Emergency Medicine is reassessed by the clinical initiatives nurses and re-prioritised if necessary. The member should wake up to himself!

FEDERAL GOVERNMENT INDUSTRIAL RELATIONS LEGISLATION

The Hon. GREG DONNELLY: My question without notice is addressed to the Minister for Commerce. Will the Minister inform the House of the latest developments regarding the High Court challenge to the Commonwealth Government's WorkChoices legislation?

The Hon. JOHN DELLA BOSCA: I thank the honourable member for his continuing interest in this important issue. As I informed the House on 28 February, the High Court has determined that it has the jurisdiction to hear the challenge launched by the New South Wales Government. This morning the High Court confirmed that the matter will be heard by the Full Bench of the High Court from 4 May to 11 May 2006. The New South Wales Government will be the first State to argue its case. The Iemma Labor Government has made its position clear: We will stand up for the hard-working families of New South Wales and we are standing up to those in Canberra who are trying to erode the working conditions of families and young people.

The New South Wales Government is standing up to the anti-New South Wales, anti-Sydney prejudice of the Canberra Treasurer and the Federal Government's unfair short-changing of GST revenue to the people of New South Wales. What is the Opposition doing to defend the hardworking families of New South Wales? Does it oppose our High Court challenge? It seems that the Opposition continues to refuse to stand up to John Howard, even on this matter. Why will the Opposition not join the Iemma Government and publicly declare that it is on the side of the working families of New South Wales? The last comment made by the Government on this matter was, "We will not agree to hand over industrial relations powers to the Commonwealth." What was the last comment made by the Opposition? It has tried to keep quiet; but is it?

What did the member for Vacluse, who was guest of honour at the H. R. Nicholls Society conference last weekend, promise when he addressed the gathering? The society was certainly pleased with the plans revealed by Nick Minchin for further attacking the wages, entitlements and lifestyles of Australian families. Did the member for Vacluse assure the society of his plan to cut 29,000 nurses, teachers, ambulance officers and disability workers, or was that just the beginning? The Opposition cannot hide, and it cannot have it both ways.

The shadow Minister for Industrial Relations has claimed that an incoming Coalition Government would look after workers wages and conditions. Under the Commonwealth's industrial relations system there are only five minimum conditions, and all the rest are up for grabs. Under WorkChoices some conditions in our agreements would be deemed illegal. Members opposite must declare their support for a separate New South Wales industrial relations system. The Coalition must declare that Howard's power grab is wrong.

The Hon. Michael Gallacher: Point of order: This is a very important issue that affects the future of all workers. Madam President, I ask you to direct all members who are sitting behind the Minister to stop laughing while the Minister is talking about this very serious issue.

The PRESIDENT: Order! I remind all members that if they wish to have private conversations they must leave the Chamber.

CORRECTIONAL CENTRES MENTAL HEALTH SERVICES

Ms SYLVIA HALE: I address my question without notice to the Minister for Health. Are all prisoners in New South Wales assessed for mental illness on entering a prison? Once assessed as mentally ill, how often on average do prisoners see a psychiatrist or psychologist? How many prisoners in New South Wales are waiting for a place in a psychiatric facility? What is the average wait time before admittance? Are prisoners referred to a mental health service on their release? How many suicides were there in New South Wales prisons in 2004-2005?

The Hon. JOHN HATZISTERGOS: There is a lot of detail in that question, which I am happy to take on notice. In answer to the last part, the suicide rate in New South Wales prisons has progressively fallen, and not only because the Government has upgraded the infrastructure and adopted the recommendations of the Royal Commission into Aboriginal Deaths in Custody over a long time. Both Corrective Services and the Department of Health are ready to open the new mental health screening units, which operate for both males and females at the Metropolitan Remand Centre and at Mullawa in Sydney. I can provide the honourable member with further details about that. I will take on notice that part of the question about post release, and provide information about that. I have already given information to the House about the percentages of people who have mental illness, but I will recycle it, update it and provide it here.

AUSTRALIAN CAPITAL TERRITORY GAOL PROPOSAL

The Hon. MELINDA PAVEY: My question without notice is directed to the Minister for Justice. Will the Minister consider making urgent representations to the Australian Capital Territory Chief Minister that New South Wales Corrective Services continue to provide gaol facilities for Australian Capital Territory prisoners? Has the Minister undertaken a cost-benefit analysis of the continued housing of Australian Capital Territory prisoners in New South Wales gaols as opposed to the construction of a new gaol on the doorstep of Jerrabomberra, as per the current plans of the Australian Capital Territory Government? What is the Minister doing to stop construction of this gaol?

The Hon. TONY KELLY: Construction of the gaol has already commenced. My understanding is that of the order of 145 prisoners from the Australian Capital Territory are presently housed in our gaols. Relocation of those prisoners will allow us additional capacity. I understand further that New South Wales presently has 488 vacancies, and this gives us the buffer zone we need. I do not consider that it will be a problem for New South Wales. Obviously, I would have liked to continue the present arrangement. I did put forward that suggestion, but the gaol is already under construction.

CROSS-CITY TUNNEL TOLL

The Hon. HENRY TSANG: My question without notice is addressed to the Minister for Roads. What process was involved in negotiating the agreement that culminated in the cut to the cross-city tunnel toll? Is the Minister aware of statements by the member for Vaucluse about these negotiations?

The Hon. ERIC ROOZENDAAL: I would like to take this opportunity to further clarify negotiations between the Government and the operators of the cross-city tunnel, and to express to the House my concern about the poor grasp of the English language held by the member for Vaucluse, who seems to struggle—

The Hon. Don Harwin: Point of order: The Minister barely got into his second sentence when he fell foul of the standing order that refers to a member reflecting on members of the other place. If he wishes to make such comments about a member of the other place he must do so by way of substantive motion. He should show more respect for his local member!

The Hon. John Ryan: To the point of order: I was tempted to take a point of order when the question was first asked, which invites the Minister to flout the standing orders by making an attack on the member for Vaucluse. The Minister was about to discuss something to do with the use of the English language. I know that it is only permissible for Ministers to be asked questions relating to their portfolios, and I cannot understand how the use of the English language can have anything to do with the roads portfolio.

The PRESIDENT: Order! The Minister is reminded that he must not make imputations or reflections on a member of this House or of another place.

The Hon. ERIC ROOZENDAAL: There seems to be a struggle with the definition of the word "culmination". Yes, I had discussions with the cross-city tunnel operators over a two-week period. That is what you do in discussions—you sit down, you talk and you negotiate co-operatively, not unilaterally. As I said on Sunday, these discussions culminated last Friday when the cross-city tunnel operators put an offer to the Government. According to the dictionary the word "culmination" means "to reach the final point". It might help to put this word in some context. For example, the Pittwater by-election was the culmination of a successful campaign by right-wing extremists to hijack the Liberal Party.

The Hon. Greg Pearce: Point of order: My point of order is relevance. The question asked the Minister to describe the negotiating process in relation to the agreement that he apparently reached with the

cross-city tunnel operators. It did not ask him to give the House some sort of lesson on how to write a dictionary. It should be noted, if the Minister is going to talk about the process that led to the so-called agreement, that the Premier has still not met with the cross-city tunnel people and in fact used a profanity. The Minister might take that into account in his description of the—

The Hon. Duncan Gay: Madam President—

The PRESIDENT: Is the Deputy Leader of the Opposition taking a point of order on the Hon. Greg Pearce?

The Hon. Duncan Gay: No. I wish to speak to the point of relevance. The Minister was asked a specific question. He is the Minister for Roads and the cross-city tunnel is an important issue. The Minister's answer is not relevant to the question. All he is doing is wasting the time of the House on his pet subject of factions, if there are such things, within the Liberal Party. He is a Minister of state and he should be answering this important question, albeit it was asked by a Government member, rather than playing games.

The Hon. ERIC ROOZENDAAL: To the point of order: The question asked me to clarify to the House the process involved in negotiating the agreement that culminated in a cut to the cross-city tunnel toll, and also to make some comment in relation to the remarks of the member for Vaucluse about the negotiations. I am responding to the question that was asked of me.

The Hon. Charlie Lynn: Madam President—

The PRESIDENT: Is the Hon. Charlie Lynn taking a point of order on the point of order of the Minister?

The Hon. CHARLIE LYNN: No. He had culminated, and his time had expired.

The PRESIDENT: Order! The Hon. Charlie Lynn must not stand and seek the call in the middle of a speech being made by another member. Unless the member is taking a point of order on the Minister who is speaking to a point of order, he must not stand and seek the call. The process must be orderly. Unless a member wishes to take a point of order on the member who is speaking to or taking a point of order, he or she must remain seated until the member with the call has finished speaking. Does the Hon. Charlie Lynn wish to speak to the point of order?

The Hon. Charlie Lynn: No. I thought you were giving me the call.

The PRESIDENT: Order! The Hon. Charlie Lynn will resume his seat. The Hon. Charlie Lynn was seeking the call in the middle of the Minister's response to a point of order. He must not do that. I implore members to adhere to the procedure.

The Hon. Charlie Lynn: Point of clarification: I was watching the clock, which expired at about the same time as he culminated, so I then—

The PRESIDENT: Order! The Hon. Charlie Lynn will resume his seat. The Minister was replying to the point of order, he was not continuing with his speech, so the time showing on the clock is irrelevant. I ask members to read the standing orders to get a better understanding of the process. I will now rule on the point of order. The question quite clearly asked the Minister to describe a process and the Minister was doing that. However, I remind the Minister once again that he must not make imputations against a member of another place.

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

The Hon. ERIC ROOZENDAAL: There were negotiations between the Roads and Traffic Authority and the tunnel operators, and they concluded on Sunday with an agreement. Let me explain how negotiations work co-operatively. Negotiations are what both parties agree to, like when the Hon. Don Harwin agreed to vote for Peter Debnam to save his own skin. That was an agreement.

The Hon. Don Harwin: Point of order: This serial offender, who lives in the Vaucluse electorate, is in no way being relevant to the supplementary question he was asked, which was about the process, as you said in your earlier ruling.

The PRESIDENT: Order! The Minister will remain relevant.

The Hon. ERIC ROOZENDAAL: The Opposition wants to take unilateral action on the cross-city tunnel, like when the Hon. Patricia Forsythe had her endorsement unilaterally cancelled in the preselection. These are not very hard concepts to grasp.

The Hon. Don Harwin: Point of order: You have ruled on relevance in relation to this Minister's answer. Three times points of order have had to be taken. He is straying from the original question and the supplementary question. If he will not come to order you should name him or sit him down.

The PRESIDENT: Order! The Minister may make general comment when answering the question. However, the Minister must not make imputations against another member, as he was attempting to do. It is convention—and I have always ruled—that debate in this House may be robust and members can expect their policies and policy positions to be referred to in debate, but personal reflections on members of the Chamber are definitely disorderly.

CURRAWONG RECREATION AREA SALE

The Hon. CHARLIE LYNN: My question is directed to the Treasurer. What action has the Treasurer taken to protect the rare and idyllic bushland at Currawong, adjacent to the Ku-ring-gai Chase National Park, from development? Will the Treasurer ensure that this land is returned to the people of New South Wales as national park and not used as a profiteering bonanza by Unions New South Wales, given that the land was transferred to the unions to provide cheap holidays for workers and is fundamentally held in trust?

The Hon. MICHAEL COSTA: The Hon. Charlie Lynn's question contains an inaccuracy. The union movement bought Currawong, so it is private property and the unions are entitled to do what they like with it. I do not presume to talk about my former organisation. It is up to the union movement to decide what it does with its land. My views on the subject are well known: I hope Currawong is sold for the highest price and I hope the unions spend the money wisely.

MENTAL HEALTH HELP LINES

The Hon. JOHN HATZISTERGOS: On 7 March 2006 the Hon. Jennifer Gardiner asked me a question without notice relating to mental health help lines. I am advised that all area health services in New South Wales currently provide access via a mental health telephone line. I am advised that the telephone access line is provided through various mechanisms. NSW Health is currently conducting a review of area mental health telephone access services to identify performance and coverage and to plan strategies to meet the specific service standards identified in the Auditor-General's report on emergency mental health services.

CAMPBELLTOWN HOSPITAL AND MS SHARON BROPHY

The Hon. JOHN HATZISTERGOS: Yesterday Ms Sylvia Hale asked me a question relating to the outcomes of the Coroner's inquest into the tragic death of Sharon Brophy. Further to the material I provided in response to that question yesterday, I am advised that NSW Health is in the process of implementing recommendations of the Coroner from November last year. I advise honourable members that work has been taking place in area health services to improve communications processes between clerical and clinical staff and in the assessment and re-evaluation of patients waiting in emergency departments. This includes developing new models of care for both cardiology and emergency patients.

I am advised that more than 150 clinicians have been consulted in developing these models to ensure they are patient-centred and workable in practice. Both models of care promote the use of agreed clinical protocols for chest pain presentations to emergency departments. The specialist colleges will be consulted. I also advise the House that after this incident in 2004 the professional practice unit of Sydney South West Area Health Service undertook an independent review of the case and a number of recommendations have been made that are in the process of being implemented.

ROADS AND TRAFFIC AUTHORITY AND VOLUNTEER COASTAL PATROL ACCOUNT

The Hon. ERIC ROOZENDAAL: Earlier today the Leader of the Opposition asked me a question about an account issued to the Roads and Traffic Authority [RTA] by the Volunteer Coastal Patrol. I am advised

that late last year the Volunteer Coastal Patrol assisted the RTA in enforcing an exclusion zone around the Swansea bridge while urgent repairs were undertaken. The RTA discussed this matter with the Volunteer Coastal Patrol this morning. I am advised that the RTA will settle the account as soon as the final amount is determined. I know the Volunteer Coastal Patrol provides a valuable service to the community and I commend the patrol for its work.

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

Questions without notice concluded.

STANDING COMMITTEE ON LAW AND JUSTICE

Government Response to Report

The Hon. John Della Bosca tabled the Government's response to report No. 29, entitled "Workers Compensation Injury Management Pilots Project", tabled on 9 September 2005.

Ordered to be printed.

[The President left the chair at 1.04 p.m. The House resumed at 2.30 p.m.]

FAMILY IMPACT COMMISSION BILL

Second Reading

Debate called on, and adjourned on motion by the Hon. Tony Kelly.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders

Motion by the Hon. Tony Kelly agreed to:

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

Precedence of Business

Motion by the Hon. Tony Kelly agreed to:

That Government Business take precedence after 3.30 p.m. today.

CRIMES AMENDMENT (PROTECTION OF INNOCENT ACCUSED) BILL

Second Reading

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

FIREARMS AMENDMENT (GOOD BEHAVIOUR BONDS) BILL

Second Reading

Debate resumed from 2 March 2006.

The Hon. TONY KELLY (Minister for Justice, Minister for Juvenile Justice, Minister for Emergency Services, Minister for Lands, and Minister for Rural Affairs) [2.36 p.m.]: The Firearms Act 1996 provides for certain mandatory disqualification offences that preclude the issue of a firearms licence. The mandatory disqualifications are prescribed in clause 5 of the Firearms General Regulation 1997 and include offences relating to firearms or weapons, prohibited drugs and violence. The Firearms Amendment (Trafficking) Act 2001 introduced additional restrictions on firearms licences into sections 11, 29, 44A of the Firearms Act 1996,

prohibiting a person from obtaining a firearms licence or permit or a dealers licence if he or she is the subject of a good behaviour bond, whether entered into in New South Wales or elsewhere.

In practice, if a person is convicted of one or more of the prescribed offences and receives a penalty other than a good behaviour bond that person is prevented from holding a licence for the prescribed 10 years disqualification period. However, in the case of a good behaviour bond the mandatory exclusions are not limited to those prescribed offences set out in clause 5 of the Firearms General Regulation 1997. A permit or licence must not be issued to a person who is the subject of a good behaviour bond, regardless of whether the good behaviour relates to an offence that would impact on the person's capacity to hold a firearms licence or permit. The Hon. John Tingle's bill seeks to amend sections 11 (5) (d), 29 (3) (d) and 44A (3) (e) of the Firearms Act 1996 to address this inconsistency by including the following words in each of the specified provisions:

... as a result of being found guilty of an offence relating to the possession or use of a firearm, or any other weapon, an offence involving the infliction (or attempted infliction) of actual bodily harm on another person or a drug trafficking offence

The Government has had limited time to consider this legislation. Therefore it will support the bill today but reserves the right to move appropriate amendments if considered necessary when the bill is considered in the Legislative Assembly.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [2.38 p.m.]: In my view the Firearms Amendment (Good Behaviour Bonds) Bill is a significant step in the right direction and shows that, despite all the hype and misrepresentations about this issue, law-abiding owners of firearms are prepared to work with the Government to continually improve and finetune the legislation that affects their sport, pastime and passion. The bill deals with people who fail to be law-abiding citizens, are involved in a criminal act and are placed on a good behaviour bond. The Hon. John Tingle is providing some delineation and consideration for law-abiding citizens who were deemed by the Commissioner of Police to be suitable to possess firearms but who, because of circumstances within their control, appear before a court and are convicted and put on a good behaviour bond.

A good behaviour bond is a determination made by a court having regard to an offender's antecedents and the proper application of sentencing policy, thus ensuring that the public expectation on sentencing is acknowledged and applied. The National Firearms Agreement of 1996 and the Commonwealth Heads of Government handgun reforms of 2002 advocate the revocation of licences on the following grounds: poor character, not a fit and proper person, not in the public interest, offences involving violence, offences involving assault with a weapon, aggravated assault, contravention of a firearm law, and the issuing of an apprehended violence order, domestic violence order or restraining order.

By these amendments to New South Wales firearms legislation, the Hon. John Tingle seeks to specify that an offender who is given a good behaviour bond will be automatically disqualified from holding a firearms licence only when the offence committed involves a serious act of violence, which I understand would start from the level of "assault occasioning actual bodily harm". The honourable member may care to correct me if I am wrong. Therefore "common assault" as defined in section 61 would not lead to automatic disqualification from holding a firearms licence. Offences that will invoke the automatic disqualification provision include drug trafficking matters and firearms breaches—that is, where the person appearing before the court is given a good behaviour bond.

I thank the Hon. John Tingle for allowing me the opportunity to speak with him about a couple of concerns I had about other offences in respect of which a court might determine that a good behaviour bond is a reasonable and appropriate sentence. The aim is to ensure that safeguards are in place to prevent persons whom perhaps even firearms owners believe should not continue to have access to firearms because they are unfit to have such access to firearms. However, not every person who receives a good behaviour bond would automatically lose their firearms licence. That is the aim of the Hon. John Tingle's amending bill. These amendments result from a long campaign waged by the honourable member for ongoing firearms reforms. Firearms owners are being well served by his mature appreciation of distinctions in the application of good behaviour bonds with regard to licensed firearms holders.

I raised with the Hon. John Tingle a number of concerns, for example regarding persons convicted of breaking, entering and stealing. I think most people regard that as a fairly serious offence, especially if it is your home that has been broken into. God forbid that you are present when the offender who committed the break and enter offence is given a good behaviour bond. Should that offender retain his or her firearms licence? It falls to the Commissioner of Police to determine whether that offender is an unfit or improper person to hold such a licence.

That is pretty much the status quo of the current legislation, ensuring that some people do not fall through the cracks in the system. I think it is fair to say that all honourable members would want to provide a consistent approach in applying the law, and certainty for those who have licensed firearms. The proposals that the honourable member has put forward in this bill, as I said, evolve from community expectation regarding those who are fortunate enough to hold firearms.

The Minister has indicated that the Opposition too will follow the suggestion made by the Government: support the passage of the bill through the Legislative Council, whilst recognising the need to have a safety net in place to meet community expectations that some persons are not suitable to retain a firearms licence. We would like those concerns to exercise the mind of the Government when it is considering amendments. The Opposition will reserve its rights regarding any amendments to be moved in the Legislative Assembly until we see what amendments the Government proposes.

Reverend the Hon. FRED NILE [2.45 p.m.]: The Christian Democratic Party supports the Firearms Amendment (Good Behaviour Bonds) Bill introduced by the Hon. John Tingle. The object of the bill is to limit the disqualification of persons subject to good behaviour bonds from holding firearms licences or permits or from dealing in firearms. At present, a person who is subject to a good behaviour bond entered into as a result of being found guilty of any offence is disqualified from holding a firearms licence or permit and prohibited from being involved in a licensed firearms dealing business. The bill has the effect that a person will be disqualified only if they have been convicted of an offence involving the possession or use of firearms or other weapons, an offence involving a serious assault, or a drug trafficking offence. Those offences are spelt out in schedule 1 to the bill.

Consequently, under the bill, a person found guilty of a drug trafficking offence who is given only a good behaviour bond would be automatically disqualified from holding a firearms licence. That is so if the offence involved a trafficable quantity of drug, within the meaning of the Act, of a prohibited plant or a prohibited drug, the manufacture and production of prohibited drugs, the supply of prohibited drugs on an ongoing basis, or aiding, abetting, counselling or inciting or procuring the commission of a drug trafficking offence.

The bill also makes it clear that the person found guilty of an offence relating to the possession or use of a firearm or any other weapon, or of an offence involving the infliction or attempted infliction of actual bodily harm on another person, or of a drug trafficking offence, will still be automatically disqualified from holding a firearms licence. Those protections and safeguards are set out in the legislation, and I believe they are adequate.

In the case of a farmer found guilty of an offence but given a good behaviour bond because of a previously good record and behaviour, the existing legislation requires the automatic cancellation of his or her firearms licence. The farmer may need firearms for various activities on the property, such as putting down injured animals or, in times of drought, putting down a large numbers of stock, as we have seen happen regularly. We do not want that farmer's firearms licence to be automatically cancelled, and under this legislation it would not be.

As the Leader of the Opposition said, restrictions regarding a person seeking a firearms licence, or wishing to renew such a licence, will still apply. Those persons will still have to meet the continuing conditions of good conduct and so on. The Christian Democratic Party supports removing the mandatory imposition of disqualification from holding a firearms licence in certain specified circumstances, and it therefore supports the bill.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [2.50 p.m.]: The object of the bill is to limit the disqualification of persons subject to good behaviour bonds from holding firearms licences or permits, or from dealing in firearms. Currently a person who is subject to a good behaviour bond entered into as a result of being found guilty of an offence is disqualified from holding a firearms licence or permit and prohibited from being involved in a licensed firearms dealing business. The bill provides that a person will be disqualified only if the person has been convicted of an offence involving the possession or use of firearms or other weapons, an offence involving a serious assault, or a drug-trafficking offence.

The introduction of this type of bill is extraordinary when we consider that for everything else we rack up penalties. We do not mitigate, we do not look on the good side and we do not say, "They have not been involved in this, that or the other. We will mitigate where we can." But when firearms are involved, unless it is

an offence involving the possession or use of firearms or other weapons, an offence involving a serious assault, or a drug trafficking offence it is not serious and the person will not be disqualified from holding a firearms licence or permit, or dealing in firearms. It is anomalous and the bill should be opposed.

It is interesting to note that the Legislation Review Committee did not identify any issues under section 8A (1) (b) of the Legislation Review Act 1987. The relationship between firearms ownership—the paper refers throughout to legal ownership—and violent death is of particular importance to Australia because 10 per cent to 15 per cent of Australians privately own between four million and six million firearms. Compare that to the 2.7 million domestic cats we own! The risk posed by an individual firearm is low—0.8 to 1.3 deaths per 10,000 firearms per annum compared with 1.9 road deaths per 10,000 motor vehicles, according to 1994 data from the Australian Bureau of Statistics. The debate continues over the cumulative risk. Relatively little research is available on firearm abuse, and existing work is largely inconclusive. Research from overseas cannot be applied directly to Australia because of cultural and social differences, and differences in demographics of firearms ownership.

Nevertheless, overseas research is cited regularly in the Australian debate. In particular, American research is cited to argue that America's high rate of homicide is a result solely of its firearms laws. This simplistic view has been described as the argument that short-circuited the need for any other explanation. Since 1989 homicide rates of individual American States have ranged from 0.54 to 72.58 deaths per 100,000 per annum, which reflects the heterogeneous nature of interpersonal violence within American society and its multifactor problems with origins dating back over 200 years. Although it is true that the American situation is partly different to ours, many North American gun-control advocates seek a system of ownership and principles endorsed by the Australian gun lobby. Australian firearm controls are based broadly on four assertions about the relationship between firearm ownership and violent death, supported by varying degrees of evidence.

First, a linear relationship exists between a number of illegally held firearms and the rate of shooting deaths in the community, that is, fewer legal guns equal fewer shootings. Second, a decline in shooting deaths will cause an overall reduction in violent death. Third, comprehensive registration will facilitate firearm tracking and make owners more responsible. Fourth, cooling-off periods will prevent the purchase of firearms for impulse shootings. Debate in Australia continues over psychiatric patients. Lay observers have suggested that a history of involuntary psychiatric admission should be an exclusion to firearm ownership. Currently it is difficult to verify licence applicants self-reporting of mental disorder, substance abuse and violent behaviour in New South Wales, the only State in which the validity of self-reporting has been studied. Up to 90 per cent of suicide victims suffered from some form of mental illness, usually depression, and up to 75 per cent of perpetrators of murder-suicides are depressed. Previously cited studies on suicide demonstrate a strong association between suicide and mental illness.

The Australian Medical Association is unlikely to support legislation allowing doctors to report patients who are unfit to hold a firearm, which was seriously suggested a couple of years ago. I responded quite strongly, as did the Doctors Reform Society. Let us make no mistake: as doctors we are more than aware that if we try to tell people they cannot have a firearms licence or they cannot have a drivers licence we will be threatened. It is extremely dangerous. Doctors do not want to make such reports. There is little support in the medical community for tracking psychiatric admissions to prevent the mentally ill from obtaining firearms because most psychiatric patients are not violent and most perpetrators of homicide do not have a history of involuntary psychiatric admission.

There are many precedents dealing with patient confidentiality in these matters. Although we as parliamentarians spend our lives putting people in gaol, reducing their bail conditions and reducing the discretion of magistrates it seems odd that we want to limit firearm ownership among people who have committed other crimes or antisocial acts, which may be indicators of risk factors for violence or increased antisocial behaviour. Therefore we should leave this matter to the discretion of the courts and not pass this type of legislation.

The Hon. RICK COLLESS [2.56 p.m.]: I had not intended to speak in debate on this bill but, in light of the comments made by the Hon. Dr Arthur Chesterfield-Evans, I feel compelled to strongly refute some of his nonsense. The bill provides specifically that a person will be disqualified from holding a firearms licence or permit, or from dealing in firearms only if the person has been convicted of an offence involving the possession or use of firearms or other weapons, an offence involving a serious assault, or a drug-trafficking offence. We are not talking about other types of offences for which people can end up in court. In his contribution Reverend the Hon. Fred Nile referred to the potential impact of the bill on the farming community.

As all honourable members know, the vast majority of landowners and farmers have firearms on their premises for very good reasons—controlling vermin and putting injured or sick stock out of their misery. A firearm is an essential tool on every rural property throughout Australia. Currently—and it has happened—people who have been convicted of relatively minor offences lose their firearms licences for something that was in no way, shape or form related to a firearms offence. The House must support the bill to ensure that those who need firearms in the course of their employment or career can retain their licences even though they may have a minor conviction for a completely unrelated offence.

Ms LEE RHIANNON [2.58 p.m.]: The bill is irresponsible. If it were passed, public safety would be compromised. Unfortunately I missed the Minister's speech, and I apologise for that, so I am not sure of the Government's position. However, I cannot believe the Government would roll over to the Shooters Party and support this legislation. Research shows that access to a gun by someone who is feeling depressed, having difficulty getting to work or feeling anxious is dangerous. But that is the position people could find themselves in if the bill were passed, which is unacceptable.

I also understand that the passing of the bill would be a breach of the Australasian Police Ministers agreement on firearms. The Greens believe that public safety must be prioritised above everything else but the bill does not reflect that principle. People who are placed on good behaviour bonds are usually already facing very stressful circumstances. Having access to a firearm could place the convicted person's life and the lives of their immediate family in danger. Often people are sentenced to a term of imprisonment for 18 months, for example, and are then placed on a good behaviour bond for 12 months.

The Hon. John Tingle: They do not go to prison for good behaviour.

Ms LEE RHIANNON: I did not say they would go to prison for good behaviour. I said sometimes people go to gaol for a period and then are put on a good behaviour bond for a certain period. Surely they should not have their firearm returned during such a period. But I think what really answers the question about whether this bill is needed is an examination of the list of convictions for offences to which this bill applies and would permit someone to possess and use a firearm: kidnapping a child, torture of animals, involvement in a racial riot, and robbery involving grabbing, for example, a 70-year-old woman's handbag from her while she was walking along the street. The list indicates the types of offenders who would be able to keep their firearms.

The bill has been introduced by people who are always telling us about the need for more law and order in our society. If the bill is passed, that is the last thing people will have. Other offences that may entitle those convicted to keep their firearms include exposing one's person to young children, stealing a credit card and taking all the victim's money out of the bank, malicious damage of property, breaking, entering and stealing goods from a family home, fraud, car theft, stalking, smashing cars, breaking windows, and damaging property.

The Hon. Rick Colless: Assuming people have a reason to have one in the first place.

Ms LEE RHIANNON: I acknowledge the interjection from a member of The Nationals—they are so quick out of the blocks when it comes to law and order—but the bill certainly has nothing to do with making our community safer. The bill just puts certain people in a position of power, and power with a firearm, under certain circumstance, as we know, can be incredibly dangerous. The list also includes assault. That could involve beating up a person, grabbing a woman and dragging her into a car, getting into a fight at a nightclub, and spitting at a policeman. The relationship of the bill to the offences I have listed is very unclear. There is a real worry about the impact of the bill on public safety and I urge members not to support it.

The Hon. JOHN TINGLE [3.02 p.m.], in reply: I thank all members who spoke during the debate: the Minister for Justice, the Leader of the Opposition, Reverend the Hon. Fred Nile, the Hon. Dr Arthur Chesterfield-Evans and Ms Lee Rhiannon. There is nothing sinister or hidden about the bill. It seeks to correct an obvious anomaly in the Firearms Act. The current Act provides that a licensed firearms owner, who has obeyed the law in every respect, loses his firearm licence and, by definition, his firearms if he is subject to a good behaviour bond. It does not matter what the bond is for, it does not matter how minor the offence is, and it does not matter whether the offence is connected in any way with firearms. The law is specific and the penalty is mandatory: people who are given a good behaviour bond lose their firearms.

Very few people are aware of this provision of the Act, so firearm owners who have appeared before a court and been convicted of a minor offence have often gladly agreed to a good behaviour bond, thinking it was a desirable alternative to a tougher penalty. A day or so later they discover that, by having that bond imposed on

them, they have forfeited their right to own a firearm. This is a selective and discriminatory form of double jeopardy, a second punishment for what might be a very minor transgression. No other group of citizens in the community is treated in this way. The only thing this bill does is remove that anomaly to ensure that a law-abiding firearms owner does not lose his right to have a licence and own and use firearms in a legal manner because of a minor offence not related to or involving firearms.

The bill limits the revocation of a licence to offences involving firearms, offences of violence or offences involving drug trafficking. Having listened to the contributions to the debate, it became clear to me that what some members have failed to grasp is that the bill does not in any way damage, limit or remove the discretion of a court to order the revocation of a firearms licence, whether or not a good behaviour bond has been imposed. If the court thinks it should do so, it will so order. This law is triggered only when a good behaviour bond has been imposed on somebody. Until that happens, this law does not come into effect.

The various offences mentioned by the Leader of the Opposition may or may not lead to a good behaviour bond, but, for a start, if the court convicts a person after hearing the matter, the court will, before it passes sentence, hear that person's record, which is presented to the court. The court decides the sentence on the basis of that record. In other words, if it is made clear that this is not a first offence or an only offence, the court has the right to decide that the person is a habitual offender and to order the revocation of his or her firearm licence.

The operative word in the law as it is currently is the word "automatic". The operative term is "automatic revocation of a firearm licence". All this bill does is delete the word "automatic" so that the revocation is not automatic but, rather, is decided according to the level of seriousness of the offence. The Leader of the Opposition said the public requires a consistent approach with firearm laws. By supporting the bill and passing it into law we will be establishing a consistent approach that does not create a special category of citizen who is jeopardised by a law that applies to nobody else and produces a double jeopardy for nobody else.

I listened to the Hon. Dr Arthur Chesterfield-Evans. I do not know what bill he was talking about, but he certainly was not talking about this one. He was talking about some bill that I have never heard of. He has no understanding of the legislation. He referred to the level of ownership of firearms in this country, which is totally irrelevant. The bill has no effect on that whatever. He said there has been little research on firearm abuse. The bill is not about firearm abuse; it is about taking away a double jeopardy from one group of citizens in this community who are affected as no others are.

The Hon. Dr Arthur Chesterfield-Evans also referred to suicide. There is no way we are ever going to be able to stop people committing suicide if they are so determined. If he wants to ban guns to stop suicide, we will also have to ban high buildings, ropes, razor blades, car exhausts, and all the other methods that people use to commit suicide. He also spoke about homicide. The bill is not about homicide. In the case of homicide, no good behaviour bond would be issued and therefore the legislation would not apply. It seems to me that the Hon. Dr Arthur Chesterfield-Evans was talking about things that are already in place. The bill does not challenge or change any of those things.

Ms Lee Rhiannon spoke about rolling over to shooters. The bill does not reflect the Government or anybody else rolling over to shooters. It reflects a rolling over to a bit of commonsense and logical law instead of an anomaly that should never have been included in the Firearms Act in the first place. Ms Lee Rhiannon said it is bad that a depressed person could possess firearms. She said that people who have their firearm licences taken away might be depressed. They would be much more depressed having had their firearm licence taken away than they would be if they had been treated as the bill provides.

By virtue of the provisions of the bill, these people would be able to acknowledge that, having done something bad and having been convicted, they may be dealt with in a way that recognises that the offence they committed does not justify the revocation of their firearms licence. It is not a matter of public safety. Let me say here and now that the Council of Australian Governments agreement to which Ms Lee Rhiannon referred, which was the catalyst for the introduction of our current firearms law, has not made this community one whit safer. In fact, throughout the operation of the firearms law there has been an unprecedented increase in crime involving the illegal use of firearms by criminals.

The position is much worse now than it ever was. John Howard said when he introduced the current laws, "They will make our communities safer, but I cannot promise that they will stop another massacre." He was quite right. They have not made the community safer. In the end, the bill simply provides that when

somebody has been convicted of a minor offence and when a court has decided that a good behaviour bond is the appropriate penalty, that person should not be deprived of their firearms if the offence is only minor. I reiterate that the bill does not prevent a court from ordering a firearms licence revocation if it wishes to do so. The bill is merely an attempt to remove an anomaly from the law—an injustice, a double jeopardy—that is applied selectively and in a discriminatory manner to a very small number of citizens. The bill rights an injustice. I commend it to the House.

Question—That this bill be now read a second time—put.

The House divided.

Ayes, 28

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|----------------|-------------------|-----------------|
| Mr Breen | Mr Lynn | Mr Ryan |
| Ms Burnswoods | Mr Macdonald | Ms Sharpe |
| Mr Catanzariti | Reverend Dr Moyes | Mr Tingle |
| Mr Clarke | Reverend Nile | Mr Tsang |
| Mr Donnelly | Mr Obeid | Mr West |
| Mr Gallacher | Mr Oldfield | Dr Wong |
| Mr Gay | Ms Parker | |
| Ms Griffin | Mrs Pavey | <i>Tellers,</i> |
| Mr Jenkins | Mr Pearce | Mr Colless |
| Mr Kelly | Ms Robertson | Mr Primrose |

Noes, 4

Dr Chesterfield-Evans
Ms Hale
Tellers,
Mr Cohen
Ms Rhiannon

Question resolved in the affirmative.

Motion agreed to.

Bill read a second time and passed through remaining stages.

SMOKE-FREE ENVIRONMENT AMENDMENT (REMOVAL OF EXEMPTIONS) BILL

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

Second Reading

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [3.19 p.m.]: I move:

That this bill be now read a second time.

An article by Richard Doll, in the *British Medical Journal* of November 1950, entitled "The Aetiology of Carcinoma of the Lung", clearly linked tobacco smoking with lung cancer. Following that, a series and then a deluge of articles linked smoking with various diseases, basically utilising the new statistical techniques that Doll and his colleagues were using. That was 56 years ago. In 1961 the Royal College of Physicians expressed concern that for 10 years successive governments had failed to legislate against smoking and that there was plenty of evidence on which to take action. That resulted in the report of the Royal College of Physicians On Smoking in 1962. Across the Atlantic the American Surgeon General had similar concerns and asked the tobacco industry to vet all scientists examining the effects of smoking. His 1964 report was as damning as the British report. Even scientists approved by the tobacco industry found that tobacco was the cause of myriad diseases.

Since that time the tobacco industry has played politics despite the known harmful effects of tobacco being sufficient to warrant action. For 40 years governments all round the world have done as little as possible while the industry has continued to lobby and fund governments and political parties, and health forces have undertaken further research although sufficient conclusions for action had been reached in the 1960s. The

Collins and Lapsley paper "Counting the cost: Estimates of the social costs of Drug Abuse in Australia 1998-99" from the Commonwealth Department of Health estimated that the cost to the Australian economy of smoking was \$21 billion, of which \$5.1 billion was lost productivity.

The total social costs of smoking in New South Wales in 1998-99 were about \$6.6 billion. Of those costs, 27.1 per cent were tangible costs and 72.9 per cent intangible costs. New South Wales bore 31.2 per cent of the total Australian social costs of smoking in that year. Of the total New South Wales costs, about 45 per cent was avoidable—that is, they were costs that were potentially susceptible to reduction as a result of the implementation of appropriate public policies. Individuals bore about 58 per cent of the total tangible costs, business about 29 per cent and governments about 13 per cent. Of course, individuals bear 100 per cent of the intangible costs—the costs of pain, suffering and dying. As a result of smoking in 1998-99 the federal budget deteriorated by almost \$200 million, that is, federal smoking-attributable expenditures exceeded smoking-attributable revenues by that amount.

New South Wales tax revenues from tobacco abuse in 1998-99 exceeded smoking-attributable expenditures by almost \$950 million. However, the goods and services tax arrangements introduced in 2000 mean that New South Wales no longer has the power to tax tobacco, and in fact will not make a profit from this death-causing product. These figures do not take into account the costs associated with bushfires caused by discarded cigarette butts. I encourage honourable members to visit the Medline web site where they will find 102,000 articles on the effects of smoking on health. The research done in the 1950s was certainly sufficient to justify political action, yet as late as 1985 John Dollison from the Tobacco Institute continued to argue that the suggestion that smoking causes disease was merely a hypothesis.

There is no end to the lies of the tobacco industry and, quite frankly, the behaviour of the clubs and pubs industry in this and every other country has been a disgrace. In my view there is prima facie evidence to charge members of tobacco companies with murder. Their irresponsibility is akin to that displayed by principals in the asbestos industry. The Australian Hotels Association [AHA] has always steadfastly resisted anything that might damage its patronage. It has always been funded by the tobacco industry and is, from a political point of view, virtually indistinguishable from it.

An international survey conducted by Stollznow Research for Pfizer Australia in June 2005 showed that 65 per cent of those surveyed considered the timetable for smoking bans was too slow, with 43 per cent of New South Wales respondents saying it was much too slow. Additionally, 64 per cent said it was unacceptable for up to 75 per cent of enclosed rooms to be referred to as "outdoor" to allow smoking in enclosed public places. On top of public opinion, more than 50 years of scientific research shows that smoking maims and kills people. Why should bar staff, gaming room attendants and other hospitality workers in pubs and clubs be exempt from the occupational health and safety standards of other workplaces in Australia?

The tobacco industry has been in bed with the AHA, subsidising it and effectively being a front for the small clique that runs the AHA, which does not give a fig for public health or the welfare of hotel patrons. It cares only about a potential loss of patronage. It is so set in these matters that people like me, who do not go to pubs because of the smoke and have got into the habit over 40 years of not going because we do not like the smoke, do not even figure as possible customers. It is nothing but a disgrace, as has been the lack of action by members on both sides of this House over the past 40 years. I have attended many breakfast functions at which some film or football star has launched a minimal no-smoking campaign about which the relevant Ministers have congratulated themselves—as if these pathetic gestures were something of substance.

The Opposition is kowtowing to the AHA and is as bad as the Government, as we know. The Government will be opposed by the hotels lobby over its gambling revenue, and no matter how much the Government throws the "pubs smoking forever" regulation at the hotels industry, it still will not get that industry's support. Now that the Government will not get that support, it might just as well not hand over the little "pubs smoking forever" token.

I believe the Smoke-free Environment Act is a misnomer. It should be called the "Smoky Environment Act". Because governments have been so gutless, any progress to achieve no-smoking bans in most countries has been by tort. People sue their employer under workers compensation legislation or sue the tobacco industry or others for exposing them to tobacco smoke. That meant that pubs, clubs and restaurants were at some risk of being sued. The main driver of a smoke-free environment has not been governments courageously or even sensibly looking at what is best public health policy; it has been fear of litigation by smokers and non-smokers alike whose health has been injured as a result of these appalling public policies.

Did the Smoke-free Environment Act deliver smoke-free environments? No, of course it did not! It delivered an exemption for pubs and clubs from its introduction until 2007, and gave the Minister the power to grant exemptions and make regulations to define "indoor" and "outdoor" areas. What has the Minister done with this regulation? He has said that if 25 per cent of the total ceiling and wall area is open, that space is defined as "outdoor". Yes, it has a roof but it is outdoors! And yes, it has walls as well, but it is still outdoors, so far as smoking is concerned! It is like saying that burning leaves are fresh—which is one of the tobacco industry's famous misnomers—or that it is sexy to make yourself sick and old, which is the approach the industry takes. In the tobacco debate everything is turned upside down and oxymorons are absolutely normal.

My bill is simple: it says that the Smoke-Free Environment Act will be about smoke-free environments. It will not be about creating exemptions for pubs and clubs. It will not be about allowing Ministers to define indoors as "outdoors" because it is politically convenient to do so. I call the smoking regulation the "pub smoking forever" regulation because it specifies no date upon which its provisions will lapse. In effect, it says, "If you put a lean-to over the beer garden, mate, you can have smoking in your pub forever"—and a flurry of development applications for lean-tos are being granted even as we debate the bill this afternoon. The pubs and clubs will then say, "We've invested a lot of money in the lean-to over our beer garden; you can't take smoking away from us now". Pub patrons will simply move from one room to another and keep smoking forever. The Government congratulates itself on the progress it is making while 150 people are admitted to hospital every day with tobacco-related diseases and 6,600 people die every year from illnesses caused by tobacco smoking. The kids of New South Wales—including the 15-year-olds who look 18—will continue to go to the pub. The strategy of the tobacco industry has been revealed.

Pursuant to resolution business interrupted.

BUSINESS OF THE HOUSE

Postponement of Business

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

ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT BILL

Second Reading

Debate resumed from 8 March 2006.

The Hon. PATRICIA FORSYTHE [3.32 p.m.]: Yesterday during debate on the Environmental Planning and Assessment Amendment Bill in the other place Opposition members expressed concern about various clauses of the bill. They said that some parts of the bill were acceptable but that other parts were not. The Minister responded by interjecting, "Are you going to cherry pick?"—I think that was his exact phrase. I make the clear statement to the House and to the Government this afternoon that the Opposition will not cherry pick from this legislation; the Opposition will oppose the entire bill.

Two parts of the bill create no problems. The relevant interest groups with which we are in contact have expressed no concerns about amending the Growth Centres (Development Corporations) Act 1974 to allow for the appointment of a chief executive officer, and amending the Redfern-Waterloo Authority Act 2004. However, the Opposition believes it is better to reject the entire bill to avoid being left with some dog's breakfast of legislation containing part-amended clauses. Like my colleague the shadow Minister for Planning in another place, I thank the Government for the briefing on the bill that I received last week. However, I subsequently made the extraordinary discovery that the Government failed to seek the opinion of many relevant organisations that should be consulted—indeed, they should have been in partnership with the Government—about planning legislation in New South Wales. The Government did not afford them that privilege. The Local Government Association was not consulted and, judging from the letters and emails that I have received, I suspect the Government also ignored the views of many other relevant groups. As a result, councils throughout New South Wales are enormously concerned about the bill.

The bill is a slap in the face for local government and local communities in this State. Last week I downloaded some material from the Internet in an effort to be better informed for this debate. I came across a media release from the New South Wales Urban Taskforce headed, "NSW Urban Taskforce calls on Libs and Nats to support planning reforms to go before parliament next week". I must inform the task force that we are

not in agreement on this occasion—but not because the Coalition does not share some goals of the Government and the task force. In fact, I suspect that the entire community wants a strong and effective planning system in New South Wales that will deliver development—be it houses or subdivisions—efficiently and at minimum cost. In addition, the Coalition agrees with the Government that it is important to have a strong strategic overview of the direction of future development throughout New South Wales.

However, the rhetoric of the Minister for Planning in his second reading speech and in some of the accompanying media releases and the drafting of this bill do not progress the cause of planning in New South Wales. They instead erect barriers between the State Government and local government, and the New South Wales Opposition does not want to help to build those barriers. We certainly believe some local councils can do better. But we argue that we must change fundamentally the way in which we address planning issues. The Minister will achieve little through this bill. The Minister came to the Planning portfolio from local government, and in this bill I believe he has let down all the people with whom he once stood shoulder to shoulder.

I visited the Department of Planning web site to find some information about the bill. Broadly speaking, I have always understood that the role of government departments is to ensure the efficient administration of Acts of Parliament and to provide factual and appropriate information to the public. Any spin is left to Ministers and members of the elected arm of government. That was the division of roles under the last Coalition Government. Therefore, I was somewhat shocked to discover on the New South Wales Department of Planning web site under the heading "New South Wales planning reforms" information sheet No. 2 of February 2006 on the Environmental Planning and Assessment Amendment Bill. It is not an information sheet; it is propaganda.

I am extraordinarily disappointed in the Department of Planning. This document constitutes a misuse of its resources. If there is to be spin, it ought to be the responsibility of the Minister, but he has compromised his own department. Under the heading "Planning administrators and planning assessment panels", which is one of the features of this legislation, the document states:

However, there is strong evidence that some local councils are not assessing development applications in a timely manner.

The information sheet does not set out the provisions of the bill, it puts out spin. New South Wales needs laws that are clear to the community and investors. It states in subjective, not objective, language that the Minister will appoint an administrator. The department attacks local government, for example, when it states in its document:

NSW needs to ensure that investment and job creation in this State is not blocked by tardy decision-making.

One would expect that type of spin from a Minister and his office, not from bureaucrats in the department. That is how this bill is defined in this document for those seeking to understand the nature of the legislation. It is an absolute disgrace that emotive, subjective language is used to state the objectives of the bill. If the Government is misusing the bureaucracy of New South Wales, it is no wonder its days are numbered. The information on that web site was most enlightening, and I will continue to monitor it into the future and question the Minister about the cost of maintaining such a subjective and offensive web site in the name of the Department of Planning. The site does not provide information on legislation; it provides derogatory spin, to which I should have thought local government would take enormous offence.

The bill has a number of separate objectives. The first relates to contribution plans for the provision of infrastructure in relation to development within special contribution areas, which are largely defined and prescribed to growth centres. However, I understand from the bill that they will not be limited to growth centres, which are principally, but not restricted to, areas created in the north-west and south-west of Sydney and the Honeysuckle development area in Newcastle. A number of concerns have been raised with the Opposition about those matters to which I will return shortly.

The second objective refers to development control plans. The Minister will be able to give directions to council in relation to section 94 contributions and development plans and other matters. I said earlier that local government and communities could feel let down and insulted by this Government and the rhetoric that underpins this legislation. Development control plans and local environment plans are at the very heart of the role and responsibility of the planning hierarchy in local councils. If one were given the task of giving a school or university student some understanding of the planning system in New South Wales, one would describe it as a hierarchy within which there is one role for State Government and another for local government. The role of local government is the development of control plans that guide and oversight what occurs in local areas to

determine and put on notice local environment plans that are the subject of approval of the Minister. At least that was the role prior to the introduction of this bill.

The Opposition will do all it can to stand up for the rights of communities. The Minister's rhetoric is that too many councils take far too long to make decisions about development applications. He said that the State average for such decisions had increased to more than 50 days. He referred in particular to Parramatta and Kuring-gai councils. As I am a resident of the Kuring-gai local government area I have followed the debate on this matter, and I am certain that in the Parramatta council area the same issues arise. These are not easy issues, but at the heart of it all is the right of local communities and their local councils to have a valid say in what occurs in their local communities.

If councils do not act in a timely manner or do not attempt to make hard decisions and matters are continually referred to the Land and Environment Court—which is another allegation—the problem should be resolved by councils being denied the right to make such decision, by creating so-called planning assessment panels to effectively take away some powers from councils, by allowing the Minister to step in. It is time that we went back to some of the fundamentals and define the roles of local government and the State Government within the whole process.

I discovered an interesting letter from the South Australian chapter of the Royal Australian Institute of Architects that was addressed to the Minister for Urban Development and Planning in 2004. It is interesting because South Australia is regarded as a State that, because of its strategic development, is getting on and doing things. I suspect that South Australia faced some of the same issues that have arisen in New South Wales. The tone of this letter is in stark contrast to the tone of confrontation and frustration expressed in correspondence to the Government from the Council of Social Service of New South Wales, Local Government Association, Housing Industry Association and others. The letter refers to the concept of assessment panels and the way forward to create a better strategic planning system. With regard to the Government implementing recommendations the letter stated:

... the RAIA supports the provisions ... to implement recommendations ... to improve the South Australian planning system by de-politicising the structure and operation of development assessment approval processes.

We believe that the enhanced role of elected members and council in setting clear and appropriate policy directions for their areas, together with the introduction of regional and/or council development assessment panels as proposed in the Bill will provide more certainty for applicants and the community.

Honourable members should note the concept of enhancing the role of elected members and councils in setting clear and appropriate policy directions. New South Wales has embraced councils setting appropriate policy directions, always being mindful of the desire of their local communities. How do councils determine the desire of local communities? They place development control plans on exhibition. My colleague the honourable member for North Shore told me that North Sydney Council goes to great lengths to involve the community in consultation in an attempt to develop a policy regime for the council. That is the concept spoken about in South Australia. The Royal Australian Institute of Architects then said this—and I think it is good advice for the New South Wales Government:

Policy making is a political process; development assessment is a quasi-judicial process. Good development comes from good policy where the aspirations of the community are embodied in a plan for that community and where assessment against that plan is carried out objectively, independently and judiciously. The shift in emphasis for local government from assessment to policy is a monumental shift which will have economic, cultural and environmental benefits for this State. ...

The proposed amendments to the [South Australian] Development Act, to establish clear and effective policies and processes for planning and development and effective and efficient implementation, will address problems with planning and development assessment.

Contrast that concept with what we have heard from the Minister for Planning on this bill. He refers to tardy and inefficient councils—basically putting all responsibility on councils for what he calls untimely approval of development applications. The Minister spoke in one of his press releases about approval times for development applications blowing out. If so, rather than criticising the council and then seeking to take away its powers, perhaps it is time the Minister paused and reviewed the system. I am certain the broader property development industry would want that, and I am sure that is what the New South Wales Urban Taskforce wants.

The Opposition also wants good strategic planning in this State. Unfortunately our environmental planning and assessment legislation is not a strategic planning document. It is based on land use, and therefore is derived from a source very much different from strategic plans. Most of this State's strategic plans derive not

from planning documents but from instruments such as State environment planning policies, which are largely established without embodying a role for even the Parliament.

Would it not be better if councils had a role in setting policy? Some councils have tried that. Ku-ring-gai council has tried to embody in its development control plans policies that are relevant to the Ku-ring-gai community, but that has not met with the approval of this Minister. So what is his proposal? Effectively, if the Minister says a council's performance is unsatisfactory, he will take power from that council. I ask honourable members to weigh what we can learn from the South Australian system with the reality of what the Minister is trying to do in New South Wales—"Either do what I say, or you cannot do it at all." That is not the way forward for councils and local communities.

Why is there so much objection to the bill from local government? It is because councils no longer trust this Government, and this Minister in particular, who are so determined to get their own way on their directions and their approach to their strategic plans that they will do so at the cost of local communities. But local communities and councils will not wear that attitude to planning. The Opposition will give voice to those concerns. We too want good and effective planning, but we want it to be achieved in co-operation with councils and local communities. That is what we are standing for today.

The New South Wales Urban Taskforce today put out a press release criticising the Opposition for its stand. So be it. We want to be able to work with that task force as well—because I hope we would all share some common goals, such as more affordable housing and a number of other issues I raised in the House this morning. We would not necessarily have more affordable housing and more affordable land if we were to go along with this proposal to divert special infrastructure funds into growth centres.

I would be the first to acknowledge that the price one pays for development is that of providing more infrastructure. It therefore comes down to weighing up who will pay for that infrastructure. Is that to be an obligation solely borne by the government, and funded from taxes? Or is it a cost that should be borne by developers? If the cost of establishing infrastructure in specific areas is to be borne by developers, that will be passed on in an increase in the cost of land in growth centres. How will the Government achieve some of its other stated objectives—affordable housing and affordable land? In fact, the Government is shifting the whole of the onus and responsibility for infrastructure provision onto developers. Though developers may well reap the benefits of some developments, such developments are in the broader interests of the State. We must have more growth, and we need development in growth centres. I do not argue against that—far from it! I am known as one who says that development is fundamental to the creation of jobs and underpins our economy. I suspect that that position will be in absolute contrast to the stance taken by the Greens on the bill. So be it. Ultimately, development is fundamental to ongoing growth in this State.

There may well be a role and place for planning assessment panels in the longer term. Certainly where the Independent Commission Against Corruption has identified corruption in the actions of a council, the Minister may be justified in appointing a planning administrator—a concept not completely foreign to the planning process in New South Wales, as administrators have been appointed from time to time—but not because the Minister merely says that a council's performance is unsatisfactory, especially as the Minister has not sought in this legislation to define what he means by unsatisfactory. The bill gives the Minister far too much unfettered power. That concern has been expressed to Opposition members by a number of organisations that have become aware of the existence of the bill.

It has come as a great shock to some key organisations—such as the Local Government Association and the Housing Industry Association—that the bill is before the House today. The Government said in 2004 that it would do better on strategic planning. Last year Minister Sartor made further noises about the directions strategic planning would take. But the bill was introduced into the lower House only last week. Though the Opposition was briefed, apparently very few key interest groups were made aware of its content. One cannot be other than suspicious of a Government that, at 3.30 p.m., interrupts a private members' afternoon to bring on the debate on this bill. That denotes a sense of urgency.

Perhaps the Government hopes that the community will not become familiar with the contents of the bill, but that will not happen, because the Opposition will ensure that at every turn people are well aware of what is proposed in the bill. We certainly will take note of how the crossbenchers vote. The bill is the difference between support for local communities and support for local governments, or going along with the Minister, who will be able to take specific powers from local councils, which will have no right of appeal. The bill provides that a council acting in an unsatisfactory manner on approvals is a subjective matter that is entirely in the hands of the Minister, which would give him too much power. The loss of appeal rights to amend or make plans under section 94 is inappropriate.

We are concerned about the impact of the proposed special infrastructure funds on growth centres. The legislation provides that the money need not be spent in growth centres only. The Government could claim that as a consequence of a growth centre a road in another place may be relevant, but the fact is that the funds could be spent anywhere. The scope for spending the special infrastructure funds is far too broad. The Minister should rethink it. If it is about shifting the provision of basic infrastructure in growth areas from what traditionally has been the responsibility of government onto the developer, I can assure honourable members that it will not be the developers or individual house builders who will bear that cost. Ultimately the cost will be borne by those who purchase the land and those who build houses.

There is no other way around it. It seems absolutely at odds with what the Government has said about affordable housing and about making land more affordable for the people of New South Wales. The Opposition will not support the bill. At this stage we have not been privy to amendments from any groups, but it is most unlikely that we will support any amendments.

Ms SYLVIA HALE [4.02 p.m.]: The Greens are delighted to join with the Opposition in opposing this bill, and in doing so we would be joined by almost every affected group throughout the broader community. In an email to a member of this House, which has been provided to me, the Minister maintained he had consulted widely among groups including the Local Government and Shires Associations, a number of councils, the Property Council, the Urban Taskforce and the Housing Industry Association. Yet at the crossbenchers' briefing on the bill on Tuesday, when I asked what community groups had been consulted I was first given a list, and when I asked whether they had been consulted or briefed I was told they had not been consulted but they had been briefed only. Nothing other than briefing had occurred.

The difference between "consulting" and "briefing" is that in briefing one calls together a group of people after the event to tell them exactly what has been decided. Legislation is drawn up and it is presented as a fait accompli. But consulting with groups involves asking their opinion, taking their views into account, and attempting to accommodate their views. Alice Spitzer, Deputy Director General of the Department of Planning, said specifically that no-one had been consulted. Therefore I find it astonishing that Veronica Young, a policy adviser in the Minister's office, should write to a member of this House saying that prior to introducing the bill the Minister consulted with certain groups.

That is an outright misrepresentation of the facts. I was so astonished when I read the list that this afternoon I endeavoured to ring a number of the groups. I started with the Local Government and Shires Associations and got as far as the Housing Industry of Australia—two groups that do not agree on many issues—and both of them denied having been consulted. That is hardly an auspicious start; it indicates the Minister's arrogance and determination to push through regardless. The fact that this debate was called on this afternoon despite assurances this morning that we would not debate it today is indicative of the Government's attitude and the contempt with which it treats not only this House but the community as a whole. That arrogance, that lack of accountability, that "I don't care, we don't care, you'll just like it or lump it" attitude permeates the entire bill.

Many aspects of the bill are abhorrent. One is the stripping away of the appeal rights on development levies, the imposition of section 94 contributions, and a whole range of other issues. The elimination of the right to appeal seems to be the epitome of arrogance, which runs contrary to many of the fundamental principles upon which a democratic government is based. They are denying access to the courts.

The Hon. Henry Tsang: To the developer.

Ms SYLVIA HALE: To the developer and to councils.

The Hon. Henry Tsang: To the developer.

Ms SYLVIA HALE: It is a matter of principle. I do not care who it is. Everybody should have the right to appeal to the court. As a matter of principle everybody should have the right to seek legal redress against a government that exceeds its powers.

The Hon. Rick Colless: Strip them of your preferences.

Ms SYLVIA HALE: It is very tempting. I wish it were up to me.

The Hon. Rick Colless: Do it!

Ms SYLVIA HALE: It is not up to me to determine for other people where their preferences go.

The DEPUTY-PRESIDENT (The Hon. Christine Robertson): Order! The member will address her comments to the Chair.

Ms SYLVIA HALE: The bill is a combination of three years of relentless attacks upon local government and local democracy in this State. We have a consistent pattern of cost shifting onto local government; the capping of rates, which starves councils of their ability to provide services to their constituents; the denying of any GST revenue to councils; and the travesty of forced amalgamations, which have not worked well. Forced amalgamations have been extraordinarily costly to local government. The assumption that merely by jamming things together suddenly you will get a more efficient or better outcome has been proved false.

We have had a whole suite of planning reforms, whether it be the local environmental plan template, the attempt to impose uniform definitions across the State regardless of the difference in topography, demography or history of an area, and amendments to the Environment Planning and Assessment Act in the middle of last year, which introduced in part 3A, the contents of critical and major infrastructure, and the circumventing of all forms of community and environmental consultation.

We have had the introduction of the metropolitan strategy, which I believe is anything but a strategy, because there have been no benchmarks, no time lines, no way of measuring the success or otherwise of the goals, and there been no infrastructure plan put in place. This is yet another amendment of the Environmental Planning and Assessment Act. No sooner had the ink dried on the last round of amendments than there were new ones designed to transfer even more power to the Minister for Planning. During the second reading stage in the lower House, the honourable member for Miranda stated:

These reforms are aimed at transforming the New South Wales planning system from a process-driven approach to an outcomes-focused approach.

Indeed he is right. The outcomes-focused approach is managerial speak for riding roughshod over democratic processes. The Greens have a whole series of amendments that will be circulated, but basically we believe that the bill is beyond repair. I believe the bill is not able to be salvaged as a whole because of the inclusion of sections that remove the powers of councils to determine development applications, the stripping away of the rights of appeal and the Minister's powers to impose, amend, repeal or remove section 94 plans as well as similar powers in relation to development control plans.

The Greens recognise the need to fund infrastructure provision, and we are not opposed to taxes and levies for infrastructure, but we do agree that this has to be done in an equitable way, which means that the costs need to be spread across generations. It has taken this State many years to pay off the Sydney Harbour Bridge, for example, but it was funded through State debt. That means that not only this generation but past generations who worked to benefit from those major undertakings have all contributed to it over time. To attempt to impose the cost of infrastructure provision on one group in the community, which in this case is basically the residential sector, is inherently unfair. It is also unfair because of the way in which levies work. The industrial, commercial and retail activities that equally will benefit from the provision of this infrastructure will not be liable to pay any of the levies. I believe that is inherently wrong, unfair and inequitable.

Government debt is obviously the best way to pay for the provision of infrastructure. It is the fairest way. Governments are able to borrow money at the least cost because the loan can be spread over a number of years. We believe that the mechanisms for funding the development of infrastructure provision in this bill are inherently misguided. One of the results of that will be that, to get the Government's plans through, there will be an undermining of the powers of local government. Of course, there is a second element of the bill, which is about pandering to large developers by the fast-tracking development applications. There have been numerous approaches to my office from people who are concerned about aspects of this bill. From right across the political spectrum there have been complaints and concerns about the bill. I received one this afternoon from the Planning Institute of Australia which states:

... the Bill does not preclude the Minister from declaring special contributions areas anywhere across the state of NSW, or indeed across the whole of the state of NSW. While the PIA NSW supports in principle the levying of contributions to ensure the provision of essential infrastructure, we are concerned that this power has the potential to become a de-facto tax on new development which could adversely impact on housing affordability.

The Planning Institute recommends that the bill be amended to clearly define those areas that can be declared to be a special contributions area, and it suggests that this could be limited to the growth centres. I do not necessarily agree with that position, but those sorts of views should have been taken into account. There should

have been a discussion of the various options and a discussion among the groups that would be most affected, such as planning professionals, councils, the Property Council of Australia, and the Housing Industry Association.

One would expect that if a significant measure such as infrastructure contributions is embarked upon, at least it would be accompanied by a significant analysis of the debate and a summing up of the pros and cons so that, rather than there being an extraordinarily heavy-handed imposition by the Government of a particular measure, there would have been the opportunity to assess the implications. Significantly, although councils are required to prepare and publicly exhibit for comment and submission section 94 plans, and although any levies that are raised with regard to section 94 are subject to appeal by the relevant parties, none of these provisions will apply to the Minister. He can prepare and impose a section 94 plan but there is no way he is required to be answerable for the contents of that plan. It will not be subject to public submission or comment. It will simply be imposed upon a council.

There is considerable debate as to whether this will be a benefit or disadvantage to the larger developers. The suggestion is that the Minister will use the opportunity to reduce the level of section 94 contributions. If that happens, the people who will suffer will be the residents of a community. It is one thing to scoff at section 94 and say it is used for museums, art galleries and parks, et cetera, but if we are moving people into communities that do not have that type of facility, presumably we should try to do more for them than merely provide them with houses; or at least we should be interested in providing adequate libraries and adequate recreational facilities—all those things that a community expects of local government and which local government often is able to afford only through its section 94 plan.

When local government authorities prepare such a plan, they indicate the purposes to which it will be put. I believe the Minister may regard this legislation as a backdoor way of doing a favour for the large development lobby by reducing its section 94 contributions. The concern of the Council of Social Service of New South Wales is that that will be an opportunity to reduce the level of section 94 contributions and the level of amenity that councils are able to provide for their residents. Of course the Property Council of Australia will push to have the contributions reduced. Previously I said that what is wrong with the proposal is the absence of transparency in the process, the lack of any requirement that the Minister should prepare and exhibit a contributions plan. The final insult is that an applicant is unable to appeal against a special infrastructure contribution. I do not care whether it is the big end of town or the small end of town; inherently people should be able to appeal the imposition of a levy. If they win or lose well and good, but at least they should have that right.

The curtailment of the section 94 contributions plan could seriously undermine the ability of a council to fund the provision of essential services, such as open space, child care, libraries and community centres. Everyone is aware of the shortage of child care services and everyone would be aware of the quality of child care that is provided by councils, in contrast to that provided by many private enterprises. The bill represents an attack on many aspects of the standard of living and on community expectations about what constitutes a reasonable provision of services. The right of appeal against the imposition of all conditions of development consent should be maintained for both applicants and councils, particularly when it relates to section 94 contributions.

I turn now to the making, amending and revoking of development control plans [DCPs]. Honourable members would remember that last July the Government amended the Environmental Planning and Assessment Act to provide that only one development control plan could apply to any one parcel of land. After a council has carefully and conscientiously developed a DCP, put it out for public comment and submission, and then put it into effect knowing that it is the only development control plan that will apply to that site, it is reprehensible that the Government is now saying the Minister has the potential power to step in and overturn the entire process. If the Minister is to have that power at the very least he should clearly define the criteria that are to be used when directing a council to make, amend or revoke a DCP.

That is the Government's authoritarian, autocratic, "no-one will challenge" approach to planning. At the very least it is reasonable to expect that the criteria by which a DCP will be found to be adequate or inadequate needs to be spelled out. As councils are required to adhere to the current regulations in making, amending or revoking a DCP, so should the Minister be required, including the requirement that the draft DCP should be publicly exhibited. That is the very least that should be expected. Once again, it is appropriate that both applicants and councils should retain a right of appeal to the court in respect of the Minister's decision in relation to a DCP.

The Government now proposes to establish planning and advisory panels. It is probably preferable to have a panel rather than an administrator, but to suggest that a panel would be able to make a better decision than would an elected council is inherently flawed. Presumably the panels will not be full time. In fact, the Minister in his second reading speech indicated that a panel might not do all the council's planning work and might determine only a few of all the development applications. Presumably the panels will determine applications when the Minister wants to do a favour for a mate or ensure an outcome. Obviously it is easier to heavy three people than it is to heavy an entire council.

We must remember that part-time members of those panels will spend the bulk of their time working within the industry. It is the industry to which they owe their long-term jobs and long-term careers and futures. It is the industry as a whole to which they owe their livelihoods. To assume that the members of the panel will be able to shake off all those ongoing conflicts of interest and produce decisions that do not jeopardise their future employment is to be off in cloud-cuckoo land. Members of a panel are even more subject to undue and inappropriate pressures from the development industry than would be an elected council. Again, there are no criteria for when a panel would be created, there is no accountability to the council or ratepayers, yet councils are still expected to come up with the money and resources for the panels.

Are the panels to determine only a few or a lot of development applications? Presumably it will be up to the Minister to set out what the panels are to do. The councils will have to pay for the panels and provide them with the necessary resources. There is a rather draconian element to the bill under which any council or councillor who is found to obstruct the work of the panels can be subject to a fine, currently of about \$1,100. I cannot think of anything more calculated to deter people from running for elected office than the prospect of being fined. To add insult to injury, if a panel determines a development application and gets it wrong, and the applicant appeals to the Land and Environment Court and there are extensive and expensive proceedings as a result, the panel will not have to pick up the costs; the elected council will pay for the errors and mistakes of any panel.

It is inherently unfair, as is most of the bill. Then at the tail end of the bill are the provisions concerning Redfern and Waterloo. I recall that during the inquiry into the activities of the Sydney Harbour Foreshore Authority the foreshore authority maintained it was not responsible for the inappropriate development and overdevelopment that occurred on the foreshore and in Pyrmont that resulted in extraordinarily dense housing and the loss of a great deal of open space and community amenity. Officers from that authority said, "We were not responsible for that, it was the Minister for Planning. We are a separate authority. We might make a recommendation, but it is the Minister that ultimately approves it. You cannot blame us for the errors that have been made." It was a convenient passing of the buck.

That situation has been addressed in this bill. Now the Minister will delegate to the authority the power to approve or refuse developments. But honourable members should bear in mind that the authority is supposed to be self-funding; it is supposed to generate the funds to finance its activities and return a profit to the Government. When one realises that those funds are dependent on its ability to approve something, or sell or zone land, or promote a development, buildings or whatever—the authority essentially is unaccountable to the community—one can see what a travesty of democratic decision-making is being introduced with this bill. It is a complex invitation to a real corruption of the planning process.

The Greens believe that the community about which the Government has the least concern is obviously the community of Redfern. The Government holds a massive amount of land in that area and it will be attempting, through the authority, to sell it off to the highest bidder. In conclusion, so far as I can ascertain, not one interest group has been consulted. I believe, and I agree with the Opposition entirely, perhaps for different reasons, that this bill should be rejected. Of course, numerous amendments will be prepared just in case. If any amendment were to be considered, if it looked as if there was the slightest chance of people approving the bill, the amendment that should be adopted is an amendment to transfer the bill to a committee so there can be public discussion and consultation on its provisions.

It is notable that in this morning's edition of the *Sydney Morning Herald* even the Property Council of Australia suggested that such a committee be established. There is genuine interest in the nature of the democratic process and also the way in which infrastructure in this State is to be funded. These issues are at the heart of this bill. We should not blithely agree to a bill that so completely rides roughshod over what I believe should be established and inviolable democratic processes.

Reverend the Hon. Dr GORDON MOYES [4.34 p.m.]: I listened carefully to Ms Sylvia Hale's presentation. I usually find her presentations on issues concerning housing and affordability of land to be well

researched and she has a great deal of good advice coming to her about that. I thank her for some of the points she has put forward and I will present a differing view on a number of items. The object of this bill, which has come to us in a rather rushed state, is to amend the Environmental Planning and Assessment Act 1979 to provide for contributions for the provision of infrastructure in relation to development within special contributions areas; enable the Minister for Planning to give directions to a council in respect of contributions plans, development control plans and other matters; provide for the establishment of planning assessment panels and the exercise of council's planning functions by those panels and by planning administrators; and amend the Growth Centres (Development Corporations) Act 1974 and the Redfern-Waterloo Authority Act 2004.

Like other honourable members we in the Christian Democratic Party have contemplated these issues at some length and we have consulted a number of organisations to obtain advice on these matters. There is no question that there is a regrettable, seemingly continuous attack on local councils and their powers. We are democratic in our attitude and we believe that local authorities should be given as much support as possible in the work that they do, but we recognise that the Local Government and Shires Associations have for quite some time now been faced with a great many difficulties, including forced amalgamations, a whole raft of planning reforms, the removal of the right of appeal and lack of consultation. I believe the Government stands condemned on a number of these issues.

Even this bill needs a great deal of transparency and accountability, which we do not see in the bill. The centralisation of the powers into the Minister's direct control over local councils is something that we do not encourage. As far as possible the planning of local areas should be pushed down to people involved in the local communities. However, we also recognise that many councils have been negligent in the way they have handled their section 94 contributions. They have made a number of State environmental planning policy decisions that have upset everyone in the community. They have been reluctant to be transparent.

There are inexcusable delays for many people—developers, builders and others—who submit development applications, and the delays bring upon local governments and the shires associations the inevitable retribution that comes from those who get their fingers burned because of those delays, the expensive waste of time and so on. Local government complains there has been lack of sufficient consultation and scrutiny concerning this matter. I can understand that. It just seems to me, however, that the Government has lost patience with many of these things and the way that many councils have behaved. Minister Sartor adopted a swashbuckling attitude in his approach to the desalination plant and other issues—

The Hon. Dr Arthur Chesterfield-Evans: Napoleonic, is the word.

Reverend the Hon. Dr GORDON MOYES: His decision-making approach has provided strong leadership on growth centres and he did a good job in dumping the green overlay that was presented to us some months ago by his predecessor, which caused a great deal of angst amongst people in the north-west and southern sectors. The Minister has now brought upon himself the ire of many councils and other people because it seems that this is another attempt to cut back on local democracy, impose government bureaucracy and build for himself quite a, as the Hon. Dr Arthur Chesterfield-Evans declared, Napoleonic empire which makes him one of the most powerful men in New South Wales. Certainly his powers are equivalent to that of a Premier.

The Christian Democratic Party has listened carefully to a number of professional organisations in this field and we are concerned, as they are, about a number of issues concerning the amendments to the Growth Centres (Development Corporations) Act. We have examined the amendments to the Redfern-Waterloo Authority Act, but I will not speak about them now. My colleague Reverend the Hon. Fred Nile will outline some of the amendments that we believe should be made to the bill.

Urban development in a city like Sydney is absolutely crucial to us all. Organisations such as the Urban Development Institute of Australia—which is committed to seeing good city and urban design and the infrastructure projects that are necessary in large cities—are to be commended for their work. They are making people aware of the reforms in this bill that impact upon the community and ensuring that local councils and others have an opportunity to be involved in the process. I noted the costs that large developers face as a result of slowness and inefficiency in council regions. Rod Fehring, Chief Executive Officer of Delfin Lend Lease, said it is four times more difficult and more expensive to progress a development in New South Wales than it is in any other State of Australia.

Many planning powers are being centralised in the hands of the New South Wales Minister for Planning—just one person. That is serious. We believe reform is necessary and we support some of the bill's

provisions. However, local councils must recognise that their handling of section 94 plans and contributions—I understand that about \$700 million has been raised for specific infrastructure projects but is yet to be spent—does not help their case one bit. The Christian Democratic Party supports the bill. We will not reject the entire legislation but will seek to improve it by amendment. My colleague Reverend the Hon. Fred Nile will speak to some of those amendments in due course.

Mr IAN COHEN [4.41 p.m.]: From time to time I find myself speaking in this House about monumental planning legislation. Years ago, when Craig Knowles was Minister for Planning, planning bills were rushed through Parliament late at night and the House sat until about 6.00 a.m. That is typical of the Government's handling of legislation; it rides roughshod over communities throughout the State. This bill is no exception. I am saddened that Reverend the Hon. Dr Gordon Moyes does not recognise the Government's mistreatment of communities in New South Wales. I concur with the views of Ms Sylvia Hale, who led for the Greens on this bill, and share her many concerns. This legislation is symptomatic of the Government's hubris. The Government is obsessed with its own power.

A friend recently quoted to me a Chinese saying, "To adequately judge the quality of a person, give them power". The Minister for Planning, Frank Sartor, stands condemned for abusing his office and for causing much angst in the community. I will reflect on some developments that have occurred in my home community, which I hold very dear—I have made no secret of that fact—in the north of New South Wales. The community is under great pressure from developers. The "Mayor of New South Wales", Frank Sartor, has sided firmly with developers and, in many ways, the Environmental Planning and Assessment Amendment Bill facilitates his designs on my home community. I put Labor members on notice: If they attack my community I am quite happy to attack their Government. I am personally offended by Minister Sartor's behaviour. He has lied, attacked leaders in my community and denigrated those who stick to the rules, understand the situation and, dare I say, possess a greater intellect and discernment of the issues than the Minister. Mr Sartor never allows the details to get in the way of a good punch line in the newspapers. He is the great self-aggrandiser.

I join my colleague Sylvia Hale in opposing the Environmental Planning and Assessment Amendment Bill. I will not go through the provisions of the bill as that has been done already, and I commend Ms Sylvia Hale for her work. But I will put a local perspective on the anticipated impact of the bill and outline the reasons why the Government has introduced it. This will require providing some background information spanning some years. On the outskirts of Byron Bay there is a low-key tourist resort comprising 78 small cabins, a restaurant and a bar, a conference room, two swimming pools, a nine-hole golf course, and a tennis court. The cleared area is surrounded by State environmental planning policy [SEPP] 14 wetlands, rainforest and endangered floodplain plant communities. Byron shire's last remaining nesting area for the threatened little tern, beach thick knee and pied oystercatcher, as well as a variety of other shorebirds, is right where residents of this resort access the beach.

The entire site is a flood storage area for the Belongil Creek and, with global warming, is being eroded on one side by the sea and on another by the estuary. It is not a good site for a major development. It used to be known as the old racecourse site and I have seen many photographs that show the entire site underwater. But evidence such as that has little impact when developers and the Minister for Planning get together.

In the early 1990s Club Med attempted to build a 416-room resort for 928 guests on the site. At that time the community vigorously opposed the development. When the then council approved the development the community took the council to court and established that it had no legal right to approve the development as there had not been proper consideration of threatened species. In early 2002 Melbourne development company Becton bought the site. SEPP 71 commenced in November 2002. On 18 November 2002 the Department of Infrastructure, Planning and Natural Resources [DIPNR] hosted a planning meeting between Becton and various government agencies to progress preparation of a master plan for the site. The master plan was subsequently prepared and exhibited on 2 July 2003.

Becton proposed to build 379 holiday homes, a retail centre, a hotel and a sewage treatment plant on the outskirts of Byron Bay. It was proposed to subdivide and strata-title this development into individual houses. Another lot was to be held in reserve for some unspecified future development. This development was designed to accommodate 1,866 people at peak periods. In the 2001 census the population of Byron Bay was 7,000 people. Becton's proposal thus represented a 27 per cent increase in the population of Byron Bay from just one development. Under SEPP 71, master plans are required only for large subdivisions within a residential or rural residential zone. Yet the Becton site is zoned for tourism development and residential use is expressly prohibited. On 11 July 2003 Byron Shire Council pointed this out to DIPNR, and told it:

Council is of the opinion that a Masterplan under SEPP71 is not required.

DIPNR ignored the council, preferring to rely upon highly dubious legal advice from Becton that a master plan was required. The argument went along the lines of, "Well, it looks like a residential development so a master plan must be required." DIPNR did not bother to get its own legal advice because it thought it was a good idea to prepare a master plan. DIPNR went ahead and exhibited the master plan from 31 July to 15 September 2003.

DIPNR and the Minister had no legal right to accept or exhibit Becton's master plan in the first place. During the exhibition period there was considerable community angst about the proposal. This was reflected in two rallies. One rally was attended by more than 1,000 people and a sing-a-long on the beach attracted more than 2,000 people. During the public exhibition period more than 3,800 submissions were forwarded to the department. Of these, only nine supported the proposed development. Both the department and the Minister refused to consult with the community.

Towards the end of the exhibition period the community became aware that the master plan was legally invalid and should never have been exhibited in the first place, with one group calling on the Minister to publicly apologise and reimburse people for the considerable time and resources they wasted opposing the development. On 30 September Byron shire councillors resolved "That council is of the opinion that a master plan is not required." DIPNR was informed of this on 1 October, with council again writing to DIPNR on 18 December to reiterate this fact. Soon after the exhibition period lapsed, DIPNR advised its Minister that Byron council would be the consent authority for any subsequent development applications and that Becton "have indicated a preference for the Minister to be the consent authority for this development". Meanwhile DIPNR continued its attempts to allow the Minister to determine Becton's master plan. The department did finally obtain its own advice on the legality of Becton's master plan on 2 October 2003. Without referring to this on 28 October 2003, Robert Black from DIPNR wrote:

The proposed development site is zoned 2(t) (Tourist Area Zone) and 7(f1) (Coastal Land Zone) under the Byron Shire LEP 1988.

Normally, development in these zones would not require the need to prepare a master plan, however, the applicant has obtained legal advice that directs a broad interpretation of the term "residential" in SEPP 71. The department has accepted this view for the time being.

It is the department's view that, even if a master plan were not legally required under SEPP 71, this site and the proposal are of a scale and potential impact which warrant a thorough review through a master plan process ...

In February the *Australian Financial Review* reported:

Melbourne property developer Becton has made its first political donation outside of Victoria, spending more than \$30,000 courting members of the Carr Government at lunch as it processed plans for a \$250 million, 354-dwelling beachfront development in trendy Byron Bay ...

Managing director Hamish Macdonald said ... he had sat at Premier Bob Carr's table at the function ...

He would not say which other Labor Party members attended the lunch.

Becton is a major donor to both the Labor and Liberal parties, giving more than \$220,000 to Labor in Victoria and NSW since 1998

SEPP 71 was amended on 12 March 2004, including the addition of clause 9 (3) (a), and that basically meant that Becton's development application could be classed as "significant coastal development", could come under the ambit of SEPP 71 and be determined by the Minister rather than council. The Minister, believing that he could now sideline council at the next stage and determine Becton's development application, began to indicate that he was going to give up on his attempt to determine Becton's master plan. By 24 March 2004 the Minister's chief of staff, Mr Levins, was reported in the *Northern Star* as saying:

... it was "within the realms of possibility" that the whole master plan process could be dropped in favour of handling the issue back, 4000 submissions included, to Byron Shire council.

The Minister made up his mind that he could not get away with determining Becton's master plan and established an alternative process which he considered would allow him to determine Becton's development application, but it still took him until Monday 21 June 2004 to finally refuse it. The Minister did not admit that the master plan was legally invalid. His department was more forthright, and stated in its report:

Given the site's zoning for tourism SEPP 71 does not apply and a master plan is not required.

The draft master plan should not be adopted. The proposal is likely prohibited and the draft master plan is not a valid document under the provisions of SEPP 71.

This was presumably the belated legal advice that DIPNR obtained in October, more than eight months earlier. Because of the stuffing around by the Minister and the department and legislative change it took this Government and the Minister nine months after the public exhibition finished to refuse a legally invalid master plan. It was more than 18 months since Becton discussed its proposed master plan with DIPNR in November 2002. This master plan should never have been prepared, accepted or exhibited in the first place. And this Government and this Minister have the hide to attack councils for taking more than 40 days to process legally valid development applications! More than that, this small-minded Minister, obsessed with his own power and in cahoots with developers like Becton, complains if councillors cannot process applications within 40 days! What about the time that has been wasted whilst he has attempted to get his mate Becton on deck in my community?

Between July and October 2004 council hosted three negotiations between council, Becton and community groups in an attempt to achieve resolution of the future development of the site. Those talks were successful in reaching substantial agreement over the area of the site that could be developed, which was largely established by applying constraints identified by various agencies and legislation. However, the talks were abruptly halted when Becton flatly refused to negotiate over the scale and type of development it could undertake within the area.

That was not surprising. Becton already had the New South Wales Government change the legislation to suit its needs, so one could expect that the Government would give Becton what it wanted. Council had first resolved to prepare a development control plan [DCP] for the Becton site on 24 July 1990. This had been again identified as an option by council staff in September 2003. Out of frustration, a local community group engaged the services of a professional planner to prepare a draft DCP for council's consideration. This was presented to council on 31 October 2004. Council staff consulted with Becton and re-wrote the DCP to satisfy Becton's requirements. On 14 December councillors resolved to make various amendments to the draft DCP and exhibit it. Becton was not happy that the proposal was to limit its development to a total of 250 bedrooms.

To circumvent Byron Shire Council and the local community, on 22 December 2004 Becton lodged a new development application with DIPNR. It did not bother to show it to Byron council. It is not known why, but with apparent ministerial support and an amended SEPP 71, DIPNR was not directed to immediately accept it. Maybe, after the master plan fiasco, the DIPNR needed to first check the legality of doing so. On 24 December 2004 staff presented councillors with the final draft DCP and advised that it would soon go on exhibition. On the same day Becton commenced proceedings in the Land and Environment Court against the Minister and council seeking a declaration that the Minister be the consent authority for its DA. The DCP was exhibited from 7 January to 18 February. Council adopted a final DCP for the site in April 2005. The DCP effectively gave certainty to the community and any future developers as to the maximum level of development that could be undertaken on the site, and what measures were required to safeguard the environmental values of the area.

On 27 May 2005 the Government introduced new planning legislation: SEPP, Major Projects [Schedule 1] Part 3A projects—Classes of Development. In the belief that this legislation finally guaranteed that the Minister would determine its development application, Becton gave up on its court case, and in July 2005 Becton lodged a new development application with the State Government. On 29 September 2005 Minister Sartor visited Byron and had a very brief meeting with community representatives and then a site inspection with council and Becton. Minister Sartor said he wanted to give council and Becton one last chance to reach an agreement. Council was finally provided a copy of the July DA and, given that it was only for stage one of the development of the site, found that it could not assess it.

Becton had the added incentive of knowing that if council would not agree to its development there and then, finally its wish was going to be granted and the Minister would take control of its DA. On 20 December 2005 Minister Sartor announced that he was going to determine Becton's development application. When council resolved to ask the Minister to clarify the legal basis for his decision, and to ask for DIPNR to implement a community consultation process over the application, the Minister went on the attack, stating on 27 January 2006:

The protracted dithering over this proposal for many years when the land has been zoned for tourism for a decade is an indictment of Byron Council and its handling of planning matters.

That is an extraordinary assertion. Since November 2002, for more than three years, Becton had, with the connivance of this Government, been trying to get this Government to approve its development. During that time it had submitted a master plan and two development applications to be determined by the Minister for Planning. The only development application submitted to council was for a rock wall. Council's attempts to negotiate an acceptable level of development for the site was continually thwarted by Becton's belief that it could run to the Minister to get what it wanted.

Council has expended considerable resources in assessing a master plan that should never have been exhibited, helping defend court cases brought by Becton against the State Government, defending the coastal policy against Becton's attempts to build a rock wall along the beach, and finalising a development control plan for the site. On Tuesday 28 February Minister Sartor introduced the bill we are now debating to empower him to direct a council to amend or revoke a development control plan, and, if they refuse to do his bidding, for him to amend or revoke it himself. His rationale is to enable him to override onerous and inappropriate controls established by development control plans and to provide greater certainty for communities and developers. On that Friday Minister Sartor exhibited Becton's development application for a staged development of a 431-bedroom resort on the outskirts of Byron Bay. That is bigger than the Club Med proposal for the site and almost twice as big as the council's development control plan allows.

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

Mr IAN COHEN: It is worth noting that Minister Sartor has now insisted that Becton identify its full development for the site so that he can assess it—though he would not require that for council. It is quite obvious that once again this Government is introducing legislation specifically aimed at doing over small communities—in this instance, the Byron community, my community—to give Becton exactly what it wants. The only certainty this bill provides to the community of Byron Bay is that no matter what they do to negotiate with developers, and what limits they set for development, the New South Wales Australian Labor Party is prepared to ride roughshod over them to give developers exactly what they want.

One of the saddest aspects of this legislation appears to be the delusion of Minister Sartor that somehow he can resurrect the economy of New South Wales by driving land development through legislation like this. If his thinking is so bizarre that he believes he can save the State, despite the bad form of the New South Wales Labor Government over 10 years, by introducing developer-friendly legislation, running roughshod over communities like my home community, and thinks he can get away with that, I say, "You have got another think coming, Mr Sartor. You have really overstepped the mark here." I have all too often under this Labor Government seen planning issues take a turn directly in favour of the developer. This legislation shows quite clearly that the Government has lost contact with the communities it is supposed to represent, that it does not give a damn about the ordinary people in our community, and is obviously hell-bent on running in a direction that will facilitate developers, like Becton, which give substantial amounts of money to swell the coffers of the Australian Labor Party, in this case in Victoria and New South Wales.

Before I conclude my speech, I would commend my good friend Dailan Pugh, who has been involved with the Byron Environment and Conservation Organisation, or BEACON, a local environment group. Dailan has worked tirelessly on researching the issues and otherwise being involved in the preparation of this speech, which goes into the detail, looks at the history, and properly assesses the situation. I do not believe that DIPNR, with all its responsibilities across the State, will even scratch the surface on the detail needed to properly assess a development such as this. Once again the State Government is relying on and trusting a developer to provide it with relevant information. As a result, we see very inappropriate, ugly, environmentally damaging, socially disruptive developments being forced on local communities—in a bid, somehow, to try to establish the economic credibility of a failing Labor Government. I join with my other Green members and others in this House in opposing the bill. I move:

That the question be amended by omitting the words "now read a second time" and inserting instead "referred to General Purpose Standing Committee No. 4 for inquiry and report".

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [5.05 p.m.]: The great English architect Sir Christopher Wren has as his epitaph:

Reader, if you seek his monument look about you.

He is, of course, buried in St Paul's Cathedral, of which he was the architect. And a very impressive cathedral it is! Frank Sartor was Lord Mayor of Sydney. I think he was quite a good mayor. He started off as director of the

Public Accounts Committee. He was not very popular with the Greiner Government because of his independent views. He continued in that position until a Labor Government came in. But he was not very popular with that government either because of his independent views. Then he was elected to Sydney City Council as the head of the council's largest group—only to be denied the office of Lord Mayor by a coalition of Liberal and Labor councillors! So Frank Sartor's independent stance lasted for quite a long time. A number of buildings and works I think stand as monuments to Frank Sartor as Lord Mayor of Sydney: the refurbishment of the Capitol Theatre; the Boy Charlton Pool; the basketball court and recreation area in The Rocks; Cook and Phillip Park, which has a quite nice swimming pool, although an unfortunate square on top; and the City Recital Hall. Some of those works were indeed thanks to Frank Sartor, as was the use of more pavement dining, which has made the city more user friendly. Those are part of his legacy.

So Frank Sartor, while being somewhat autocratic in style—one might say increasingly autocratic in style—does demonstrate that he has the intention of improving our society, that he has fire in his belly and that he has a willingness to fight to achieve his goals. That must be admired. However, we must be conscious of the fact that Frank Sartor is now a Minister with responsibility for a great number of portfolios. He is Minister for Planning for the whole of New South Wales. He dabbles in many planning areas, certainly State significant developments, as they are defined. When the Government wishes to take over an area from a local council it declares that area a State significant development—presumably bringing it under the administration of Frank Sartor. The Honeysuckle development in Newcastle, I think, is most unfortunate: it is poorly served by roads; it is very large, and blocks the view of the river to everybody other than those living in it; and it has led to attempts to get rid of the railway, which is a very important mode of transport to bring people into the centre of Newcastle.

As well as being Minister for Planning for the whole State, Frank Sartor is of course Minister for Redfern Waterloo—an extremely large area that extends, more or less, from Cleveland Street to the airport and encompasses everything in between. And, of course, he is Minister Assisting the Minister for Health (Cancer). He manages these vast portfolio responsibilities with considerable energy. However, I have been trying to get Minister Sartor to read the sex services premises guidelines. Those guidelines, which were supposed to become available in 2004, were devised to aid councils in planning regarding sex services premises. They were promised to be consistent with the decriminalisation of prostitution in 1995. However, the guidelines are still not available.

A freedom of information application was made that resulted in the release of one copy of the report. No electronic copies have been released for circulation. Councils that want to submit planning applications are facing a deadline. The guidelines prepared by the working party are not available publicly, nor are they available to the councils for whom they were written and who would benefit from them. There is a logjam in Frank Sartor's office. The bill aims to prevent logjams and for the Minister instead to deal with the matter expeditiously, and that gives rise to conflict. It is all very well to talk about the Minister and the powers vested in him. He is a well-intentioned man. But when we pass legislation in this House we do not pass legislation that says, "Frank Sartor may do this." We pass legislation that says, "The Minister for Planning may do this." The person with responsibility for the Planning portfolio may be different tomorrow if we have another Cabinet reshuffle. The bill gives a large amount of power to Minister Sartor but it has very little transparency, which I am very interested in. I am merely trying to have the sex services guidelines released. That process should have been transparent.

A case has been made about the effect of large amounts of money in elections in small areas. We see the alternation of developer dummy candidates with lots of money who pretend to be independent and pro-resident, but when they are elected they approve ugly, appalling and ill-thought-out developments. That certainly happens in my area. Residents then get together to form resident action groups, achieve a majority on council, and then maintain their enthusiasm and energy for a couple of terms. But then the cycle repeats itself. That has been a problem. The idea that plans have to be approved in a certain time is beloved by property developers. Major property developers in the Newcastle region rate councils by how quickly they approve applications, which usually involve significant rezoning resulting in huge traffic implications. Their view is that if applications are not approved within 21 days, the council involved is hopeless. One could be forgiven for thinking that the developers had money on the short-term money market and every day's delay is costing them a fortune and stopping the march of progress. But considerable time is taken up by councils assessing the effect of developments. Councils that are most careful in sensibly considering the needs of their residents might take longer than others. Some councils may have an overall planning framework and try to fit a development application into that plan to reconcile what may not have been reconcilable; the development application may be totally at variance with the plan conceived by council.

Some years ago planning was more or less the domain of the public sector, but wages being what they are, councils now have to compete for planners, who can now make much more money working for a developer. Councils are battling to attract good planning staff to evaluate developments in rapid time, and when that does not happen they are roundly criticised. For whose convenience are we talking? Are we talking about the community or are we talking about the developer, who wants the application approved in the minimum time, and if it is not, the developer will go to the Minister?

Some inner-city councils really should have urban consolidation, but they have decided they want the amenity for existing residents. They will not do anything to allow increased density, which pushes the city towards the west to accommodate people who ought to go to other areas that may not be as well served by public transport. The Government should provide a plan to force councils to accept their share of an overall vision. But the Government does not have an overall plan to give councils any guidelines. It does not consider systematically the overall development of the city. The Government has the developer's court, the Land and Environment Court. It is ironic that when Frank Sartor was Lord Mayor of Sydney he produced a glossy booklet about the anomalies of the Land and Environment Court and its capitulation to developers. Nowadays he does not want local councils to stand in the way of developments. Frank Sartor says, "I will not do this in many cases. I will do this only in specific cases. I will appoint panels so that I will not be involved. The panels will be transparent."

The word "independent" is somewhat threatened. Some people in politics who claim to be independent are highly beholden to one political party or another, but they do not want to admit it. When I suggested in this House that people who are members of political parties and who stand for local council should declare that fact on their ballot paper, there was an absolute cacophony in this Chamber. I was yelled and screamed at because, some members said, the public did not have the right to know, that people have the right to have their political allegiances kept private.

It is extremely difficult for people who have problems with builders to get independent advice from architects and other builders stating that their job is a dud. People who assess buildings and building applications are reluctant to say that a building is totally dodgy, because their future employment is in the industry. The assessment of dodgy buildings accounts for only a small fraction of their work, but if it were to become a large part of their work, they would become marginalised within the industry. They are scared to give opinions without fear or favour. Environmental impact statements are prepared by independent consultants, but they know that if the environmental impact statement is not advantageous to their proponents, they will not get further work from them. The very old proverb "Who pays the piper calls the tune" comes to mind.

It has been pointed out that section 94 payments have been abused. The argument was made by the Housing Industry Association that section 94 payments have increased markedly as a percentage of the overall cost. Yesterday the association offered to provide me with some figures in that regard but they have not yet arrived. I must say, however, that we did not expect to debate the bill today. The cost of infrastructure is now being sought to be recouped at the time of section 94 payments, and the costs associated with section 94 payments are being passed on to residents. Years ago roads would have been built by governments, probably by the issuing of government bonds paid off at an extremely conducive interest rate—the Government can borrow at the bond rate—over 30 years. But now section 94 payments are paid immediately.

The cost of the payment is passed on to the developer and then the purchasers of residential properties, who are borrowing at a much higher interest rate than that at which the Government borrows. The debt is being transferred to private citizens at a much higher interest rate and the banks are doing very nicely out of this rather rum deal. Thank you very much! I note that the Government has pegged council rates to the Consumer Price Index [CPI]. However, no-one believes that councils' costs have stayed with the CPI. Councils are totally squeezed. They cannot get revenue because of their rate-pegging and they cannot hire staff because private sector wages in planning have increased more than inflation. How will councils obtain funds to provide services that increasingly councils are expected to provide as the State Government withdraws from providing quite a number of services?

The State Government's grants to local government have not increased because the State Government does not undertake borrowing. It has an absurd obsession with debt and it will not take on debt, even if the debt is backed by assets. Everybody knows that if a financial institution is approached for a loan by someone who has assets, the financial institution will agree to lend on the basis of those assets. Conversely, borrowing money for expenditure without collateral assets will soon destroy a credit rating.

The absurdity about the Government's position of not borrowing money and instead squeezing councils for short-term political advantage is making the provision of infrastructure extremely difficult, as is the Government's failure to provide councils with an overall plan. The Government has left local government without the money and without the wherewithal to engage decent planners, but criticises councils for not having planning done in a timely fashion. Worse than that, the Government is imposing regulations on councils while the Minister cherry picks sections that he decides he will override.

The Government's approach is a totally unreasonable treatment of planning in New South Wales. Let us approach problems in a systematic manner instead of acquiescing in the Minister overriding councils in certain cases. The Minister may find that he will have to squeeze more money out of councils in the interests of making ends meet, given the constraints to which I have referred, or he might have to reduce infrastructure contributions to please developers as some type of gift. I am not suggesting there has been any corruption associated with the Minister for Planning, Frank Sartor, personally, but the idea of decisions being made behind closed doors with a total absence of transparency is an absolute travesty.

My view is that if there is more transparency, governance improves as a result of fewer regulatory mechanisms. That has been borne out by the experience of governments throughout the world and an enormous collection of literature. Groups such as Transparency International are involved throughout the world in efforts to increase transparency in government, improve planning and reduce corruption. The group is mainly concentrating on the Third World but I wish it would focus on New South Wales.

The bill will amend the Environmental Planning and Assessment Act to provide for the provision of infrastructure in relation to development within special contributions areas and will enable the Minister for Planning to give directions to a council in respect of contributions plans and development control plans. It will establish planning assessment panels and regulate the exercise of councils' planning functions by the panels and by planning administrators. It is interesting that the Government wants to have panels that it is able to appoint, and that, at that stage, the process will be transparent. However, the point is that if a panel does not do what the Government wants, its members will not be reappointed. The independence and transparency of the proposal is not without its caveats.

Amendments of the Growth Centres (Development Corporations) Act 1974 will permit the Minister to appoint a chief executive of a development corporation and require a corporation to submit an annual statement of business intent. The bill will amend the Redfern-Waterloo Authority Act to permit Crown land to be transferred to the Redfern-Waterloo Authority and to permit the Minister to delegate certain functions. The transfer of power is predicated on the assumption that the Minister, Frank Sartor, will work in his own way. Frank Sartor will be running the show. A change of Minister would be very worrying. I am quite certain that, should there be a Cabinet reshuffle, the bill would not be brought back to Parliament to consider whether a new Minister should have those powers.

Currently section 94 (1) of the Act provides for development contributions to be levied as a condition of development consent when a consent authority is satisfied that development for which development consent is sought will, or is likely to, require the provision of, or increase the demand for, public amenities and public services within the area. Contribution plans are made and revised by councils after being placed on public exhibition for public comment. The procedure by which a council makes a contribution plan can be challenged within three months of the plan coming into effect under new section 94EB (3)

New section 94EAA (1) provides for the Minister to direct a council to approve, amend or repeal a contributions plan in the time and manner specified in the direction. It also provides that the Minister may approve, amend or repeal a contributions plan if the council fails to follow the direction or if the council consents to the Minister making, amending or repealing the plan. As I said, it is, "Minister may" legislation. In other words, it will give more power to the Minister. In each case the making, amending or repealing of the plan by or at the direction of the Minister cannot be the subject of an appeal to the Land and Environment Court under proposed section 94EAA (4).

Under new section 94EAA (4) (a), the validity of the procedure by which such a contribution is made, amended or revoked by or at the direction of the Minister would not be open to judicial review in the Land and Environment Court. However, the validity of the contributions plan will be open to judicial review in the Supreme Court. More significantly, the bill alters the current position whereby, on appeal to the Land and Environment Court by an applicant for development consent, that court may disallow or amend the development contribution condition on the ground of unreasonableness, even if it were determined in accordance with the

relevant contributions plan, as provided in new section 94B (3). The bill removes this right to have the reasonableness of the condition reviewed where it is based on a contributions plan made or amended by the Minister, as provided in proposed section 94EAA (4) (b). The Legislation Review Committee has noted:

12. The interference with property rights constituted by the extraction of a sum of money or area of land from private landholders may be justifiable in terms of economic efficiency - on the basis that it internalises the public costs of development by making private beneficiaries pay for the costs of infrastructure. Nonetheless, it is arguable that the removal of a right of appeal on the question of the reasonableness of the contribution required constitutes an interference with personal rights associated with private property.

13. In the absence of any right of appeal, the reasonableness of the contribution in situations where the Minister has been involved in the making of a contributions plan will be entirely in the hands of the consent authority applying the provisions of the plan.

14. Moreover, the removal of the right of appeal is selective. It will remain available where there has been no ministerial involvement in the making or amendment of the particular contributions plan under which the contribution is exacted. Where there has been ministerial involvement, it appears that the right of appeal is removed even in relation to aspects of the plan in relation to which there has been no ministerial involvement.

15. Similarly, under proposed s 94EE(4) & s 94EF, a Ministerial determination of the level and nature of the development contribution that a person is to make as a condition of the grant of development consent cannot be appealed to the Court.

16. The Committee notes that review of the decision by the Supreme Court is not precluded, allowing a determination to be challenged, for example, on the ground that the Minister acted beyond his or her power or failed to accord procedural fairness. On this point, the Minister noted that:

[N]othing in the Bill affects the jurisdiction of the Supreme Court to hear appeals. This means that a person may still have an action to initiate in the Supreme Court, for example, based on a matter of administrative law.

This means that a person may still have an action to initiate in the Supreme Court based, for example, on a matter of administrative law. The Legislation Review Committee concluded:

17. The Committee considers that, in general, all decisions of an administrative nature should be subject to review. However, in some instances, policy considerations may dictate that an appeal is not necessary or practical.

I do not know whether that is code for the fact that the courts take so long that they cannot possibly be made to adjudicate these things. One can only wonder. Some of us think that the legal system works only sometimes. The committee's conclusions also state:

18. The Committee notes that the Bill removes the right to appeal to the Land and Environment Court in respect of the reasonableness of a condition of contributions plan made or amended by the Minister under proposed s 94EAA.

19. The Committee notes that this denial of merits review is to help secure the certainty of funds so that important infrastructure programs can be implemented.

One cannot help but wonder if this is just another instance of "might is right—we need the money". The committee's report states in relation to part 4, division 6, subdivision 4:

21. The Bill allows the Minister to direct a council to impose, in addition to any development contribution condition imposed under s 94 (which, under the amendments is to become known as a local infrastructure contribution), a condition requiring a special infrastructure contribution [proposed s 94EF(1)].

22. On this point the Minister noted:

[special infrastructure contributions] will be collected only when it is reasonable to impose an additional levy because of the extent and urgency of the area's infrastructure requirements...[where] immediate and significant infrastructure expenditure will be required. Special infrastructure contributions will provide the Government with a secure source of funds to provide infrastructure at the right time and in the right sequence.

23. Such a condition could only be imposed in new land release areas and other areas where there will be coordinated growth and development, ie, areas listed in proposed Sch 5A to the EPAA as special contribution areas, initially confined to areas identified as growth centres.

24. The potential interference with personal rights arises from the fact that the Minister's decision on the amount payable is not appellable on the grounds of the unreasonableness of the contribution exacted [proposed s 94EE(4) & s 94EF(6)], whereas, as seen above, under s 94, the applicant can appeal to the Court against the reasonableness of the contribution.

25. The Committee notes that the argument that this represents an unjustifiable interference with property rights is not as compelling as the argument in relation to proposed s 94EAA (above), insofar as it does not constitute the removal of an existing right, and it does not operate selectively: it affects *all* who are subject to a special infrastructure contribution condition.

The bill does not provide for any appeal rights in relation to the unreasonableness of a decision as to the amount of a special infrastructure contribution. The bill enables the Minister to appoint a planning administrator or panel if the Minister is of the opinion that the council's performance has been unsatisfactory "because of the manner in which the council has dealt with those matters, the time or in any other respect". That is a dangerous clause.

Earlier I spoke about the effect of time; in other words, if a very extensive development does not fit in with council's overall plan and council wants some public feedback, it is certainly not unreasonable that some time be taken. It is the job of council to look after the people who live in its area. Under the Act administrators can be appointed if a council has been sacked because of corruption or just incompetence. That happened with Warringah, Liverpool and Rockdale councils. However, the new section is much broader and subjective, and a council's planning powers may be removed at the whim of a Minister. Basically, any council with a strong, vocal and active residents association could have its planning powers removed simply because the residents may be good lobbyists and hold up an inappropriate development.

The Local Government and Shires Associations of New South Wales are extremely disappointed that the Government has failed to facilitate meaningful public participation in the overhaul of the system by not consulting local government or the community. The Minister said the bill intends to reduce delays and costs in the assessment of development applications, provide for regional infrastructure and amenities in new land release areas and other sites identified for growth, and help co-ordinate local and State planning controls.

The Council of Social Service of New South Wales said the changes to the Environmental Planning and Assessment Act would give the planning Minister, Frank Sartor, unfettered power to reduce the level of developer contributions for community infrastructure, including child care centres and recreational facilities. The Housing Industry Association is concerned that section 94 payments have been increasing very greatly, and that is perhaps because of rate capping. Residents, developers and thus the purchasers of homes that are being developed are being slugged for infrastructure costs that used to be amortised over a far longer time and spread over the community as a whole.

The Local Government and Shires Associations, the Council of Social Service and the Housing Industry Association are extremely unhappy with the level of consultation. Once again the State Government's idea of consultation is to brief people about what it is going to do. At the crossbench briefing, when we asked whether there had been consultation, it was interesting that the answer was "Well, it is Government policy." The implication was that since it is Government policy, that is the game, so why consult? I suppose that that is the way departmental people are taught to respond. The bill is dangerous and a number of problems remain to be addressed. There are other ways of addressing those problems and while I have respect for Minister Sartor as a person, and for his intentions, indeed for his efforts, and to some extent for his record, I do not agree that this is the correct way to do planning. Therefore I oppose the bill.

Debate adjourned on motion by the Hon. Peter Primrose.

INDUSTRIAL RELATIONS AMENDMENT BILL

PUBLIC SECTOR EMPLOYMENT LEGISLATION AMENDMENT BILL

In Committee

The TEMPORARY CHAIRMAN (The Hon. Kayee Griffin): The Committee will deal first with the Industrial Relations Amendment Bill.

Clauses 1 to 3 agreed to.

Reverend the Hon. FRED NILE [5.37 p.m.]: I move:

Page 3, schedule 1. Insert after line 2:

[1] **Sections 127A–127G**

Omit the sections.

[2] **Chapter 2, part 11**

Insert after part 10 of Chapter 2:

Part 11 Outworkers in clothing trades

Division 1 Preliminary

129A Definitions

In this part:

constitutional corporation means a corporation to which paragraph 51 (xx) of the Commonwealth Constitution applies.

employer means a person described in clause 1 (f) of schedule 1 as an employer and, in relation to division 3, does not include a person whose sole business in connection with the clothing industry is sale of clothing by retail.

Note. A person described in clause 1 (f) of schedule 1 as an employer is taken to be an employer for the purposes of this Act by section 5 (3).

modification includes addition, exception, omission or substitution.

outworker in the clothing trades means a person described in clause 1 (f) of schedule 1 as an employee.

Note. A person described in clause 1 (f) of schedule 1 as an employee is taken to be an employee for the purposes of this Act by section 5 (3).

relevant clothing trades award means the *Clothing Trades (State) Award* made by the Commission and published in the Industrial Gazette on 19 October 2001, as amended and in force from time to time.

remuneration means an amount payable, within the meaning of the definition of **amount payable** in section 364 (1), in connection with work done by an outworker and includes an amount payable to the outworker under the *Annual Holidays Act 1944* or the *Long Service Leave Act 1955*.

unpaid remuneration claim means a claim for unpaid remuneration under section 129D.

Division 2 Conditions of employment

129B Outworkers in clothing trades employed by constitutional corporations

- (1) On and from the commencement of this section:
- (a) the relevant clothing trades award ceases to have effect as an award in relation to outworkers in clothing trades and employers (but only to the extent that such outworkers are employed by constitutional corporations), and
 - (b) the conditions of employment set out in that award (as in force from time to time) in relation to outworkers in clothing trades and employers are, by force of this section, the conditions of employment applicable to outworkers employed by constitutional corporations and employers.

Note. The expression **conditions of employment** is defined in the Dictionary to include any provisions about an industrial matter.

- (2) To avoid doubt, subsection (1) (b) extends to conditions relating to the giving out of work by employers.
- (3) Nothing in this section affects the continued operation of the relevant clothing trades award in its application to employees not employed by constitutional corporations and their employers.

129C Application of certain enforcement provisions

A reference in part 1 (Breach of industrial instruments) or part 2 (Recovery of remuneration and other amounts) of Chapter 7 to:

- (a) an industrial instrument includes a reference to provisions of the relevant clothing trades award applying under section 129B, and
- (b) an amount payable under an industrial instrument includes a reference to an amount payable to an outworker under any such provision.

Division 3 Remuneration

129D Claims by outworkers in clothing trades for unpaid remuneration

- (1) **When may an outworker make an unpaid remuneration claim under this section?**

An outworker in the clothing trades may make a claim under this section for any unpaid remuneration against the person the outworker believes is his or her employer (the **apparent**

employer) if the employer has not paid the outworker all or any of the remuneration for work done by the outworker for the employer (the *unpaid remuneration*).

- (2) The claim must be made within 6 months after the work is completed.
- (3) **How is an unpaid remuneration claim made?**
The claim is to be made by serving a written notice on the apparent employer that:
 - (a) claims payment of the unpaid remuneration, and
 - (b) sets out the following particulars:
 - (i) the name of the outworker,
 - (ii) the address at which the outworker may be contacted,
 - (iii) a description of the work done,
 - (iv) the date on which the work was done,
 - (v) the amount of unpaid remuneration claimed in respect of the work.
- (4) The particulars set out in the unpaid remuneration claim must be verified by statutory declaration.
- (5) This section applies only in respect of remuneration for work carried out after the commencement of the section.
- (6) Clause 3 of schedule 1 does not apply to an employer served with an unpaid remuneration claim under this section.

129E Liability of apparent employer for unpaid remuneration for which an unpaid remuneration claim has been made

- (1) Except as provided by subsection (4), an apparent employer served with an unpaid remuneration claim under section 129D is liable (subject to any proceedings as referred to in section 129G) for the amount of unpaid remuneration claimed.
- (2) An apparent employer may, within 14 days after being served with an unpaid remuneration claim, refer the claim in accordance with this section to another person the apparent employer knows or has reasonable grounds to believe is the person for whom the work was done (the *actual employer*).
- (3) An apparent employer refers an unpaid remuneration claim in accordance with this section by:
 - (a) advising the outworker concerned in writing of the name and address of the actual employer, and
 - (b) serving a copy of the claim (a *referred claim*) on the actual employer.
- (4) The apparent employer is not liable for the whole or any part of an amount of unpaid remuneration claimed for which the actual employer served with a referred claim accepts liability in accordance with section 129F.

129F Liability of actual employer for unpaid remuneration for which an unpaid remuneration claim has been made

- (1) An actual employer served with a referred claim under section 129E may, within 14 days after the service, accept liability for the whole or any part of the amount of unpaid remuneration claimed by paying it to the outworker concerned.
- (2) An actual employer who accepts liability must serve notice in writing on the apparent employer of that acceptance and of the amount paid.
- (3) The apparent employer may, after the apparent employer has paid to the outworker concerned any part of the amount of unpaid remuneration claimed for which the actual employer served with the referred claim has not accepted liability, deduct or set-off the amount the apparent employer has paid to the outworker from any amount that the apparent employer owes to the actual employer (whether or not in respect of work the subject of the referred claim).

129G Recovery of amount of unpaid remuneration

- (1) part 2 of Chapter 7 (Recovery of remuneration and other amounts) applies to recovery of an amount payable to an outworker in the clothing trades from an apparent employer who fails to

make a payment in respect of an amount of unpaid remuneration for which the employer is liable under section 129E. For the purposes of this section, a reference in part 2 of Chapter 7 to an industrial instrument is to be construed as a reference to the provisions of this section.

- (2) In proceedings referred to in subsection (1), an order for the apparent employer to pay the amount concerned must be made unless the apparent employer proves that the work was not done or that the amount claimed for the work in the unpaid remuneration claim is not the correct amount in respect of the work.

129H Offences relating to unpaid remuneration claims and referred claims

A person must not:

- (a) by intimidation or by any other act or omission, intentionally hinder, prevent or discourage a person from making an unpaid remuneration claim, or
- (b) make any statement that the person knows is false or misleading in a material particular in any notice given for the purposes of section 129E or 129F, or
- (c) serve a referred claim on a person under section 129E that the person does not know, or have reasonable grounds to believe, is an actual employer.

Maximum penalty: 100 penalty units.

Division 4 Miscellaneous

129I Effect of this part

- (1) This part does not (except as provided by section 129D (6)), limit or exclude any other rights of recovery of remuneration of an outworker in the clothing trades, or any liability of any person with respect to the remuneration of such an outworker, whether or not arising under this Act or any other law or an industrial instrument.

Note. An outworker may, for example, seek an order from an industrial court under section 365 instead of making an unpaid remuneration claim under section 129D.

- (2) Nothing in section 129F (3) limits or excludes any right of recovery arising under any other law with respect to any amount of money owed by the apparent employer to the actual employer.
- (3) Nothing in this part limits the rights of entry and inspection of officers of industrial organisations for the purpose of investigating any breach of a provision of this part or a condition of employment conferred by or under this part.

129J Relationship of this part to Industrial Relations (Ethical Clothing Trades) Act 2001

In the event of an inconsistency between the provisions of the mandatory code within the meaning of the *Industrial Relations (Ethical Clothing Trades) Act 2001* and the provisions of this part (or a condition of employment having effect under this part), the provisions of this part and those conditions of employment prevail to the extent of the inconsistency.

Mr Igor Nossar, the Chief Advocate of the New South Wales Branch of the Textile Clothing and Footwear Union of Australia, asked for my assistance. The union is concerned about the ongoing protection of outworkers, and it asked me to move this amendment to ensure that, in view of the Federal Government's WorkChoices legislation, the New South Wales legislation would not contain any loophole concerning the protection of outworkers. I agreed to do that. The original amendment suggested by the union consisted of just two paragraphs, but after being reviewed by the Parliamentary Counsel it is now four pages long. The amendment deals with the simple proposition of ensuring that the Industrial Relations Amendment Bill contains very important protection for outworkers, irrespective of what happens with the Federal Government's WorkChoices legislation.

Along with many honourable members I have been concerned about the exploitation of outworkers in the clothing industry. We have campaigned to support the Industrial Relations Ethical Clothing Trades Act 2001 and the mandatory code made under that Act: the Ethical Clothing Trades Extended Responsibility Scheme. Both the Act and the scheme were designed to ensure that everyone in the clothing outwork chain of supply takes their responsibilities seriously to ensure the fair treatment of outworkers. I acknowledge that a large number of clothing companies supported that campaign and indicated that they would not stock clothing they believed had come from exploited outworkers. We are pleased that those companies have acted in that responsible way. There is some element of uncertainty as to whether the same degree of protection in that detailed way will automatically be taken up in the Federal Government's WorkChoices legislation. It is my

understanding that the Federal Government gave assurances to the Textile, Clothing and Footwear Union and to Fair Wear that State-based protection for outworkers would continue. However, the WorkChoices legislation does not clarify how that might be achieved. Even if it did so, it may lapse at some future date if there are further changes to that legislation.

If schedule 15 to the WorkChoices legislation operates in accordance with its terms, all State awards, including the outworkers' awards, will be converted into federal notional agreements preserving State awards. There may be some problems with other workers in the area of textile production, but I am focusing on the outworker category. The federal legislation recognises that the States have an ongoing role with respect to outworkers. So we are not in conflict with the Federal Government's legislation. Section 7C (3) (ca) of the WorkChoices legislation provides that States can continue to legislate in respect of outworker conditions, including right of entry by union representatives for purposes connected with outworkers. We understand that this is to acknowledge our current and future capacity to do things that help to protect the rights and conditions of outworkers.

I trust that all honourable members will support my amendment. It will preserve all the reporting, registration and other obligations set out in the award relating to outworkers, these being obligations that do not deal directly with the conditions of employment of outworkers but which support compliance with those conditions of employment. Importantly, we note that the amendment proposes that statutory obligations relating to outworkers will continue to be linked with the conditions that are set out in the Clothing (State) Award as that award is varied from time to time. This recognises that the Industrial Relations Commission will continue to play a role in adjusting the State award as it applies to outworkers whose employers are not caught by WorkChoices legislation. WorkChoices does not create real unity because it applies only to employers that are constitutional corporations. Employers that are not constitutional corporations will still be covered by State industrial systems. This is an important amendment.

Ms LEE RHIANNON [5.44 p.m.]: The Greens are pleased to support this amendment. As we know, there has been a very long campaign by outworkers and their supporters to win protection for people who are so extremely exploited. It has been a hard fought campaign, one that received very widespread support because of the creative campaign tactics undertaken by the Textile, Clothing and Footwear Union of Australia, and by the community organisation Fair Wear. Over the years they have drawn attention to the hardship that outworkers—who are in the main women, and usually women of non-English speaking backgrounds—have suffered. We certainly need this amendment to the bill, which is designed to use State mechanisms to provide protection to workers. If the amendment is not passed, the legislative advances that have been made for outworkers in recent times will be wound back because of the terrible legislation that WorkChoices is.

The amendment is a positive step and I congratulate the Government on foreshadowing that it will accept it. It is very detailed and I hope the Government will pick up, in terms of protection, the other sections of the work force that I identified in the second reading debate: local government workers and workers in some State-owned corporations. I understand that the provisions of the Clothing (State) Award are applied under the bill, with modifications, so that protection is fully in place. Because this very complex amendment has come to us so late, I certainly have not had time to read it. I am relying on the fact that the Government is reliable and has been as thorough and detailed as it has said it would be when it comes to protecting outworkers. The Greens will support this amendment.

The Hon. JOHN DELLA BOSCA (Minister for Finance, Minister for Commerce, Minister for Industrial Relations, Minister for Ageing, Minister for Disability Services, and Vice-President of the Executive Council) [5.46 p.m.]: The Government accepts the amendment. I might just make it very clear for the benefit of honourable members that the bill amends two separate Acts. Some of the important protections that are available to outworkers, which I think was mentioned in the previous two contributions, are of course available only under State legislation. It is important that people understand that outworkers are some of the most vulnerable people in the work force, and the Government is happy to accept this provision that will guarantee that the current protections available to them in the State jurisdiction are continued.

Amendment agreed to.

Schedule 1 as amended agreed to.

Title agreed to.

The TEMPORARY CHAIRMAN (The Hon. Kayee Griffin): The Committee will now deal with the Public Sector Employment Legislation Amendment Bill.

Clauses 1 to 8 agreed to.

Ms LEE RHIANNON [5.49 p.m.]: I move:

Page 34, schedule 1. Insert after line 11:

27 Legislation relating to local government staff

The Premier is, within one month of the date of assent to the amending Act:

- (a) to ensure that legislation is introduced into both Houses of Parliament that removes the employment functions of local councils and provides instead for staff in the local government sector to be employed by the Government of New South Wales in the service of the Crown, or
- (b) to report to both Houses of Parliament on the feasibility of any such proposed legislation (including any legal advice provided to the Government as to the feasibility of the legislation).

The Greens move this amendment because, as I said before, we remain concerned that the bill is leaving large sections of the New South Wales work force out in the cold. Parliament is about to pass these two important industrial relations bills. They are proof that the Government has listened to the unions and to the New South Wales community and has responded to their concerns by using State legislation to provide protection against the damaging WorkChoices legislation. However, the bills do not go far enough.

The Hon. John Della Bosca: It never goes far enough.

Ms LEE RHIANNON: I acknowledge the interjection. But they do not go far enough. Some 24 hours ago it appeared that the House was about to consider the bills in Committee. The Government then correctly pulled back to draft amendments to protect outworkers. That is commendable and the Greens supported that action. We were willing to wait because we appreciated that the issues were complex. But we ask: Why is similar protection not offered to local council workers and the employees of State-owned corporations? That is the big unanswered question. To be frank, the Greens do not have an answer; we do not know how that protection can be provided in law. But the Government has the necessary people and resources. I do not know why they did not work overtime to offer that protection in the Public Sector Employment Legislation Amendment Bill. That is quite worrying and it is why the Greens have moved this amendment.

Greens amendment No. 1 requires that within one month of the assent of this bill, legislation be introduced in Parliament to provide for local government sector workers to be employed by the Government of New South Wales in the service of the Crown. The amendment does not prescribe how that should happen; it simply says that it should. If that is not possible the amendment requires the Government to report to the Legislative Council about the feasibility of providing that protection through some other legal means.

I understand that the Government will not support the amendment. That is disappointing because it does not prescribe how the Government will provide the protection—it is not locked in. But if the Government will not offer protection to council workers and employees of State-owned corporations the Minister must explain clearly why those large sections of the work force have been left out of the legislation. Why have local government workers and some employees of State-owned corporations missed out? The protection for outworkers is great but why was that protection not offered consistently across the board? I look forward to hearing the Minister's response.

The Hon. JOHN DELLA BOSCA (Minister for Finance, Minister for Commerce, Minister for Industrial Relations, Minister for Ageing, Minister for Disability Services, and Vice-President of the Executive Council) [5.53 p.m.]: I thank Ms Lee Rhiannon for the amendment and for her contribution to the discussion. The Government cannot support Greens amendment No. 1 in its present form. It is an unusual amendment in that it does not amend the legislation. If honourable members believe certain measures are necessary and important they are obliged to explore the feasibility of drafting legislation in those terms and introducing it. I am not aware of any other legislation in this or any other Parliament that requires another entity—in this case, the Executive—to introduce an amending bill.

Reverend the Hon. Fred Nile: It may be out of order.

The Hon. JOHN DELLA BOSCA: I will not go into that. The Government believes the appropriate way of dealing with this issue is to proceed with the process that I have announced already. I am consulting local government and the relevant unions about what options will be available to protect local government employees from the Commonwealth's Workplace Relations Amendment (Work Choices) Act. That solution, if any is available, must be workable. If Ms Lee Rhiannon is unhappy with the outcome of this approach I am obviously prepared to discuss the possibility of her introducing a private member's bill. That, one might argue, is her responsibility. The Government may introduce other legislation or take alternative approaches in the near future to give effect to whatever resolution emerges from the discussions that are ongoing between the Minister for Local Government, the service unions involved in local government, the large number—be it for good or for ill—of local government employers across the State and me. An amendment that seeks to charge someone else with the responsibility for doing this is, in the Government's view, not feasible, appropriate or practical. That is why we reject the Greens amendment.

However, the Government agrees with Ms Lee Rhiannon that protections similar to those afforded to other employees should be provided for local government workers. The Government believes nascent in this legislation is a substantial part of the solution for employees of State-owned corporations. This will help them to avoid the worst impacts of WorkChoices. In fact, the legislation may have some tractability for local government employees. The recognition of the capacity of the New South Wales Industrial Relations Commission to arbitrate and conciliate on common law agreements between employers and employees, including collective agreements, may offer a solution as to the best way to protect from WorkChoices the employees of State-owned corporations and others employed under the State system.

I can but speculate about that at this stage. This is obviously new legislation and employees and employers tend to manage around industrial culture, legislation and frameworks as well as within them. However, I expect there to be quite significant take-up in both the private and public sectors of the concept of keeping employment relationships in the State jurisdiction where possible. That concept offers to employees and employers the advantages that flow from having a stable system with an independent umpire. That system has the capacity to resolve disputes and prevent them from dragging on, as occurs under the Commonwealth framework. I expect that take-up to occur, and it may provide part of the solution for the employees of State-owned corporations and perhaps be the starting point for a solution for local government employees. As to other discussions with local government, we are pursuing as many options as we can. I hope and expect that the Government will be in a position to make further announcements about that issue in the coming weeks and months. The Government cannot accept the Greens amendment as drafted.

Amendment negatived.

Schedule 1 agreed to.

Schedules 2 to 5 agreed to.

Title agreed to.

Industrial Relations Amendment Bill reported from Committee with an amendment, and Public Sector Employment Legislation Amendment Bill reported without amendment, and bills passed through remaining stages.

ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT BILL

Second Reading

Debate resumed from an earlier hour.

Leave granted for procedural motions to be withdrawn.

Debate adjourned on motion by the Hon. John Della Bosca.

The PRESIDENT: Order! I inform members that neither the question on the amendment of Mr Ian Cohen nor the question on the second reading of the bill has been put. At the resumption of debate the Minister will be in reply.

SPECIAL ADJOURNMENT**Motion by the Hon. John Della Bosca agreed to:**

That this House at its rising today do adjourn until Tuesday 28 March 2006 at 2.30 p.m.

ADJOURNMENT

The Hon. JOHN DELLA BOSCA (Minister for Finance, Minister for Commerce, Minister for Industrial Relations, Minister for Ageing, Minister for Disability Services, and Vice-President of the Executive Council) [6.06 p.m.]: I move:

That this House do now adjourn.

THE HONOURABLE JOHN JOHNSON, KNIGHT COMMANDER, ORDER OF ST GREGORY THE GREAT

The Hon. TONY KELLY (Minister for Justice, Minister for Juvenile Justice, Minister for Emergency Services, Minister for Lands, and Minister for Rural Affairs) [6.07 p.m.]: I want to pass on my warmest congratulations to a former member, President, and father of the House, Johnno Johnson, on his recent installation as a papal knight in recognition of his services to the Catholic Church in Australia. Honourable members may be interested to know that unlike other papal orders, such as Knights of Malta or the Holy Sepulchre, membership of the Order of St Gregory the Great is the preferred award to acknowledge an individual's meritorious service to the church.

During a ceremony on 24 February His Eminence Cardinal George Pell presented Johnno with the insignia of Knight Commander of the Order of St Gregory the Great. Amongst the many guests were former Prime Ministers Gough Whitlam and Paul Keating, and former Premiers Bob Carr and Barrie Unsworth, and, I understand, some honourable members of this House. The knighthood is a fitting tribute to a man who is a credit to the church, the party, his State and the nation. Johnno's two passions in life were the Catholic Church and the Labor Party. It was fitting then for the cardinal to note during the ceremony that one of the most important contributions Johnno has made has been to encourage a whole generation of Catholic people, Christian people, imbued with some real understanding of Catholic social doctrine into the Labor Party and public life.

In recent years this House has farewelled a number of remarkable characters on both sides of the Chamber, but none more so than Johnno. He is a fierce defender of Catholic values and social justice. He is also a father figure to many in the party—he was my godfather in the Labor Party. Besides his well known, if not notorious, connections with raffle tickets and Father Mac's puddings, he is a remarkable man. I can think of no more worthy recipient of the honour. Johnno's comments on receiving the award are highly appropriate, given some of the debates in Australian parliaments in recent times, particularly in relation to ethics. He said:

I don't want a church that's right when I'm right.

I want one that's right when I'm wrong so that it can fulfil its divine mandate and put me and others right when we are wrong.

MR DRAGAN VASILJKOVIC PARKLEA PRISON DETENTION

The Hon. PETER BREEN [6.10 p.m.]: I want to bring to the attention of the House the case of an Australian citizen, Dragan Vasiljkovic, who is held in detention at Parklea prison following the issue of a warrant for his arrest by a magistrate in Croatia. Mr Vasiljkovic has committed no crime in Australia and yet he is held in custody with rapists and murderers because of the actions of the Croatian magistrate. The legality of his custody will be tested in the High Court next month and the court will be asked to decide whether an Australian citizen who has not been convicted of any offence either here or in his country of origin can be held in arbitrary detention.

Mr Vasiljkovic is accused of war crimes following the break-up of the former Yugoslavia when he allegedly led a Serbian unit that killed civilians and tortured prisoners of war in the Croatian towns of Glina and Knin in mid-1991, and Bruska in February 1993. While the High Court will focus on the question of Mr Vasiljkovic's custody in Australia, the question needs to be asked about the consequences of extraditing an Australian citizen of Serbian origins to be dealt with by a Croatian court. Human rights groups are concerned about the fairness of war crime trials in Croatia, according to an article published last week in the *Australian* by Europe correspondent Peter Wilson. Human Rights Watch says the latest statistics show 75 per cent of ethnic

Serbian defendants are convicted compared with just 25 per cent of Croatian defendants. The Attorney General would need to think twice about allowing an Australian citizen to be dealt with in a biased and partisan justice system, which appears to be the situation with ethnic Serbs accused of war crimes in Croatia.

Earlier this week, I had a chance meeting at Parklea prison with Captain Dragan, as Mr Vasiljkovic is known, when I bumped into his solicitor, whom I have known since my days in legal practice at Liverpool 30 years ago. Captain Dragan said he would gladly face up to any allegations against him of war crimes, but the appropriate forum is the International Criminal Tribunal for the former Yugoslavia in The Hague. Justice will not be served if allegations are dealt with in Croatia. Mr Vasiljkovic has already appeared in The Hague tribunal in 2003 as a witness for the prosecution in the trial of the former president of Yugoslavia, Slobodan Milosevic. I should add that there are no outstanding proceedings against Captain Dragan in the International War Crimes Tribunal.

Even if Mr Vasiljkovic were to be extradited to The Hague instead of Croatia, concerns have been expressed in some quarters about the fairness and objectivity of the whole international war crimes justice process. Slobodan Milosevic himself appears to have been denied the presumption of innocence and other due process rights one would expect to find in a legitimate criminal law proceeding. According to James Bissett, the former Canadian Ambassador to Yugoslavia, the international war crimes court in The Hague has been dominated and managed by the United States of America. Bissett says:

It is in the interests of the United States of America to continue the pretence that Milosevic is solely responsible for everything that went wrong in the former Yugoslavia.

Australia is a long way from the troubles of the former Yugoslavia, and we are the most culturally diverse country in the world. Everyone encourages cultural integration these days, from the local football administrators to the offices of the Federal Treasurer and the Prime Minister. It is true that we do not want terrorists in Australia and we do not want people perpetuating historical conflicts, whether from the Balkans or anywhere else in the world. Equally, we do not want Australian citizens to be subjected to criminal proceedings in their former countries where the proceedings arise out of past conflicts and serious questions remain about the legitimacy of those proceedings. Captain Dragan told me his arrest was motivated by recent political developments in the Balkans and, if that is so, the Australian justice system is being used for political payback.

One of the questions for the High Court is how the Federal Police should respond to a so-called Interpol arrest warrant. Is it appropriate to take an Australian citizen into custody on the basis of political allegations in the person's former country? Interpol does not possess independent arrest powers in Australia, but it appears Interpol will issue a warrant in response to a request from a magistrate or minister of one of its 184 member countries. No check is made of the evidence supporting the request for a warrant and, so far as I can see, Australian citizens migrating from any number of countries must be at risk of arrest on politically motivated charges arising from their former activities.

LIFELINE TELEPHONE COUNSELLING LINE FUNDING

The Hon. ROBYN PARKER [6.15 p.m.]: Yesterday was International Women's Day—a day when we acknowledge the achievements of women thus far, but a day when we also reflect on what needs to be done so that women's causes will be further advanced in our society. Yesterday I attended a function on behalf of UNIFEM Australia, which was attended by one thousand other women. Any number of functions have been held over the past 24 hours, and indeed this week, to mark the advances made by women and discuss where we are heading.

Some great achievements have been made for women. However, much more needs to be done not only to establish women in leadership positions but also to redress sexual assault, violence and domestic violence against women. Indeed, we have a long way to go to achieve safety and gender equity, both here in Australia and overseas. Held at the same time as the function I attended was another function yesterday afternoon in Newcastle called the Steel Magnolias function. That is hosted by Lifeline and is the brainchild of Lifeline's Pam Tierney. The Steel Magnolias function acknowledges women of great achievement. Indeed Pam Tierney, the chief executive officer of Lifeline Hunter, probably should be a recipient of that award. Each year, a woman is given that award for her achievements on behalf of women.

The Steel Magnolias function is also a fundraiser for Lifeline. It is timely, as we acknowledge International Women's Day, to reflect on one of the organisations in New South Wales and Australia that does

so much for women—Lifeline. At a time that we are talking about issues relating to women, Lifeline in Newcastle is trying to raise funds because the New South Wales Government is mean and nasty. It refuses, after four years of negotiation, to adequately fund Lifeline or support its 24-hour counselling service. After four years of negotiation, the Government has told Lifeline NSW that the additional \$2.8 million in annual funding needed to support telephone Lifeline counselling will not be coming from the Government. Lifeline provides terrific support to the community, as well as emotional wellbeing, and it is there 24 hours a day, seven days a week providing support and early intervention for people throughout the community who have nowhere to turn.

The reality is that Lifeline just does not have the money to recruit, train and supervise enough counsellors to enable the organisation to keep up with community demand. It is appalling that the Iemma Government will not fund that vital 24-hour service. It is appalling that that service will not be funded adequately, particularly in

regional areas. There are 15 Lifeline centres in New South Wales, and nine of those are in non-metropolitan areas. Recently, the Minister for Health, the Hon. John Hatzistergos, admitted that 6.4 per cent of callers to the Government's mental health access line are being referred to Lifeline. So Lifeline is being used by this Government to reduce the burden on its own health system. Lifeline takes 200,000 telephone calls a year and provides an outstanding service to women and men in crisis situations. We would all recall Mr Iemma saying, in his inaugural speech as Premier:

My point of passion and conviction is to commit myself to making progress on mental health.

He spoke about helping those suffering from mental health problems and helping their families. The Premier should deliver on his commitment and match his words with funding for Lifeline. At least he should acknowledge the support that Lifeline gives women and men across the country. He should acknowledge the great service that Lifeline provides outside metropolitan New South Wales, in areas such as the Hunter. He needs to come at least some way towards providing funding for Lifeline so that this organisation can continue to do its valuable work.

But this is a mean and nasty Government. It took four years to make this decision. In that time Lifeline has handled more than 800,000 calls. This is a mean and nasty Government which, on International Women's Day, while Lifeline is trying to raise funds by means other than grants from this Government, will not commit to a small amount of funding support. It is a mean and nasty Government that mismanages funds, spending \$120 million on a wasted desalination plant proposal, but cannot come up with the \$2.8 million that Lifeline needs. I applaud Lifeline for the services it offers to men and women throughout New South Wales who are in crisis. Lifeline needs all the support that we can give it.

STRATHFIELD MUNICIPAL COUNCIL PERFORMANCE

The Hon. Dr PETER WONG [6.20 p.m.]: I draw the attention of the House to the remarkable support Strathfield Municipal Council enjoys among its constituents. The council is made up of hardworking people who bring the council closer to its residents and ratepayers. Recently Strathfield council released its 2005 community report, an important part of the community consultation policy that allows for a higher level of accountability and transparency in council governance. The report demonstrates the sound and stable financial position of Strathfield council. Its quarterly management plan review showed a greater than projected surplus, which has been achieved through strict budget monitoring and improved cash flow. The review showed also that council had met 85 per cent of its key performance indicators. Strathfield council has adopted the new Strathfield Vision 2020, which contains a list of key directions for Strathfield in the next 20 years. This long-term plan for the future of the municipality is one of the most important that council has ever produced.

Strathfield Vision 2020 contains a list of key directions for Strathfield, including improving communications, adopting the marketing concept, maintaining and improving financial resources, embracing sustainable development, excelling in strategic planning, developing staff, balancing integrated transport and emphasising community building. In January 2006 Strathfield Mayor, Bill Carney, and I, representing the Unity Party, were pleased to co-host a meeting of local community, religious and ethnic leaders. It was a strong demonstration of the community's harmony following the race riots in Sydney in December last year. Despite the short notice, participants at the meeting included Acting Commander of Auburn police, Superintendent Peter Gallagher; Reverend Ian Roberts of the Uniting Church, Reverend Seong Choon Ryu of the Sydney Career Uniting Church, Hudson Chen of the Australian Chinese Charity Foundation, Keysar Trad of the Lebanese Friendship Association, a representative of the Women's Federation for World Peace, George Hallworth of the

Strathfield Rotary Club, Keith Lee of the Australian Korean Welfare Association and Jason Pham of Flemington Chamber of Commerce.

This meeting further highlighted the need for a community oriented council so that, irrespective of religion or ethnicity, everyone in the municipality is treated equally. I have had a number of very fruitful meetings with Strathfield Mayor, Bill Carney, and the General Manager, David Backhouse. I am proud to have been a part of the community information day, a very successful program that was launched on 7 February 2006. The program was a joint initiative between Strathfield council and the Flemington local area command of New South Wales police service. As a resident of Strathfield and a member of this House I thank particularly NSW Police and NSW Fire Brigades who, despite limited resources, were in attendance to provide information for the public.

As a member of this House and as a resident of Strathfield I am deeply concerned about any talk of amalgamating Strathfield council with other councils. I have received hundreds of representations from concerned residents voicing their strong disappointment about any talk of amalgamation. Strathfield council, its residents and ratepayers, and I have asked the Government about the future of Strathfield. So far the answers are innovative and ambiguous. I do not believe this is good governance by a responsible government. Irrespective of their political affiliation the message of an overwhelming majority of Strathfield council residents and ratepayers is simple: No amalgamation, and keep your party politics out of the council.

As a ratepayer of Strathfield I am disappointed particularly when members of Parliament use their privileges to attack local councils. I will seek to take more positive action in the future if such irresponsible and nasty tactics continue. I believe that comments were made about media spending by Strathfield council and its mayor. There is no doubt that the New South Wales Labor Party is the master of all spin and expert in media management. After the unfortunate corruption incidents of recent times I assure the House that Strathfield council is performing excellently. I say well done to Strathfield council for its community-oriented approach and for showing responsible government.

LIFESTART SCHOOL AGE SERVICES PROGRAM FUNDING

The Hon. JOHN RYAN [6.24 p.m.]: I bring to the attention of the Housed representations I have received from parents on the northern beaches who are very concerned about the defunding of an organisation called Lifestart Co-operative Ltd, an early intervention service that assists families who are trying to integrate their young school-age children with various disabilities into school activities, particularly at the primary and infants stage. Assisting a child integrate into a mainstream school is an enormously difficult task. But studies show that where it is possible to integrate a child into a mainstream school the outcome for those children socially and academically and their capacity for independence is enormously greater. Up until now Lifestart has been funded with a minimal level of government funding and a large amount of hard work and effort by parents who have conducted numerous fundraisers. In their most recent fundraiser, which was at Darling Harbour, they were supported by swimming identity Laurie Lawrence. Every single cent they can scrape together is well spent in supporting up to 30 families. Lifestart works with these families to assist children acquire whatever critical skills they need to assist them in achieving independence and integration into classrooms.

They can help parents with teaching their children how to participate in normal classroom activities, such as class discussion, taking turns, waiting for teachers, establishing social networks with their peer group, and playing games with their friends in the playground. They can assist teachers in modifying curriculum or classroom activities to make them accessible to young children with various disabilities, such as cerebral palsy, autism or intellectual disability. They can assist also in travel training children, toileting, eating or getting from one classroom to another. Lifestart assists these families with all the sorts of things that most of us with children who do not have disabilities take for granted. They also help to develop their skills and acquire skills that will be important in activities such as sport, and that leads to better recreation. A number of parents from the northern beaches have written to me expressing their dismay that recently the Department of Disability, Ageing and Home Care [DADHC] refused their request for a grant in the order of \$100,000, which would have continued the viability of the service. They are very much wondering what will happen to their service once it has been defunded by the DADHC. One of the parents wrote to me and said:

Lifestart started several years ago as a parent cooperative, triggered by a lack of suitable services for their special needs children. It now offers early intervention and school age support services to families right across Sydney. It is regarded as best practice and has been approached by government agencies to provide details of how they run their model.

Two representatives of Lifestart addressed the most recent conference at the Manly Pacific held by Australian Council for the Rehabilitation of the Disabled, a major peak group for disability services. It is very distressing to

know that the viability of the organisation is in question, even though it has been regarded as a best-practice model not only by government agencies but also by non-government agencies. The letter states that Lifestart helps families stay out of crisis. The more we can keep families out of crisis the better. The impact of keeping families out of crisis has implications for government funding: the Government may be able to avoid providing more expensive services such as supported accommodation. I ask that the Government review its decision not to provide Lifestart with funding. I have been happy to support the organisation. I recall attending their fundraising activity on behalf of the Leader of the Opposition, Peter Debnam, and purchasing items to assist them in their fundraising. I was impressed enormously by the energy and enterprise shown by the parent co-operative that supported Lifestart. I was astonished by the effectiveness of their programs. Obviously I was enchanted and charmed by the children they serve. The Government must review its decision not to provide the service with funding.

PRISONER VOTING ENTITLEMENTS

Ms LEE RHIANNON [6.29 p.m.]: In August 2004 the Federal Parliament moved to restrict the right to vote to prisoners serving sentences of three years or less. Now the Federal Coalition wants all prisoners barred from voting in Federal elections with the introduction of the Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Bill. There is no evidence that disfranchising prisoners deters crime or assists in rehabilitation. It is more likely to increase a prisoner's feeling of alienation and disengagement from mainstream society and from any sense or civil responsibility.

The Federal bill will disfranchise 25,353 voters, of whom more than half are expected to serve sentences of less than two years. These prisoners are likely to be released within a political term. It is a double disfranchisement for the 5,000 plus indigenous people in gaol who lost their Aboriginal and Torres Strait Islander Commission vote last year. So why is the Federal Government, bothering to do that? One would have to say it is cheap law and order politics. The removal of prisoner's political voice means politicians can now officially ignore prisons and prisoners. A number of countries, including Canada and South Africa, have already removed such blatantly discriminatory laws but there is opposition to this from wide quarters.

To European Court of Human Rights recently ruled in favour of giving British prisoners the vote. Prisoner's lose their liberty, not their place in the human race, and not their position in society. That statement was made in *Hirst v United Kingdom*. Australia is a signatory to the International Covenant on Civil and Political Rights. Article 24, in combination with Article 2, provides that every citizen shall have the right to vote at election under universal suffrage without a distinction of any kind on the basis of race, sex or other status. The right to vote is not a selective reward for those who the Government decides are morally decent. It is a fundamental citizenship right in a constitutional democracy. Voting is a democratic duty, not a privilege.

When people are sent to gaol, they are already being punished through the loss of their liberty. There is no reason to take their right to vote away. There has been strong Opposition to the Federal bill from the union movement and from many members of Parliament and justice groups. Many of the groups have also supported the *Offer of Hope*, which is an expression of solidarity among prisoners and a positive offer to governments to help break the cycle of destructive vengeance in prisons. The *Offer of Hope* has been supported by Peter Garrett and Senator Kerry Nettle and by various justice groups, including the Public Interest Advocacy Centre and Justice Action and a number of unions, including the Maritime Union of Australia and the Construction, Forestry, Mining and Energy Union, Australian Aid for Ireland and the Redfern Legal Centre as well as other organisations. The *Offer of Hope* states in part:

We believe that with help, trust and encouragement we can return to our communities, families and friends and make a positive contribution to society.

We ask for your help

- with education
- with medical care
- with contact with families and the community.

We ask for your trust

- with freedom of association
- with freedom of speech.

We ask for you to believe

- that we are humans with rights and entitlements
- that we can change
- that our lives are just as important as any.

In exchange, we offer peace, a commitment to non- violence, to listen as we are also heard in the spirit of the motto from the Special Care Unit at Long Bay, Sydney: "*Freedom with responsibility: Responsibility to self and community.*"

I believe this is an outstanding statement. I congratulate all who support it. I believe that the Government should support anything positive that emanates from prisons. Surely that should be supported instead of supporting the Federal Government's very worrying legislation that will further alienate prisoners by taking away their fundamental right to vote.

KOREAN WAR MONUMENT

The Hon. HENRY TSANG (Parliamentary Secretary) [6.33 p.m.]: I want to report to the House a series of meetings I have had with members of the Korean community in Sydney relating to a community project to build a monument about the Korean War. The monument would commemorate the service of Australian and Korean personnel who saw service during the Korean War—a war that resulted in 309 deaths and 1,584 casualties on the Australian side alone.

Many former members of the Korean armed forces are now Australian residents and citizens. They wish to thank Australia for its contribution. This monument would help to bring all parties together in paying our respects to those who served in that bloody war to preserve for us peace and prosperity in the East Asian region. After meeting the Consul-General of the Republic of Korea, Mr Kim, as well as other key community members several times, I was pleased to host a morning tea today for the community to help to advance the project. We canvassed various ideas regarding the project and explored possible sites and designs for the monument.

I thank Lis Johnson, an Australian sculptor and designer, for her preliminary ideas and sketches. She is responsible for the Vietnam memorial in Victoria and the Illawarra coalminers memorial in New South Wales. She is also responsible for the portrait bust of Sir John Gorton at Northbrook Garden, Malvern, in Melbourne. Her concept for the project is to include an Australian Digger and his counterpart, depicted as shaking hands, having placed down their arms, to celebrate peace and friendship, and it is admirable.

I thank also my colleague the Minister for Aboriginal Affairs, and Minister Assisting the Premier on Citizenship, the Hon. Milton Orkopoulos, who met with the group, as did other colleagues of mine in the other place: honourable member for Auburn, Barbara Perry, honourable member for Canterbury, Linda Burney, honourable member for Lake Macquarie, Jeff Hunter, and honourable member for Strathfield, Virginia Judge. The committee knows we support its endeavour and that we will help in whatever capacity we can. I also thank the State President of the Returned and Services League [RSL], Don Rowe, for his interest in the project. Mr Rowe supports the project in principle and has undertaken to seek formal approval and support of the RSL and also to liaise with the Korean Veterans Association concerning the monument and future activities.

The Korean War monument is an important symbolic project and has attracted the support and involvement of experienced designers and organisations. I urge the Korean community in Sydney to support the idea and to get behind it.

Motion agreed to.

The House adjourned at 6.36 p.m. until Tuesday 28 March 2006 at 2.30 p.m.
